

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

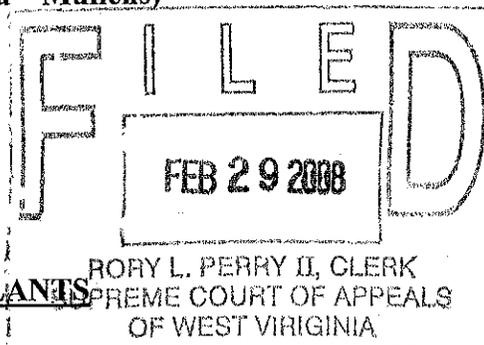
No. 33711

IN RE FLOOD LITIGATION

Raleigh County Civil Action No: 02-C-797

Honorable John A. Hutchison, Mass Litigation Panel

(Upper Guyandotte River Watershed Subwatershed 2a – Mullens)



REPLY BRIEF OF APPELLANTS
AND
MOTION TO FILE OUT OF TIME

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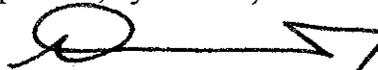
REPLY BRIEF OF APPELLANTS

The Appellants, plaintiffs below, by Stuart Calwell, The Calwell Practice, PLLC; W. Randolph McGraw, II, McGraw Law Office; and James F. Humphreys, James F. Humphreys & Associates, their attorneys, respectfully adopt the statement of facts, points of authority, and arguments advanced in the Reply Brief of Appellants filed by the Segal Law Firm on February 11, 2008 in *In re Flood Litigation*, docket no. 33710 as their reply to the Appellees response to Appellants' brief in support of vacating and reversing the trial court's March 15, 2007 Order Granting in Part and Denying in Part Defendant's Motion for Judgment as a Matter of Law or a New Appeal ("the Order").¹

CONCLUSION

For the reasons set forth in the Segal Firm's Reply Brief, the Appellants respectfully request that this Honorable Court reverse and vacate the Order Granting in Part and Denying in Part Defendant's Motion for Judgment as a Matter of Law or a New Appeal, re-instate the jury verdict, and direct that the matter proceed to Phase II of the trial.

Respectfully submitted,
Appellants, by counsel,



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¹ The Segal Firm's Appeal was docketed as No. 33710 and this Appeal was docketed as No. 33711. Both docket entries are appeals seeking reversal of the same trial court order.

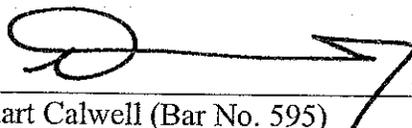
MOTION TO FILE OUT OF TIME

Appellants respectfully move the Court to permit the filing of this Reply outside the time for filing. This Reply is simply an adoption of the Reply of Appellants in Appeal No. 33710 which was timely filed. While this appeal, No. 33711, is a separate appeal it arises out of the same proceeding and trial below.

CONCLUSION

Wherefore, Appellants respectfully request this Court to accept this out of time Reply.

Respectfully submitted,
Appellants, by counsel,



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CERTIFICATE OF SERVICE

I, Stuart Calwell, counsel for Appellants, do hereby certify that by First Class United States Mail and, where permitted, and by electronic service of the foregoing Reply Brief of Appellants and Motion to File Out of Time has been made on this the 27th day of February, 2008 as follows:

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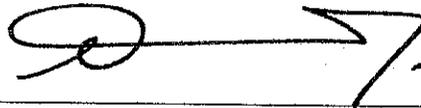
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