IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

BECKLEY DIVISION

JAMES SURRATT and ROSE SURRATT, et al

Plaintiffs,

v. Civil Action No. 5:15-cv-15444

(Consolidated Nos. 5:15-CV-15444,

5:15-cv-15527, 5:15-cv-15534, 5:15-cv-

15525, 5:15-cv-15533, 5:15-cv-15532, 5:15- cv-15530, 5:15-cv-15529, 5:15-cv-15528, and 5:15-cv-15526)

PINNACLE MINING COMPANY, LLC;

A Delaware corporation,

Defendant.

# MOTION TO ADD A PLAINTIFF WITNESS

COMES NOW the plaintiffs, Elmer Green and Violet Green, by counsel, Marvin W. Masters, Roger A. Decanio and The Masters Law Firm lc, and moves this Court to add DeWayne E. Green, Power of Attorney and Designated Agent over the personal affairs of Elmer Green and Violet Green, as a witness in this action on the Green’s behalf (See **Exhibit A and B,**) or alternatively, continue the trial. In support thereof, plaintiffs state as follows:

At the present time Mr. Green is recovering from complications that resulted from a gallbladder surgery on April 12, 2017. He is currently admitted on an inpatient status at The Havens at Princeton, an assisted living facility. In addition to gallbladder complications, Mr. Green suffers from congestive heart failure and was recently seen at Princeton Community Hospital for fluid on the lungs. At the current time, he is unable to ambulate.

Violet Green suffers from dementia and is currently residing with her son Kenneth Green in South Carolina, as a result of Mr. Green’s recent decline in health. Ms. Green also suffers from congestive heart failure and has difficulty ambulating. In addition, they have had to deal with the disruptive and stressful situation with the defendant’s misconduct in this case. They are unable to attend.

WHEREFORE, Plaintiff respectfully requests this Court to add DeWayne E. Green Power of Attorney and Designated Agent over the personal affairs of Elmer Green and Violet Green, to appear and testify on their behalf. Plaintiffs agree to make DeWane E. Green available for a deposition, if defendant requires.

JAMES SURRATT and ROSE SURRATT, et al

By Counsel

/s/ Marvin W. Masters Marvin W. Masters

West Virginia Bar No. 2359 Roger A. Decanio

West Virginia Bar No. 8176 The Masters Law Firm lc 181 Summers Street

Charleston, West Virginia 25301 (304) 342-3106

mwm@themasterslawfirm.com rad@themasterslawfirm.com Counsel for Plaintiffs

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# CERTIFICATE OF SERVICE

I, Marvin W. Masters, counsel for plaintiffs, do hereby certify that on the 12th day of May, 2017, I electronically filed “Motion To Add Plaintiff Witness” with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following CM/ECF participants:

John J. Meadows Peter J. Raupp

Steptoe & Johnson PLLC

707 Virginia Street East 8th Floor Post Office Box 1588

Charleston, West Virginia 25326-1588 John.Meadows@Steptoe-Johnson.com Peter.Raupp@Steptoe-Johnson.com *Counsel for Defendant*

/s/ Marvin W. Masters Marvin W. Masters (W.Va. Bar No. 2359)