Dead Miners' Families Demand $1.5M Each in Promised Settlement

VICKI SMITH, Associated Press

MORGANTOWN, W.Va. (AP) — Relatives of three of the 29 men killed in the Upper Big Branch mine disaster say Alpha Natural Resources has yet to pay them each $1.5 million as promised under a settlement with the federal government.

A recent lawsuit in U.S. District Court in Beckley also claims that at least eight other families are still awaiting payments. It asks Judge Irene Berger to enforce the terms of the landmark $210 million agreement with the U.S. Department of Justice and ensure that all families receive the restitution that Virginia-based Alpha had publicly promised.

But Alpha said Wednesday it has "fully complied" with the deal, including payments to various victims' families, "and these three plaintiffs are not due any additional payments."

This is the second time the three families have sued with claims they're entitled to more money, said spokesman Ted Pile.

"Their original lawsuit was dismissed, without prejudice, by a U.S. District Court judge this past May," he said. "So the plaintiffs' lawyers decided to file a new complaint asking for additional compensation once again. Alpha believes the new complaint continues to lack merit and we fully intend to defend this matter again."

Alpha bought Massey Energy Co. and its mines, including Upper Big Branch, after the explosion there in April 2010.

The complaint was filed by three estate administrators: Jeffrey Skeens, who lost his father, Grover Skeens, in the blast; Carolyn Davis, the widow of Charles Davis; and Owen Davis, who lost his son Cory.

The complaint says all three families agreed to confidential settlements of wrongful death lawsuits with Massey before the company was sold. But Alpha was not party to those deals, and the families say they never gave up their rights to additional restitution.

The historic federal settlement had multiple components, including a promise to pay $46.5 million in restitution to the families of the 29 victims and two other miners who were severely injured. The Davis and Skeens families called that "a voluntary act" by Alpha.

"Nowhere in the non-prosecution agreement does it state that because the defendants had settled wrongful death claims ... that no additional restitution would

be paid," the complaint says.

The families also say they were not party to discussions about the DOJ settlement and never agreed to give up their rights to "have those responsible for the death to be prosecuted for said crimes or criminal activities."

No hearing dates have been scheduled.

Upper Big Branch was the worst U.S. coal mining disaster in 40 years.

Four investigations found that worn and broken cutting equipment created a spark that ignited accumulations of coal dust and methane gas. Broken and clogged water sprayers allowed what should have been a minor flare-up to become an inferno.

The federal Mine Safety and Health Administration said the root cause was Massey's "systematic, intentional and aggressive efforts" to conceal life-threatening problems. Managers even maintained two sets of pre-shift inspection books — an accurate one for themselves, and a sanitized one for regulators.

Former superintendent Gary May and security chief Hughie Elbert Stover are behind bars for their actions at the mine.

A former president of another Massey subsidiary, meanwhile, is awaiting sentencing for conspiracy.

David Hughart is cooperating with prosecutors and has testified that other Massey operations gave miners underground warnings that inspectors were onsite. He's set to appear before Berger on Sept. 10.

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