

STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF MASON

---

KIM VANNORTWICK, NANCY  
VANNORTWICK, CARY SHINELDECKER,  
KAREN SHINELDECKER, JONATHAN  
RAY, SHANNON RAY, JAMES  
NICHOLS, MARY NICHOLS, FRED  
KAISER, SUSAN KAISER,  
EVELYN BERGAILA, KEVIN  
MCVICKER, DEBORA HARLEY,  
DANIEL CONNOLLY, REBECCA MOTT,  
JEANNE PARSONS, WILLIAM PARSONS,

Case No. 13- 87 -CZ

Hon.

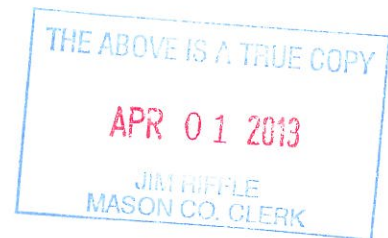
Plaintiffs,

v

CONSUMERS ENERGY COMPANY,

Defendant.

---



BRAUN KENDRICK FINKBEINER P.L.C.  
By: Craig W. Horn (P34281)  
And: David L. Puskar (P73121)  
Attorneys for Plaintiffs  
4301 Fashion Square Boulevard  
Saginaw, MI 48603  
(989) 498-2100

---

There is no other civil action between these parties arising out of the same transaction or occurrence as alleged in this Complaint pending in this Court, nor has any such action been previously filed and dismissed or transferred after having been assigned to a judge.

**COMPLAINT AND DEMAND FOR JURY TRIAL**

NOW COME Plaintiffs, Kim VanNortwick and Nancy VanNortwick, Cary Shineldecker and Karen Shineldecker, Jonathan Ray and Shannon Ray, James Nichols and Mary Nichols, Fred Kaiser and Susan Kaiser, Evelyn Bergaila, Kevin McVicker and Debora Harley, Daniel

Connolly and Rebecca Mott, Jeanne Parsons and William Parsons (collectively “Plaintiffs”), by and through their attorneys, Braun Kendrick Finkbeiner P.L.C., and for their Complaint against Defendant, Consumers Energy Company, state as follows:

1. Plaintiffs are individual residents of the County of Mason, State of Michigan.
2. Defendant, Consumers Energy Company (“Defendant”), is a Michigan corporation, which at all relevant times hereto has been doing business in the County of Mason, State of Michigan.
3. This matter concerns events that occurred, and continue to occur, in the County of Mason, State of Michigan.
4. Venue is appropriate in the County of Mason, State of Michigan.
5. The amount in controversy exceeds Twenty Five Thousand Dollars (\$25,000.00), and this matter is otherwise within the jurisdiction of this Court based on the nature of the relief sought herein.
6. Kim and Nancy VanNortwick’s primary residence is 3396 West Hawley Road, Ludington, Michigan 49431. Their property is approximately five acres and has numerous improvements, including a home and garage, a workshop, a deck and improved outdoor space and producing fruit trees for a “U-Pick” style business. They have lived on their property since the mid-1970’s.
7. Cary and Karen Shineldecker’s primary residence is 3514 West Kistler Road, Ludington, Michigan 49431. Their property is approximately 16 acres and has numerous improvements, including a home and outbuildings, a greenhouse, numerous gardens and trees, a gazebo and improved wetlands for wildlife. They have lived on their property since the mid-1990’s.

8. Jonathan and Shannon Ray's primary residence is 1265 West Hawley Road, Scottville, Michigan 49454. Their property is approximately nine acres and has numerous improvements, including a home, which they have extensively renovated, a garage and shed, a barn with custom horse stalls and improved pastures. They have lived on their property since 2010

9. James and Mary Nichols' primary residence is 1034 Hawley Road, Scottville, Michigan 49454. Their property is approximately 41 acres and has numerous improvements, including a home and garage, a barn and shed, several patios, a garden and a large deck, along with 20 acres of woods, a pond and hiking trails. Mary Nichols was born and raised on the Nichols' property, which has been in her family for 59 years. The Nichols purchased their property from Mary Nichols' father in 1980.

10. Fred and Susan Kaiser's primary residence is 2085 West Hawley Road, Scottville, Michigan 49454. Their property is approximately one acre and has numerous improvements, including a historic home, an attached garage and a large pole barn with loft. They have lived on their property since approximately 2002, when they purchased the property for their retirement.

11. Evelyn Bergaila's primary residence is 2908 West Meisenheimer Road, Ludington, Michigan 49431. Her property is approximately 50 acres and has numerous improvements, including a home and garage, a large concrete block storage building and various walking paths and trails. She has lived on the property since the early 1950's.

12. Kevin McVicker and Debora Harley's primary residence is 2000 West Hawley Road, Scottville, Michigan 49454. Their property is approximately 15 acres and has numerous improvements, including a home and garage which they constructed themselves. They have

lived together on their property since approximately 1996. Debora grew up on the property, which has been in her family for over 100 years.

13. Daniel Connolly and Rebecca Mott's primary residence is 1904 West Kistler Road, Scottville, Michigan 48454. Their property is approximately five acres and has numerous improvements, including a historic home, a large garage, an indoor art studio, a two-story shed and numerous gardens and walking paths. They have lived on their property since approximately 1995.

14. Jeanne Parsons' primary residence is 3990 West Anthony Road, Ludington, Michigan 49431. Her property is approximately 11 acres and has numerous improvements, including a home, a three car garage and a 45 site campground business with improved gravel roads and a three acre lake. She has lived on her property since approximately 1982.

15. William Parsons' primary residence is 3631 West Anthony Road, Ludington, Michigan 49431. His property is approximately 80 acres and has numerous improvements, including a home, a barn and out buildings, an orchard, a vegetable garden and grazing land for cattle and livestock. William is the second generation owner of his property, his father having purchased it in 1936.

16. Plaintiffs' properties have significant and irreplaceable sentimental value to Plaintiffs, for reasons including, but not necessarily limited to, Plaintiffs' longevity in residing at their respective properties, the family history of their properties and/or the time, effort, and labor spent by Plaintiffs to build on, remodel, maintain and/or improve their properties.

17. On or about June 30, 2010, Mason County adopted Section 17.70 of the Mason County Zoning Ordinances, as amended, which applies to the development, construction and operation of wind turbine facilities in Mason County.

18. On or about January 14, 2011, pursuant to Section 17.70, Defendant submitted to Mason County an Application for Special Land Use Permit and Site Plan Approval (“Application”) “for a utility grid wind energy system” in Mason County. A copy of Defendant’s Application is in Defendant’s possession and therefore not attached hereto.

19. On or about July 7, 2011, Mason County approved Defendant’s Application.

20. On or about the Fall of 2011, Defendant began the construction of numerous wind turbines and related facilities in Mason County, which Defendant refers to as the Lake Winds Energy Park (hereinafter “Wind Farm”).

21. On or about November 22, 2012, following the completion of construction and a test/trial period, Defendant began the commercial operation of the Wind Farm.

22. As constructed, the Wind Farm consists of fifty six (56) V100-1.8 MW Vestas brand wind turbines (“Turbines”), with a total installed generation capacity of 100.8 megawatts.

23. Defendant constructed multiple turbines near the VanNortwick’s property, the closest being less than one half mile from their primary residence.

24. Defendant constructed multiple turbines near the Shindeldecker’s property, the closest being less than one half mile from their primary residence.

25. Defendant constructed multiple turbines near the Ray’s property, the closest being less than one half mile from their primary residence.

26. Defendant constructed multiple turbines near the Nichols’ property, the closest being less than one half mile from their primary residence.

27. Defendant constructed multiple turbines near the Kaiser’s property, the closest being less than one half mile from their primary residence.

28. Defendant constructed multiple turbines near Evelyn Bergaila's property, the closest being less than one half mile from her primary residence.

29. Defendant constructed multiple turbines near very the McVicker and Harley property, the closest being less than one half mile from their primary residence.

30. Defendant constructed multiple turbines near the Connolly and Mott property, the closest being less than one half mile from their primary residence.

31. Defendant constructed multiple turbines near Jeanne Parsons' property, the closest being less than one half mile from her primary residence.

32. Defendant constructed multiple turbines near William Parsons' property, the closest being less than one half mile from his primary residence.

33. In addition to the previously described properties, upon which Plaintiffs have their respective primary residences, several Plaintiffs own additional property in close proximity to the Wind Farm, including the following:

- a) Kim and Nancy VanNortwick own 2.2 acres of additional property, located within Mason County at the northwest corner of Hawley Road and Morton Road. The VanNortwick's purchased this property in approximately 2002. They have always hoped that one of their children might one day build a home on this property.
- b) Cary and Karen Shineldecker own 87 acres of additional property, located within Mason County at 4190 W. Bradshaw. The Shineldeckers purchased this property, which includes a small lake of approximately 40 acres, in 2008. At the time of purchase, the Shineldeckers intended to construct a home on this property where they could eventually retire. The

Shineldeckers also intended to split and sell lots from this property, including lots that their children might build homes on.

34. Throughout the test/trial period and immediately upon the start of the Wind Farm's commercial operation, Plaintiffs noticed the following significant and material intrusions upon their properties and inside their homes (collectively "Intrusions"):

- a) Frequent and highly disturbing noise created by and emitted from the Turbines of the Wind Farm;
- b) Vibrations and/or a pulse sensation caused by the rotating blades of the Turbines as the blades pass by the pedestal;
- c) A flicker/strobe light effect that often covers some and/or all of the Plaintiffs' properties and intrudes into their homes when sunlight passes through the rotating blades of the Turbines;
- d) A highly visible glare which emanates from the Turbines of the Wind Farm when sunlight shines on the Turbines; and
- e) Numerous flashing red lights which reflect off the rotating blades of the Turbines, overwhelm the night sky and are readily apparent from inside Plaintiffs' homes.

35. As a result of the Intrusions caused by Defendant's operation of the Wind Farm, Plaintiffs, as the case may be, began experiencing, by way of example not limitation, some and/or all of following physical conditions, among others:

- a) Inability to sleep and repeated awakening during sleep;
- b) Headaches and pressure;
- c) Ringing and aching in the ears;

- d) Dizziness;
- e) Stress and tension;
- f) Extreme fatigue;
- g) Diminished ability to concentrate;
- h) Nausea; and
- i) Other physiological and cognitive effects.

36. Plaintiffs have property rights and privileges with the respect to the use and enjoyment of their above described properties.

37. Defendant has interfered with and invaded Plaintiffs' rights, including their property rights, by creating, through the construction and operation of the Wind Farm, the significant and material Intrusions upon the Plaintiffs' properties, resulting in the physical conditions suffered by Plaintiffs.

38. The conduct of Defendant is the legal and proximate cause of the interference and invasion of Plaintiffs' rights.

39. The interference and invasion by Defendant was either intentional and unreasonable or unintentional and otherwise actionable as negligent conduct.

40. Plaintiffs' physical conditions have been, and continue to be, directly and proximately caused by the Intrusions created by the Turbines. To the extent some Plaintiffs may have experienced similar physical conditions prior to the Wind Farm, the Wind Farm's operation has significantly worsened and/or increased the frequency of these conditions.

41. As of the date of the filing of this Complaint, Plaintiffs' physical conditions persist and have not subsided for any substantial period of time since the test/trial period and/or the commercial operation of the Wind Farm began.



42. The Intrusions caused by the Turbines of the Wind Farm cause Plaintiffs actual physical discomfort and would cause such physical discomfort to a person of ordinary sensibilities.

43. The construction and operation of the Wind Farm and continued exposure to the Intrusions caused by the Turbines of the Wind Farm has and will continue to cause Plaintiffs significant harm, including physical injury and economic loss.

44. Continued exposure to the conditions caused by Defendants through the construction and continued operation of the Wind Farm, including exposure to the Intrusions, has and will continue to have a significant negative impact on Plaintiffs' health and overall well-being.

45. The flicker/strobe light effect that covers some and/or all of the Plaintiffs' properties when sunlight passes the rotating blades of the Turbines of the Wind Farm, as well as the glare and red lights emanating from the Turbines, causes considerable unsightliness and interferes with Plaintiffs' use and enjoyment of their properties.

46. The Wind Farm has significantly diminished the value of Plaintiffs' properties.

47. In sum, the actions of Defendant have directly and proximately caused Plaintiffs substantial damage, including but not necessarily limited to:

- a) Physical harm and adverse health effects;
- b) Disruption of Plaintiffs' lives and general emotional distress;
- c) Diminution of the value of Plaintiffs' properties;
- d) Loss of the ability to partition their properties to sell residential lots;
- e) Difficulty carrying on normal recreational activities;

- f) Difficulty conducting work related activities on their properties and/or harm to the business enterprises some Plaintiffs conduct on their properties;
- g) Loss of use and enjoyment of Plaintiffs' properties;
- h) Pain and suffering; and
- i) Other damages that naturally and consequently flow from Defendants' actions.

48. Additionally, as to William Parsons, it is alleged that, during the course of the Wind Farm's construction, Defendant caused cracks and possibly other damage to the foundation of William Parsons' home through its use of heavy machinery in close proximity to his home. The vibrations which continue to emanate from the Turbines may be continuing to cause such damage. William Parsons is entitled to compensation for this harm, and to the extent other Plaintiffs have suffered similar damage, they should be compensated as well.

49. Many Plaintiffs have made the Intrusions, their physical conditions and their damages known to Defendants, who have failed and refused to abate the Intrusions caused by its operation of the Turbines.

50. Despite the Intrusions, Plaintiffs' physical conditions and the damages caused to Plaintiffs by Defendant's continued operation of the Wind Farm, Defendant continues to operate and profit from the Wind Farm.


WHEREFORE, Plaintiffs respectfully request that this Honorable Court provide them with the following relief:

- A. Enter a Judgment against Defendant and in favor of Plaintiffs in excess of Twenty-Five-Thousand-Dollars (\$25,000.00), together with interest, costs and attorney fees;
- B. Grant preliminary and final injunctive relief ordering Defendant to cease and desist in their activities and to abate the Intrusions and any other harms described herein; and
- C. Grant Plaintiffs such other relief, including punitive and special damages, as this Court deems appropriate.

BRAUN KENDRICK FINKBEINER P.L.C.

Dated: March 27, 2013

By: \_\_\_\_\_

  
Craig W. Horn (P34281)  
David L. Puskar (P73121)  
Attorneys for Plaintiffs

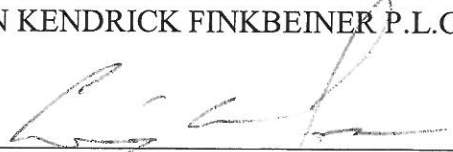
**DEMAND FOR JURY TRIAL**

NOW COME Plaintiffs, Kim VanNortwick and Nancy VanNortwick, Cary Shineldecker and Karen Shineldecker, Jonathan Ray and Shannon Ray, James Nichols and Mary Nichols, Fred Kaiser and Susan Kaiser, Evelyn Bergaila, Kevin McVicker and Debora Harley, Daniel Connolly and Rebecca Mott, Jeanne Parsons, and William Parsons, by and through their attorneys, Braun Kendrick Finkbeiner P.L.C., and hereby demand a trial by jury in the above cause of action.

BRAUN KENDRICK FINKBEINER P.L.C.

Dated: March <sup>2</sup>7, 2013

By: \_\_\_\_\_

  
Craig W. Horn (P34281)  
David L. Puskar (P73121)  
Attorneys for Plaintiffs