

WVDEP Files Lawsuit Against and Obtains Special Receiver over ERP Environmental Fund

03.30.2020

On March 26, the West Virginia Department of Environmental Protection (WVDEP) filed a lawsuit against ERP Environmental Fund Inc. and requested the appointment of a special receiver to assume control of its assets and operations.

The lawsuit alleges that ERP Environmental accumulated 160 violations of state environmental laws and failed to abate 118 cessation orders. ERP Environmental laid off all its employees and management on March 20, ceasing operations and leaving its mining sites abandoned and "subject to the imminent risk of harm to the environment and the public health and safety."

After an emergency hearing held on March 27 despite the closure of the court due to the coronavirus, the State court entered a temporary order appointing a special receiver over ERP Environmental pending further proceedings in the case. In addition to appointing the special receiver, the court enjoined creditors and other parties with interests in ERP Environmental from commencing or continuing litigation against ERP Environmental or the special receiver.

The court indicated that further proceedings would be held in the case at a time to be determined, both in view of the coronavirus emergency affecting the court and the possible referral of the case to the West Virginia Business Court Division.

Bailey Glasser lawyers Ben Bailey, Kevin Barrett, Marc Weintraub, and Maggie Burrus represent WVDEP in this matter.

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Practice Areas

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