

Wind Farm Noise Victims Sue Developer & Noise Consultant for \$Millions

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<https://stophesethings.com/2016/07/01/wind-farm-noise-victims-sue-developer-noise-consultant-for-millions/>

Litigation is where the rubber hits the road: myths get replaced with facts; evidence overtakes spin and propaganda. Court rooms (and where they determine the facts, juries) strike fear into the (ordinarily icy) hearts of those that stand behind or run with wind power outfits.

Wherever in the world civil actions have been pursued in nuisance and negligence, wind power outfits have bent over backwards to settle out of court.

Sure, wind power operators have deep pockets (obscenely stuffed with the massive subsidies drawn from their victims, among others). But they have **never** won a common-law case demonstrating that wind farms do not cause noise nuisance.



And the reason they have never won such a common-law case, is that every one that has ever been pursued by wind farm neighbours (and, in Texas, 23 contracted turbine hosts – see [our post here](#)), has been settled, very quietly, out of court.

True it is that wind farm developers routinely ‘win’ rubber-stamp planning approvals, when they’re out to spear these things into the hearts of rural communities, despite furious objection from the vast majority within those communities. However, the common law right to live in one’s own home free from unreasonable interference from noise has nothing to do with noise ‘standards’ (written by the wind industry), planning terms or the views of bent quasi-government authorities, like [Australia’s NHMRC](#).

The Waubra wind farm – which is run by Spanish outfit, Acciona – has drawn something like 1,400 noise complaints and has driven 11 farming families from homes that neighbour its operation, since it started operating over 6 years ago in July 2009 (see [our post here](#)).

The owners of those homes had been complaining bitterly about low-frequency noise and infrasound from the moment the turbines commenced operation.

Terrified of litigation, Acciona’s lawyers quietly went to each of the families complaining; purchased their properties and stitched them up with bullet-proof gag clauses – that prevent them from ever talking about the “sale” ([see our post here](#)). So terrified were they that word of Acciona’s out of court settlements would get out, they even pursued one of the victims, Trish Godfrey all the way to Adelaide in South Australia in an effort to prevent her from giving evidence in a wind farm planning case about her acoustic torment – (see [this article](#) and our posts [here](#) and [here](#)).

Other common law nuisance cases where the developers have paid out substantial compensation to plaintiffs neighbouring wind farms, include English couple, Julian and Jane Davis who won a £2 million out of court settlement from a wind farm operator ([detailed here](#)).

Another involved the claim filed in April 2013, by a group of 17 residents living next to the Lake Winds wind farm (others joined the group later) against Consumers Energy in Mason County Circuit Court, Michigan. One of the successful plaintiffs, Cary Shineldecker summed up the result of their lawsuit, which was resolved during the late summer and autumn of 2014: “It was just about to go to trial; in fact I was in court waiting to be the first to testify, when we were told a settlement had been reached,” Shineldecker said. “It took about two months to work out the wording; then ours was actually finalized the week of Dec. 17.

“To me, we were helping others by being willing to take a stand,” Shineldecker added. “One of these days the facts are going to come out. Twenty years from now the health impacts of living with these industrial wind turbines will be common knowledge. It will be like the way it happened with cigarettes. But right now those who know the truth are a minority.”

The full story is covered here: [US Wind Farm Operator Settles to Shut Down Neighbours' Dynamite Damages Case](#)

Cary Shineldecker hits the nail on the head when he says that “One of these days the facts are going to come out”. And that’s precisely the reason that the wind power outfit being sued settled with him and all of the other plaintiffs in that case. And, for the same reason, why Acciona bought out and gagged 11 families at Waubra in Victoria. And, again, why Julian and Davis were offered £2 million on the steps of the Court before the trial began.

In the US, another case has been bubbling along: here’s an update on its progress.

Homeowner: “I will have to move due to the constant noise and flicker shadow that comes into my home”

Jefferson’s Leaning Left

Richard Wiley Sr. 16 June 2016

Iberdrola and the same sound engineer who did the work on the original Clayton-Thousand Island Horse Creek industrial wind turbine sacrifice zone is still involved in a lawsuit with Herkimer County homeowners.

Fairfield homeowner, “I will have to move due to the constant noise and flicker shadow that comes into my home.”

In 2012 more than 60 residents of Herkimer County sued the developer and their sound engineer claiming that the 37 turbines they built are bigger and noisier than they were told during the planning stage. They claim the turbines are causing health problems and depressing their property values. Plaintiffs have said they will have to move from their homes.

The plaintiffs are represented by, Melody D. Scalfone (www.scalfonelaw.com) and Jeff DeFrancisco (jeff@defranciscolaw.com). The lawsuit has been in local, state and national news. Attorney Scalene has traveled with one of the plaintiffs to other states to give testimony concerning living under industrial turbines.

From a source, JLL has learned that the lawsuit [that you can read at this link](#) is progressing.

Some of the claims against Iberdrola and their sound engineer:

94. The Defendants represented to the Town of Fairfield and residents in the areas where the turbines were placed that the subject wind turbines would not be noisy, would not adversely impact neighboring houses, and there would not be any potential health risks.

95. Defendant Atlantic Renewables LLC released “projected” noise levels that showed that the wind turbines would not go over 50 dB.

96. The aforementioned 2006 noise level study by Defendant Atlantic Renewables LLC was based on projections for General Electric 1.5LSE, 389-foot tall turbines, and not the Gamesa G90, 476-foot turbines, that Defendants collectively placed in the Hardscrabble project.

98. The Defendants failed to adequately assess the effect that the wind turbines would have on neighboring properties including, but not limited to, noise creation, significant loss of use and enjoyment of property, interference with electrical functioning of homes such as satellites, television, internet and telephone services, diminished property values, destruction of scenic countryside, various forms of trespass and nuisance to neighboring properties, and health concerns; among other effects.

99. **Despite the foregoing,** and in opposition to many residents who own property in close proximity to the wind turbines, in 2010 the Defendants erected 37 Gamesa G90 wind-turbines that stand 476 feet tall in and around the Towns of Fairfield, Middleville, and Norway, New York.

102. In 2011, the Defendants conducted a noise study that showed noise levels as high as 72 dB.

103. As a result of the aforementioned 2011 study, the Defendants thereafter faulted their own study and conducted two additional noise studies to demonstrate compliance with the Town of Fairfield’s Local Ordinance 1 of 2006, which sets the maximum noise level at 50 dB.

104. These new studies conducted by the Defendants show the average wind speeds, direction and expected percentage of operation.

105. The Defendants’ new studies did not measure the maximum wind speeds and do not measure the noise levels in the winter months, when the noise levels are higher.

106. The Defendants’ new studies fail to acknowledge and assess the extent of the problems, including the full log of Plaintiffs’ complaints that are in the thousands.

108. Since the huge wind turbines in this project produce very little electricity, when the government subsidies expire, the people in the Hardscrabble area will be confronted with a poorly maintained and deteriorating wind energy facility that may one day become derelict.

114. The Defendants’ noise studies also fail to address the aforesaid levels of infra and low frequency sounds by only focusing on audibility, and not on other sensations such as vestibular and other symptoms that fit with the Wind-Turbine Syndrome profile or other health concerns.

115. The wind turbines are causing such significant problems and/or injuries that residents, including the Plaintiffs, are continuing to have many difficulties on their properties, house values have been significantly compromised, and some residents were even forced to abandon their homes; among other damages as set forth in this complaint.

121. The aforesaid Defendants carelessly and negligently created and/or assisted in the creation of the massive wind-turbine structures that have caused and continue to cause significant harm to residents in the area of the turbines.

122. The aforesaid Defendants carelessly and negligently failed to adequately disclose the true nature and effects that the wind turbines would have on the community, including the Plaintiffs' homes.

125. The amount of the damages sustained herein by Plaintiffs exceed the jurisdictional limits of all lower courts.

128. The studies performed by CH2M Hill, Inc. and Mark Bastasch, P.E., INCE lacked a total and real assessment as it related to the potential harm.

129. It is a requirement of acoustic engineers, pursuant to the International Conference on Electrical and Electronics Engineering and civil engineers (as per New York State licensure) to protect public safety, health, and welfare.

130. Defendants knew or should have known that the wind turbines erected produce acoustic pressure pulsations that affect peoples' health.



131. It was the responsibility of CH2M Hill, Inc. and Mark Bastasch, P.E., INCE to advise their clients and the public, including Plaintiffs, of the potential for adverse health risks and other impacts to property in the Hardscrabble project area.

133. As a result of the aforesaid, the Plaintiffs have suffered significant and permanent injuries as more fully set forth herein.

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As the evidence of the harm caused by incessant turbine generated low-frequency noise and infrasound goes from solid to incontrovertible, more and more victims will enlist lawyers and get the remedies (injunctions) and compensation (damages) to which they are obviously entitled.

While the Herkimer County case is being mounted against the developer and its pet acoustic consultant, the list of potential defendants isn't so limited.

The grounds for liability to victims are pretty straightforward: common law claims in nuisance and/or negligence (for starters) to obtain substantial damages for personal injury – caused by either – for pain and suffering, loss of amenity and enjoyment of life etc – as well as very substantial damages for the loss of the use and benefit of homes; diminution in the value of those homes and properties; relocation costs etc, etc.

The obvious cast of defendants includes:

- the wind power outfits concerned;
- the landowners hosting the turbines that cause the damage;
- local Councils (where they are responsible for approving noise conditions and/or enforcing them);
- State government Planning Departments (where they are responsible for approving noise conditions and/or enforcing them);
- authorities, such as Environmental Protection Authorities (where they have either been involved in the creation – and/or (non)-enforcement – of wind farm noise standards);
- acoustic experts engaged by the wind industry for their manifest failure to protect the health and well-being of wind farm neighbours – part of their (purported) ethical responsibilities, and especially those involved in the production of the noise standards;
- State Health Departments, etc.

In short, a veritable cast of ‘thousands’. And behind them (with the exception of turbine hosts) stand a phalanx of insurers and underwriters – who will, no doubt, be taking a good hard look at their exposure.

The wind industry and its parasites were pretty quick to set the ‘rules’ in a way that means wind power outfits can operate around the clock, without any regard for the harm caused (eg, [sleep deprivation](#)) – ‘rules’ maliciously designed to discriminate against wind farm neighbours.

These are the boys who have sought to evade and avoid any kind of reasonable controls on their operations. From the outset, they’ve made every effort to ensure that irrelevant and, therefore, woefully inadequate noise standards were adopted and are maintained – for a chronology of wind industry deception on this score, see our post: [Three Decades of Wind Industry Deception: A Chronology of a Global Conspiracy of Silence and Subterfuge](#)

And wind power outfits have doggedly refused to cooperate whenever victims are trying to impose even those woeful standards; and who, when troubled by an ‘unhelpful’ noise report, simply get their pet acoustic consultants to ‘redraw’ the results and, using fabricated data, claim compliance with an utterly irrelevant ‘standard’:

[Pacific Hydro & Acciona’s Acoustic ‘Consultant’ Fakes ‘Compliance’ Reports for Non-Compliant Wind Farms](#)

Whether it’s in Herkimer County, or elsewhere, a day of legal reckoning approaches; and it can’t come soon enough

[Fraud in Falmouth MA - Town Relied on Acoustic Consultants’ Faked Vestas Wind Turbine Noise Report](#)In "Big wind industry"

[Civil Actions: Wind Farm Litigation Breakout in the US](#)In "Big wind industry"

[Germans Driven from their Homes by Wind Turbine Generated Infrasound](#)In "Big wind industry"