

**DISTRICT COURT, LA PLATA COUNTY, COLORADO**

Court Address: 1060 E. Second Ave., Durango, CO 81301

Phone Number: (970) 247-2304

**Plaintiff(s):**

RICHARD PARRY, LINDA PARRY, EVELYN L. PAYNE, and  
DAVID G. GROBLEBE, individually and as representative  
Plaintiffs on behalf of persons similarly situated, (94 CV 111)

**(Consolidated with other cases as 94 CV 105)**

v.

**Defendant(s):**

AMOCO PRODUCTION COMPANY, a  
Delaware corporation.

**Attorney or Party Without Attorney:**

Thomas P. Dugan, Esq.

DUGAN & ASSOCIATES, P.C.

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**Atty. Reg. #:** 13576

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**Case No.:** 94 CV 105

**Div:**                      **Ctrm:**

**DEFENDANT AMOCO PRODUCTION COMPANY'S MOTION FOR  
PARTIAL SUMMARY JUDGMENT ON THE NON-RETROACTIVE EFFECT  
OF *GARMAN AND ROGERS***

Defendant Amoco Production Company respectfully submits this Motion for Partial Summary Judgment pursuant to C.R.C.P. Rule 56(h). In support thereof, Amoco states as follows:

1. Rule 56(h) allows the Court to rule on a question of law. The purpose behind the rule is to "enhance the ability of the parties to prepare for and realistically evaluate their cases," and "allow the parties and the court to eliminate significant uncertainties . . ." *Hardaway & Hyatt, Colorado Civil Rules Annotated*, § 56.9, at 68-69 (West 1985).
2. The trial court may grant partial summary judgment as to undisputed material facts and reserve disputed facts for subsequent proceedings. *Hauser v. Rose Health Care Systems*, 857 P.2d 524 (Colo. Ct. App. 1993).
3. Whether the relevant holdings in *Garman v. Conoco*, 886 P.2d 685 (Colo. 1994), and *Rogers v. Westerman Farms*, 29 P.3d 887 (Colo. 2001), apply retroactively is a legal question best resolved by partial summary judgment.

4. Amoco asks the Court to rule that both *Garman* and *Rogers* established new principles of law, retrospective application is not required to further the new principles established, and in light of the inequities that would result if either decision is applied retrospectively, the decisions only should be applied in this case prospectively.
5. Amoco has submitted a brief in support of this motion which states why partial summary judgment is appropriate. Amoco will prepare a proposed order to be submitted concurrent with its Reply Brief.

RESPECTFULLY SUBMITTED this 15<sup>th</sup> day of April, 2002.

**BP AMERICA**

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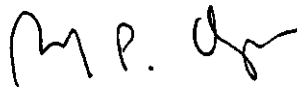
-and-

**MODRALL, SPERLING, ROEHL, HARRIS & SISK, P.A.**

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-and-

**DUGAN & ASSOCIATES, P.C.**



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Thomas P. Dugan, Reg. No. 13576  
ATTORNEYS FOR AMOCO PRODUCTION COMPANY

## CERTIFICATE OF SERVICE

I do hereby certify that I have served a true and correct copy of the above and foregoing **DEFENDANT AMOCO PRODUCTION COMPANY'S MOTION FOR PARTIAL SUMMARY JUDGMENT ON THE NON-RETROACTIVE EFFECT OF GARMAN AND ROGERS** on the following parties this 15<sup>th</sup> day of April, 2002, by (\*) hand delivery; (\*\*) delivery of same to their respective Court pick-up box; (\*\*\*) depositing the same in the United States mail, postage prepaid, or (\*\*\*\*) via facsimile transmission to the number listed below:

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