



IN THE CIRCUIT COURT OF RALEIGH COUNTY, WEST VIRGINIA

IN RE: FLOAT-SINK LITIGATION

Hon. John A. Hutchinson
Civil Action No. 11-C-5000

THIS DOCUMENT APPLIES TO ALL CASES

AGREED DISMISSAL ORDER

Now come Plaintiffs, by their counsel Thomas F. Basile and Magic Chemicals, Inc., hereinafter referred to as "Magic Chemicals" by its counsel, Thomas C. Regan, Esq., and hereby jointly move the Court to dismiss Defendant, Magic Chemicals, from **all** cases which have been hereby consolidated under the above civil action number, without prejudice, pursuant to W. Va. R.C.P. 41(b). The parties rely upon the Affidavit of Dr. Tejendra Bawa, principal of Magic Chemicals, Inc.

Furthermore, the parties state that should later-discovered evidence necessitate that Magic Chemicals be added as a party to this action, the parties have agreed that 1) any defenses, including the Statute of Limitations, is tolled as of the date each of these original actions were filed, so as not to prejudice any of the plaintiffs; 2) Magic Chemicals, does not waive any defenses, including the Statute of Limitations, that existed at the time each of these actions was filed.

Therefore, it is hereby **ORDERED** that all civil actions be dismissed as to Defendant, Magic Chemicals, without prejudice to each of the plaintiffs, whose right to rejoin Magic Chemicals as a defendant to each civil action based on later-discovered evidence is preserved, and it is further **ORDERED** that if Magic Chemicals is rejoined as a defendant, any defenses, including the statute of limitations, are tolled as of the date that each of these original actions were filed and Magic Chemicals will be deemed not to

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have waived any defenses, including the Statute of Limitations, that existed at the time each civil action was filed.

It is further **ORDERED** that all cross-claims pending against said defendant are hereby dismissed without prejudice to the cross-claimants; and it is further **ORDERED** that the subject civil actions remain pending as to all other parties and claims; and it is further **ORDERED** that plaintiffs and Magic Chemicals will bear his, her or its own costs in connection with these actions, and that no party shall be entitled to recover costs from any other party related to the filing of this Agreed Dismissal Order.

The Court further **ORDERS** that the Clerk provide copies of this Order, after entry, to Thomas C. Regan, Esq., counsel to Magic Chemicals and to all Counsel of Record via LexisNexis File & Serve.

ENTERED this _____ day of _____, 2011.

The Honorable John A. Hutchison
Lead Presiding Judge, Float-Sink Litigation

Prepared by:

/s/Thomas F. Basile

Thomas F. Basile (WV Bar No. 6116)
P.O. Box 4006
Charleston, West Virginia 25364-4006
304-925-4490; 866-587-2766 (fax)
e-mail: basilelaw@suddenlink.net

Counsel for all Plaintiffs

Reviewed and Approved by:

/s/ Thomas C. Regan, Esq.

Thomas C. Regan, Esq.
LeClairRyan, a Virginia professional corporation
Counsel for Magic Chemicals, Inc.

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This document constitutes a ruling of the court and should be treated as such.

Court Authorizer: John A Hutchison

**Court Authorizer
Comments:**

Stipulated Dismissal Without Prejudice