



IN THE CIRCUIT COURT OF RALEIGH COUNTY, WEST VIRGINIA

IN RE: FLOAT-SINK LITIGATION

CIVIL ACTION NO.: 11-C-5000000  
(Honorable John A. Hutchison)

THIS DOCUMENT APPLIES TO ALL CASES

AGREED ORDER OF DISMISSAL OF CERTAIN DISTRIBUTOR DEFENDANTS'  
CROSS-CLAIMS AND THIRD-PARTY CLAIMS AGAINST  
MANUFACTURING DEFENDANTS

Now come certain Distributor Defendants<sup>1</sup>, by and through their undersigned Liaison Counsel, and Manufacturing Defendants<sup>2</sup>, by and through their undersigned Liaison Counsel, and hereby represent to the Court that Certain Distributor Defendants have agreed to dismiss their cross-claims and third-party claims against Manufacturing Defendants as set forth in the "Stipulation Regarding Contribution and Implied Indemnification," filed March 16, 2012, pursuant to the following terms:

- 1) All cross-claims and causes of action asserted by Certain Distributor Defendants against the perchloroethylene Manufacturing Defendants<sup>3</sup> are dismissed with prejudice;
- 2) All cross-claims and third-party claims asserted by Certain Distributor Defendants against the dibromomethane Manufacturing Defendants<sup>4</sup> in the Cindi Greathouse (MLP

<sup>1</sup> Certain Distributor Defendants are as follows: Preiser Scientific, Inc. and Primachem, LLC (hereinafter "Certain Distributor Defendants").

<sup>2</sup> Manufacturing Defendants are as follows: The Dow Chemical Company, ICL-IP America Inc. f/k/a Ameribrom, Inc., INEOS Chlor Americas, Inc., Legacy Vulcan Corp., f/k/a Vulcan Materials Company, Occidental Chemical Corporation, individually and as successor to Diamond Shamrock Chemicals Company, PPG Industries, Inc., Albemarle Corporation, Morre-Tec Industries, Inc. and Univar USA Inc. (hereinafter "Manufacturing Defendants").

<sup>3</sup> The perchloroethylene Manufacturing Defendants are as follows: The Dow Chemical Company, INEOS Chlor Americas, Inc., Legacy Vulcan Corp., f/k/a Vulcan Materials Company, Occidental Chemical Corporation, individually and as successor to Diamond Shamrock Chemicals Company, PPG Industries, Inc. and Univar USA Inc..

<sup>4</sup> The dibromomethane Manufacturing Defendants are as follows: ICL-IP America Inc. f/k/a Ameribrom, Inc., Albemarle Corporation and Morre-Tec Industries, Inc. (hereinafter "DBM Manufacturing Defendants").

Granted Judge John A Hutchison Jun 03, 2012

Case No. 11-C-5350003), Thomas Hatfield (MLP Case No. 11-C-5230015) and Ralph Atwell (MLP Case No. 11-C-5240001) actions are dismissed without prejudice;

- 3) All cross-claims and third-party claims asserted by Certain Distributor Defendants against the DBM Manufacturing Defendants in all West Virginia Float-Sink actions not specifically referenced above are dismissed with prejudice;
- 4) In exchange for the dismissals outlined herein, Certain Distributor Defendants are given access to Manufacturing Defendants' experts, James Becker, M.D. and David Clayman, Ph.D.;
- 5) Certain Distributor Defendants' access to James Becker, M.D. will terminate upon the filing of renewed cross-claims or third-party claims against any of the DBM Manufacturing Defendants in one or more of the Cindi Greathouse (MLP Case No. 11-C-5350003), Thomas Hatfield (MLP Case No. 11-C-5230015) and Ralph Atwell (MLP Case No. 11-C-5240001) actions; and
- 6) The DBM Manufacturing Defendants dismiss all cross-claims against Manufacturing Defendants and Certain Distributor Defendants with prejudice, except in the Cindi Greathouse (MLP Case No. 11-C-5350003), Thomas Hatfield (MLP Case No. 11-C-5230015) and Ralph Atwell (MLP Case No. 11-C-5240001) actions where the DBM Manufacturing Defendants dismiss their cross-claims against Manufacturing Defendants and Certain Distributor Defendants without prejudice.

Having considered the foregoing, the Court hereby **ORDERS** that any and all cross-claims, third-party claims and causes of action that Certain Distributor Defendants have asserted against Manufacturing Defendants are hereby **DISMISSED** pursuant to the terms outlined herein

**Granted** Judge John A Hutchison Jun 03, 2012

and stricken from the docket of this Court. Each of the Parties shall bear its respective costs incurred in connection with this consolidated matter.

The Clerk of this Court is directed to send certified copies of this Agreed Order to all counsel of record in this action.

ENTER: June \_\_\_\_, 2012.

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HONORABLE JOHN A. HUTCHISON  
Judge, Circuit Court of Raleigh County, W. Va.

AGREED TO AND PRESENTED BY:

/s/ Michael J. Farrell  
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*Liaison Counsel for Distributor Defendants*

**Granted** Judge John A Hutchison Jun 03, 2012