

IN THE CIRCUIT COURT OF RALEIGH COUNTY, WEST VIRGINIA

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IN RE : FLOAT-SINK LITIGATION  
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Hon. John A. Hutchison  
CIVIL ACTION NO.: 11-C-5000000

THIS DOCUMENT APPLIES TO ALL CASES

**AGREED DISMISSAL ORDER**

Now come Plaintiffs, by their counsel Thomas F. Basile and Belmonte Park Environmental Laboratories, Inc., d/b/a/ Belmont Labs, hereinafter referred to as “Defendant, Belmont Laboratories and/or Belmont Laboratories,” by their President, Samuel Elam, and hereby jointly move the Court to dismiss Defendant, Belmont Laboratories, from **all** cases which have been hereby consolidated under the above civil action number, without prejudice.

Furthermore, the parties state that should later-discovered evidence necessitate that Belmont Laboratories 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 was filed, so as not to prejudice any of the plaintiffs; and 2) Belmont Laboratories 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, Belmont Laboratories, without prejudice to each of the plaintiffs, whose right to re-join Belmont Laboratories as a defendant to each civil action based on later-discovered evidence is preserved, and it is further **ORDERED** that if Belmont Laboratories is rejoined as a defendant, any defenses, including the statute of limitations, are tolled as of the date that each of these original actions was filed and Belmont Laboratories will be deemed not to 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 this action remain pending as to all other parties and claims; and it is further **ORDERED** that plaintiffs and Belmont Laboratories will bear his, her or its own costs in connection with these actions, and that

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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 Samuel Elam of Belmont Laboratories and to counsel for plaintiffs, as identified below, and further **ORDERS** counsel for plaintiffs to send copies of said Order to all Counsel of Record via electronic mail.

Entered this \_\_\_\_ day of \_\_\_\_\_, 2011.

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

**Prepared by:**

*/s/ Thomas F. Basile*

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**Reviewed and Approved by:**



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*President*

*Belmonte Park Environmental Laboratories, Inc., d/b/a Belmont Labs*

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