

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

FILED
2011 FEB 11 11:30 AM
CLERK OF COURT
KANAWHA COUNTY WEST VIRGINIA
RC

JEFFREY BLOUNT,

Plaintiff,

v.

CIVIL ACTION NO. 10-C-1109

ARKEMA, et al.,

Defendants.

**ORDER TRANSFERRING AND CONSOLIDATING
FLOAT-SINK LITIGATION**

Pursuant to West Virginia Trial Court Rule 26.07(a), with the advice and consent of the Mass Litigation Panel (“Panel”), Panel Chair Alan D. Moats assigned The Honorable John A. Hutchison as Lead Judge presiding in the Float-Sink Litigation on January 24, 2011.

Pursuant to West Virginia Trial Court Rule 26.08(b), with the advice and consent of the Panel, it is **ORDERED** that the Float-Sink Litigation be consolidated under the style, “*In re: Float-Sink Litigation*, Civil Action No. 11-C- 5000, in the Circuit Court of Raleigh County, West Virginia” in order to facilitate the Panel’s case management and trial methodologies.

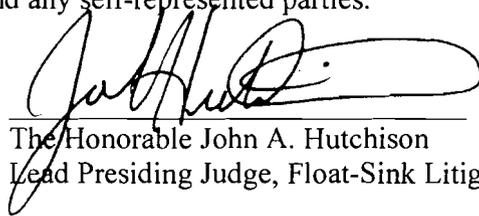
It is further **ORDERED** that the Float-Sink Litigation be transferred to the Circuit Court of Raleigh County, West Virginia, and that all court files listed or described in the Administrative Orders entered by the Supreme Court of Appeals of West Virginia on November 23, 2010, and January 19, 2011, shall be transferred to the Circuit Court of Raleigh County, West Virginia, **on or before March 31, 2011**. A copy of the November 23, 2010 and January 19, 2011, Administrative Orders is attached.

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To accomplish the orderly transfer of court files, the office of the Circuit Clerk of Raleigh County, West Virginia, will coordinate with the offices of the Circuit Clerks of Barbour, Boone, Braxton, Fayette, Harrison, Kanawha, Logan, Marshall, McDowell, Mercer, Mingo, Monongalia, Nicholas, Ohio, Webster and Wyoming Counties, the Mass Litigation Manager, and the office of the Administrative Director of the Supreme Court of Appeals.

The Circuit Clerk of Kanawha County, West Virginia is **ORDERED** to forward a certified copy of this Order to the Clerks of the Circuit Courts of Barbour, Boone, Braxton, Fayette, Harrison, Logan, Marshall, McDowell, Mercer, Mingo, Monongalia, Nicholas, Ohio, Raleigh, Webster and Wyoming Counties, West Virginia, the Mass Litigation Manager, all Counsel of record and any self-represented parties.

ENTER: February 11, 2011


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

ADMINISTRATIVE ORDER

SUPREME COURT OF APPEALS OF WEST VIRGINIA

IN RE: MOTION TO REFER TO THE MASS LITIGATION PANEL THE PROCEEDING STYLED JEFFREY BLOUNT V. ARKEMA, INC., ET AL., KANAWHA COUNTY CIVIL ACTION NO. 10-C-1109, ALONG WITH OTHER CASES IDENTIFIED THEREIN

WHEREAS, pursuant to Rule 26.06 of the West Virginia Trial Court Rules, the Chief Justice has received a copy of the Motion filed in the Circuit Court of Kanawha County, to refer to the Mass Litigation Panel Jeffrey Blount v. Arkema, Inc., et al., Civil Action No. 10-C-1109, and all other similar cases identified in said Motion; and

WHEREAS, the Motion appears to be in substantial compliance with Rule 26.06 of the West Virginia Trial Court Rules; and

WHEREAS, the time for parties and affected judges to file a reply memorandum has expired; and

WHEREAS, upon review of the Motion and responses thereof, the Chief Justice has determined that the Motion to Refer should be granted and that it is appropriate to transfer all cases identified in said Motion to the Mass Litigation Panel; and

WHEREAS, certain parties have suggested that a particular circuit court judge be appointed to preside over this litigation in the event it is referred to the Panel. In that regard, the Chief Justice expressly notes such a recommendation is entirely inappropriate and is not provided for in Trial Court Rule 26.07. Trial Court Rule 26.07(a) makes it abundantly clear that the selection of a presiding judge from the Panel is, in the first instance, left to the sole discretion of the Panel. If the Panel requests the assignment of additional active or senior status circuit court judges to assist in resolving Mass Litigation or proceedings therein, the request and recommendation is sent to the Chief Justice by the Panel pursuant to Trial Court Rule 26.07(b);

UPON CONSIDERATION THEREOF, IT IS HEREBY ORDERED, that the Motion to Refer is granted with respect to all cases identified in the Motion and all such cases are hereby transferred to the Mass Litigation Panel; and

IT IS FURTHER ORDERED, that the parties meet and confer and report to the Mass Litigation Panel any revisions, additions, or deletions to the cases identified in said Motion within 30 days of the date of this Administrative Order or such other time set by the Panel; and

IT IS FURTHER ORDERED, this referral is made subject to the discretionary consideration by the Panel or the presiding judge(s) at an appropriate time that the deliberate intent claims against employer defendants may warrant separate judicial analysis; and

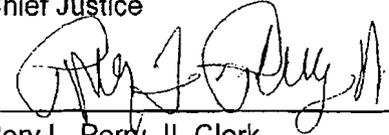
IT IS FURTHER ORDERED, that a copy of this ORDER be transmitted to the Mass Litigation Panel, the Mass Litigation Manager, the Administrative Director of the Courts, and the Clerks of the Circuit Courts where the actions are pending, who are to provide copies of the same to all parties of record or their counsel; and

IT IS FURTHER ORDERED, that the Clerks of the Circuit Courts where the actions are pending, need take no action to remove or otherwise transfer these matters until direction is received in writing from a member of the Mass Litigation Panel, and/or the Chief Justice of the Supreme Court of Appeals; and

IT IS FURTHER ORDERED, that all proceedings be conducted as provided by law.

ENTERED: NOVEMBER 23, 2010


ROBIN JEAN DAVIS
Chief Justice

Attest: 
Rory L. Perry, II, Clerk
Supreme Court of Appeals

ADMINISTRATIVE ORDER

SUPREME COURT OF APPEALS OF WEST VIRGINIA

IN RE: REQUEST OF THE MASS LITIGATION PANEL TO AMEND THE NOVEMBER 23, 2010, ADMINISTRATIVE ORDER REFERRING JEFFREY BLOUNT V. ARKEMA, INC., ET AL., KANAWHA COUNTY CIVIL ACTION NO. 10-C-1109, ALONG WITH OTHER SIMILAR CASES IDENTIFIED THEREIN, TO THE MASS LITIGATION PANEL

WHEREAS, by Supreme Court Administrative Order entered on November 23, 2010, the "Motion to Refer Actions to the Mass Litigation Panel" filed in the above-styled case was granted with respect to all cases identified in said Motion; and

WHEREAS, by letter dated January 14, 2011, the Mass Litigation Panel requested that the Court amend its November 23, 2010, Order to include all cases reflected in "Appendix A" to *PPG Industries, Inc.'s Report to the Mass Litigation Panel Regarding Revisions, Additions or Deletions to the Cases Identified in Plaintiffs' "Motion to Refer Actions to the Mass Litigation Panel,"* as well as the case of Hatfield v. Arkema, Inc., et al., which is to be filed in the Circuit Court of McDowell County; and

WHEREAS, the Panel also requested that the November 23, 2010, Order be amended to authorize the Panel to transfer and join with the existing Mass Litigation any similar or related actions subsequently filed in any circuit court, as provided in West Virginia Trial Court Rule 26.09; and

WHEREAS, upon review thereof, the Chief Justice has determined that the Panel's requests are hereby warranted;

UPON CONSIDERATION THEREOF, IT IS HEREBY ORDERED, that the above-referenced Administrative Order entered on November 23, 2010, is hereby amended to reflect that all cases identified in "Appendix A" (attached to this Administrative Order), as well as Hatfield v. Arkema, Inc., et al., which is to be filed in the Circuit Court of McDowell County, are referred to the Mass Litigation Panel; and

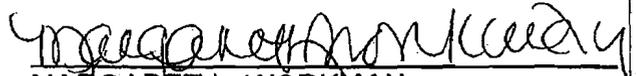
IT IS FURTHER ORDERED, that the November 23, 2010, Order is also amended to authorize the Mass Litigation Panel to transfer and join with the existing Mass Litigation any similar or related actions subsequently filed in any circuit court, as provided in West Virginia Trial Court Rule 26.09; and

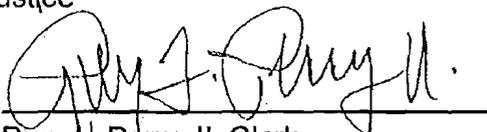
IT IS FURTHER ORDERED, that a copy of this ORDER be transmitted to the Mass Litigation Panel, the Mass Litigation Manager, the Administrative Director of the Courts, and the Clerks of the Circuit Courts where the actions are pending, who are to provide copies of the same to all parties of record or their counsel; and

IT IS FURTHER ORDERED, that the Clerks of the Circuit Courts where the actions are pending, need take no action to remove or otherwise transfer these matters until direction is received in writing from a member of the Mass Litigation Panel, and/or the Chief Justice of the Supreme Court of Appeals; and

IT IS FURTHER ORDERED, that all proceedings be conducted as provided by law.

ENTERED: JANUARY 19, 2011


MARGARET L. WORKMAN
Chief Justice

Attest: 
Rory D. Perry, II, Clerk
Supreme Court of Appeals

APPENDIX A

Float-Sink Actions by County

County	Plaintiff	Civil Action No.	Judge
Barbour (3)	Robert M. Kelley	10-C-41	Moats
Barbour	Mickey Mitchell	10-C-58	Moats
Barbour	Sandra Spotloe	10-C-59	Moats
Boone (11)	John M. Bias	10-C-144	Thompson
Boone	Joseph R. Blevins	10-C-184	Thompson
Boone	Gene A. Bowen	10-C-185	Thompson
Boone	John Chandler	10-C-186	Thompson
Boone	Westley Fraley	10-C-187	Thompson
Boone	Michael Gallaher	10-C-188	Thompson
Boone	Rondal Gillispie, Jr.	10-C-189	Thompson
Boone	Fred V. Harless	10-C-190	Thompson
Boone	Carlos G. Jarvis, Jr.	10-C-191	Thompson
Boone	Dennis A. Miller	10-C-192	Thompson
Boone	Jones ¹	10-C-283	
Braxton (2)	Michael W. Groves	10-C-37	Facemire
Braxton	Gary Yates	10-C-46	Facemire
Fayette (1)	Gary L. Jarvis	10-C-158	Hatcher
Harrison (1)	Tod Lewark	10-C-258-2	Bedell
Kanawha (14)	Jeffrey Blount	10-C-1109	Kaufman
Kanawha	James E. Elswick, Jr.	10-C-1110	Bloom
Kanawha	Theodore Hapney	10-C-1111	Webster
Kanawha	Carl R. Hicks	10-C-1113	Webster
Kanawha	Gary W. Hodge	10-C-1114	Stucky
Kanawha	William E. Hodge	10-C-1115	Bailey
Kanawha	Elmer Johnson	10-C-1116	Kaufman
Kanawha	Charles T. Koenig	10-C-1117	Bailey
Kanawha	Wilda March	10-C-1118	King
Kanawha	John L. McGraw	10-C-1119	Webster
Kanawha	Roy E. McNeal, Jr.	10-C-1120	Kaufman
Kanawha	Steven Nickell	10-C-1121	King
Kanawha	Donald Raines, Jr.	10-C-1122	Webster
Kanawha	James E. Elswick, Sr.	10-C-1208	Webster
Logan (33)	Mary Jo Barto	10-C-149	O'Briant
Logan	Mark K. Blevins	10-C-199	O'Briant
Logan	Joe Boytek	10-C-200	O'Briant
Logan	Monty E. Boytek	10-C-201	O'Briant
Logan	Randy Boytek	10-C-202	O'Briant
Logan	Ricky L. Browning	10-C-203	O'Briant
Logan	Drema G. Chafin	10-C-204	O'Briant

¹ PPG has not been served with *Jones v. Arkema, Inc., et al.* (Boone County, Civil Action No. 10-C-283).

APPENDIX A

Float-Sink Actions by County

County	Plaintiff	Civil Action No.	Judge
Logan	Craig Conley	10-C-205	O'Briant
Logan	Joseph W. Copley	10-C-206	O'Briant
Logan	Keith Copley	10-C-207	O'Briant
Logan	Bruce E. Doty	10-C-208	O'Briant
Logan	Manuel Estrathers, Jr.	10-C-209	O'Briant
Logan	Orville Funk	10-C-210	O'Briant
Logan	Edward Hager	10-C-211	O'Briant
Logan	Thomas Hatfield	10-C-212	O'Briant
Logan	William A. Herndon	10-C-213	O'Briant
Logan	Thomas L. Jeffrey	10-C-214	O'Briant
Logan	Lowell Midkiff, Jr.	10-C-215	O'Briant
Logan	Paul Pierson	10-C-216	O'Briant
Logan	Sammy Podunavac	10-C-217	O'Briant
Logan	Randy Redmond	10-C-218	O'Briant
Logan	Ralph D. Reedy	10-C-219	O'Briant
Logan	James Riffe	10-C-220	O'Briant
Logan	Russell Shell	10-C-221	O'Briant
Logan	James D. Slater	10-C-222	O'Briant
Logan	David Townsend	10-C-223	O'Briant
Logan	Marlene Vance	10-C-224	O'Briant
Logan	Harrison Webster	10-C-225	O'Briant
Logan	Dennis K. Wellman	10-C-226	O'Briant
Logan	Berry White, Jr.	10-C-227	O'Briant
Logan	Kenneth R. Williams	10-C-228	O'Briant
Logan	Kenneth Wilson	10-C-229	O'Briant
Logan	Cline ²	10-C-351	
Marshall (3)	Larry Auth	10-C-119H	Hummel
Marshall	Roger W. Gatts	10-C-164	Hummel
Marshall	John M. Stephens	10-C-165	Hummel
McDowell (9)	Ralph Atwell	10-C-116M	Murensky
McDowell	Larry D. Buckland	10-C-147	Murensky
McDowell	Arnold E. Fortner	10-C-148	Murensky
McDowell	Darlene Hall	10-C-149	Murensky
McDowell	Bobby L. Lester	10-C-150	Murensky
McDowell	Dieter Mocnik	10-C-151	Murensky
McDowell	James Rose	10-C-152	Murensky
McDowell	Anthony S. Testerman	10-C-153	Murensky
McDowell	Carl D. Waugh	10-C-154	Murensky
Mercer (1)	Earl Holt	10-C-243-0A	Abulhosn

² PPG has not been served with *Cline v. Arkema, Inc., et al.* (Logan County, Civil Action No. 10-C-351).

APPENDIX A

Float-Sink Actions by County

County	Plaintiff	Civil Action No.	Judge
Mingo (13)	Jimmy D. Birchfield	10-C-199	Thornsbury
Mingo	Kenneth Blankenship	10-C-199	Thornsbury
Mingo	Billy Joe Dean	10-C-199	Thornsbury
Mingo	Lowell G. Dean	10-C-199	Thornsbury
Mingo	Curtis H. Lester	10-C-199	Thornsbury
Mingo	Donald R. Lester	10-C-199	Thornsbury
Mingo	Joseph L. Lester	10-C-199	Thornsbury
Mingo	Nellie B. Lester	10-C-199	Thornsbury
Mingo	Bruce G. Maynard	10-C-199	Thornsbury
Mingo	Daniel E. Maynard	10-C-199	Thornsbury
Mingo	Earl G. McCune	10-C-199	Thornsbury
Mingo	Eddy Simpkins	10-C-199	Thornsbury
Mingo	Jason W. Teeters	10-C-199	Thornsbury
Monongalia (1)	Mickey D. Fridley	10-C-437	Gaujot
Nicholas (9)	Dennis Akers	10-C-95	Johnson
Nicholas	Larry Doug Bailey	10-C-95	Johnson
Nicholas	Dwayne Boothe	10-C-95	Johnson
Nicholas	Richard A. Cook	10-C-95	Johnson
Nicholas	David L. Cooper	10-C-95	Johnson
Nicholas	Benjamin M. Fitzwater	10-C-95	Johnson
Nicholas	Janet Kershner-Vanover	10-C-95	Johnson
Nicholas	Robert Kutcher	10-C-95	Johnson
Nicholas	David M. Smith	10-C-95	Johnson
Ohio (6)	Michael Bibbee	10-C-215	Wilson
Ohio	Carey G. Doll	10-C-281	Wilson
Ohio	Cindi L. Greathouse	10-C-282	Wilson
Ohio	Kevin L. Huntsman	10-C-283	Wilson
Ohio	James E. Nixon	10-C-284	Wilson
Ohio	Keith E. Wisor	10-C-285	Wilson
Raleigh (17)	Terrance R. Allison	10-C-491K	Kirkpatrick
Raleigh	Kevin L. Altice	10-C-492K	Kirkpatrick
Raleigh	Roscoe Clay	10-C-493K	Kirkpatrick
Raleigh	Anna Dickens	10-C-494K	Kirkpatrick
Raleigh	David Fondale	10-C-495K	Kirkpatrick
Raleigh	Jack S. Keene	10-C-496K	Kirkpatrick
Raleigh	Anthony N. Lilly	10-C-497K	Kirkpatrick
Raleigh	James K. Lilly	10-C-498K	Kirkpatrick
Raleigh	Michael P. Lipford	10-C-499K	Kirkpatrick
Raleigh	Mark L. Lykins, Sr.	10-C-500K	Kirkpatrick
Raleigh	Lacy D. McKinney, Jr.	10-C-501K	Kirkpatrick
Raleigh	Matthew D. Plantz	10-C-502K	Kirkpatrick
Raleigh	Cathy Rutledge	10-C-503K	Kirkpatrick

APPENDIX A

Float-Sink Actions by County

County	Plaintiff	Civil Action No.	Judge
Raleigh	Donald Shannon	10-C-504K	Kirkpatrick
Raleigh	Dustin Trail	10-C-505K	Kirkpatrick
Raleigh	Bobbie Williams	10-C-506K	Kirkpatrick
Raleigh	Harold Williams	10-C-507K	Kirkpatrick
Webster (2)	Walter M. Hicks	10-C-22	Alsop
Webster	Lloyd B. McClung	10-C-23	Alsop
Wyoming (2)	Lynndall W. Dunn	10-C-106	McGraw
Wyoming	Rickey E. Hicks	10-C-138	McGraw