



**IN THE CIRCUIT COURT OF RALEIGH COUNTY, WEST VIRGINIA**

**IN RE: GAVIN LANDFILL LITIGATION**

**CIVIL ACTION NO. 16-C-8000**

**THIS DOCUMENT RELATES TO ALL CASES**

**ORDER REGARDING SUPPLEMENT TO THIRD  
RECOMMENDED DECISION OF DISCOVERY COMMISSIONER**

The Presiding Judges have reviewed the Discovery Commissioner's February 5, 2018, *Supplement to Third Recommended Decision* (Transaction ID 61648046). The time for filing an exception to the *Supplement to Third Recommended Decision* having expired with no exception filed, the Court adopts the Findings of Fact and Conclusions of Law set forth in the *Supplement to Third Recommended Decision* with the following amendments:

The Court agrees that \$500.00 per hour is beyond the reasonable hourly rate for litigators in this area. However, the Court **FINDS** that \$275.00 per hour is a more appropriate maximum hourly rate for counsel in this case. Because Attorney Elizabeth Reese has been admitted to practice law for less than three years, the Court further **FINDS** that a more appropriate hourly rate for her legal services is \$175.00 per hour. Additionally, the Court **FINDS** that a more appropriate hourly rate for the paralegal services in this case is \$100.00 per hour.

Based on these findings, the Court **ORDERS** Plaintiff's counsel to pay the following attorney's fees and costs as a sanction with regard to *Defendants' Motion to Compel Plaintiffs to Produce Itemizations of Damages Claimed by Each Plaintiff and For Sanctions and Request for Expedited Briefing Schedule* (Transaction ID 61502279) **no later than February 28, 2018**:

<b>Name</b>	<b>Rate</b>	<b>Hours</b>	<b>Amount</b>
Attorney Lori E. Jarvis	\$275.00	12.5	\$ 3,437.50
Attorney Nash E. Long	\$275.00	1.8	\$ 495.00
Attorney Ancil Ramey	\$275.00	7.9	\$ 2,172.50
Attorney Elizabeth Reese	\$175.00	18.5	\$ 3,237.50
Attorney James Turner	\$275.00	5.8	\$ 1,595.00

Paralegal Kathryn E. Bell	\$100.00	1.7	\$ 170.00
Paralegal Karl Spiker	\$100.00	4.5	\$ 450.00
Fees Total			<u>\$11,557.50</u>
Costs			<u>\$ 1,801.72</u>
Total Fees and Costs			\$13,359.22

The Court further **ORDERS** Plaintiffs’ counsel to pay the total amount of \$1,200.00 to the Discovery Commissioner for his costs incurred in issuing the *Supplemental Recommended Decision* in this matter **no later than February 28, 2018**.

The Court further **ORDERS** that all sanctions in this Order are to be paid by Plaintiffs’ counsel, not Plaintiffs. Nor shall the sanctions assessed in this Order be passed on to Plaintiffs as a cost of litigation. As stated in *Anderson v. Kunduru*, 215 W.Va. 484, 489, 600 S.E.2d 196, 201 (2004), “[j]ustice compels that the offending attorney should suffer for his actions, not the litigants.”

It is so **ORDERED**.

**ENTER:** February 14, 2018.

/s/ Derek C. Swope  
Lead Presiding Judge  
Gavin Landfill Litigation