



IN THE CIRCUIT COURT OF OHIO COUNTY, WEST VIRGINIA

**IN RE: MINGO COUNTY
COAL SLURRY LITIGATION**

CIVIL ACTION NO. 10-C-5000

THIS DOCUMENT APPLIES TO ALL CASES

**ORDER REGARDING AMENDMENT TO
PROCEDURES FOR SETTLEMENT HEARING**

WHEREAS, on August 2, 2011, the Lead Presiding Judge James P. Mazzone entered a “Notice of Settlement Hearing” (Transaction ID 39035998), scheduling a hearing regarding the proposed settlement of the Mingo County Coal Slurry Litigation at **10:00 a.m. on September 29, 2011, in Courtroom Four**, also known as the Ceremonial Courtroom, on the Second Floor of the Kanawha County Courthouse, at 407 Virginia Street, East, in **Charleston, West Virginia**, and setting forth various procedures to be followed in preparation for the hearing.

NOW THEREFORE, please take notice of the following amendments to procedures to be followed in preparation for the Settlement Hearing on September 29, 2011:

Counsel for Plaintiffs are **ORDERED** to submit to Lead Presiding Judge James P. Mazzone, Presiding Judge John A. Hutchison and Presiding Judge Jay M. Hoke an accounting of any and all Notices of Settlement Hearing that are returned to Counsel for Plaintiffs by no later than **September 15, 2011**.

Counsel for Plaintiffs are further **ORDERED** to submit a copy of any settlement agreement that is the subject of these hearings directly to Judge Mazzone, Judge Hutchison and Judge Hoke by no later than **September 15, 2011**. If such settlement agreement is subject to a confidentiality agreement, the word “**CONFIDENTIAL**” is to

be clearly and prominently marked or stamped across the top of each page of the settlement agreement. **The settlement agreement will not be subject to distribution beyond the Panel and all information regarding the terms of the settlement agreement will remain strictly confidential.**

In addition, Counsel for Plaintiffs are **ORDERED** to provide Judge Mazzone, Judge Hutchison and Judge Hoke with the following information by no later than **September 15, 2011**:

1. A proposed method of allocating and distributing gross settlement proceeds to individual clients. The proposed method of allocation and distribution should address the impact of divorce, death, incompetence, claims by minors, and dissolution of business entities or other organizations on allocation and distribution of settlement proceeds; investment of settlement proceeds; and interim distributions and partial payments of fees and expenses.
2. A procedure for handling lost or returned settlement checks, and a proposed method of accounting for and disposition of all undistributed or unclaimed settlement proceeds, including whether the unclaimed settlement proceeds will be returned to the settling defendant, paid to other plaintiffs, distributed to a charitable or non profit institution, left to the discretion of the Panel for making *cy pres awards*, or any other reasonable distribution proposed by counsel.
3. A proposed report to the Court in spread sheet format regarding allocation and distribution of settlement proceeds to individual clients. The proposed report should include the name of the settling Defendant or Defendants; gross fee percentage; any fee sharing information; allocated gross proceeds; allocated expenses; client last name; client first name; client middle name; claimed damages used for allocation; allocated proceeds; gross fees; allocated expenses; total to the Plaintiff's law firm; and net to the client.
4. A detailed accounting of costs, expenses and attorney's fees incurred by Counsel for the Plaintiffs.
5. The name and address of the financial institution where settlement proceeds will be deposited, including the name of the account, the account number and the name of any Trustee or Account manager.
6. Any document showing authorization by the client to enter into the proposed settlement.

7. Any document showing the client is informed of and agrees to the method of allocation and distribution of settlement proceeds.
8. Any document showing an accounting of the individual client's settlement allocation and distribution.
9. A proposed order approving the settlement, the method of allocation and distribution, and dismissing the appropriate parties.

The responses and information provided to Judge Mazzone, Judge Hutchison and Judge Hoke pursuant to this Order are regarded as highly confidential and, therefore, the word “**CONFIDENTIAL**” is to be clearly and prominently marked or stamped across the top of each page of such responses and information. Counsel for the Plaintiffs shall file and serve on all counsel of record a certificate of compliance stating that the responses and information have been provided to Judge Mazzone, Judge Hutchison and Judge Hoke as ordered herein.

The parties have the option, but are not required to attend the hearing on September 29, 2011. Counsel representing the settling Plaintiffs, counsel representing the settling Defendants, any self-represented parties affected by the proposed settlement, and any guardians ad litem appointed by the Court to represent the interests of Plaintiffs under the age of eighteen (18), incarcerated Plaintiffs, and incompetent Plaintiffs are required to attend the September 29, 2011, hearing.

It is so **ORDERED**.

ENTER: September 14, 2011

/s/ James P. Mazzone
Lead Presiding Judge
Mingo County Coal Slurry Litigation