

No. 31776 – *William K. Stern, et al.; Franklin Stump, Danny Gunnoe and Teddy Joe Hoosier v. Chemtall Incorporated, a Georgia corporation, et al.*

Starcher, J., concurring:

FILED

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RORY L. PERRY II, CLERK

SUPREME COURT OF APPEALS

OF WEST VIRGINIA

In *State ex rel. Chemtall Inc. v. Madden*, 216 W.Va. 443, ____, 607 S.E.2d 772,

786 (2004), I wrote separately and said that “I do not envy the circuit judge’s position in the instant case.” Again, in this case, we have dumped an additional pile of medical monitoring cases into the circuit judge’s lap. These new cases share some of the same issues and defendants with the original *Stern* group of plaintiffs, but also have new issues and defendants, and much discovery remains to be done on these new cases. Now I can say I *really* do not envy the circuit judge’s position.

The circuit judge, however, should not be daunted by the decision to permit these new cases to be drawn into his courtroom. The record reveals that the circuit judge worked ably with counsel for the prior class of plaintiffs, the *Stern* group, and counsel for the defendants to competently and vigorously prepare the cases for trial. I see nothing to suggest that the addition of these new plaintiffs and defendants should alter that chemistry. The majority’s opinion expressly recognized that a court has the “inherent power to do all things that are reasonably necessary for the administration of justice within the scope of its jurisdiction.”

On remand, the circuit judge should exercise that authority to refine the issues in this oversized gargantuan of a lawsuit, and put this case back on track to a prompt, fair and inexpensive conclusion.