

**IN THE CIRCUIT COURT OF DODDRIDGE COUNTY, WEST VIRGINIA  
BUSINESS COURT DIVISION**

**CONSOL Energy Inc. dba CNX Gas Company LLC,**

**Petitioner,**

**vs).**

**Civil Action No. 17-AA-1 & 17-AA-3  
Doddridge County**

**The Honorable DALE STEAGER, WV State Tax Commissioner;  
The Honorable DAVID SPONAUGLE, Assessor of Doddridge County;  
and the COUNTY COMMISSION OF DODDRIDGE COUNTY, sitting  
as the Board of Assessment Appeals,**

**Respondents.**

**ORDER DENYING MOTION TO ALTER OR AMEND**

This matter comes before the Court pursuant to the Motion of the County Commission of Doddridge County to Alter or Amend or to otherwise provide it relief from the Court's Judgment Order of January 17, 2018, Pursuant to Rule 59(e) and/or Rule 60(b). The motion asserts that the Doddridge County Commission was denied an opportunity to put forth its position prior to the Court's ruling because its counsel of record was facing federal charges following his arrest on December 8, 2017.

As the motion states,

[O]n October 20, 2017, the Court entered an Order setting forth a briefing schedule on the issues in these matters. In said Order, the Court directed the parties to submit their respective memoranda of argument and proposed orders by November 20, 2017. Any memorandum in rebuttal were to be submitted by December 4, 2017, after which time the Court would either rule upon the filings or set a hearing if it deemed oral argument necessary. Petitioner, Antero Resources Corporation, filed its Appeal Brief on November 27, 2017. The West Virginia Tax Department and the Honorable David Sponaugle filed their Proposed Order Dismiss Appeal [sic] on November 20, 2017, and their Rebuttal Brief opposing Petitioner's Appeal on December 4, 2017. No memorandum or filing was submitted by the Commission. The Court entered its Order ruling on the filings set forth by the parties on January

17, 2018.

The Court notes that many counties involved in these tax appeals chose to rely on the briefing of the state tax commissioner whose interests are closely aligned with its own. The Court does not presume that Attorney Sluss was incompetent during the time he represented the Commission simply because a memorandum was not filed and any incapacity due to criminal charges did not arise until after the applicable deadlines had passed.

Here, if the Commission feels that Attorney Sluss had “abandoned representation,” its recourse is a claim for malpractice. What is presented to the Court here is simply not sufficient to alter or amend the Order of January 17, 2018, under either Rule 59(e) or 60(b) or the West Virginia Rules of Civil Procedure. The Court finds no change in the law, new evidence, error of law, incompetency, or obvious injustice. Furthermore, the case had been fully briefed and adjudicated on the merits. Accordingly, the Motion of the County Commission of Doddridge County to Alter or Amend or to otherwise provide it relief from the Court’s Judgment Order of January 17, 2018, Pursuant to Rule 59(e) and/or Rule 60(b) must be DENIED and the Court’s Order of January 17, 2018, stands as written.

The Court directs the Circuit Clerk to enter the foregoing and forward an attested copy to all counsel of record and the Business Court Division Central Office, Berkeley County Judicial Center, Suite 2100, 380 West South Street, Martinsburg, WV 25401.

ENTER this 8 day of February, 2018.

  
CHRISTOPHER C. WILKES, JUDGE  
BUSINESS COURT DIVISION