



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

**IN RE: FLOAT SINK LITIGATION**

**CIVIL ACTION NO. 11-C-500000**

**THIS DOCUMENT APPLIES TO THE FOLLOWING CASES:**

<b>Kevin L. Altice v. Arkema, Inc., et al.</b>	<b>Civil Action No. 11-C-5410002</b>
<b>Darlene Hall v. Allied Chemical Corp., et al.</b>	<b>Civil Action No. 11-C-5240004</b>
<b>Robert M. Kelley v. Arkema, Inc., et al.</b>	<b>Civil Action No. 11-C-5010001</b>
<b>Jack S. Keene v. Arkema, Inc., et al.</b>	<b>Civil Action No. 11-C-5410006</b>
<b>Bobby L. Lester v. Allied Chemical Corp., et al.</b>	<b>Civil Action No. 11-C-5240005</b>
<b>Daniel Maynard v. Arkema, Inc., et al.</b>	<b>Civil Action No. 11-C-5300010</b>
<b>Steven Nickell v. Arkema, Inc., et al.</b>	<b>Civil Action No. 11-C-5200012</b>
<b>Paul Pierson v. American Coal Testing, Inc., et al.</b>	<b>Civil Action No. 11-C-5230019</b>
<b>Matthew D. Plantz v. Arkema, Inc., et al.</b>	<b>Civil Action No. 11-C-5410012</b>
<b>Eddy Simpkins v. Arkema, Inc., et al.</b>	<b>Civil Action No. 11-C-5300012</b>
<b>Anthony S. Testerman v. Allied Chemical Corp., et al.</b>	<b>Civil Action No. 11-C-5240008</b>
<b>Dustin Trail v. Arkema, Inc., et al.</b>	<b>Civil Action No. 11-C-5410015</b>
<b>Kenneth Williams v. American Coal Testing, Inc., et al.</b>	<b>Civil Action No. 11-C-5230030</b>

**AGREED ORDER OF VOLUNTARY DISMISSAL**

This day came plaintiffs Kevin L. Altice, Darlene Hall, Robert M. Kelley, Jack S. Keene, Bobby L. Lester, Daniel Maynard, Steven Nickell, Paul Pierson, Matthew D. Plantz, Eddy Simpkins, Anthony S. Testerman, Dustin Trail, and Kenneth Williams (collectively "Plaintiffs"), by their counsel, and the Employer Defendants,<sup>1</sup> by their counsel, pursuant to Rule 41(a)(2) of the West Virginia Rules of Civil Procedure, to jointly move the Court to dismiss Plaintiffs' claims against the Employer Defendants, without prejudice.

<sup>1</sup> The "Employer Defendants" are Performance Coal Company; Marfork Coal Company, Inc.; Elk Run Coal Company, Inc.; Massey Energy Company; Virginia Crews Coal Company; Cedar Coal Company; Rawl Sales & Processing Co.; Buffalo Mining Company; Elkay Mining Company; Badger Coal Company; Pittston Coal Group; Pittston Coal Company; and Pittston Coal Sales Company. Attached as Exhibit A, and incorporated herein by reference, is an identification of the respective employers against whom each plaintiff has asserted a claim.

Upon consideration thereof, it appearing to the Court proper to do so, it is hereby **ORDERED** that Plaintiffs' claims against the Employer Defendants be and hereby are dismissed, without prejudice.

Entered this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Honorable John A. Hutchison, Presiding Judge

AGREED TO:

/s/Jonathan L. Anderson  
Daniel L. Stickler (WVSB #3613)  
Jonathan L. Anderson (WVSB #9628)  
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Charleston, WV 25322  
*Counsel for Employer Defendants*

/s/William A. Walsh  
William A. Walsh (WVSB #11758)  
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New York, New York 10003  
(212) 558-5836  
*Counsel for Plaintiffs*

**Granted** Judge John A Hutchison May 04, 2012

## EXHIBIT A

1. Kevin L. Altice v. Arkema, Inc., et al. Civil Action No. 11-C-5410002  
Performance Coal Company  
Marfork Coal Company, Inc.  
Elk Run Coal Company, Inc.  
Massey Energy Company
2. Darlene Hall v. Allied Chemical Corp., et al. Civil Action No. 11-C-5240004  
Virginia Crews Coal Company
3. Robert M. Kelley v. Arkema, Inc., et al. Civil Action No. 11-C-5010001  
Badger Coal Company  
Pittston Coal Company  
Pittston Coal Group
4. Jack S. Keene v. Arkema, Inc., et al. Civil Action No. 11-C-5410006  
Marfork Coal Company, Inc.  
Elk Run Coal Company, Inc.  
Massey Energy Company
5. Bobby L. Lester v. Allied Chemical Corp., et al. Civil Action No. 11-C-5240005  
Virginia Crews Coal Company
6. Daniel Maynard v. Arkema, Inc., et al. Civil Action No. 11-C-5300010  
Rawl Sales & Processing Co.
7. Steven Nickell v. Arkema, Inc., et al. Civil Action No. 11-C-5200012  
Cedar Coal Company
8. Paul Pierson v. American Coal Testing, Inc., et al. Civil Action No. 11-C-5230019  
Buffalo Mining Company  
Elkay Mining Company  
Pittston Coal Company  
Pittston Coal Group  
Pittston Coal Sales Company

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9. Matthew D. Plantz v. Arkema, Inc., et al. Civil Action No. 11-C-5410012

Marfork Coal Company, Inc.  
Elk Run Coal Company, Inc.  
Massey Energy Company

10. Eddy Simpkins v. Arkema, Inc., et al. Civil Action No. 11-C-5300012

Rawl Sales & Processing Co.

11. Anthony S. Testerman v. Allied Chemical Corp., et al. Civil Action No. 11-C-5240008

Virginia Crews Coal Company

12. Dustin Trail v. Arkema, Inc., et al. Civil Action No. 11-C-5410015

Marfork Coal Company, Inc.  
Elk Run Coal Company, Inc.  
Massey Energy Company

13. Kenneth Williams v. American Coal Testing, Inc., et al. Civil Action No. 11-C-5230030

Buffalo Mining Company  
Elkay Mining Company  
Pittston Coal Company  
Pittston Coal Group  
Pittston Coal Sales Company

**Granted** Judge John A Hutchison May 04, 2012

**This document constitutes a ruling of the court and should be treated as such.**

**Court:** WV Raleigh County Circuit Court

**Court Authorizer:** John A Hutchison

**/s/ Judge John A Hutchison**