



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

**In Re: TOBACCO LITIGATION  
(Individual Personal Injury Cases)**

**Case No. 00-C-5000  
(Judge Arthur M. Recht)**

**OPINION (CERTIFIED QUESTION)**

The Defendant, (Liggett Group, LLC) has requested this Court to certify a question to the West Virginia Supreme Court of Appeals and to stay this case pending resolution of the question answered by the Court.

Upon review of the record developed to date as well as the various written motions and replies by the parties, this Court finds that the record developed to date does not present sufficiently precise and undisputed facts upon which the legal issues can be crystallized. *Bass v. Coltelli*, 192 W. Va. 516, 453 S.E.2d 350 (1994).

During argument, the Defendant asserted the doctrines of collateral estoppel and res judicata should end this matter. However, this Court recognized the disputed factual record developed to date does not present sufficient precision and, therefore, the Liggett trial should commence, although it may have to be aborted if this Court determines the trial is replicating everything that could or should have been developed in Phase I.

Accordingly, because the standards for certification are not met, the request for the certified question is refused.

Dated this 9<sup>th</sup> day of August, 2016.

/s/ Arthur M. Recht  
Senior Status Judge