



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

**IN RE: WATER CONTAMINATION LITIGATION      CIVIL ACTION NO. 16-C-6000**

**THIS DOCUMENT APPLIES TO:**

**COUNTY COMMISSION OF LINCOLN  
COUNTY, WEST VIRGINIA**

**Plaintiff,**

**v.**

**Civil Action No. 17-C-41 LCN**

**WEST VIRGINIA-AMERICAN WATER  
WORKS COMPANY, INC.; EASTMAN  
CHEMICAL COMPANY; GARY  
SOUTHERN; DENNIS P. FARRELL;  
WILLIAM E. TIS; CHARLES E. HERZING;  
ROBERT J. REYNOLDS; AND MICHAEL  
E. BURDETTE**

**Defendants**

**ORDER**

The Presiding Judges have reviewed the *Motion of County Commission of Lincoln County, West Virginia to Lift Stay and Remand Action* (Transaction ID 61616024), Defendants Eastman Chemical Company and West Virginia-American Water Company's *Response* in opposition to the motion (Transaction ID 61673156) and Plaintiff's *Reply* (Transaction ID 61698327). Having conferred with one another to insure uniformity of their decision, as contemplated by Rule 26.07(a) of the West Virginia Trial Court Rules, the Presiding Judges unanimously DENY the motion for the following reasons.

This Court entered an *Order Extending Stay* on January 22, 2018 (Transaction ID 61594845) staying *In re: Water Contamination Litigation*, Civil Action No. 16-C-6000 an additional 90 days, based on the status of final approval of the class action settlement in *Crystal Good, et al. v. American Water Works Company, Inc., et al.* Civil Action No. 2:14-01374, pending in the United States District Court for the Southern District of West Virginia, to permit

the settlement to go forward and to identify the businesses or individuals, if any, who choose to opt out of the settlement. Plaintiff has ignored the Court's *Order Extending Stay* and has not presented a good reason why it should not be bound by the stay until the *Good* class settlement has been finally approved.

More importantly, the Presiding Judges FIND this case is properly before the Panel and should not be remanded to the Circuit Court of Lincoln County. As previously held,

Lincoln County's case is a subsequently filed civil action arising out of the very same chemical leak and water contamination at issue as all of the other water contamination cases referred to the Panel. As such, joinder of this case with *In re: Water Contamination Litigation*, Civil Action No. 16-C-6000 is appropriate under Trial Court Rule 26.09 and the West Virginia Supreme Court's January 28, 2016, Administrative Order referring "all civil actions involving the same or similar common questions of law or fact concerning the chemical leak and water contamination at issue" and authorizing the Mass Litigation Panel "to transfer and join with the existing Mass Litigation any similar or related actions subsequently filed in any circuit court of West Virginia." Nothing asserted by Lincoln County in its Motion for Reconsideration changes that, and justice does not require a different result.

See *Order* denying Plaintiff Lincoln County Commission's motion for reconsideration (Transaction ID 60770123). The Panel notes and preserves the objections of any party aggrieved by this Order.

It is so **ORDERED**.

**ENTER:** March 5, 2018.

/s/ Alan D. Moats  
Lead Presiding Judge  
Water Contamination Litigation