



IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

IN RE: WATER CONTAMINATION LITIGATION

CIVIL ACTION 16-C-6000

THIS DOCUMENT APPLIES TO ALL CASES

ORDER EXTENDING STAY

Pending is the parties' joint motion for an extension of the current stay of these proceedings due to the continued work on a class action settlement in the case of *Crystal Good, et al. v. American Water Works Company, Inc. et al*, Civil Action No. 2:14-01374, now pending in the United States District Court for the Southern District of West Virginia. The proposed settlement includes all claims against both West Virginia-American Water Company (along with American Water Works Company, Inc., and American Water Works Service Company, Inc.) and Eastman Chemical Company. The proposed class settlement is intended to include all residents and businesses (and associated hourly wage earners) served by the Kanawha Valley Water Treatment Plant during the January 9, 2014 water contamination of the Elk River and the water system, including, but not limited to, the plaintiffs in all pending cases in both State and Federal Court and any persons or businesses which previously opted out of the *Crystal Good* action.

By order dated November 3, 2016, the court granted the parties' prior joint motion and stayed these proceedings for 90 days based upon the tentative class settlement. [MLP Trans. ID 59785673]. The stay was extended for 90 days by subsequent orders entered January 31, 2017 [MLP Trans. ID 60138896] and April 26, 2017 [MLP Trans. ID No. 60523224] as the parties advised the court they continued to work on the settlement agreement and related documents. A Joint Motion for Preliminary Approval of Class Settlement, Conditional Class Certification,

Directing Notice to the Class, and Entry of Scheduling Order, was filed April 27, 2017.¹ By order dated July 6, 2017, the District Court found that certification of the proposed settlement class was appropriate under Rule 23 of the Federal Rules of Civil Procedure and that the amount and structure of the settlement were generally acceptable. *Good v. W. Virginia-Am. Water Co.*, No. CV 14-1374, 2017 WL 2884535 (S.D.W. Va. July 6, 2017). After analyzing the requirements of Rule 23, the court concluded, “the requirements of both Rule 23(a) and Rule 23(b)(3) are met so that certification of a settlement class as proposed by the parties here is plainly warranted.” *Id.* *13. However, despite its approval of the overall settlement construct, the District Court declined to preliminarily approve the settlement and denied the motion without prejudice, stating four specific concerns: “The court remains particularly concerned by four aspects of the proposed settlement: (1) the tiered compensation structure for certain businesses, (2) the review and “appeals” process when disputes over claims arise, (3) the fixed base payments to certain medical claimants, and (4) the delay of payments pending appellate review.”

The Plaintiffs and Defendants seek to further extend the stay of proceedings in this Court to permit the parties to concentrate their efforts on effectuating the settlement in *Good*, particularly in response to the concerns raised in the District Court’s July 6, 2017 order.

The Court hereby FINDS that the motion is well-taken and hereby ORDERS that these proceedings be further STAYED for 90 days from the date of entry of this ORDER.

ENTERED: July 25, 2017.

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

¹ Copies of the Joint Motion Exhibits and Memorandum of Law were filed with the MLP on May 2, 2017 [MLP Trans. ID 60541682].

AGREED to by:

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