

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

**BENJAMIN M. EASTMAN, as trustee of
other Eastman Family 1999 Revocable
Trust, et al.,**

Plaintiffs,

-vs-

Case No. 10-1216-MLB

**COFFEYVILLE RESOURCES
REFINING & MARKETING, LLC,**

Defendant.

ORDER EXTENDING STAY OF DISCOVERY

On January 26, 2011 this Court granted the defendant's motion to stay discovery pending a ruling on defendant's motion to dismiss. The Court denied the motion to dismiss (Dkt. 38), but certified questions of law to the Kansas Supreme Court (Dkt. 39). The issues certified, if resolved against the plaintiff, would be dispositive of this case. On April 5, 2011, the parties and the Court conferred by telephone concerning whether to resume discovery in this case, or extend the stay of discovery pending the decision by the Kansas Supreme Court. The Court invited the parties to submit memoranda on that issue, and the Court has considered those memoranda.

Although staying discovery during the pendency of a motion to dismiss is generally disfavored, the Court finds that in this case substantial preservation of time and resources of the Court and parties can be achieved by extending the stay. Therefore, further discovery in this case is stayed pending the decision of the Kansas Supreme Court. However, the Court is persuaded that the plaintiff has a valid interest in completing the depositions of two previously noticed defense

employees (Mr. Alspach and Mr. Edens) to capture their testimony before the further passage of time. Therefore, the deposition of these two witnesses is authorized. The Court is not authorizing any other discovery at this time, including the completion of pending written discovery.

IT IS SO ORDERED.

Dated on this 14th day of April, 2011, at Wichita, Kansas.

S/ KENNETH G. GALE
Kenneth G. Gale
U.S. Magistrate Judge