

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

CAROL JOHNSON, Administratrix	:	
of the Estate of Matthew Johnson,	:	
	:	Case No. 3:12cv0012
Plaintiff,	:	
	:	District Judge Walter Herbert Rice
vs.	:	Magistrate Judge Sharon L. Ovington
	:	
NORFOLK SOUTHERN RAILWAY	:	
COMPANY, et al.,	:	
	:	
Defendants.	:	

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**ORDER**

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Defendant Norfolk Southern Railway Company (Defendant) removed this case from state court on January 11, 2012. Attached to the Notice of Removal are copies of documents indicating that in 2011, while Plaintiff's case was pending in state court, the state court stayed the case due to one party's bankruptcy proceedings. Later, in mid-September 2011, the state court granted Plaintiff's Motion to Lift Stay and reinstated the case on its active docket. (Doc. #1, PageID at 68; Doc. #11).

The instant case is presently pending upon a copy of the Motion to Lift Stay filed originally by Plaintiff in state court in September 2011. (Doc. #10). It appears that Defendant Norfolk's counsel filed and docketed the copy of Plaintiff's prior Motion in the present federal case. This was a procedurally unusual step because the Motion had

been previously granted by the state court in mid-September 2011 and because the present federal case has never been under a stay. For these reasons, Plaintiff's Motion to Lift Stay is moot in the present case.

**IT IS THEREFORE ORDERED THAT** Plaintiff's Motion to Lift Stay (Doc. #10) is **DENIED** as moot. The case remains pending on this Court's, and the remaining dates set by the Preliminary Pretrial Conference Order (Doc. #16) are **CONFIRMED**.

April 5, 2012

s/Sharon L. Ovington  
Sharon L. Ovington  
United States Magistrate Judge