

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

KING COAL CHEVROLET CO.,

Plaintiff,

v.

Civil Action No. 2:12-5992

GENERAL MOTORS CO. and
GENERAL MOTORS LLC,

Defendants.

MEMORANDUM OPINION AND ORDER

Pending is defendants' motion to dismiss, filed October 16, 2012.

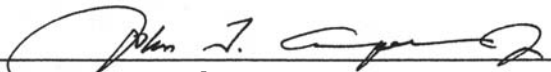
Defendants assert, inter alia, that the court's adoption of the plaintiff's reading of West Virginia Code section 17A-6A-12 would render that statutory provision violative of both Article VI, section 39 of the West Virginia Constitution and the Commerce Clause of the United States Constitution.

The court, accordingly, certifies to the Attorney General of the State of West Virginia, pursuant to 28 U.S.C. § 2403(b), that a statute affecting the public interest, namely section 17A-6A-12, has been challenged on constitutional grounds in this action.

In accordance with section 2403(b), the court will permit the State to intervene herein to present evidence and argument on the constitutional issues presented if it so desires. The court requests that the State advise the court and the parties on or before November 7, 2012, respecting its intentions; and, if the State proposes to intervene, to do so on or before November 15, 2012.¹

The Clerk is directed to forward copies of this written opinion and order to all counsel of record and to Barbara Allen, Managing Deputy Attorney General, Office of Attorney General, State Capitol Complex Building 1, Room E-26, Charleston, West Virginia, 25305.

ENTER: October 26, 2012



John T. Copenhaver, Jr.
United States District Judge

¹ It is noted that plaintiff's motion for preliminary injunction is scheduled for hearing on November 8, 2012.