

STATE OF WEST VIRGINIA

At a Regular Term of the Supreme Court of Appeals continued and held at Charleston, Kanawha County, on the 9th day of October, 2008, the following order was made and entered:

RE: APPROVAL OF AMENDMENT TO RULE 5(e) OF THE WEST VIRGINIA RULES OF CIVIL PROCEDURE

On a former day, to-wit, April 24, 2008 the Court approved a period of public comment on a proposed amendment to Rule 5(e) of the West Virginia Rules of Civil Procedure, as recommended by the Mass Litigation Panel. By order entered May 22, 2008, the period of public comment was extended to July 7, 2008. Thereafter, the Mass Litigation Panel presented to the Court the proposed amendment without revision.

Upon consideration whereof, the Court is of opinion to and does hereby approve and adopt the proposed amendment, effective immediately. Justice Albright did not participate in the consideration of this matter. Senior Status Justice McHugh sitting by temporary assignment. Insertions are indicated by underscoring, deletions by strikethrough, to read as follows:

" RULE 5. Service and Filing of Pleadings and other papers.

(e) *Filing with the court defined.* — The filing of papers with the court as required by these rules shall be made by filing them with the clerk of the court, who shall note thereon the filing date, except that the judge may permit the papers to be filed with the judge, in which event the judge shall note thereon the filing date and forthwith transmit them to the office of the clerk; the notation by the clerk or the judge of the filing date on any such paper constitutes the filing of such paper, and such paper then becomes a part of the record in the action without any order of the court. Filing by facsimile is permitted pursuant to the West Virginia Supreme Court of Appeals Rules

for Filing and Service by Facsimile Transmission. Electronic filing and service is permitted in limited circumstances pursuant to Trial Court Rule 15."

The Clerk of the Court is directed to mail a copy of this amendment to each circuit clerk.

A True Copy

Attest: /s/ Rory L. Perry II, Clerk of Court