



Apr. 29. 2010 2:58PM

IN THE CIRCUIT COURT OF MINGO COUNTY, WEST VIRGINIA

SHIRLEY LYNN STANLEY, et al.,

Plaintiffs,

v.

CIVIL ACTION NO. 08-C-69 and
CIVIL ACTION NOS. See attached
Exhibits A and B

RAWL SALES & PROCESSING, et al.,

Defendants.

ORDER TRANSFERRING MINGO COUNTY COAL SLURRY LITIGATION
AND COURT FILES FROM CIRCUIT COURT OF MINGO COUNTY, WEST
VIRGINIA TO CIRCUIT COURT OF JACKSON COUNTY, WEST VIRGINIA

FILED
CIRCUIT COURT
MINGO COUNTY, W.V.
2010 APR 29
ADMITTED FOR FILING
SRAM
MINGO CIRCUIT

WHEREAS by Administrative Order entered by Chief Justice Robin Jean Davis on March 31, 2010, a copy of which is attached as Exhibit A, the Supreme Court of Appeals granted a Motion to Refer the above-captioned civil action and other civil actions identified in the Administrative Order to the Mass Litigation Panel ("Panel") and transferred those Civil Actions to the Panel;

WHEREAS by Administrative Order entered by Chief Justice Robin Jean Davis on April 28, 2010, a copy of which is attached as Exhibit B, the Supreme Court of Appeals of West Virginia amended its March 31, 2010 Administrative Order to refer to the Panel all Civil Actions pending or subsequently filed in the Circuit Court of Mingo County, West Virginia, against Defendants Rawl Sales and Processing Co. and Massey Energy Company arising from allegations that Defendants caused personal injury and/or property damage by storing coal slurry in underground mine workings and in an above-ground impoundment thereby contaminating Plaintiffs' well water, including any third-

Apr. 29. 2010 2:55PM

party actions for declaratory relief, compensatory and punitive damages based on allegations of insurance coverage, indemnification and duty to defend;

WHEREAS for ease of reference the above-captioned civil action and those civil actions listed or described in Exhibits A and B are hereafter collectively referred to as the "Mingo County Coal Slurry Litigation;"

WHEREAS, in the March 31, 2010 and April 28, 2010 Administrative Orders, the Supreme Court of Appeals Ordered that "the Clerk of the Circuit Court of Mingo County need take no action to remove or otherwise transfer these matters until direction is received in writing from a member of the Mass Litigation Panel, and/or the Chief Justice of the Supreme Court of Appeals;"

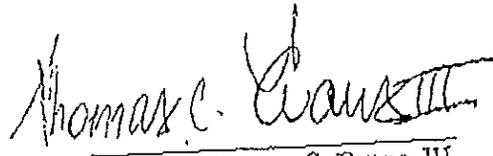
NOW THEREFORE, pursuant to Trial Court Rule 26.08(b), in order to facilitate the Panel's case management and trial methodologies, and with the advice and consent of the Panel, it is hereby ORDERED that the Mingo County Coal Slurry Litigation be transferred to the Circuit Court of Jackson County, West Virginia. It is further ORDERED that all Mingo County Coal Slurry Litigation court files shall be transferred to the Circuit Court of Jackson County, West Virginia on or before May 14, 2010.

To accomplish the orderly transfer of court files, the Mass Litigation Manager will coordinate with the office of the Circuit Clerk of Mingo County, West Virginia, the office of the Circuit Clerk of Jackson County, West Virginia, and the Administrative Director of the Supreme Court of Appeals to provide appropriate Court personnel to transport the court files from the Circuit Court of Mingo County to the Circuit Court of Jackson County, West Virginia.

Apr. 29, 2010 2:58PM

The Circuit Clerk of Mingo County, West Virginia is ORDERED to forward a certified copy of this Order to Mass Litigation Manager Kimberley R. Fields, the Clerk of the Circuit Court of Jackson County, West Virginia, all Counsel of record and all self-represented parties.

ENTBR: April 29, 2010



The Honorable Thomas C. Evans, III
Lead Presiding Judge

ADMINISTRATIVE ORDER

SUPREME COURT OF APPEALS OF WEST VIRGINIA

IN RE: MOTION TO REFER TO THE MASS LITIGATION PANEL THE PROCEEDING STYLED SHIRLEY LYNN STANLEY, ET AL. V. RAWL SALES & PROCESSING, ET AL., MINGO COUNTY CIVIL ACTION NO. 08-C-69, ALONG WITH OTHER CASES IDENTIFIED HEREIN

WHEREAS, pursuant to Rule 26.06 of the West Virginia Trial Court Rules, the Chief Justice has received a copy of the Motion filed in the Circuit Court of Mingo County, to refer to the Mass Litigation Panel Shirley Lynn Stanley, et al. V. Rawl Sales & Processing, et al., Civil Action No. 08-C-69, and all other similar cases pending in the Circuit Court of Mingo County as defined in said Motion. The Motion was filed by the Honorable Thomas C. Evans, III, Judge of the Fifth Judicial Circuit, who is sitting by special assignment in the Mingo County Circuit Court pursuant to Supreme Court Administrative Orders entered on August 17, 2009, August 26, 2009, and October 21, 2009; and

WHEREAS, Judge Evans has identified the following Civil Actions filed against Rawl Sales & Processing Company and Massey Energy Company, which are currently pending in the Circuit Court of Mingo County:

04-C-332, 05-C-308, 05-C-309, 05-C-310, 05-C-311, 05-C-312, 05-C-313, 05-C-314, 05-C-315, 05-C-318, 05-C-319, 05-C-324, 05-C-325, 05-C-327, 05-C-328, 05-C-329, 05-C-330, 05-C-334, 05-C-336, 05-C-337, 05-C-338, 05-C-339, 05-C-340, 05-C-341, 05-C-343, 05-C-344, 05-C-345, 05-C-346, 05-C-349, 05-C-350, 05-C-351, 05-C-352, 05-C-353, 05-C-354, 05-C-355, 05-C-357, 05-C-358, 05-C-359, 05-C-360, 05-C-361, 05-C-362, 05-C-363, 05-C-364, 05-C-365, 05-C-366, 05-C-367, 05-C-368, 05-C-369, 05-C-370, 05-C-372, 05-C-373, 05-C-374, 05-C-375, 05-C-376, 05-C-377, 05-C-379, 05-C-380, 05-C-381, 05-C-382, 05-C-383, 05-C-384, 05-C-385, 05-C-386, 05-C-387, 05-C-389, 05-C-395, 05-C-396, 05-C-397, 05-C-398, 05-C-399, 05-C-400, 05-C-401, 05-C-402, 05-C-442, 05-C-443, 05-C-444, 05-C-446, 05-C-447, 05-C-450, 05-C-451, 05-C-452, 05-C-453, 05-C-454, 05-C-457, 05-C-459, 05-C-461, 05-C-464, 05-C-465, 05-C-467, 05-C-468, 05-C-469, 05-C-470, 05-C-471, 05-C-473, 05-C-474, 05-C-476, 05-C-477, 05-C-478, 05-C-479, 05-C-480, 05-C-482, 05-C-483, 05-C-484, 05-C-485, 05-C-486, 05-C-487, 05-C-488, 05-C-489, 05-C-490, 05-C-491, 05-C-492, 05-C-495, 05-C-496, 05-C-498, 05-C-499, 05-C-500, 05-C-502, 05-C-503, 05-C-504, 05-C-505, 05-C-509, 05-C-510, 05-C-511, 05-C-512, 05-C-513, 06-C-008, 06-C-009, 06-C-012, 06-C-014, 06-C-015, 06-C-016, 06-C-017, 06-C-019, 06-C-020, 06-C-023, 06-C-025, 06-C-027, 06-C-200, 06-C-203, 06-C-204, 06-C-208, 06-C-209, 06-C-210, 06-C-212, 06-C-214, 06-C-215, 06-C-217, 06-C-221, 06-C-223, 06-C-224, 06-C-229, 06-C-230, 06-C-231, 06-C-232, 06-C-233, 06-C-234, 06-C-235, 06-C-324,

06-C-325, 06-C-327, 06-C-328, 06-C-329, 06-C-330, 06-C-331, 06-C-332, 06-C-333, 06-C-334, 06-C-335, 06-C-337, 06-C-341, 06-C-342, 06-C-343, 06-C-344, 06-C-345, 06-C-346, 06-C-347, 06-C-348, 06-C-349, 06-C-350, 06-C-351, 06-C-352, 06-C-354, 06-C-355, 06-C-356, 06-C-357, 06-C-359, 06-C-360, 06-C-361, 06-C-362, 06-C-409, 06-C-411, 06-C-412, 06-C-413, 06-C-416, 06-C-417, 06-C-418, 06-C-448, 06-C-449, 06-C-450, 06-C-452, 06-C-453, 06-C-454, 06-C-456, 06-C-457, 06-C-458, 06-C-459, 06-C-460, 06-C-462, 06-C-463, 06-C-465, 06-C-466, 06-C-467, 06-C-468, 06-C-470, 06-C-473, 06-C-474, 06-C-475, 06-C-476, 06-C-477, 06-C-478, 06-C-479, 06-C-480, 06-C-481, 06-C-483, 06-C-485, 06-C-486, 06-C-489, 06-C-491, 06-C-492, 06-C-493, 06-C-494, 06-C-495, 06-C-496, 06-C-498, 06-C-499, 06-C-501, 06-C-502, 06-C-503, 06-C-504, 06-C-505, 06-C-507, 06-C-508, 06-C-509, 06-C-510, 06-C-511, 06-C-512, 06-C-514, 06-C-515, 06-C-517, 06-C-518, 06-C-519, 06-C-520, 06-C-553, 06-C-555, 06-C-556, 06-C-557, 06-C-558, 06-C-560, 06-C-561, 06-C-562, 07-C-087, 07-C-089, 07-C-091, 07-C-092, 07-C-095, 07-C-096, 07-C-098, 07-C-099, 07-C-102, 07-C-103, 07-C-104, 07-C-105, 07-C-106, 07-C-107, 07-C-109, 07-C-113, 08-C-058, 08-C-059, 08-C-061, 08-C-063, 08-C-064, 08-C-065, 08-C-066, 08-C-067, 08-C-068, and 08-C-069; and

WHEREAS, on this date, the Chief Justice has received a letter from Judge Evans requesting that his Motion be amended to include the following Civil Actions, which were inadvertently omitted from his original Motion:

05-C-335, 05-C-493, 05-C-494, 06-C-026, 06-C-487, 06-C-488, 09-C-140, 09-C-141, 09-C-142, 09-C-143, 09-C-144, 09-C-145, 09-C-146, 09-C-147, 09-C-148, 09-C-149, 09-C-165, 09-C-166, 09-C-167, 09-C-168, and 09-C-169; and

WHEREAS, the Motion appears to be in substantial compliance with Rule 26.06 of the West Virginia Trial Court Rules; and

WHEREAS, the time for parties and affected judges to file a reply memorandum has expired; and

WHEREAS, upon review of the Motion and responses thereof, the Chief Justice has determined that the Motion to Refer should be granted and that it is appropriate to transfer all cases identified in this Administrative Order to the Mass Litigation Panel;

UPON CONSIDERATION THEREOF, IT IS HEREBY ORDERED, that the Motion to Refer is granted with respect to all cases identified in this Administrative Order, and all such cases are hereby transferred to the Mass Litigation Panel; and

IT IS FURTHER ORDERED, that a copy of this ORDER be transmitted to the Mass Litigation Panel, the Mass Litigation Manager, the Administrative Director of the Courts, the Honorable Thomas C. Evans, III, and the Clerk of the Circuit Court of Mingo County, who is to provide copies of the same to all parties of record or their counsel; and

IT IS FURTHER ORDERED, that the Clerk of the Circuit Court of Mingo County, need take no action to remove or otherwise transfer these matters until direction is received in writing from a member of the Mass Litigation Panel, and/or the Chief Justice of the Supreme Court of Appeals; and

IT IS FURTHER ORDERED, that all proceedings be conducted as provided by law.

ENTERED: MARCH 31, 2010



ROBIN JEAN DAVIS
Chief Justice

Attest: 

Rory L. Perry, II, Clerk
Supreme Court of Appeals

EXHIBIT B

ADMINISTRATIVE ORDER

SUPREME COURT OF APPEALS OF WEST VIRGINIA

IN RE: SHIRLEY LYNN STANLEY, ET AL. V. RAWL SALES & PROCESSING, ET AL., MINGO COUNTY CIVIL ACTION NO. 08-C-69

WHEREAS, by Supreme Court Administrative Order entered on March 31, 2010, the Motion to Refer filed in the above-styled case was granted with respect to all cases identified in the Order; and

WHEREAS, by letter dated April 27, 2010, the Honorable Alan D. Moats, Chair of the Mass Litigation Panel, advised the Chief Justice that additional civil actions were omitted from the March 31, 2010, Administrative Order, that other civil actions included in the Order may have been dismissed prior to entry of the Order, and that counsel for the parties had conferred, but were unable to reach full agreement regarding omitted and previously dismissed civil actions that should be included in the referral to the Panel; and

WHEREAS, Judge Moats has requested an amended order including the language set forth below be entered to resolve this matter; and

WHEREAS, upon review thereof, the Chief Justice has determined that the request made by Judge Moats is warranted;

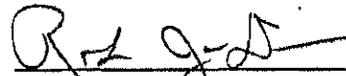
UPON CONSIDERATION THEREOF, IT IS HEREBY ORDERED, that all civil actions pending or subsequently filed in the Circuit Court of Mingo County, West Virginia, against Defendants Rawl Sales and Processing Co. and Massey Energy Company arising from allegations that Defendants caused personal injury and/or property damage by storing coal slurry in underground mine workings and in an above-ground impoundment thereby contaminating Plaintiffs' well water, including any third-party actions for declaratory relief, compensatory and punitive damages based on allegations of insurance coverage, indemnification and duty to defend are referred to the Mass Litigation Panel; and

IT IS FURTHER ORDERED, that a copy of this ORDER be transmitted to the Mass Litigation Panel, the Mass Litigation Manager, the Administrative Director of the Courts, and the Clerk of the Circuit Court of Mingo County, who is to provide copies of the same to all parties of record or their counsel; and

IT IS FURTHER ORDERED, that the Clerk of the Circuit Court of Mingo County, need take no action to remove or otherwise transfer these matters until direction is received in writing from a member of the Mass Litigation Panel, and/or the Chief Justice of the Supreme Court of Appeals; and

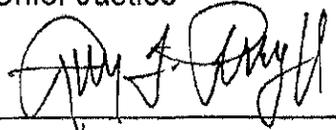
IT IS FURTHER ORDERED, that all proceedings be conducted as provided by law.

ENTERED: APRIL 28, 2010



ROBIN JEAN DAVIS
Chief Justice

Attest:



Rory L. Perry, II, Clerk
Supreme Court of Appeals