

ADMINISTRATIVE ORDER

SUPREME COURT OF APPEALS OF WEST VIRGINIA

IN RE: MOTION TO REFER TO THE MASS LITIGATION PANEL PROCEEDINGS  
STYLED RICHARD D. ABBOTT, et al. v. EARTH SUPPORT SERVICES  
D/B/A MICON, INC., et al., (WYOMING COUNTY CIVIL ACTION NO. 08-  
C-138)

WHEREAS, in a prior order entered June 16, 2009, the Chief Justice directed the Mass Litigation Panel, pursuant to the provisions of Trial Court Rule 26.06(c)(2), to conduct a hearing, to receive evidence and to entertain arguments by the parties and thereafter to submit findings of fact and a recommendation to the Chief Justice as to whether the above-captioned matter should be referred to the Mass Litigation Panel; and

WHEREAS, on August 20, 2009, the Panel conducted a hearing and heard argument of counsel in support of and in opposition to the Motion to Refer, and received evidence relating to the motion; and

WHEREAS, on October 22, 2009 an order was entered in the Circuit Court of Wyoming County containing the findings of fact and recommendation of the Panel, and on November 17, 2009 that order—together with a certified copy of the hearing transcript and exhibits submitted into evidence at the hearing—were filed with the Clerk of this Court; and

WHEREAS, the Chief Justice has carefully reviewed Motion to Refer, the findings of fact and recommendation of the Panel, and the record submitted, and is of the opinion that the Motion to Refer should be denied as premature for the reasons set forth in the October 22, 2009 Panel order; and

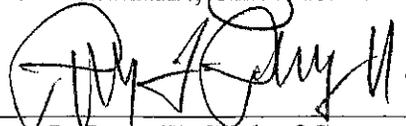
IT IS HEREBY ORDERED, pursuant to Trial Court Rule 26.06(c)(3), that the Motion to Refer the above-captioned case to the Mass Litigation Panel be, and hereby is, denied; and

IT IS FURTHER ORDERED, that the Circuit Clerk of Wyoming County record this Order in the office of said Clerk and provide copies of the same to all parties of record or their counsel; and

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

ENTERED this 4<sup>th</sup> day of December, 2009.

  
BRENT D. BENJAMIN, Chief Justice

Attest:   
Rory L. Perry II, Clerk of Court