

ADMINISTRATIVE ORDER

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Nellie Kennedy, et al.,
Plaintiffs

vs. Mingo County Civil Action No. 10-C-81

Equitable Production Company, LLC.,
Defendant

On March 21, 2017, the Supreme Court of Appeals received a copy of an order that was entered in the above-styled action on March 8, 2017, by the Honorable Miki Thompson, Judge of the Thirtieth Judicial Circuit. This order directed the Mingo County Circuit Clerk to transmit to the Clerk of the Supreme Court a copy of the "Court's Motion to Refer Actions to Mass Litigation Panel" and all reply memoranda thereto. The circuit court's motion was entered in the above-styled action on February 5, 2016. On February 25, 2016, Defendants Alpha Natural Resources Services, Nicewonder Contracting, Inc., White Flame Energy, Inc., Cobra Natural Resources LLC, (collectively "Alpha Defendants"), and Pocahontas Land Company, by counsel, Jason S. Hammond, Josef A. Horter, and the law firm of Bailey & Wyant, P.L.L.C., filed a response to the circuit court's motion to refer. Thereafter, Defendant Equitable Production Company ("EQT Production"), by counsel, Timothy M. Miller, Matthew S. Casto, Briana J. Marino, and the law firm of Babst, Calland, Clements and Zomnir, P.C., joined in Alpha Defendants and Pocahontas Land Company's response. On March 23, 2016, the plaintiffs in this civil action, as well as in Mingo County Civil Action Nos. 10-C-33, 11-C-257, and 10-C-253, by counsel, David R. Barney Jr., Kevin W. Thompson, and the law firm of Thompson Barney; Van Bunch and the law firm of Bonnett, Fairbourn, Friedman & Balint; and Michael T. Clifford, filed a response to Alpha Defendants, Pocahontas Land Company, and EQT Production's response. On May 11, 2016, these same plaintiffs filed a supplemental response. On June 3, 2016, Alpha Defendants and Pocahontas Land Company filed a response to plaintiffs' supplemental response.

On two prior occasions, the Chief Justice has refused to refer this litigation to the Panel. On March 4, 2010, acting after the Panel conducted a hearing, Chief Justice Davis accepted the Panel's recommendation to deny the motion to refer. On June 14, 2012, Chief Justice Ketchum denied a renewed motion to refer.

Upon careful review and consideration of the motion and all reply memoranda, the Chief Justice has determined that there is no reason to disturb the prior rulings in this matter and the motion to refer should therefore be denied. The circuit court should endeavor to resolve this long-pending litigation in a reasonably expeditious manner.

IT IS, HEREBY, ORDERED, that the motion to refer the above-styled action, along with the civil actions identified in the circuit court's motion, is DENIED, and that a copy of this Order be transmitted to the Honorable Alan D. Moats, Chair of the Mass Litigation Panel; to the Honorable Miki Thompson, Judge of the Thirtieth Judicial Circuit; to the Mass Litigation Manager; and to the Circuit Clerk of Mingo County.

IT IS FURTHER ORDERED, that the Circuit Clerk of Mingo County record this Order and serve copies on all parties of record or their counsel.

ENTERED: APRIL 28, 2017


ALLEN H. LOUGHRY II
Chief Justice