



IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

IN RE: FELA ASBESTOS CASES

CIVIL ACTION NO. 02-C-9500

THIS DOCUMENT APPLIES TO:

IN THE CIRCUIT COURT OF MCDOWELL COUNTY, WEST VIRGINIA

DONALD G. CORN, SR.,

Plaintiff,

vs.

Civil Action No. 19-C-70
Hon. Rudolph Murensky

NORFOLK SOUTHERN RAILWAY
COMPANY, *etc.*,

Defendant.

**ORDER GRANTING NORFOLK SOUTHERN RAILWAY COMPANY'S
MOTION TO JOIN IN EXISTING MASS LITIGATION**

Pending before the Court is Defendant Norfolk Southern Railway Company's (NSRC), "*Motion to Join in Existing Mass Litigation*" pursuant to West Virginia Trial Court Rule 26.09 (Transaction ID 64634787) seeking to join the above-captioned civil action pending in the Circuit Court of McDowell County, West Virginia, with *In re: FELA Asbestos Cases*, Civil Action No. 02-C-9500, pending in the Circuit Court of Kanawha County, West Virginia. Counsel for Plaintiff Donald G. Corn, Sr. does not oppose the motion.

The Court has reviewed the pleadings and evidence filed by counsel for Defendant, as well the April 29, 2009, Administrative Order of the Supreme Court of Appeals of West Virginia, stating that, "all pending and subsequently filed cases in West Virginia asserting claims under

FELA for personal injury and damages caused, in whole or in part, from exposure to asbestos and asbestos-containing materials are referred to the Mass Litigation Panel, and are transferred to the Circuit Court of Kanawha County, West Virginia for coordinated or consolidated resolution in *In re: FELA Asbestos Cases, Kanawha County*, Civil Action No. 02-C-9500”

The Court **FINDS** that Plaintiff’s case qualifies as a lawsuit subject to the Supreme Court’s 2009 Administrative Order and, under the provisions of West Virginia Trial Court Rule 26.09, this case should be transferred to the Mass Litigation Panel and joined with *In re: FELA Asbestos Cases, Kanawha County* Civil Action No. 02-C-9500. Therefore, the Court **GRANTS** Defendant’s motion and **ORDERS** the above-captioned civil action currently pending in the Circuit Court of McDowell County, West Virginia, **TRANSFERRED** to the Mass Litigation Panel and **JOINED** with *In re: Asbestos FELA Cases*, Civil Action No. 02-C-9500, pending in the Circuit Court of Kanawha County, West Virginia.

The paper court files for the above-captioned civil action shall remain in the Circuit Court of McDowell County, West Virginia, where the civil action originated until further order of the Court. The above-captioned civil action is designated for electronic filing and service, as provided in West Virginia Trial Court Rule 15.01, *et seq.*, effective April 22, 2020. Counsel for Plaintiff shall provide File & ServeXpress with the case and party data required to set up the electronic case file.

The Clerk of the Circuit Court of Kanawha County, West Virginia, is **ORDERED** to send a certified copy of this Order to the Clerk of the Circuit Court of McDowell County, West Virginia, for service on the Honorable Rudolph J. Murensky and all parties in the above-captioned civil action. All counsel of record in the FELA Asbestos Litigation shall this day be

served with this Order electronically.

The parties' objections and exceptions to this Order are noted.

It is so **ORDERED**.

ENTERED: April 16, 2020.

/s/ Jay M. Hoke
Lead Presiding Judge
FELA Asbestos Litigation