

ADMINISTRATIVE ORDER

SUPREME COURT OF APPEALS OF WEST VIRGINIA

IN RE: MOTION TO REFER SCOTT MILLER, AND BAR 101, LLC, D/B/A BAR 101 AND ICHIBAN, INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED, PLAINTIFFS VS. FREEDOM INDUSTRIES, INC., A WEST VIRGINIA CORPORATION, AND WEST VIRGINIA-AMERICAN WATER COMPANY, A WEST VIRGINIA CORPORATION, DEFENDANTS, KANAWHA COUNTY CIVIL ACTION NO. 14-C-47

The Honorable James C. Stucky, Judge of the Thirteenth Judicial Circuit, has advised the Chief Justice of the Supreme Court of Appeals that Plaintiffs Scott Miller, and Bar 101, LLC d/b/a Bar 101 and ICHIBAN, individually and on behalf of all others similarly situated, by counsel, Anthony J. Majestro, and the law firm of Powell & Majestro, PLLC; James C. Peterson, R. Edison Hill, Aaron L. Harrah, and the law firm of Hill, Peterson, Carper, Bee & Deitzler, PLLC; and Timothy C. Bailey, Lee Javins, and the law firm of Bucci, Bailey and Javins, L.C., filed a Motion to Refer to the Mass Litigation Panel the above-referenced civil action, the cases identified in the Motion to Refer, and other cases involving the same or similar common questions of law or fact concerning the chemical leak and water contamination by the defendants referenced above. Defendant West Virginia-American Water Company, by counsel, Thomas J. Hurney Jr., Brian R. Swiger, Al F. Sebok, L. Jill McIntyre, Laurie K. Miller, and the law firm of Jackson Kelly PLLC; and Kent Mayo, Steven Leifer, and the law firm of Baker Botts L.L.P., filed a response to the Motion to Refer.

The motion appears to be in substantial compliance with Rule 26.06 of the West Virginia Trial Court Rules.

The time for parties and affected judges to respond has expired, and the Chief Justice has reviewed the motion and reply memorandum.

The Chief Justice has determined that the Motion to Refer should be granted, and it is appropriate to transfer all civil actions involving the same or similar common questions of law or fact concerning the chemical leak and water contamination at issue in the above-referenced civil action to the Mass Litigation Panel; the Mass Litigation Panel is authorized to transfer and join with the existing Mass Litigation any similar or related actions subsequently filed in any circuit court of West Virginia; and the Mass Litigation Panel is authorized to transfer and join with the existing Mass Litigation any civil actions involving the same or similar common questions of law or fact concerning the chemical leak and water contamination at issue in the above-referenced civil action that are remanded to any circuit court in West Virginia from federal court.

IT IS, HEREBY, ORDERED, pursuant to Rule 26.06(c)(3) of the West Virginia Trial Court Rules, that the Motion to Refer to the Mass Litigation Panel the civil actions identified in said motion be, and hereby is GRANTED, and all civil actions involving the same or similar common questions of law or fact concerning the chemical leak and water contamination at

issue in the above-referenced civil action are transferred to the Mass Litigation Panel for further proceedings.

IT IS FURTHER ORDERED, that the Mass Litigation Panel is authorized to transfer and join with the existing Mass Litigation any similar or related actions subsequently filed in any circuit court of West Virginia.

IT IS FURTHER ORDERED, that the Mass Litigation Panel is authorized to transfer and join with the existing Mass Litigation any civil actions involving the same or similar common questions of law or fact concerning the chemical leak and water contamination at issue in the above-referenced civil action that are remanded to any circuit court in West Virginia from federal court.

IT IS FURTHER ORDERED that, if the Mass Litigation Panel later determines that any civil action referred to it pursuant to this Order is not sufficiently similar or related to this Mass Litigation, the Panel may request that the Chief Justice transfer the civil action from the Panel to the appropriate circuit court.

IT IS FURTHER ORDERED, that a copy of this Order be transmitted to the Honorable Alan D. Moats, Chair of the Mass Litigation Panel; the Honorable James C. Stucky, Judge of the Thirteenth Judicial Circuit; the Mass Litigation Manager; and the Circuit Clerks of Kanawha, Boone, Putnam, Jackson, Lincoln, Roane, Clay, and Cabell Counties who are to record this Order and provide copies of the same to all parties of record or their counsel.

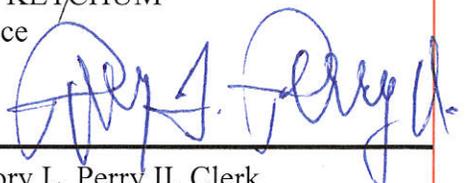
IT IS FURTHER ORDERED, that the Clerks of the Circuit Courts where the actions are pending need take no action to remove or otherwise transfer these matters until direction is received in writing from a member of the Mass Litigation Panel or the Chief Justice of the Supreme Court of Appeals.

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

ENTERED: JANUARY 28, 2016



MENIS E. KETCHUM
Chief Justice

Attest: 

Rory L. Perry II, Clerk
Supreme Court of Appeals