

ADMINISTRATIVE ORDER

SUPREME COURT OF APPEALS OF WEST VIRGINIA

**Central West Virginia Regional Airport
Authority, Inc., a West Virginia corporation,
Plaintiff**

vs. Civil Action No. 17-C-825 (Kanawha County)

**Triad Engineering, Inc., a West Virginia corporation;
Cast & Baker Corporation, a Pennsylvania corporation;
Michael Baker International, Inc., a Pennsylvania
corporation; Novel Geo-Environmental, LLC, a
Pennsylvania corporation; Hanson Ready Mix, Inc.,
f/k/a Arrow Concrete Company, a Delaware
corporation; Kokosing Construction Company, Inc.,
f/k/a Ahern & Associates, Inc., an Ohio corporation;
Cincinnati Insurance Company, an Ohio corporation;
Architects and Engineers Insurance Company,
a Delaware corporation; Westfield Insurance Company,
an Ohio corporation; and John Doe Insurance Company No. 1,
Defendants**

The Honorable Jennifer F. Bailey, Judge of the Thirteenth Judicial Circuit, has advised the Chief Justice of the Supreme Court of Appeals that Plaintiff Central West Virginia Regional Airport Authority, Inc., by counsel, Anthony J. Majestro, J. C. Powell, and the law firm of Powell & Majestro, PLLC; Scott S. Segal and the Segal Law Firm; and Timothy C. Bailey and the law firm of Bailey, Javins & Carter, LC, filed a motion to refer the above-styled civil action to the Mass Litigation Panel.

Defendant Cast & Baker Corporation, by counsel, Michael P. Markins, Jennifer A. Lynch, and the law firm of Cipriani & Werner, PC; Defendant Novel Geo-Environmental, LLC, by counsel, Frank E. Simmerman Jr., Chad L. Taylor, Frank E. Simmerman III, and the Simmerman Law Office, PLLC; and Defendant Michael Baker International Inc., by counsel, Kristen L. Moritz and the law firm of Gesk Moritz, LLC, filed a response in opposition to the motion to refer. Defendant Kokosing Construction Company, Inc., f/k/a Ahern & Associates, Inc., by counsel, Christopher L. Slaughter, Max L. Corley III, and the law firm of Steptoe & Johnson PLLC, joined in said response. Defendant Architects & Engineers Insurance Company, by counsel, Lee Murray Hall, Sarah A. Walling, and the law firm of Jenkins Fenstermaker, PLLC, filed a response stating that it does not take a position on the motion to refer. Defendant Westfield Insurance Company, by counsel, Brent K. Kesner, Tanya M. Kesner, and the law firm of Kesner & Kesner, PLLC, filed a response in opposition to the motion to refer.

The motion appears to be in substantial compliance with Rule 26 of the West Virginia Trial Court Rules. The time for parties and affected judges to respond has expired.

Upon reviewing the motion to refer and reply memoranda, the Chief Justice is of the opinion that the motion to refer should be granted; that it is appropriate to transfer the above-styled civil action to the Mass Litigation Panel; and further, that the Mass Litigation Panel is authorized to transfer and join with the existing Mass Litigation any similar or related Kanawha County civil actions currently pending, as well as any subsequently filed actions arising out of the construction project referred to as the "Taxiway A project."

IT IS, HEREBY, ORDERED, pursuant to Rule 26.06(c)(3) of the West Virginia Trial Court Rules, that the motion to refer the above-styled civil action to the Mass Litigation Panel be, and hereby is GRANTED.

IT IS FURTHER ORDERED, that the Mass Litigation Panel is authorized to transfer and join with the existing Mass Litigation any similar or related Kanawha County civil actions currently pending, as well as any subsequently filed actions arising out of the construction project referred to as the "Taxiway A project."

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 Jennifer F. Bailey, Judge of the Thirteenth Judicial Circuit; the Mass Litigation Manager; and the Circuit Clerk of Kanawha County who is to record this Order and provide copies of the same to all parties of record or their counsel.

IT IS FURTHER ORDERED, that the Clerk of the Circuit Court of Kanawha 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 or the Chief Justice of the Supreme Court of Appeals.

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

ENTERED: APRIL 11, 2018



MARGARET L. WORKMAN
Chief Justice

Attest:



Edythe Nash Gaiser, Clerk
Supreme Court of Appeals