

STATE OF WEST VIRGINIA

At a Regular Term of the Supreme Court of Appeals continued and held at Charleston, Kanawha County, on the 13<sup>th</sup> of June, 2014, the following order was made and entered:

**Re: Petition for Attorney Fees and Costs**

Sandra Cassella,  
Claimant Below, Petitioner

vs.) No. 11-1503

Mylan Pharmaceuticals, Inc.,  
Employer Below, Respondent

On October 24, 2013, the Court issued a Memorandum Decision in the above-captioned case reversing the Board of Review's final order and reinstating the order of the Office of Judges. The Court's mandate issued November 25, 2013, and the decision became final.

On December 2, 2013, the Court received a Petition for Award of Claimant's Attorney Fees and Costs pursuant to W.Va. Code §23-5-16(c) from C. Matt Rollins, Esq., counsel for the petitioner. On the same day, the respondent, Mylan Pharmaceuticals, Inc., by counsel H. Dill Battle III, Spilman Thomas & Battle PLLC, filed a written response in opposition to the petition. Thereafter, on December 9, 2013, counsel for the petitioner filed a written reply to the response in opposition.

Upon consideration, the Court is of the opinion that this matter be scheduled for oral argument under Rule 20 of the Rules of Appellate Procedure on Wednesday, September 10, 2014. The parties are directed to file additional briefs, under the schedule set forth below, addressing the following issues:

- (1) Does W.Va. Code §23-5-16(c) apply retroactively?

- (2) What is the definition of “reasonable costs” as stated in W.Va. Code §23-5-16(c)(1)?
- (3) Whether there is a limit on costs that may be awarded?
- (4) What is the definition of “litigated medical issue” as stated in W.Va. Code §23-5-16(c)(2)?
- (5) What is the maximum amount of fees and costs recoverable under W.Va. Code §23-5-16(c)?

Counsel for the petitioner is directed to file a supplemental brief addressing the forgoing issues on or before July 14, 2014. Counsel for the respondent is directed to file the respondent’s supplemental brief on or before August 13, 2014. Any reply brief deemed necessary may be filed by counsel for the petitioner on or before August 28, 2014. The briefs must comply with the content, formatting, and page number requirements set forth in Rule 10, provided, however that the page limit is extended to forty pages for the principal briefs and twenty pages for the reply brief.

The Clerk will, at a later date, furnish the parties and counsel of record with a Notice of Argument pursuant to Rule 20(b), which will contain additional information regarding the time for argument.

A True Copy

Attest: /s/ Rory L. Perry II, Clerk of Court

