

ADMINISTRATIVE ORDER

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Re: Motion to Refer the following Marshall County Cases to the Mass Litigation Panel:

**T.B. ex rel. Z.D.B. v. McKesson Corp., et al., Case No. 22-C-5;
J.A. ex rel. S.D.L. & H.G.L. v. McKesson Corp., et al., Case No. 22-C-29;
F.A. ex rel. M.J.A. v. McKesson Corp., et al., Case No. 22-C-27;
S.A. ex rel. A.L.A. & T.L.A. v. McKesson Corp., et al., Case No. 22-C-30;
T.B. ex rel. B.E.B. & S.F.B. v. McKesson Corp., et al., Case No. 22-C-21;
D.B. ex rel. W.A.R. v. McKesson Corp., et al., Case No. 22-C-28;
P.F. ex rel. A.J.F. v. McKesson Corp., et al., Case No. 22-C-32;
S.H. ex rel. N.M.B. v. McKesson Corp., et al., Case No. 22-C-24;
D.J. ex rel. L.M.J. v. McKesson Corp., et al., Case No. 22-C-33;
R.J. ex rel. S.A.J. v. McKesson Corp., et al., Case No. 22-C-36;
T.L. ex rel. M.D.L. & T.J.L. v. McKesson Corp., et al., Case No. 22-C-22;
K.M. ex rel. L.C.M. v. McKesson Corp., et al., Case No. 22-C-23;
S.O. ex rel. R.G.O. v. McKesson Corp., et al., Case No. 22-C-20;
T.P. ex rel. Z.N.B. v. McKesson Corp., et al., Case No. 22-C-31;
S.S. ex rel. T.K.L. v. McKesson Corp., et al., Case No. 22-C-35;
B.S. ex rel. S.R.S., M.K.S., & J.A.S. v. McKesson Corp., et al., Case No. 22-C-34;
D.W. ex rel. C.D.W. & C.G.W. v. McKesson Corp., et al., Case No. 22-C-26; and
C.W. ex rel. E.G.W. & B.D.W. v. McKesson Corp., et al., Case No. 22-C-25.**

Supreme Court Case No. 22-MLP-02, and

A.D.A., as next friend of L.R.A., a minor child under the age of 18 v. Johnson & Johnson, et al., Case No. 21-C-110

Supreme Court Case No. 22-613

The Honorable Jeffrey D. Cramer, Judge of the Second Judicial Circuit, has advised the Chief Justice of the Supreme Court of Appeals that Plaintiff T.B., as the next friend and guardian of minor child Z.D.B., in Marshall County Case No. 22-C-5, by counsel Stephen P. New, New, Taylor & Associates, filed a motion to refer to the Mass Litigation Panel this case, as well as Marshall County Case Nos. 22-C-20 through 22-C-36. Defendants Janssen Pharmaceuticals, Inc.; Johnson & Johnson; Ortho-McNeil-Janssen Pharmaceuticals, Inc. n/k/a Janssen Pharmaceuticals, Inc.; and Janssen Pharmaceutica, Inc. n/k/a Janssen Pharmaceuticals, Inc., by counsel Marc E. Williams, Robert L. Massie, Shaina D. Massie, and Alexander C. Frampton, Nelson, Mullins Riley & Scarborough LLP, filed a response to the motion to refer. Defendant McKesson Corporation, by counsel Jeffrey M. Wakefield and Amy Rothman Malone, Flaherty, Sensabaugh Bonasso PLLC; Defendant AmerisourceBergen Corporation, by counsel Gretchen M. Callas and Candice M. Harlow, Jackson Kelly PLLC; and Defendant Cardinal Health, Inc., by counsel Michael W. Carey, Steven R. Ruby, David R. Pogue, and Raymond S. Franks II, Carey Douglas Kessler & Ruby PLLC, filed a response to the motion to refer.

The Honorable David W. Hummel, Jr., Judge of the Second Judicial Circuit, has advised the Chief Justice of the Supreme Court of Appeals that Plaintiff A.D.A., as next friend and guardian

of the minor child L.R.A., in Marshall County Case No. 21-C-110, by counsel W. Stuart Calwell, Jr., L. Dante diTrapano, Alex McLaughlin, and Benjamin D. Adams, Calwell Luce diTrapano, PLLC; R. Booth Goodwin II, Benjamin B. Ware, and W. Jeffrey Vollmer, Goodwin & Goodwin LLP; P. Rodney Jackson, Law Offices of P. Rodney Jackson; and W. Jesse Forbes, Forbes Law Offices, PLLC, filed a motion to refer this case to the Mass Litigation Panel. Defendants Johnson & Johnson and Janssen Pharmaceuticals, Inc., by counsel Marc E. Williams, Robert L. Massie, Shaina D. Massie, and Alexander C. Frampton, Nelson, Mullins Riley & Scarborough LLP, filed a response to the motion to refer.

These civil actions involve claims for damages against manufacturers and distributors of certain prescription opioid pain medications and other defendant parties allegedly involved in the distribution or dissemination of such medications, alleged exposure to which plaintiffs claim caused minor plaintiffs to suffer from Neonatal Abstinence Syndrome (“NAS”).

The motions appear 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 motions to refer and the responses thereto, the Chief Justice has determined that the motions to refer should be granted and that it is appropriate to transfer the above-referenced civil actions as well as all civil actions involving the same or similar common questions of law or fact concerning claims for damages against manufacturers and distributors of certain prescription opioid pain medications and other defendant parties allegedly involved in the distribution or dissemination of such medications, alleged exposure to which plaintiffs claim caused minor plaintiffs to suffer from NAS. Further, 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 subsequently filed in any circuit court of West Virginia and 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 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 motions to refer to the Mass Litigation Panel the civil actions identified in said motions be, and hereby are GRANTED, and all civil actions involving the same or similar common questions of law or fact at issue in the above-referenced civil actions are to be 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 civil actions involving the same or similar common questions of law or fact 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 at issue in the above-referenced civil actions 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 Jeffrey D. Cramer and the Honorable David W. Hummel, Jr., Judges of the Second Judicial Circuit; Counsel to the Mass Litigation Panel; the Circuit Clerk of Marshall County, who is to record this Order and to provide copies of the same to all parties of record or their counsel; and to the Circuit Clerks of all other counties in West Virginia.


IT IS FURTHER ORDERED that the Clerk of the Circuit Court of Marshall County and all other Circuit Court Clerks 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: AUGUST 9, 2022.



JOHN A. HUTCHISON
Chief Justice

Attest: 

Edythe Nash Gaiser, Clerk of Court
Supreme Court of Appeals