

ADMINISTRATIVE ORDER

SUPREME COURT OF APPEALS OF WEST VIRGINIA

RE: MOTION TO REFER FELA ASBESTOS LITIGATION
TO THE MASS LITIGATION PANEL

LARRY LOCKRIDGE V. CSX TRANSPORTATION, INC., HARRISON COUNTY CIVIL
ACTION NO. 08-C-556-2;

LOVENA FERGUSON, EXECUTRIX FOR THE ESTATE OF FLOYD FERGUSON V. CSX
TRANSPORTATION, INC., HARRISON COUNTY CIVIL ACTION NO. 08-C-550-2;

WILLARD HART AND CHARLES E. SCALF, JR. V. CSX TRANSPORTATION, INC.,
HARRISON COUNTY CIVIL ACTION NO. 08-C-520-2

WHEREAS, By Administrative Order entered on November 17, 2000, then Chief Justice Elliott E. Maynard ordered that all pending asbestos litigation cases in the State of West Virginia be referred to the Mass Litigation Panel; and

WHEREAS, By Administrative Order entered on December 20, 2000, then Chief Justice Elliott E. Maynard ordered that the asbestos cases referred to the Mass Litigation Panel be transferred to the Circuit Court of Kanawha County, with the exception of four cases generally referred to as the "Putnam Mesothelioma Cases;" and

WHEREAS, By Administrative Order entered on July 9, 2001, then Chief Justice Warren R. McGraw ordered that all asbestos personal injury cases filed subsequent to the June 27, 2000, Motion to Refer were transferred to the Mass Litigation Panel for inclusion in the appropriate trial group; and

WHEREAS, By Administrative Order entered on July 9, 2001, then Chief Justice Warren R. McGraw further ordered that any asbestos personal injury litigation filed subsequent to the entry of the July 9, 2001 Administrative Order, may, upon appropriate order, be transferred to the Mass Litigation Panel for consideration of assignment to the appropriate trial group upon a motion; and

WHEREAS, The Chief Justice has received a copy of the Motion to Refer filed in the Circuit Court of Harrison County by the Honorable Thomas A. Bedell, Judge of the Fifteenth Judicial Circuit, seeking to refer the following three pending actions to the Mass Litigation Panel:

Larry Lockridge v. CSX Transportation, Inc., Harrison County Civil Action No. 08-C-556-2;

Lovena Ferguson, Executrix for the Estate of Floyd Ferguson v. CSX Transportation, Inc.,
Harrison County Civil Action No. 08-C-550-2; and

Willard Hart, and Charles E. Scalf, Jr. v. CSX Transportation, Inc., Harrison County Civil Action No. 08-C-520-2; and

WHEREAS, the parties in the above-styled cases, by submission of proposed orders signed by counsel, which are attached to the Motion to Refer, have requested the Court refer the above-styled cases to the Mass Litigation Panel because they assert claims under the Federal Employers' Liability Act ("FELA") for personal injury and damages caused, in whole or in part, from exposure to asbestos and asbestos-containing materials, and they are "asbestos litigation;" and

WHEREAS, The Chief Justice finds that the motion appears to be in substantial compliance with Rule 26.06 of the West Virginia Trial Court Rules; and

WHEREAS, No party or affected judge has filed a reply memorandum stating a position in response to the motion; and

WHEREAS, Upon review of the motion, the Chief Justice finds that the above-referenced cases qualify for a coordinated or consolidated resolution, and in the interests of justice and due process, the above-referenced cases should be referred to the Mass Litigation Panel; and

WHEREAS, The Honorable Alan D. Moats, Chair of the Mass Litigation Panel, has recommended to the Chief Justice 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 be referred to the Mass Litigation Panel, and be 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 Honorable Arthur M. Recht, presiding;

UPON CONSIDERATION WHEREOF, IT IS HEREBY ORDERED, The Motion to Refer is granted with respect to the above-referenced cases; and

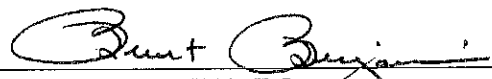
IT IS FURTHER ORDERED, That the above-referenced cases and all pending and subsequently filed cases in West Virginia asserting claims under FELA for personal injury and damages caused, in whole or in part, from exposure to asbestos and asbestos-containing materials are referred to the Mass Litigation 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 Honorable Arthur M. Recht, presiding; and

IT IS FURTHER ORDERED, The Clerk of the Circuit Court of Harrison County need take no action to remove or otherwise transfer the above-referenced cases until further direction is received in writing from the Mass Litigation Panel, the judge assigned to preside in the above-referenced cases, or the Chief Justice; and

IT IS FURTHER ORDERED, That a copy of this ORDER be transmitted to Robert F. Dailey, Esquire, of Robert Pierce & Associates, P.C., counsel for the plaintiffs in the above-referenced cases, and to Fred Adkins, Esquire, of Huddleston Bolen, LP, counsel for the defendant in the above-referenced cases; and

IT IS FINALLY ORDERED, That a copy of this ORDER be transmitted to the Honorable Alan D. Moats, Chair of the Mass Litigation Panel, the Honorable Arthur M. Recht, the Honorable Thomas A. Bedell, the Mass Litigation Manager, and to the Clerks of all Circuit Courts in the State of West Virginia.

ENTERED: April 29, 2009


BRENT D. BENJAMIN
Chief Justice

Attest:


Rory L. Perry II, Clerk
Supreme Court of Appeals