



IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

IN RE: ASBESTOS PERSONAL
INJURY LITIGATION

CIVIL ACTION NO.: 03-C-9600
Honorable Ronald E. Wilson

CIVIL ACTION NO.: 02-C-9500
Honorable Jay M. Hoke

←-----→
VIRLEY FERGUSON, *Administratrix of the Estate*
Of LARRY R. FERGUSON, *Deceased*,

Plaintiff,

v. (formerly Circuit Court of Kanawha County, W.Va., Civil Action 18-C-897 KAN)

A.O. SMITH CORP., *etc., et al.*, and
CSX TRANSPORTATION, INC.,

Defendant.

ORDER SEVERING PLAINTIFF'S FELA CLAIM
FROM CLAIMS ASSERTED AGAINST NON-RAILROAD DEFENDANTS

The court has reviewed the plaintiff's Complaint and has determined that in this case plaintiff asserts claims of injury from exposure to various substances, including asbestos. Those claims are brought under the Federal Employers' Liability Act, 45 U.S.C. §51, *et seq.* ("FELA") against a railroad defendant and against the other defendants under State law. Counsel for the plaintiff and for defendants Baltimore & Ohio Railroad, Chesapeake & Ohio Railroad (*sic*), The Chessie System Railroad, and CSX Transportation, Inc. (collectively "CSXT") submit this agreed order severing plaintiff's state-law claims from her FELA claims.

Having reviewed the pleadings, having consulted counsel for plaintiff and CSXT, and for good and sufficient reasons appearing to the court therefor, it is

ORDERED, pursuant to Rule 21, W.Va.R.Civ.P., that plaintiff's claims against CSXT brought under the FELA and her state-law claims are hereby **SEVERED**, with the Honorable Ronald E. Wilson to preside over her state-law claims in Civil Action No. 03-C-9600 and the Honorable Jay M. Hoke to

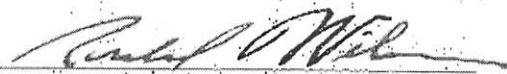
preside in her FELA claim against CSXT in Civil Action No. 02-C-9500 of the West Virginia Asbestos Mass Litigation Panel, *In Re: Asbestos Personal Injury Litigation*, Circuit Court of Kanawha County, West Virginia.

The Mass Litigation Panel Clerk is directed to establish a separate electronic filing avenue for the plaintiff's FELA case under Civil Action No. *18-C-897 KAN FELA*.

Objections and exceptions of other parties to this ruling are noted.

The Clerk is directed to transmit a copy of this order to all counsel of record by the File and Serve electronic filing system.

ENTER DECEMBER 3, 2018.


Honorable Ronald E. Wilson, Judge

Approved:

/s/ Luke A. Lafferre
West Virginia State Bar No. 2122
Luke.Lafferre@Dinsmore.com
Dinsmore & Shohl LLP
Huntington, WV 25701
Telephone: (304) 691-8308
Fax: (304) 522-4312

Counsel for Defendant
CSX TRANSPORTATION, INC.


Honorable Jay M. Hoke, Judge

Approved:

/s/ Michael J. Gallucci
West Virginia State Bar No. 12177
mgallucci@sdklaw.com
Savinis, Kane, & Gallucci, LLC
Suite 3626, Gulf Tower
707 Grant Street
Pittsburgh, PA 15219
(412) 471-8308

/s/ Brian A. Prim
West Virginia State Bar No. 6949
bprim@primlaw.com
Prim Law Firm PLLC
30 Chase Drive
Hurricane, WV 25526
(304) 201-2425
Counsel for Plaintiff,
VIRLEY FERGUSON,
Administratrix of the Estate
of LARRY R. FERGUSON, Deceased,