

ADMINISTRATIVE ORDER

SUPREME COURT OF APPEALS OF WEST VIRGINIA

IN RE: MOTION TO REFER TO THE MASS LITIGATION PANEL THE PROCEEDING STYLED JEFFREY BLOUNT V. ARKEMA, INC., ET AL., KANAWHA COUNTY CIVIL ACTION NO. 10-C-1109, ALONG WITH OTHER CASES IDENTIFIED THEREIN

WHEREAS, pursuant to Rule 26.06 of the West Virginia Trial Court Rules, the Chief Justice has received a copy of the Motion filed in the Circuit Court of Kanawha County, to refer to the Mass Litigation Panel Jeffrey Blount v. Arkema, Inc., et al., Civil Action No. 10-C-1109, and all other similar cases identified in said Motion; and

WHEREAS, the Motion appears to be in substantial compliance with Rule 26.06 of the West Virginia Trial Court Rules; and

WHEREAS, the time for parties and affected judges to file a reply memorandum has expired; and

WHEREAS, upon review of the Motion and responses thereof, the Chief Justice has determined that the Motion to Refer should be granted and that it is appropriate to transfer all cases identified in said Motion to the Mass Litigation Panel; and

WHEREAS, certain parties have suggested that a particular circuit court judge be appointed to preside over this litigation in the event it is referred to the Panel. In that regard, the Chief Justice expressly notes such a recommendation is entirely inappropriate and is not provided for in Trial Court Rule 26.07. Trial Court Rule 26.07(a) makes it abundantly clear that the selection of a presiding judge from the Panel is, in the first instance, left to the sole discretion of the Panel. If the Panel requests the assignment of additional active or senior status circuit court judges to assist in resolving Mass Litigation or proceedings therein, the request and recommendation is sent to the Chief Justice by the Panel pursuant to Trial Court Rule 26.07(b);

UPON CONSIDERATION THEREOF, IT IS HEREBY ORDERED, that the Motion to Refer is granted with respect to all cases identified in the Motion and all such cases are hereby transferred to the Mass Litigation Panel; and

IT IS FURTHER ORDERED, that the parties meet and confer and report to the Mass Litigation Panel any revisions, additions, or deletions to the cases identified in said Motion within 30 days of the date of this Administrative Order or such other time set by the Panel; and

IT IS FURTHER ORDERED, this referral is made subject to the discretionary consideration by the Panel or the presiding judge(s) at an appropriate time that the deliberate intent claims against employer defendants may warrant separate judicial analysis; and

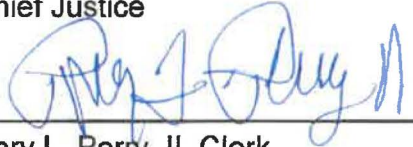
IT IS FURTHER ORDERED, that a copy of this ORDER be transmitted to the Mass Litigation Panel, the Mass Litigation Manager, the Administrative Director of the Courts, and the Clerks of the Circuit Courts where the actions are pending, who are to provide copies of the same to all parties of record or their counsel; and

IT IS FURTHER ORDERED, that the Clerks of the Circuit Courts where the actions are pending, 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, and/or the Chief Justice of the Supreme Court of Appeals; and

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

ENTERED: NOVEMBER 23, 2010

  
ROBIN JEAN DAVIS  
Chief Justice

Attest:   
Rory L. Perry, II, Clerk  
Supreme Court of Appeals