



# Supreme Court of Appeals State of West Virginia

## News

Administrative Office  
1900 Kanawha Blvd., East  
Bldg. 1, Room E-316  
Charleston, West Virginia 25305  
(304) 340-2305 Jennifer Bundy  
(304) 340-2306 April Harless  
(304) 558-4219 / TTY  
(304) 558-1212 / FAX  
Web Site: [www.courtswv.gov](http://www.courtswv.gov)  
Twitter: [WVCourts](https://twitter.com/WVCourts)  
Information Services Division  
Email: [Jennifer.Bundy@courtswv.gov](mailto:Jennifer.Bundy@courtswv.gov)  
Email: [April.Harless@courtswv.gov](mailto:April.Harless@courtswv.gov)

### **Supreme Court announces formation of Business Court Division**

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CHARLESTON, W.Va. – The Supreme Court of Appeals of West Virginia has voted 5-0 to approve a new Trial Court Rule 29 establishing a Business Court Division in West Virginia.

The rule was modeled after the rule that governs the Mass Litigation Panel.

“Our goal was to design a Court that focuses on the complex issues that arise in commercial litigation,” Justice Robin Jean Davis said at a press conference in the Supreme Court Chamber on Tuesday, September 11.

“Those issues can get bogged-down in a busy circuit court docket. This provides a way for circuit court judges to be relieved from the burden of handling those novel or complex issues. It also should provide a more expeditious and judicious resolution of disputes for business litigants.”

The time standards for general civil litigation will still apply as they are set forth in Trial Court Rule 16.05. However, the new Business Court Division Rule directs Presiding Judges in these cases to “make all reasonable efforts” to conclude Business Litigation within ten months from the date the case management order is entered.

The definitions of the types of cases to be handled by this new division are spelled out in Rule 29.04. “Generally, disputes must be between businesses,” Justice Davis said.

Rule 29.04(3) has a list of the type of cases that cannot be assigned to this court, including consumer litigation, products liability, personal injury, wrongful death, consumer class actions, and actions arising under the West Virginia Consumer Credit Act, among others.

Cases can be referred to the Business Court Division by the Chief Justice. Also, any party or judge may file a motion to refer a case to the Business Court Division.

Twenty-Third Judicial Circuit (Berkeley, Jefferson, and Morgan Counties) Judge Christopher Wilkes will be the Chairman of the Business Court Division.

Chief Justice Menis E. Ketchum also has appointed Eleventh Judicial Circuit (Greenbrier and Pocahontas Counties) Judge James Rowe and Twenty-Second Judicial Circuit (Hampshire, Hardy, and Pendleton Counties) Judge Donald Cookman to serve with Judge Wilkes on the Business Court. Their terms all will begin on October 10.

On January 1, 2013, Twenty-Fourth Judicial Circuit (Wayne County) Judge James Young, Jr., will join them.

The Business Court Division can have up to seven judges with seven-year staggered terms. The judges can serve successive terms. The other three judges will be added as needed. These judges will serve on the Business Court in addition to their other duties, with no additional pay.

The Business Court Division will serve as a specialized court docket within circuit courts, in seven specific regions. The regions are described in the rule itself and a map that is in the rule.

Once a case is assigned to the Business Court Division, the Division Chairman will, with the advice and consent of the other division judges, assign one of the division judges as the Presiding Judge in the case. If the Presiding Judge does not sit in the county where the case is pending, the Presiding Judge may be authorized to preside over the case in any county in that region, or in any circuit to which the case is transferred consistent with the division's case management methods. The regions are:

- Region A, which includes Barbour, Harrison, Lewis, Marion, Monongalia, Preston, Taylor, and Upshur Counties;
- Region B, which includes Brooke, Doddridge, Hancock, Marshall, Ohio, Pleasants, Ritchie, Tyler, Wetzel, Wood, and Wirt Counties;
- Region C, which includes Calhoun, Jackson, Kanawha, Mason, Putnam, and Roane Counties;
- Region D, which includes Boone, Cabell, Lincoln, Logan, Mingo, and Wayne Counties;
- Region E, which includes Braxton, Clay, Fayette, Gilmer, Nicholas, Raleigh, Webster, and Wyoming Counties;
- Region F, which includes Greenbrier, McDowell, Mercer, Monroe, Pocahontas, and Summers Counties; and
- Region G, which includes Berkeley, Grant, Hampshire, Hardy, Jefferson, Mineral, Morgan, Pendleton, Randolph, and Tucker Counties.

Judge Wilkes, Judge Rowe, and Judge Cookman all served on the Business Court Committee that began studying the idea of a Business Court in West Virginia in June 2011. The other members of that committee were Eighth Judicial Circuit (McDowell County) Judge Rudolph Murensky and Seventeenth Judicial Circuit (Monongalia County) Judge Susan Tucker.

The chairman of that Committee was Twenty-Fourth Judicial Circuit (Wayne County) Judge Darrell Pratt. He has decided to turn over the reins to Judge Wilkes.

"I want to say how very grateful everyone on the Supreme Court is to all these circuit judges for the enormous amount of study and work they put into helping us write these rules," Justice Davis said Tuesday.

"I also want to thank the many members of the public and the business community who provided comments in writing and at a day-long discussion meeting with the Business Court Committee last year. Chief Justice Ketchum and I attended that session and found it very informative," Justice Davis said.

"And, of course, I would like to thank the Legislature and, especially, House Speaker Rick Thompson, for the roadmap provided in House Bill 4352," she said. That law was passed in March 2010.

The Business Court Division will be effective on October 10. On that date the Supreme Court will announce the new division's central location.