



DECISIONS, NOTICES, AND ORDERS

Monday, May 1, 2023

The Intermediate Court of Appeals of West Virginia has taken action in the following cases in the month of April 2023. This list contains only the actions of note taken by the Intermediate Court, not the content or actual date of orders or decisions.

MEMORANDUM DECISIONS

In accordance with Rule 21, memorandum decisions were entered in the following cases:

In re: H.A., a protected person, 22-ICA-40 (Cir. Ct. McDowell Cnty. No. CC-27-2016-G-8)
Affirmed (3-0)

Linda M. Jenkins v. West Virginia Department of Health and Human Resources, 22-ICA-70
(West Virginia Public Employees Grievance Board No. 2020-0896-CONS)
Affirmed (3-0)

Emma S. v. Joe W., 22-ICA-127 (Cir. Ct. Cabell Cnty. No. 20-D-291)
Affirmed (3-0)

Emanuel R. v. Danielle R. and The West Virginia Department of Health and Human Resources Bureau for Child Support Enforcement, 22-ICA-156 (Fam. Ct. Cabell Cnty. No. 08-D-790)
Affirmed (3-0)

Jud T. Seech v. Frontier Kemper Constructors, Inc., 22-ICA-182
(Workers' Compensation Board of Review)
Vacated and Remanded (3-0)

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David Justice v. Bonded Filter Company, LLC, 22-ICA-196
(Workers' Compensation Board of Review)
Affirmed (3-0)

Clover-Roane Volunteer Fire Department v. Sarah Horwich, Dependent of Mark Horwich (Deceased),
22-ICA-216 (Worker's Compensation Board of Review)
Affirmed (3-0)

John Juszczyk v. Rob Juszczyk Construction, 22-ICA-217
(Workers' Compensation Board of Review)
Affirmed (3-0)

Appalachian Boiler & Fab., LLC v. Judith A. Caruthers, Dependent of Johnny A. Caruthers (Deceased),
Alberici Mid Atlantic WV LLC, and West Virginia Offices of the Insurance Commissioner, in its capacity
as administrator of the Old Fund, 22-ICA-219
(Workers' Compensation Board of Review)
Affirmed (2-0) (Judge Scarr, not participating)

Samuel J. Cox v. Raleigh County Board of Education, 22-ICA-230
(Workers' Compensation Board of Review)
Affirmed (3-0)

Mission Coal Company, LLC v. William Dempsey, 22-ICA-241
(Workers' Compensation Board of Review)
Affirmed (3-0)

KGPCO, Inc. v. Michael Eden, 22-ICA-246
(Workers' Compensation Board of Review)
Affirmed (3-0)

Roger Weese v. Harry Green Chevrolet, Inc., 22-ICA-247
(Workers' Compensation Board of Review)
Affirmed (2-0) (Judge Scarr, Dissenting)

Quad/Graphics, Inc. v. Travis Bland, 22-ICA-253
(Workers' Compensation Board of Review)
Affirmed (3-0)

Keithern Wayne Addair v. Appalachian Leasing, Inc., 22-ICA-254
(Workers' Compensation Board of Review)
Vacated and Remanded with Directions (3-0)

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James B. v. Kristin R., 22-ICA-256 (Cir. Ct. Kanawha Cnty. No. 17-D-616)
Affirmed (3-0)

Nicholas Harris v. ACNR Resources, Inc., 22-ICA-257
(Workers' Compensation Board of Review)
Affirmed (3-0)

David Justice v. Bonded Filter Company, LLC, 22-ICA-273
(Workers' Compensation Board of Review)
Affirmed (3-0)

Tammy Y. Daniel v. FedEx Ground Package System, Inc., 22-ICA-291
(Workers' Compensation Board of Review)
Affirmed (3-0)

Francesca I. v. Thomas L., 22-ICA-292 (Fam. Ct. Harrison Cnty. No. 17-D-354-5)
Affirmed (3-0)

Misa Amame v. PAS Parent, Inc., 22-ICA-304
(Workers' Compensation Board of Review)
Affirmed (3-0)

Coronado Group, LLC v. Marshal L. Lytton, Jr., 22-ICA-312
(Workers' Compensation Board of Review)
Affirmed (2-0) (Judge Scarr, not participating)

Wiseman Construction Company, Inc. v. Kevin C. Hodge, 22-ICA-317
(Workers' Compensation Board of Review)
Affirmed (2-0) (Judge Scarr, not participating)

Evans Construction Company v. Anthony Schau, 22-ICA-322
(Workers' Compensation Board of Review)
Affirmed (3-0)

RULE 19 ARGUMENT GRANTED

The following cases will be scheduled for Rule 19 oral argument:

Bucky Thompson v. Western Construction, Inc., 23-ICA-26
(Workers' Compensation Board of Review)

Michelle Stoudt v. Kristen P. Eads, M.D., 22-ICA-159 (Cir. Ct. Kanawha Cnty. No. 20-C-874)

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DD Oil Company v. State of West Virginia, ex rel. Harold D. Ward, Cabinet Secretary, West Virginia Department of Environmental Protection, 22-ICA-74
(West Virginia Environmental Quality Board No. 22-01-EQB)

American Bituminous Power Partners, LP v. Horizon Ventures of West Virginia, Inc., 22-ICA-34
(Cir. Ct. of Marion Cnty. No. CC-24-2018-C-76) (Judge Lorensen, voluntarily recused; Judge Darl Poling, sitting by temporary assignment; Judge Scarr, voluntarily recused; Judge Jeffrey D. Cramer, sitting by temporary assignment)

RULE 20 ARGUMENT GRANTED

The following cases will be scheduled for Rule 20 oral argument:

Statoil USA Onshore Properties, Inc. v. Dale W. Steager, State Tax Commissioner of West Virginia, 22-ICA-111 (West Virginia Office of Tax Appeals, Nos. 19-008 and 19-064)

Statoil USA Onshore Properties, Inc. v. Dale W. Steager, State Tax Commissioner of West Virginia, 22-ICA-225 (West Virginia Office of Tax Appeals, No. 20-111)

Equinor USA Onshore Properties, Inc. v. Dale W. Steager, State Tax Commissioner of West Virginia, 22-ICA-226 (West Virginia Office of Tax Appeals, Nos. 20-222 and 22-023)

ORDERS

Orders of note were entered in the following cases:

Julian Lee Green v. David Frank Shaffer, City of Wheeling, Gerard Mitchell, and Josh Bolyard, 22-ICA-290 (Cir. Ct. of Ohio Cnty. No. CC-35-2022-C-AP-4)
Dismissal Order (3-0); Respondents' Motion to Dismiss Refused as Moot (3-0)

Nicholas Community Action Partnership, Inc. v. Maggie Jarrett, 23-ICA-133
(Workers' Compensation Board of Review)
Motion for Stay Granted (3-0)

Charleston Area Medical Center, Inc. v. Kathy Bragg, 23-ICA-132
(Workers' Compensation Board of Review)
Motion for Stay Refused (3-0)

Alpha Metallurgical Resources, Inc. v. Joshua Jenkins, 23-ICA-94
(Workers' Compensation Board of Review)
Motion for Stay Refused (3-0)

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Mountaineer Dough, LLC v. David Milano, 23-ICA-86
(Workers' Compensation Board of Review)
Motion for Stay Refused (2-0) (Judge Scarr, not participating)

Lamont D. Honeycutt v. Workforce West Virginia, 22-ICA-139
(WorkForce West Virginia Board of Review)
Motion for Remand Granted (3-0)

Larry Bert Gray v. Performance Coal Company, 22-ICA-184
(Workers' Compensation Board of Review)
Petition for Rehearing Refused (3-0)

William Parsons and Virginia Parsons v. Phillip Marion, Jr., 23-ICA-89
(Cir. Ct. of Kanawha Cnty. 22-C-AP-100)
Motion for Stay Refused (3-0)

Charleston Area Medical Center, Inc. v. Raleigh General Hospital and the West Virginia Health Care Authority, 22-ICA-169 (West Virginia Healthcare Authority)
Joint Motion to Dismiss Refused (3-0)

Inca Miller v. Shrikant Vaidya, M.D., 23-ICA-105 (Cir. Ct. of Putnam Cnty. CC-40-2022-C-131)
Motion to Dismiss Refused (3-0)

Pfizer, Inc. and Subsidiaries v. Matthew R. Irby State Tax Commissioner of West Virginia, 22-ICA-285
(Office of Tax Appeals)
Motion to Dismiss Granted (3-0)