

ADMINISTRATIVE ORDER

SUPREME COURT OF APPEALS OF WEST VIRGINIA

SCA EFiled: Oct 24 2023  
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Transaction ID 71178825

Colby Siders and Devron Siders, in their  
representative capacity of their children A.S.  
and O.S., and on behalf of all others similarly situated,  
Plaintiffs

vs. Harrison County Civil Action No. 23-C-8  
(Supreme Court of Appeals of West Virginia case no. 23-520)

Paul Howe III, in his official capacity as President of  
the Clarksburg Water Board; Albert N. Cox II, in his official  
capacity as Member of the Clarksburg Water Board; Jonathan  
Calvert, in his official capacity as Member of the Clarksburg  
Water Board; The Thrasher Group, Inc.; Tetra Tech Inc.; and  
City of Clarksburg,  
Defendants

On February 7, 2023, the Honorable Jacob E. Reger, Judge of the Twenty-Sixth Judicial Circuit, was assigned to the above-styled civil action following the voluntary recusals of the Honorable Thomas A. Bedell, the Honorable James A. Matish, and the Honorable Christopher J. McCarthy, Judges of the Fifteenth Judicial Circuit. Judge Reger has advised the Chief Justice of the Supreme Court of Appeals that Plaintiffs Colby Siders and Devron Siders, on behalf of themselves, their children A.S. and O.S., and all others similarly situated, by counsel Jonathan R. Marshall and Bailey & Glasser, LLP, Cynthia Loomis Hardesty and Loomis Law Office, PLLC, Bernard E. Layne and Mani Ellis & Layne, PLLC, filed a motion pursuant to Rule 26.06 of the West Virginia Trial Court Rules requesting that the above-styled civil action be referred to the Mass Litigation Panel.

Although there is a representation in the motion that the same or similar motion has been filed in *Long vs. Howe*, Harrison County Civil Action No. 23-C-93, the response challenges that representation and a review of that docket indicates that such a motion has not been filed in *Long vs. Howe*, Harrison County Civil Action No. 23-C-93.

Defendants Paul Howe III, Albert N. Cox II, and Jonathan Calvert, by counsel Russell D. Jessee, Marc Bryson, Christopher S. Etheredge, Anders W. Lindberg, and Steptoe & Johnson PLLC, filed a response to the motion to refer. Defendant The Thrasher Group, Inc., by counsel Frank E. Simmerman, Jr., Chad L. Taylor, Frank E. Simmerman, III, and Simmerman Law Office, PLLC, also filed a response to the motion.

The motion appears to be in substantial compliance with Rule 26.06 of the West Virginia Trial Court Rules. The time for litigants, attorneys and affected judges to respond has expired.

Upon careful review and consideration of the motion and the responses thereto, the Chief Justice has determined that this litigation does not meet the definition of mass litigation as set forth in Rule 26.04(a) of the West Virginia Trial Court Rules, and the motion to refer should be denied


without prejudice to renew the motion in the event additional state actions are filed or a proper motion to refer and consolidate is filed in *Long vs. Howe*, Harrison County Civil Action No. 23-C-93.

IT IS HEREBY ORDERED pursuant to Trial Court Rule 26.06(c)(3), that the Motion to Refer the above-referenced civil actions to the Mass Litigation Panel be, and hereby is, denied without prejudice to renew the motion as set forth herein.

IT IS FURTHER ORDERED that this Order be filed with the Clerk of Court of the Supreme Court of Appeals of West Virginia and copies provided to the Honorable Gregory L. Howard, Jr., Chair of the Mass Litigation Panel; to the Honorable Jacob E. Reger, Judge of the Twenty-Sixth Judicial Circuit; to the Counsel for the Mass Litigation Panel; and to the Circuit Clerk of Harrison County.

IT IS FURTHER ORDERED that the Circuit Clerk of Harrison County record this Order and serve copies on all parties of record or their counsel.

ENTERED: OCTOBER 24, 2023

  
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ELIZABETH D. WALKER  
Chief Justice