

## **ADMINISTRATIVE ORDER**

### **SUPREME COURT OF APPEALS OF WEST VIRGINIA**

**State of West Virginia, ex rel. Patrick Morrissey,  
Attorney General, and Thomas J. Smith in his  
official capacity as Secretary of Transportation  
and Commissioner of Highways, West Virginia  
Department of Transportation,  
Plaintiffs**

**vs.) Civil Action No. 17-C-41 (Kanawha County)**

**Oldcastle, Inc., et al.,  
Defendants**

**and**

**City of Charleston, and all others similarly  
situated, et al., Plaintiffs**

**vs.) Civil Action No. 16-C-1552 (Kanawha County)**

**West Virginia Paving, Inc., et al., Defendants**

The Chief Justice of the Supreme Court of Appeals has been advised that Plaintiffs State of West Virginia, ex rel. Patrick Morrissey, Attorney General, and Thomas J. Smith in his official capacity as Secretary of Transportation and Commissioner of Highways, West Virginia Department of Transportation, and the City of Charleston, City of Beckley, City of Bluefield, City of Parkersburg, City of Huntington and the Kanawha County Commission, by counsel, Benjamin L. Bailey, Michael B. Hissam, Isaac R. Forman, J. Zak Ritchie, and the law firm of Bailey & Glasser LLP; Steven A. Travis, Deputy General Counsel; Jonathan T. Storage, General Counsel; and Douglas L. Davis, Assistant Attorney General, have filed a joint motion to refer the above-referenced cases to the Business Court Division pursuant to Rule 29 of the West Virginia Trial Court Rules ("TCR").

Defendants American Asphalt & Aggregate, Inc., American Asphalt of West Virginia, LLC, and Blacktop Industries and Equipment Company, by counsel, Charles M. Johnstone II, David A. Dobson, and the law firm of Johnstone & Gabhart, LLP, filed a response stating that they join in the motion to refer. Defendants CRH, PLC; Oldcastle, Inc.; Oldcastle Materials, Inc.; West Virginia Paving, Inc.; Southern West Virginia Paving, Inc.; Southern West Virginia Asphalt, Inc.; and Camden Materials, LLC, by counsel R. Booth Goodwin II, Carrie Goodwin Fenwick, Richard D. Owen, W. Jeffrey Vollmer, Lucas R. White, and the law firm of Goodwin & Goodwin, LLP, filed a response stating that they have no objection to the motion to refer. Defendant Kelly Paving, Inc., by counsel, Michael J. Farrell, Megan Farrell Woodyard, J. Ben Shepard, and the law firm of Farrell, White & Legg PLLC, and James A. Wilson and the law firm of Voyrs, Sater, Seymour and Pease LLP, filed a response in opposition to the motion to refer. The Honorable Tod J. Kaufman, Judge of the Thirteenth Judicial Circuit, has also filed a response in opposition to the motion. The plaintiffs submitted a reply.

Upon careful review and consideration of the motion and the responses thereto, the Chief Justice has determined that the principal claims in these actions involve matters of significance to the transactions, operations, or governance between business entities as required by TCR 29.04(a)(1). The Chief Justice has further determined that the principles of TCR 29.04(a)(2) have been met, and the motion to refer should therefore be granted.

It is hereby ORDERED that the motion to refer these actions to the Business Court Division is granted, and this order shall be transmitted to the Honorable Christopher C. Wilkes, Chair of the Business Court Division, for assignment of a presiding judge and such other actions as are necessary to effectuate the provisions of TCR 29.

It is further ORDERED that a copy of this ORDER be transmitted to the Central Office of the Business Court Division; the Honorable Tod J. Kaufman, Judge of the Thirteenth Judicial Circuit, and to the Clerk of the Circuit Court of Kanawha County, who is to provide copies of the same to all parties of record or their counsel.

ENTERED: APRIL 9, 2018

  
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MARGARET L. WORKMAN  
Chief Justice