

No. 32672 – *Ulrika Browning, et al. v. Judith Halle, et al.*

FILED

December 15, 2005

Starcher, J., dissenting:

released at 3:00 p.m.

RORY L. PERRY II, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

I dissent because I believe the trial court had sufficient conflicting evidence on the issues in the instant case to preclude a grant of summary judgment on the issue of nuisance. I note that the appellants are not precluded from filing a new nuisance action in the event that they believe that their upstream neighbors continue to pollute the stream.