



DECISIONS, NOTICES, AND ORDERS

Monday, January 8, 2024

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

SIGNED OPINIONS

In accordance with Rule 22, signed opinions were entered in the following cases:

Ford Motor Company v. Angel Ellen Tyler, as Administrator of the Estate of Breanna Kristen Bumgarner, 22-ICA-208 (Cir. Ct. Kanawha Cnty. No. 18-C-182)
Reversed and Remanded (3-0)

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. 2022-6)
Reversed and Remanded (2-1) (Judge Lorensen, dissenting)

MEMORANDUM DECISIONS

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

Globe Specialty Metals v. Vernon Carpenter, 23-ICA-380 (Workers' Compensation Board of Review)
Affirmed (3-0)

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Beckley Appalachian Regional Healthcare v. Barry A. Levin, 23-ICA-298 (Workers' Compensation Board of Review)

Affirmed (3-0)

Jerry Bragg v. Appalachian Resource Company, LLC, 23-ICA-296 (Workers' Compensation Board of Review)

Affirmed (3-0)

EQT Production Company v. Matthew R. Irby, State Tax Commissioner of West Virginia, The Honorable Eric Buzzard, Assessor of Marshall County, and the County Commission of Marshall County, sitting as a Board of Assessment Appeals, 22-ICA-305 (Cir. Ct. Marshall Cnty. No. 22-P-6)

Reversed and Remanded (3-0)

Richard B. Timmis v. Charles P. Andrew, 22-ICA-235 (Cir. Ct. Doddridge Cnty. No. CC-09-2022-P-13)

Reversed (3-0)

Timothy Hall v. Phillis Gail Ensor, Thomas Beach III, Scott Ford, Edward Turnbow, Larry Munday, Dena Bonebrake, and Justin Schooley, 22-ICA-200 (Cir. Ct. Berkeley Cnty. No. CC-02-2022-C-11)

Affirmed (3-0)

Debra Shantie v. Putnam County Board of Education, 22-ICA-287 (Cir. Ct. Kanawha Cnty. No. 22-AA-31)

Affirmed (3-0)

Blackhawk Mining, LLC v. Brandon Gilfilen, 23-ICA-251 (Workers' Compensation Board of Review)

Affirmed (3-0)

CRM Workforce Solutions, LLC v. Oscar Cruz Laines, 23-ICA-439 (Workers' Compensation Board of Review)

Affirmed (3-0)

Charleston Area Medical Center, Inc. v. Mary Kestner, 23-ICA-438 (Workers' Compensation Board of Review)

Affirmed (3-0)

West Virginia United Health Systems, Inc. v. Michael Jordan, 23-ICA-386 (Workers' Compensation Board of Review)

Affirmed (3-0)

Thomas Health System, Inc. v. Rachael Thomas, 23-ICA-384 (Workers' Compensation Board of Review)
Affirmed (3-0)

Ervin C. Caldwell v. Health Team Critical Care Transport, LLC, 23-ICA-347 (Workers' Compensation Board of Review)
Affirmed (3-0)

Donald Lilly v. Alpha Metallurgical Resources, Inc., 23-ICA-346 (Workers' Compensation Board of Review)
Affirmed (3-0)

Frank R. Workman v. C.J. Hughes, 23-ICA-261 (Workers' Compensation Board of Review)
Reversed and Remanded (3-0)

Amy Montgomery v. Amtower Auto Supply, Inc., 23-ICA-225 (Workers' Compensation Board of Review)
Affirmed, in part, and Reversed, in part (3-0)

Stephanie M. v. Brittany O. and Joshua M., 23-ICA-183 (Fam. Ct. Raleigh Cnty. No. FC-41-2023-D-97)
Affirmed (3-0)

Jonathan M. v. Linda M., 23-ICA-180 (Fam. Ct. Fayette Cnty. No. FC-10-2015-D-380)
Affirmed (3-0)

Manuel R. v. Giselle R., 23-ICA-167 (Fam. Ct. Jefferson Cnty. No. FC-19-2022-D-197)
Remanded (3-0)

Tina M. Bible v. Gregory E. Bible, 23-ICA-159 (Fam. Ct. Grant Cnty. No. FC-12-2021-D-68)
Affirmed, in part, Reversed, in part, and Remanded (3-0)

Christina Campbell v. James Campbell, 23-ICA-149 (Fam. Ct. Kanawha Cnty. No. 20-D-629)
Affirmed (3-0)

Pretera Center for Mental Health Services, Inc. v. Brianna M. Woodie and Workforce West Virginia, 22-ICA-271 (Workforce West Virginia Board of Review No. R-2022-1668)
Reversed (3-0)

Nicholas Graley v. City of South Charleston, West Virginia, 22-ICA-267 (Cir. Ct. Kanawha Cnty. No. 22-AA-30)
Affirmed (3-0)

City of Parkersburg v. Wayne White, Michael Wood, Joshua Gandee and all others similarly situated and International Association of Fire Fighters Local 91, 22-ICA-142 (Cir. Ct. Wood Cnty. No. CC-54-2018-C-259)

Reversed and Remanded with Directions (3-0)

Sheetz, Inc. v. William Wolfe, 23-ICA-450 (Workers' Compensation Board of Review)
Affirmed (2-0) (Judge Scarr, not participating)

RULE 19 ARGUMENT GRANTED

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

Jeremy Starks v. Putnam County Commission, 23-ICA-128 (Cir. Ct. Putnam Cnty. No. CC-40-2022-P-76) (3-0)

Arthur Poff v. Pamela Ann Poff, 23-ICA-165 (Fam. Ct. Nicholas Cnty. No. FC-34-2021-D-65)
(3-0)

Denny Harton v. Terry Harton, 23-ICA-242 (Fam. Ct. Wood Cnty. No. FC-54-2020-D-70) (3-0)

Jason Heavener v. JF Allen Company, 23-ICA-317 (Workers' Compensation Board of Review) (3-0)

Samantha Burgess, Alyssa Skeens, George Grover, Jessica Halstead, and Sunshine Holstein v. West Virginia Department of Health and Human Resources, Bureau for Medical Services, 23-ICA-11 (West Virginia Department of Health and Human Resources, Bureau for Medical Services) (3-0)

Holistic, Inc. v. West Virginia Department of Health Human Resources, Bureau for Medical Services, 23-ICA-39 (West Virginia Department of Health and Human Resources, Bureau for Medical Services) (3-0)

WV National Auto Insurance Company v. Danny J. Dobbins and Jackie L. Dobbins, No. 23-ICA-101
(3-0)

RULE 20 ARGUMENT GRANTED

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

Brian Cunningham, in his capacity as Director of the Public Employees Insurance Agency, et al. v. Air Evac EMS, Inc., No. 23-ICA-127 (Cir. Ct. Kanawha Cnty. No. 19-AA-169) (2-0) (Chief Judge Greear, not participating)

Air Evac EMS, Inc. v. Brian Cunningham, in his capacity as Director of the Public Employees Insurance Agency, et al., 23-ICA-135 (Cir. Ct. Kanawha Cnty. No. 19-AA-169) (2-0) (Chief Judge Greear, not participating)

Melissa K. Bond v. United Physicians Care, Inc. dba Salem Family Healthcare, 23-ICA-118 (Cir. Ct. Harrison Cnty. No. CC-17-2022-C-176) (3-0)

Mission Coal Wind Down Co., LLC and Gilbert Nathan, Plan Administrator v. Director, Division of Mining and Reclamation, West Virginia Department of Environmental Protection, 23-ICA-72 (West Virginia Surface Mine Board No. 22-08-SMB) (3-0)

Greenbrier Royalty Fund II, LLC v. Antero Resources Corporation, 23-ICA-530 (West Virginia Oil and Gas Conservation Commission No. 327-346) (3-0)

ORDERS

Orders of note were entered in the following cases:

Macy's Retail Holdings, Inc. v. Charles Reed, No. 23-ICA-482 (Workers' Compensation Board of Review)
Motion for Stay Refused (3-0)

Centre Foundry & Machine Company v. Neal Bledsoe, No. 23-ICA-481 (Workers' Compensation Board of Review)
Motion for Stay Refused (2-0) (Judge Scarr, not participating)

Greenbrier Royalty Fund II, LLC v. Antero Resources Corporation, No. 23-ICA-530 (West Virginia Oil and Gas Conservation Commission No. 327-346)
Motion for Stay Granted (3-0)

West Virginia Department of Corrections v. Mike Tencer, 23-ICA-493 (Workers' Compensation Board of Review)
Motion for Stay Refused (2-0) (Judge Scarr, not participating)

Alpha Metallurgical Resources, Inc. v. Jeffrey Stewart, 23-ICA-537 (Workers' Compensation Board of Review)
Motion for Stay Refused (3-0)

Cabell County Board of Education v. Katura Lyles, 23-ICA-538 (Workers' Compensation Board of Review)
Motion for Stay Refused (2-0) (Judge Scarr, not participating)

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Steven Lee Mengel v. Shelby Banton Mengel, 23-ICA-415 (Fam. Ct. Greenbrier Cnty. No. FC-13-2019-D-192)

Motion to Dismiss Refused (3-0)

D & D Used Autos v. Everett Frazier, Commissioner, West Virginia Division of Motor Vehicles, 23-ICA-487 (West Virginia Division of Motor Vehicles No. 23-008-CP)

Motion to Dismiss Refused (3-0)