



## DECISIONS, NOTICES, AND ORDERS

Monday, April 1, 2024

The Intermediate Court of Appeals of West Virginia has taken action in the following cases in the month of March 2024. This list contains only the actions of note taken by the Intermediate Court, not the content or actual date of orders or decisions.

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### SIGNED OPINIONS

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

Bradley Bove v. Melissa Bove, 23-ICA-370 (Fam. Ct. Fayette Cnty. No. FC-10-2021-D-199)  
Affirmed (3-0)

Thomas A. Cummings, Individually and as Executor of the Estate of Cynthia M. Cummings v. Ward J. Paine, M.D., and Benjamin Klennert, P.A., 22-ICA-220 (Cir. Ct. Monongalia Cnty. No. 20-C-86)  
Affirmed (3-0)

### MEMORANDUM DECISIONS

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

Arthur R. Poff v. Pamela A. Poff, 23-ICA-165 (Fam. Ct. Nicholas Cnty. No. FC-34-2021-D-65)  
Reversed and Remanded with Directions (3-0)

Hometown Transportation, LLC v. Chad Lancaster, 23-ICA-424 (Workers' Compensation Board of Review)  
Vacated and Remanded (2-0) (Chief Judge Scarr, not participating)

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CCBCC, Inc., v. Erick S. Boles, 23-ICA-256 (Workers' Compensation Board of Review)  
Vacated and Remanded (3-0) (Chief Judge Scarr, not participating) (Judge Joseph K. Reeder, sitting by temporary assignment)

Mary C. Sutphin v. Ronald J. Hopkins, II, Rachel L. Abrams Hopkins, Sarah A. Abrams, and Langhorne Abrams, 22-ICA-201 (Cir. Ct. Raleigh Cnty. No. CC-41-2017-C-591)  
Affirmed, in part, Reversed, in part, and Remanded with Instructions (3-0)

CNX Gas Company, LLC, v. Matthew Irby, State Tax Commissioner of West Virginia, 23-ICA-36  
(West Virginia Office of Tax Appeals Docket Nos. 20-205, 21-187, and 22-136)  
Affirmed (3-0)

Juanita A. Moore v. WorkForce West Virginia, 23-ICA-41 (WorkForce West Virginia Board of Review No. X-2022-0268)  
Affirmed, in part, and Reversed and Remanded, in part (3-0)

Margaret Preston Kulkarni, Joseph Raine Preston, and Silas Mason Preston, Jr., v. The County Commission of Greenbrier County, West Virginia, 23-ICA-90 (Cir. Ct. Greenbrier Cnty. No. CC-13-2021-C-102)  
Affirmed (3-0)

Donald B. Huffman v. WorkForce West Virginia, 23-ICA-111 (WorkForce West Virginia Board of Review No. R-2021-4873)  
Affirmed, in part, Reversed, in part, and Remanded (3-0)

Josette F. v. Jaret and Jennifer O., 23-ICA-164 (Cir. Ct. Monongalia Cnty. No. 22-C-289)  
Affirmed (3-0)

Julian Lee Green v. David F. Schaffer, 23-ICA-181 (Cir. Ct. Ohio Cnty. No. CC-35-2023-C-AP-1)  
Affirmed (3-0)

Mary Wenz v. Rachel Hanna and Law Office of Rachel Hanna, 23-ICA-201 (Cir. Ct. Greenbrier Cnty. No. CC-13-2019-C-162)  
Affirmed (3-0)

In Re: The Petition of George R. Bryant, 23-ICA-322 (Cir. Ct. Kanawha Cnty. No. 23-P-268)  
Affirmed (3-0)

Michael S. v. Angela S., 23-ICA-114 (Fam. Ct. Putnam Cnty. No. FC-40-2006-D-137)  
Vacated and Remanded (3-0)

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Patrick I. v. Donsbelle M., 23-ICA-116 (Fam. Ct. Kanawha Cnty. No. 23-D-74)  
Affirmed (3-0)

Kierstyn C. v. Justin B., 23-ICA-200 (Fam. Ct. Kanawha Cnty. No. 19-D-417)  
Affirmed (3-0)

Vickie L. Hylton v. Andrew P., 23-ICA-222 (Fam. Ct. Fayette Cnty. No. FC-10-2020-D-295)  
Reversed and Remanded (3-0)

Kenneth N. v. Jean L., 23-ICA-304 (Fam. Ct. Fayette Cnty. No. FC-10-2011-D-98)  
Affirmed (3-0)

Heather J. v. Clifford S., 23-ICA-394 (Fam. Ct. Braxton Cnty. No. FC-04-2015-D-126)  
Reversed and Remanded (3-0)

Lorraine Pettit, Administrator of the Estate of Michele D. Payne v. Clifford Payne, Jr., 23-ICA-401 (Fam. Ct. Roane Cnty. No. FC-44-2013-D-121)  
Reversed and Remanded (3-0)

Sierra J. & Adriano D. v. David J. & Marilyn J., 23-ICA-444 (Fam. Ct. Berkeley Cnty. No. FC-02-2022-D-590)  
Affirmed (3-0)

Jane L. Staffieri v. Domenic D. Staffieri, 23-ICA-457 (Fam. Ct. Berkeley Cnty. No. FC-02-2023-D-390)  
Affirmed (3-0)

Jackson J. Tennant v. ACNR Resources, Inc., 23-ICA-407 (Workers' Compensation Board of Review)  
Affirmed (3-0)

Ricky N. Brewer v. American Electric Power Company, Inc., 23-ICA-436 (Workers' Compensation Board of Review)  
Affirmed (2-0) (Chief Judge Scarr, not participating)

Melisa Thompson v. Genesis Healthcare Group, 23-ICA-437 (Workers' Compensation Board of Review)  
Affirmed (3-0)

Wilburn T. Preece, Jr. v. Kermit Volunteer Fire Department, 23-ICA-446 (Workers' Compensation Board of Review)  
Affirmed (3-0)

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StructSure Scaffolding Solutions, LLC v. Kenneth Eldridge, 23-ICA-451 (Workers' Compensation Board of Review)

Affirmed (2-0) (Chief Judge Scarr, not participating)

Charles E. Comas v. Bass Pro Group, LLC, 23-ICA-466 (Workers' Compensation Board of Review)

Affirmed (3-0)

Matthew Lydick v. ACNR Resources, Inc., 23-ICA-476 (Workers' Compensation Board of Review)

Affirmed (3-0)

Granville Sesco v. Brooks Run South Mining, LLC c/o ANR, 23-ICA-489 (Workers' Compensation Board of Review)

Affirmed (3-0)

James D. Horner v. Eastern Asphalt Products, LLC, 23-ICA-497 (Workers' Compensation Board of Review)

Affirmed (3-0)

Brian Collins v. Alpha Natural Resources, Inc., 23-ICA-519 (Workers' Compensation Board of Review)

Affirmed (3-0)

Nitro Construction Services, Inc., v. Brian Martin, 23-ICA-558 (Workers' Compensation Board of Review)

Affirmed (3-0)

Blackhawk Mining, Inc., v. Eddie Norman, 24-ICA-7 (Workers' Compensation Board of Review)

Affirmed (3-0)

**RULE 20 ARGUMENT GRANTED**

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

Gray Media Group, Inc., d/b/a WSAZ v. West Virginia Department of Health and Human Resources, No. 23-ICA-283 (Cir. Ct. Kanawha Cnty. No. 22-P-197) (3-0)

**RULE 19 ARGUMENT GRANTED**

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

Lisa R. Daniels v. DAL Global Services, LLC, 23-ICA-212 (Cir. Ct. Kanawha Cnty. No. 21-C-650) (3-0)

HP, Inc. v. Judith Thomas, 23-ICA-203 (Cir. Ct. Putnam Cnty. No. CC-40-2021-C-142) (3-0)

Phillip D. Tice v. John S. Veach, 23-ICA-217 (Cir. Ct. Randolph Cnty. No. CC-42-2017-C-125) (3-0)

Linda Murphy, Dependent of Harold R. Murphy (Deceased) v. St. Gobain Ceramics & Plastics and the Insurance Commissioner of West Virginia in its capacity as administrator of the Old Fund, 23-ICA-447 (Workers' Compensation Board of Review) (3-0)

Barry Barr v. Brent Jackson, Lynn Perkins, Hedgesville Real Estate, LLC, VIP Gentlemen's Club LLC d/b/a Lust Gentlemen's Club, and West Virginia Sports Promotions, Inc., 23-ICA-337 (Cir. Ct. Berkeley Cnty. No. CC-02-2022-C-169) (3-0) (Chief Judge Scarr, voluntarily recused) (Judge Maryclaire Akers, sitting by temporary assignment) (Judge Lorensen, voluntarily recused) (Judge C. Richard Wilson, sitting by temporary assignment)

Kristy D. Winland v. Camden-Clark Memorial Hospital and WorkForce West Virginia, 23-ICA-199 (WorkForce West Virginia Board of Review) (3-0)

**ORDERS**

Orders of note were entered in the following cases:

West Virginia United Health System, Inc. v. Katelyn Devitt, No. 24-ICA-74 (Workers' Compensation Board of Review)  
Motion for Stay Granted (3-0)

American Bituminous Power Partners, LP v. Horizon Ventures of West Virginia, Inc., No. 24-ICA-81 (Cir. Ct. Marion Cnty. No. CC-24-2018-C-130)  
Motion for Stay Refused (3-0) (Chief Judge Scarr, disqualified) (Judge Jacob E. Reger, sitting by temporary assignment) (Judge Lorensen, voluntarily recused) (Judge Thomas H. Ewing, sitting by temporary assignment)

Christina F. v. Jason C., No. 23-ICA-507 (Fam. Ct. Fayette Cnty. No. FC-10-2017-D-186)  
Motion to Dismiss Refused (3-0)

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*Hometown Transportation, LLC v. Chad A. Lancaster*, No. 23-ICA-424 (Workers' Compensation Board of Review)

Motion for Clarification or Reconsideration of Decision Granted (2-0) (Chief Judge Scarr, not participating)