

**ADMINISTRATIVE ORDER**

**SUPREME COURT OF APPEALS OF WEST VIRGINIA**

SCA EFiled: May 29 2024  
04:40PM EDT  
Transaction ID 73259673

Thomas Toliver and Bailes Glass Co.,  
a West Virginia corporation,  
Plaintiffs

v. Kanawha County Civil Action No. 23-C-1007

West Virginia-American Water Company,  
a West Virginia corporation, and Mountaineer  
Gas Company, a West Virginia corporation,  
Defendants

Robert Ruffin, on behalf of himself and a class  
of others similarly situated, Plaintiff

v. Kanawha County Civil Action No. 23-C-1003

West Virginia-American Water Company,  
a West Virginia corporation, and Mountaineer  
Gas Company, a West Virginia corporation,  
Defendants

Kate Dodson, et al., Plaintiffs

v. Kanawha County Civil Action No. 23-C-1010

West Virginia-American Water Company,  
a West Virginia corporation, and Mountaineer  
Gas Company, a West Virginia corporation,  
Defendants

Lawade Thomas, Plaintiff

v. Kanawha County Civil Action No. 23-C-1110

West Virginia-American Water Company,  
a West Virginia corporation, and Mountaineer  
Gas Company, a West Virginia corporation,  
Defendants

Mountaineer Gas Company,  
a West Virginia corporation,  
Plaintiff

v. Kanawha County Civil Action No. 23-C-1067

West Virginia-American Water Company,  
a West Virginia corporation,  
Defendant

Supreme Court Docket No. 24-178

The Honorable Jennifer F. Bailey, Judge of the Thirteenth Judicial Circuit, has advised the Chief Justice of the Supreme Court of Appeals that Plaintiffs Thomas Toliver and Bailes Glass Co., by counsel

Anthony J. Majestro and Powell & Majestro, PLLC, and R. Edison Hill, James C. Peterson, and Hill Peterson Carper Bee & Deitzler, PLLC, filed a motion in the Circuit Court of Kanawha County pursuant to Rule 26.06 of the West Virginia Trial Court Rules requesting that the above-referenced civil actions be referred to the Mass Litigation Panel.<sup>1</sup>

Defendant West Virginia-American Water Company, by counsel Marc E. Williams, Robert L. Massie, Eric D. Salyers, Alexander C. Frampton, and Nelson Mullins Riley & Scarborough LLP, filed a joinder in plaintiffs' motion to refer. Defendant Mountaineer Gas Company, by counsel R. Booth Goodwin II, Benjamin B. Ware, Richard D. Owen, and Goodwin & Goodwin, LLP, filed a reply in opposition to the motion to refer. Plaintiff Lawade Thomas, by counsel Troy N. Giatras, Matthew Stonestreet, and The Giatras Law Firm, PLLC, filed a reply in opposition to the motion to refer. Plaintiff Robert Ruffin, on behalf himself and a class of others similarly situated, by counsel L. Dante diTrapano, Alex McLaughlin, David H. Carriger, and Calwell Luce diTrapano, PLLC, W. Jesse Forbes and Forbes Law Offices PLLC, Van Bunch and Bonnett Fairbourn Friedman & Balint PC, filed a reply in opposition to the motion to refer. Judge Bailey filed a reply memorandum in opposition to the motion to refer.

Plaintiffs Thomas Toliver and Bailes Glass Co., by counsel, filed a motion to coordinate filed cases jointly before the Business Court Division and the Mass Litigation Panel. Defendant West Virginia-American Water Company, by counsel, filed a response agreeing with plaintiffs. Plaintiff Lawade Thomas, by counsel, filed a response in opposition to this motion.

The Honorable William R. Wooton, Justice of the Supreme Court of Appeals, has been designated as Acting Chief Justice following the voluntary disqualification of the Honorable Tim Armstead, Chief Justice of the Supreme Court of Appeals.

The motion to refer 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 to refer and the replies thereto, the Acting 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, therefore, be denied.

IT IS HEREBY ORDERED that the motion to refer the above-referenced actions is denied, and the motion to coordinate filed cases jointly before the Business Court Division and the Mass Litigation Panel is denied as moot.

IT IS FURTHER ORDERED that a copy of this Order be transmitted to the Honorable Gregory L. Howard, Jr., Chair of the Mass Litigation Panel; to the Honorable Jennifer F. Bailey, Judge of the Thirteenth Judicial Circuit; to the Honorable David Hammer, the Presiding Judge assigned to the case referenced in the footnote; the Honorable Maryclaire Akers, the Resolution Judge assigned to the case referenced in the footnote; to the Counsel for the Mass Litigation Panel; and to the Circuit Clerk of Kanawha County.

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

ENTERED: MAY 29, 2024

  
WILLIAM R. WOOTON  
Acting Chief Justice

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<sup>1</sup> *Mountaineer Gas Company v. West Virginia-American Water Company*, Kanawha County Civil Action No. 23-C-1067, Supreme Court Docket No. 23-710, was referred to the Business Court Division on March 6, 2024, and that referral is not affected by this Order.