



## DECISIONS, NOTICES, AND ORDERS

Monday, June 3, 2024

The Intermediate Court of Appeals of West Virginia has taken action in the following cases in the month of May 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:

*Alexander Fleming, Carole Carter, Carol Gallant, Barbara Humes, and Benjamin Buckley v. Mitch Carmichael, in his Official Capacity as Secretary of the West Virginia Department of Economic Development, and Mike Graney, in his Official Capacity as Executive Director of the West Virginia Department of Economic Development*, 23-ICA-174 (Cir. Ct. Kanawha Cnty. Nos. 22-C-20, 22-C-21, 22-C-22, 22-C-23, 22-C-24)

Affirmed (3-0)

*St. Joseph's Hospital of Buckhannon, Inc. d/b/a St. Joseph's Hospital v. Stonewall Jackson Memorial Hospital Company and West Virginia Health Care Authority*, 23-ICA-265 (West Virginia Health Care Authority No. 23-7-12659-X)

Affirmed (2-1) (Judge Lorensen, dissenting)

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

Reversed and Remanded (3-0)

*Melissa K. Bond v. United Physicians Care, Inc. d/b/a Salem Family Healthcare*, 23-ICA-118 (Cir. Ct. Harrison Cnty. No. CC-17-2022-C-176)

Reversed and Remanded (3-0)

Tyler J. Carroll v. West Virginia Heating & Plumbing Company, 23-ICA-559 (Workers' Compensation Board of Review)  
Reversed (3-0)

### MEMORANDUM DECISIONS

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

James Wiley d/b/a Wiley's Construction v. Christopher Haynes, 23-ICA-143 (Cir. Ct. Mercer Cnty. No. CC-28-2018-C-309-WS)  
Affirmed (3-0)

T.K.-1, and S.K., by his next friend and mother, T.K.-2 v. J.K., 23-ICA-144 (Cir. Ct. Harrison Cnty. No. CC-17-2022-C-AP-9)  
Affirmed (3-0)

West Virginia Department of Health and Human Resources, Bureau for Medical Services v. Mara Forloine, 23-ICA-147 (West Virginia Department of Health and Human Resources Board of Review No. 23-BOR-1094)  
Affirmed (3-0)

WorkForce West Virginia v. Joe F. Cook, 23-ICA-190 (WorkForce West Virginia Board of Review No. R-2023-0066)  
Affirmed (3-0)

West Virginia HCR Manorcare Facilities, et al. v. West Virginia Department of Health and Human Resources, Bureau for Medical Services, 23-ICA-207 (Commissioner, West Virginia Department of Health and Human Resources, Bureau for Medical Services)  
Reversed and Remanded (3-0)

The Calwell Practice, PLLC and Calwell Luce diTrapano, PLLC v. James F. Humphreys & Associates, L.C., 23-ICA-220 (Cir. Ct. Putnam Cnty. No. CC-40-2004-C-465)  
Affirmed (3-0)

Nora Sue Cronin v. Antero Resources Corporation, 23-ICA-221 (Cir. Ct. Doddridge Cnty. No. CC-09-2014-C-31)  
Affirmed (3-0)

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Christina Adams, et al. v. Boone County Board of Education, 23-ICA-277 (West Virginia Public Employees Grievance Board No. 2021-1037-CONS)

Affirmed (3-0)

Michelle Barrett v. Spence Barrett, 23-ICA-293 (Fam. Ct. Berkeley Cnty. No. FC-02-2005-D-944)

Affirmed (3-0)

Hilton Bateman, Jr. v. Linda Magill, 23-ICA-445 (Fam. Ct. Berkeley Cnty. No. FC-02-2006-D-832)

Affirmed, in part, Vacated, in part, and Remanded (3-0)

Lindsey B. v. Joshua B., 23-ICA-455 (Fam. Ct. Monongalia Cnty. No. 17-D-301)

Affirmed, in part, and Remanded, in part, with directions (3-0)

Hobby Lobby Stores, Inc. v. Tracie L. Ford, 23-ICA-485 (Workers' Compensation Board of Review)

Affirmed (3-0)

West Virginia Department of Health and Human Resources, Bureau for Child Support Enforcement v. Kayla G. and Dennis L., 23-ICA-521 (Fam. Ct. Kanawha Cnty. No. 23-D-593)

Vacated and Remanded (3-0)

ACNR Resources, Inc. v. Donald R. Endicott, 23-ICA-522 (Workers' Compensation Board of Review)

Affirmed (3-0)

Kevin N. v. Tara L., 23-ICA-524 (Fam. Ct. Berkeley Cnty. No. FC-02-2011-D-202)

Vacated and Remanded (3-0)

James Stover v. West Virginia Division of Highways, 23-ICA-555 (Workers' Compensation Board of Review)

Affirmed (3-0)

James Kirk v. West Virginia Paving, Inc., 23-ICA-557 (Workers' Compensation Board of Review)

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

Cathy J. Fontana v. Mato Corporation, 23-ICA-571 (Workers' Compensation Board of Review)

Affirmed (3-0)

Richard Higginbotham v. Frasure Creek Mining, LLC, 23-ICA-572 (Workers' Compensation Board of Review)

Affirmed (3-0)

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William Blaine Winters v. WorkForce West Virginia and All Quality, LLC, 23-ICA-87 (WorkForce West Virginia Board of Review No. X-2022-0314)

Affirmed (3-0)

Cleveland Cliffs, Inc. v. Billy Cecil, 24-ICA-51 (Workers' Compensation Board of Review)

Affirmed (3-0)

**RULE 20 ARGUMENT GRANTED**

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

Venable Royalty, LTD and V14, LP v. EQT Production Company, et al., 23-ICA-351 (Cir. Ct. Wetzel Cnty. No. CC-52-2021-C-19) (3-0)

**RULE 19 ARGUMENT GRANTED**

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

Kane M. v. Miranda M., 23-ICA-479 (Fam. Ct. Wood Cnty. No. FC-54-2021-D-23) (3-0)

Forethought Life Insurance Company v. Alan McVey, in his official capacity as Insurance Commissioner of the State of West Virginia, 23-ICA-313 (Insurance Commissioner of the State of West Virginia No. 22-IC-02274) (3-0)

Damon McDowell, et al. v. Allstate Vehicle & Property Insurance Company, 23-ICA-406 (Cir. Ct. Fayette Cnty. No. CC-10-2019-C-129) (3-0)

**ORDERS**

Orders of note were entered in the following cases:

Antero Resources Corporation v. Rufus Fordyce Pike, et al., 24-ICA-115 (Cir. Ct. Tyler Cnty. No. CC-48-2019-C-22)

Motion to Dismiss Refused (3-0)

Mark Samaan, M.D. v. Brenda Moran, 24-ICA-69 (Cir. Ct. Marion Cnty. No. CC-24-2020-C-102)

Motion for Stay Refused (3-0)

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Mary C. Sutphin v. Ronald J. Hopkins, II, et al., 22-ICA-201 (Cir. Ct. Raleigh Cnty. No. CC-41-2017-C-591)

Petition for Rehearing Refused (3-0)

Toyota Motor Manufacturing WV, Inc. v. Donnie Adkins, 24-ICA-181 (Workers' Compensation Board of Review)

Motion for Stay Refused (3-0)

L.M. v. D.P., 23-ICA-516 (Cir. Ct. Jefferson Cnty. No. CC-19-2023-S-AP-5)

Motion to Dismiss Granted (3-0)

Jacob H. v. Siera G., 24-ICA-147 (Fam. Ct. Cabell Cnty. No. FC-06-2023-D-538)

Motion to Dismiss Refused (3-0)