



DECISIONS, NOTICES, AND ORDERS

Monday, July 1, 2024

The Intermediate Court of Appeals of West Virginia has taken action in the following cases in the month of June 2024. 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:

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

Affirmed (3-0)

Milbank Insurance Company v. Nick Showalter and Kelly Mattson, as Co-Administrators of the Estate of Sierra Mattson, 23-ICA-213 (Cir. Ct. Ohio Cnty. No. CC-35-2020-C-208)

Reversed and Remanded (3-0)

Barry Barr v. Brent Jackson, Lynn Perkins, Hedgesville Real Estate, LLC, VIP Gentleman's Club, LLC d/b/a Lust Gentleman's Club, and West Virginia Sports Promotions, Inc., 23-ICA-337 (Cir. Ct. Berkeley Cnty. No. CC-02-2022-C-169)

Reversed and Remanded (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)

CIT Bank, N.A. v. Caroline Coffman, as Administratrix of the Estate of Shirley Bowen, 22-ICA-330 (Cir. Ct. Hampshire Cnty. No. CC-14-2016-C-97)

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

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

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Reversed and Remanded (3-0)

Megan McKnight and Luke McKnight v. Board of Governors of Glenville State University, Gary Z. Morris, and Jason P. Barr, 23-ICA-345 (Cir. Ct. Gilmer Cnty. No. CC-11-2022-C-17)

Reversed and Remanded (3-0)

Samantha Burgess, Alyssa Skeens, George Grover, Jessica Halstead, and Sunshine Holstein v. West Virginia Department of Human Services, Bureau for Medical Services, 23-ICA-11 and Holistic, Inc. v. West Virginia Department of Human Services, Bureau for Medical Services, 23-ICA-39 (West Virginia Department of Human Services, Bureau for Medical Services)

Affirmed, in part, and Remanded, in part, with Instructions (2-1)(Chief Judge Scarr, Concurring, in part, and Dissenting, in part)

John R. Orphanos, M.D. v. Michael Rodgers, 23-ICA-58 (Cir. Ct. Kanawha Cnty. No. 19-C-561)

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

Brian Cunningham, in his capacity as Director of the Public Employees Insurance Agency and Mark D. Scott, Geoff S. Christian, Amanda D. Meadows, Jared Robertson, Damita Johnson, Jason Myers, Michael Cook, William Milam, and Michael T. Smith, in their capacities as Members of the Public Employees Insurance Agency Finance Board v. Air Evac EMS, Inc., 23-ICA-127 and Air Evac EMS, Inc. v. Brian Cunningham, in his capacity as Director of the Public Employees Insurance Agency and Mark D. Scott, Geoff S. Christian, Amanda D. Meadows, Jared Robertson, Damita Johnson, Jason Myers, Michael Cook, William Milam, and Michael T. Smith, in their capacities as Members of the Public Employees Insurance Agency Finance Board, 23-ICA-135

(Cir. Ct. Kanawha Cnty. 19-AA-169)

Reversed and Remanded (2-1) (Judge Greear, voluntarily recused) (Judge Robert E. Ryan, sitting by temporary assignment) (Chief Judge Scarr, Dissenting)

HD Media Company, LLC d/b/a Charleston Gazette-Mail v. West Virginia University Board of Governors, 23-ICA-248 (Cir. Ct. Monongalia Cnty. No. 20-C-300)

Affirmed (2-1) (Chief Judge Scarr, Concurring, in part, and Dissenting, in part)

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

Affirmed (3-0)

MEMORANDUM DECISIONS

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

Vonda M. v. Pamela M., 23-ICA-122 (Cir. Ct. Webster Cnty. No. CC-51-2019-P-12)

Affirmed (3-0)

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

Affirmed (3-0)

California Pacific Properties, LLC v. Marshall Real Estate Holdings, LLC, 23-ICA-179 (Cir. Ct. Cabell Cnty. No. 21-C-475)

Affirmed (3-0)

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

Affirmed (3-0)

Karl E. Barth and Blue Ridge Development Group, LLC v. West Virginia University Board of Governors, 23-ICA-158 (Cir. Ct. Monongalia Cnty. No. 22-C-73)

Affirmed (3-0)

Kristy D. Winland v. Camden-Clark Memorial Hospital and WorkForce West Virginia, 23-ICA-199 (WorkForce West Virginia Board of Review No. R-2023-0245)

Reversed and Remanded (3-0)

Shenandoah Personal Communications, LLC v. Matthew Irby, State Tax Commissioner of West Virginia, 23-ICA-235 (Cir. Ct. Kanawha Cnty. No. 21-AA-38)

Affirmed (3-0)

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

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

RULE 19 ARGUMENT GRANTED

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

Estate of D.E., D.E., individually by and through his mother, Christine Erickson, Christine Erickson, individually, and I.E., a minor, by and through her mother, Christine Erickson v. West Virginia Department of Health and Human Resources, Jeffrey M. Pack, and Jennifer L. Raper, individually and in her capacity as an employee/agent of West Virginia Department of Health and Human Resources, 23-ICA-404 (Cir. Ct. Marshall Cnty. No. CC-25-2023-C-42) (3-0)

The Silver Creek Association, Inc., Russell D. Jessee, Cinnamon M. Jessee, Jeffrey S. Banks, Drenna Banks, Malcom J. Cooper, Colleen K. Cooper, Duval Lee Fuqua, Dorthea A. Fuqua, Raymond Bruce, James, Harriet Hawks, Louis J. Constanzo, David Christopher, Linda Christopher, William C. White, II.,

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William R. Terrini, Mary L. Terrini, Michael D. Cajohn, Jennifer L. Cajohn, and Kevin R. Banning v. Matthew Irby, in his official capacity as State Tax Commissioner of the State of West Virginia, and Johnny Pritt, in his official capacity as Assessor of Pocahontas County, West Virginia, 23-ICA-372 (Cir. Ct. Pocahontas Cnty. No. CC-38-2020-P-31) (3-0)

Dondi Stemple v. West Virginia Consolidated Public Retirement Board, 23-ICA-308 (West Virginia Consolidated Public Retirement Board Case IN RE: Dondi Stemple) (3-0)

ORDERS

Orders of note were entered in the following cases:

Sharon Travis v. Dale Travis, 24-ICA-114 (Fam. Ct. Ohio Cnty. No. FC-35-2021-D-213) (3-0)
Motion for Stay Refused (3-0)

Quanta Services, Inc. v. Zachary Bolling, 23-ICA-449 (Workers' Compensation Board of Review)
Petition for Rehearing Refused (3-0)

Vesper Lewis and Carolyn Lewis v. City of Richwood, West Virginia, 24-ICA-155 (Cir. Ct. Nicholas Cnty. No. CC-34-2023-C-97)
Motion to Dismiss Granted (3-0)

St. Joseph's Hospital of Buckhannon, Inc. 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)
Motion for Stay Refused (3-0)