

ADMINISTRATIVE ORDER

SUPREME COURT OF APPEALS OF WEST VIRGINIA

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Colby Siders and Devron Siders, in their
representative capacity of their children A.S.
and O.S., and on behalf of all others similarly situated,
Plaintiffs,

v. Upshur County Civil Action No. 24-C-7
(Supreme Court of Appeals of West Virginia Case No. 24-469)

Paul Howe III, in his official capacity as President of the
Clarksburg Water Board; Albert N. Cox II, in his official
capacity as Member of the Clarksburg Water Board; Jonathan
Calvert, in his official capacity as Member of the Clarksburg
Water Board; The Thrasher Group, Inc.; Tetra Tech, Inc.; and
City of Clarksburg,
Defendants,

and

Karren Long, Myron Long, and Angel Cummings, on behalf
of themselves, in their representative capacity of their minor
children D.T., D.I.B.L., D.Z.L.L., D.F.A.L., D.R.C.L., and G.M.,
and all others similarly situated,
Plaintiffs,

v. Upshur County Civil Action No. 24-C-8
(Supreme Court of Appeals of West Virginia Case No. 24-471)

Paul Howe III, in his official capacity as President of the
Clarksburg Water Board; Albert N. Cox II, in his official
capacity as Member of the Clarksburg Water Board; Jonathan
Calvert, in his official capacity as Member of the Clarksburg
Water Board; The Thrasher Group, Inc.; Tetra Tech, Inc.; and
City of Clarksburg,
Defendants.

By Supreme Court of Appeals of West Virginia Administrative Order entered on October 24, 2023, the motion to refer *Siders v. Howe*, Harrison County Civil Action No. 23-C-8 (Supreme Court of Appeals of West Virginia Case No. 23-520), was denied without prejudice to renew the motion in the event additional state actions were filed or a proper motion to refer and consolidate was filed in *Long v. Howe*, Harrison County Civil Action No. 23-C-93.

The Honorable Jacob E. Reger, Judge of the Twenty-Sixth Judicial Circuit, has advised the Chief Justice of the Supreme Court of Appeals that on January 26, 2024, by Agreed Order, these separate, unconsolidated actions were transferred to the Circuit Court of Upshur County. Prior to the transfer, Plaintiffs Colby Siders and Devron Siders, on behalf of themselves, their children A.S. and O.S., and all others similarly situated, and Plaintiffs Karren Long, Myron Long, and Angel Cummings, on behalf of themselves, in their representative capacity of their minor children D.T., D.I.B.L., D.Z.L.L., D.F.A.L., D.R.C.L., and G.M., and all others similarly situated, by counsel Jonathan R. Marshall of Bailey & Glasser, LLP, Cynthia Loomis Hardesty of Loomis Law Office, PLLC, and Bernard E. Layne of Mani Ellis & Layne, PLLC, filed separate motions pursuant to Rule 26.06 of the West Virginia Trial Court Rules requesting that their civil actions and all other cases involving the same or similar common questions of law or fact be referred to the Mass Litigation Panel. The motion regarding Harrison County Civil Action No. 23-C-8, now Upshur County Civil Action No. 24-C-7, is a renewed motion.

Defendants Paul Howe III, Albert N. Cox II, and Jonathan Calvert, by counsel Russell D. Jessee, Marc C. Bryson, S. Caleb Davis, Carrington N. Napier, and Anders W. Lindberg of Steptoe & Johnson PLLC; Defendant The Thrasher Group, Inc., by counsel Frank E. Simmerman, Jr., Chad L. Taylor, and Frank E. Simmerman, III, of Simmerman Law Office, PLLC, and Defendant City of Clarksburg, by counsel Richard R. Marsh of Flaherty Sensabaugh Bonasso, PLLC, filed separate replies to the motions.

The motions appear to be in substantial compliance with Trial Court Rule 26.06. The time for litigants, attorneys and affected judges to respond has expired.

Chief Justice Tim Armstead is not participating in the review or consideration of the motions to refer. Upon careful review and consideration of the motions and the replies thereto, the Acting Chief Justice has determined that these civil actions do not meet the definition of mass litigation as set forth in Trial Court Rule 26.04(a), and the motions to refer should be denied without prejudice.

IT IS HEREBY ORDERED pursuant to Trial Court Rule 26.06(c)(3), that the motions to refer the above-referenced civil actions to the Mass Litigation Panel be, and hereby are, denied without prejudice.

IT IS FURTHER ORDERED that this Order be filed with the Clerk of Court of the Supreme Court of Appeals of West Virginia and copies provided to the Honorable Gregory L. Howard, Jr., Chair of the Mass Litigation Panel; to the Honorable Jacob E. Reger, Judge of the Twenty-Sixth Judicial Circuit; to the Counsel for the Mass Litigation Panel; and to the Circuit Clerk of Upshur County.

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

ENTERED: OCTOBER 10, 2024



WILLIAM R. WOOTON
Acting Chief Justice