



## DECISIONS, NOTICES, AND ORDERS

Monday, November 4, 2024

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

*Venable Royalty, Ltd., and V14, LP, v. EQT Production Company, ET Blue Grass, LLC, and AMP IV, LP, et al.*, 23-ICA-351 (Cir. Ct. Wetzel Cnty. No. CC-52-2021-C-19)  
Reversed and Remanded (3-0)

*Wheeling Jesuit University, Inc., v. Kathryn A. Voorhees, Jason Fuller, Jessica Wroblewski, Peter Ehni, Andrew Staron, Amy Criniti Phillips, Nancy Bressler, and John W. Whitehead, III*, 23-ICA-324 and 23-ICA-383 (Cir. Ct. Ohio Cnty. No. CC-35-2019-C-218)  
Affirmed, in part, Reversed, in part, and Remanded (3-0)

*Shaun and Jennifer Lopez, individually, and as Next Friends and Legal Guardians of S.L., G.L., and J.L., minors; and Keith and Melissa Chapman, individually, and as Next Friends and Legal Guardians of H.C., a minor v. Erie Insurance*, 23-ICA-338 (Cir. Ct. Kanawha Cnty. No. 21-C-827)  
Affirmed (3-0)

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

**MEMORANDUM DECISIONS**

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

*Creda Hacker v. Pletcher Motors, Inc.*, 23-ICA-258 (Cir. Ct. Braxton Cnty. No. CC-04-2023-C-AP-1)  
Affirmed (3-0)

*Troy Carter v. Department of Homeland Security, Southern Regional Jail and Correctional Facility*, 23-ICA-365 (West Virginia Public Employees Grievance Board No. 2022-0831-DHS)  
Vacated and Remanded (3-0)

*Robin S. Lindemuth, Donald E. Lindemuth, Danielle Landriscina, Nanette M. Reintges, Robert Reintges, Kathy D. Rhyls-Wexler, Raymond H. Wexler, Jennifer K. List, Leonard L. List, Elaine Wolfe, Alan P. Wolfe, Kathryn Cole, and Jo Ann Abell v. The Woods Homeowners Association, Inc.*, 23-ICA-379 (Cir. Ct. Berkeley Cnty. No. CC-02-2022-C-342)  
Affirmed (2-0) (Judge Lorensen, not participating)

*Marva A. v. Mohamed A.*, 23-ICA-381 (Fam. Ct. Kanawha Cnty. No. FC-20-2015-D-1431)  
Reversed and Remanded with Directions (3-0)

*Moore Chrysler, Inc. v. Thornhill Motor Car, Inc. d/b/a Thornhill Chrysler Dodge Jeep Ram*, 23-ICA-431 (Cir. Ct. Logan Cnty. No. 22-C-50)  
Affirmed, in part, and Reversed, in part (3-0)

*MarkWest Liberty Midstream & Resources, L.L.C., MarkWest Liberty Ethane Pipeline, L.L.C., and MarkWest Liberty NGL Pipeline, L.L.C. v. The Honorable Scott Lemley, Assessor of Wetzel County*, 23-ICA-441 (Cir. Ct. Wetzel Cnty. No. 23-AA-1)  
Reversed and Remanded (3-0)

*Jeffrey L. Edens v. Natalie D. Edens Fisher, individually, as Executrix of the Estate of Janet L. Edens, and as Trustee of the Janet L. Edens Trust, Jack L. Edens, Jr., Veronica L. Heaton, Gregory A. Edens, and Renee F. Manning*, 23-ICA-468 (Cir. Ct. Kanawha Cnty. No. 23-C-72)  
Affirmed (3-0)

*Brandi K. v. David L.*, 23-ICA-500 (Fam. Ct. Lincoln Cnty. No. FC-22-2017-D-185)  
Reversed, in part, Vacated, in part, and Remanded with Instructions (3-0)

*Tina W. v. Spencer W.*, 23-ICA-501 (Fam. Ct. Taylor Cnty. No. FC-46-2014-D-40)  
Affirmed (3-0)

Mark Lucey v. Murray American Energy, Inc., 24-ICA-102 (Workers' Compensation Board of Review)  
Affirmed (3-0)

Barry K. Alban v. West Virginia Division of Highways, 24-ICA-104 (Workers' Compensation Board of Review)  
Affirmed (2-0) (Chief Judge Scarr, not participating)

Theresa Frush v. Macy's Corporate Services, Inc., 24-ICA-119 (Workers' Compensation Board of Review)  
Affirmed (3-0)

Thomas Davis v. Charleston Area Medical Center, Inc., 24-ICA-131 (Workers' Compensation Board of Review)  
Affirmed (3-0)

Tara Lockwood Gibson v. Greenbrier Valley Medical Center, 24-ICA-160 (Workers' Compensation Board of Review)  
Affirmed (3-0)

Clisty H. Hill v. Wyoming County Board of Education, 24-ICA-174 (Workers' Compensation Board of Review)  
Affirmed (2-0) (Chief Judge Scarr, not participating)

Russell Barnett v. Shaft Drillers International, LLC, 24-ICA-178 (Workers' Compensation Board of Review)  
Affirmed (3-0)

Jeremy S. Kilgore v. Mountain Health Network, Inc., 24-ICA-180 (Workers' Compensation Board of Review)  
Affirmed (2-0) (Chief Judge Scarr, not participating)

Tyler C. v. Ashley R., 24-ICA-33 (Fam. Ct. Berkeley Cnty. No. FC-02-2023-D-460)  
Affirmed, in part, Vacated, in part, and Remanded (3-0)

William J. Thornton v. Sara Poorman, 24-ICA-4 (Cir. Ct. Mercer Cnty. No. CC-28-2023-C-AP-9)  
Affirmed (3-0)

M.C., a protected individual v. West Virginia Department of Health and Human Resources, 23-ICA-325 (West Virginia Department of Health and Human Resources Board of Review No. 23-BOR-1783)  
Affirmed (3-0)

Ronald Efav v. West Virginia Division of Highways, 23-ICA-400 (West Virginia Public Employees Grievance Board No. 2022-0623-DOT)  
Affirmed (3-0)

Gates Hudson & Associates, Inc. v. Rosbeedia Masszonja, 23-ICA-403 (Cir. Ct. Berkeley Cnty. No. CC-02-2023-C-AP-12)  
Vacated and Remanded for further proceedings (3-0)

Damon McDowell, Mary McDowell, and Deeanna Rae Lawson v. Allstate Vehicle & Property Insurance Co., 23-ICA-406 (Cir. Ct. Fayette Cnty. No. CC-10-2019-C-129)  
Affirmed (3-0)

Timothy Dagostine and Ramona Dagostine v. Mark Pendleton, CPA, and Washington Street Legacy, LLP, 23-ICA-413 (Cir. Ct. Kanawha Cnty. No. 22-C-941)  
Reversed and Remanded (3-0)

David Ferrell and Elizabeth Ferrell v. Tena Ferrell and Michael Ferrell, 23-ICA-429 (Cir. Ct. Logan Cnty. No. 22-C-94)  
Affirmed (3-0)

Keith Johnson v. United Bank, Inc., and Astorg Auto of Charleston, Inc., 23-ICA-443 (Cir. Ct. Kanawha Cnty. No. 22-C-228)  
Affirmed (3-0)

Collette Pinkard v. Chad McIntyre, 23-ICA-456 (Cir. Ct. Kanawha Cnty. No. 22-C-1078)  
Affirmed (3-0)

Retina Vitreous Consultants, Inc., v. Dana J. Brandenburg and WorkForce West Virginia, 23-ICA-579 (WorkForce West Virginia Board of Review No. R-2023-1593(R-1-E))  
Affirmed, in part, Vacated, in part, and Remanded (3-0)

Emanuel R. v. Danielle R., 24-ICA-109 (Fam. Ct. Cabell Cnty. No. FC-06-2008-D-790)  
Affirmed (3-0)

Younes Eloirzazi v. AM Communications, 24-ICA-110 (Workers' Compensation Board of Review)  
Affirmed (2-0) (Chief Judge Scarr, not participating)

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

Stephen Saunders v. ACNR Resources, Inc., 24-ICA-128 (Workers' Compensation Board of Review)  
Affirmed (3-0)

Kevin R. v. Megan H., 24-ICA-135 (Fam. Ct. Kanawha Cnty. No. 10-D-1694)  
Vacated and Remanded, with Directions (3-0)

Robert Murphy v. ACNR Resources, Inc., 24-ICA-153 (Workers' Compensation Board of Review)  
Affirmed (3-0)

Mark Canterbury v. Angela Canterbury, 24-ICA-158 (Fam. Ct. Cabell Cnty. No. FC-06-2023-D-429)  
Affirmed, in part, Vacated, in part, and Remanded with Directions (3-0)

Gas Field Services, LLC, v. John Moats, 24-ICA-171 (Workers' Compensation Board of Review)  
Affirmed (3-0)

Nelson Foster v. Kingston Mining, Inc., C/O ANR, 24-ICA-172 (Workers' Compensation Board of Review)  
Affirmed (3-0)

Toyota Motor Manufacturing WV, Inc., v. Donnie Adkins, 24-ICA-181 (Workers' Compensation Board of Review)  
Affirmed (3-0)

Timothy Robertson v. Brooke County Commission, 24-ICA-185 (Workers' Compensation Board of Review)  
Affirmed (2-0) (Chief Judge Scarr, not participating)

James L. Kirk v. West Virginia Paving, Inc., 24-ICA-190 (Workers' Compensation Board of Review)  
Affirmed (2-0) (Chief Judge Scarr, not participating)

Jimmy Blankenship v. Mullican Flooring, LP, 24-ICA-202 (Workers' Compensation Board of Review)  
Affirmed (2-0) (Chief Judge Scarr, not participating)

Harvey Hill v. Lowe's Home Centers, Inc., 24-ICA-212 (Workers' Compensation Board of Review)  
Affirmed (3-0)

ACNR Resources, Inc. v. Jonathan Bailey, 24-ICA-223 (Workers' Compensation Board of Review)  
Affirmed (3-0)

Joshua H. v. Kristen H., 24-ICA-226 (Fam. Ct. Putnam Cnty. No. FC-40-2023-D-292)  
Affirmed (3-0)

Rodney D. Moore v. Tecnocap Acquisition Company, 24-ICA-227 (Workers' Compensation Board of Review)  
Affirmed (3-0)

Mark P. v. Jennifer P., 24-ICA-24 (Fam. Ct. Kanawha Cnty. No. 22-D-839)  
Affirmed (3-0)

Mingo Logan Coal, LLC v. Bradley Ray, 24-ICA-246 (Workers' Compensation Board of Review)  
Affirmed (3-0)

Tina W. v. Spencer W., 24-ICA-43 (Fam. Ct. Taylor Cnty. No. FC-46-2014-D-40)  
Affirmed (3-0)

West Virginia United Health System, Inc. v. Katelyn Dewitt, 24-ICA-74 (Workers' Compensation Board of Review)  
Affirmed (2-0) (Judge Greear, dissenting)

Fabiano D. v. Dylan Y., 24-ICA-77 (Fam. Ct. Greenbrier Cnty. No. FC-13-2019-D-143)  
Vacated and Remanded (3-0)

### **RULE 19 ARGUMENT GRANTED**

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

Spyridoula L. Moschonas and Gerasimos Moschonas v. The Charles Town General Hospital d/ b/ a Jefferson Medical Center and Jason Giffi, 24-ICA-79 (Cir. Ct. Jefferson Cnty. No. CC-19-2023-C-32) (3-0)

### **ORDERS**

Orders of note were entered in the following cases:

Amanda Pauley v. Janet K. Wagoner, 24-ICA-430 (Cir. Ct. Kanawha Cnty. No. CC-20-2024-C-AP-133)  
Motion for Stay Refused (3-0)

Xerxes R., v. Richard and Nancy P., 24-ICA-76 (Cir. Ct. Cabell Cnty. No. FC-40-2023-D-97)  
Motion for Expedited Relief Refused (3-0)

Joseph E. Hunter v. Joshua Burdette, 24-ICA-375 (Cir. Ct. Kanawha Cnty. No. CC-20-2022-C-779)  
Motion for Stay Refused (3-0)

Timothy J. Gregory and Janice L. Gregory v. Jack O. Long and Lora A. Long, 23-ICA-421 (Cir. Ct. Upshur Cnty. No. CC-49-2017-C-128) and Jack O. Long and Lora A. Long v. Timothy J. Gregory and Janice L. Gregory, 23-ICA-422 (Cir. Ct. Upshur Cnty. No. CC-49-2017-C-128)  
Petition for Rehearing Refused (3-0)

Sylvia L. v. Gerald P., 24-ICA-332 (Fam. Ct. Hardy Cnty. No. FC-16-2020-D-75)  
Motion to Dismiss Refused (3-0)

Shawn H. v. Elise H., 24-ICA-95 (Fam. Ct. Preston Cnty. No. FC-39-2023-D-103)  
Petition for Rehearing Refused (3-0)

Joseph M. v. Karen C., 24-ICA-196 (Cir. Ct. Kanawha Cnty. Nos. FC-20-2023-D-635 and FC-20-2023-D-688)  
Motion to Release Transcripts Refused (3-0)

Blackhawk Mining, LLC v. Christi Banks, Dependent of Timothy Banks, Jr. (Deceased), 24-ICA-357 (Workers' Compensation Board of Review)  
Motion to Reconsider Refused (3-0)