



DECISIONS, NOTICES, AND ORDERS

Monday, January 6, 2025

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

West Virginia Mutual Insurance Company v. Steven R. Matulis, M.D., 23-ICA-409 (Cir. Ct. Kanawha Cnty. 17-C-748)

Affirmed, in part, Reversed, in part, Vacated, in part, and Remanded (2-1) (Judge Lorensen, concurring in part and dissenting in part)

A.D.A., as next friend of L.R.A., a minor child under the age of 18 v. Johnson & Johnson, et al.; A.N.C., as next friend of J.J.S., a minor child under the age of 18 v. Johnson & Johnson, et al.; Travis B., next friend and guardian of minor child Z.D.B., et al. v. McKesson Corporation, et al.; and Trey Sparks v. Johnson & Johnson, Inc., et al., 23-ICA-275, 23-ICA-276, 23-ICA-287, and 23-ICA-307 (Cir. Ct. Kanawha Cnty. (Mass Litigation Panel) 22-C-9000 NAS)

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

MEMORANDUM DECISIONS

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

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Joseph Keen and Melissa Keen v. Westfall Farms Properties, LLC, 23-ICA-342 (Cir. Ct. Upshur Cnty. No. CC-49-2023-C-AP-4)

Affirmed, in part, Vacated, in part, and Remanded (2-1) (Judge Greear, dissenting) (Chief Judge Scarr, concurring)

Gary Batten v. Scott Cooper and Marjorie J. Cooper, 23-ICA-359 (Cir. Ct. Braxton Cnty. No. CC-04-2019-C-32)

Vacated and Remanded (3-0)

Derek G. v. Michele G., 23-ICA-416 (Fam. Ct. Cabell Cnty. No. FC-06-2021-D-431)

Affirmed (3-0)

Joseph Eugene Howard v. Amber Watkins, 23-ICA-471 (Cir. Ct. Wood Cnty. No. CC-54-2023-C-79)

Affirmed (3-0)

Brian Corvin v. Elias E. Joseph and Betty Peralez, 23-ICA-472 (Cir. Ct. Ohio Cnty. No. CC-35-2021-C-112)

Affirmed (3-0)

Sallie Murphy v. Ken Groves, 23-ICA-473 (Cir. Ct. Braxton Cnty. No. CC-04-2018-C-26)

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

In re: Petition of S.G. for Expungement of Record, 23-ICA-498 (Cir. Ct. Mingo Cnty. No. CC-30-2023-P-53)

Vacated and Remanded (3-0)

Kendall K. Richards v. James Vuksic, 23-ICA-512 (Cir. Ct. Wood Cnty. No. CC-54-2020-C-207)

Vacated and Remanded (3-0)

Barry A. Blackburn v. City of Smithers and Brian Whittington, 23-ICA-569 (Cir. Ct. Fayette Cnty. No. CC-10-2023-C-97)

Affirmed (3-0)

Chauncey Ziglar v. Diann Skiles and West Virginia Division of Corrections and Rehabilitation, 23-ICA-570 (Cir. Ct. Kanawha Cnty. No. CC-20-2023-C-207)

Affirmed (3-0)

Robert Scott Rhodes, II, Everette Alan Chapman, Richard Eugene Hacker, Dee Leman Maynard, Bobby C. Palmer, Lonnie Ray Cogar, James Lacy Lewis, James Allen Owens, and Joseph John Vacchio, Jr. v. Office of the State Fire Marshal, West Virginia Fire Commission, and West Virginia Division of Personnel, 24-ICA-19 (West Virginia Public Employees Grievance Board No. 2022-0913-CONS)

Affirmed (3-0)

Amanda P. Jones v. United States Postal Service and WorkForce West Virginia, 24-ICA-25 (WorkForce West Virginia Board of Review No. R-2023-1634)
Vacated and Remanded (2-1) (Judge Greear, dissenting)

Fernando M. Smith and Jamie E. Crabtree v. Mark Ball and Ball Auction, Inc., d/b/a Ball Auto Auction, 24-ICA-26 (Cir. Ct. Mineral Cnty. No. CC-29-2023-C-2)
Affirmed (3-0)

David R. Atchinson v. Glenn Langdon, 24-ICA-30 (Cir. Ct. Marion Cnty. No. CC-24-2021-C-146)
Affirmed (3-0)

Wanda Tolbert v. Kanawha County Board of Education, 24-ICA-38 (West Virginia Public Employees Grievance Board No. 2023-0790-KanED)
Affirmed (3-0)

Sandra J. Crim and Julia Crim v. Della Riffle and James Winnings, 24-ICA-44 (Cir. Ct. Harrison Cnty. No. CC-17-2022-C-104)
Affirmed (3-0)

Jimmy Lipscomb v. Pamela Hagedorn, 24-ICA-54 (Fam. Ct. Monongalia Cnty. No. 09-D-300)
Affirmed (3-0)

Iran E. Glover v. Fairmont City Police Department, 24-ICA-60 (Cir. Ct. Marion Cnty. No. CC-24-2023-C-55)
Affirmed (3-0)

Gregory Smith v. Kerri Smith, 24-ICA-66 (Fam. Ct. Cabell Cnty. No. FC-06-2022-D-354)
Affirmed (3-0)

Xerxes R. v. Richard and Nancy P., 24-ICA-76 (Cir. Ct. Putnam Cnty. No. FC-40-2023-D-97)
Affirmed (3-0)

Judith Miller v. Wheeling Hospital, Inc., 24-ICA-85 (Workers' Compensation Board of Review)
Vacated and Remanded (3-0)

Dan Stalnaker v. West Virginia University, 24-ICA-103 (Workers' Compensation Board of Review)
Affirmed (3-0)

Edrey O. v. Meilyn O., 24-ICA-111 (Fam. Ct. Kanawha Cnty. No. 23-D-1017)
Affirmed (3-0)

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Rebecca M. v. Nathaniel M., 24-ICA-137 and 24-ICA-113 (Fam. Ct. Berkeley Cnty. No. FC-02-2016-D-313)
Affirmed (3-0)

Noah S. v. Taylor H., 24-ICA-133 (Fam. Ct. Wood Cnty. No. FC-54-2021-D-6)
Vacated and Remanded (3-0)

Curtis F. Perry v. Troy Ravenscroft, 24-ICA-134 (Cir. Ct. Mineral Cnty. No. CC-29-2023-C-18)
Affirmed (3-0)

Ricky H. v. David N. and Francis H., 24-ICA-139 (Fam. Ct. McDowell Cnty. No. FC-27-2012-D-129)
Affirmed (3-0)

Shawn D. v. Cynthia H., 24-ICA-145 (Fam. Ct. Kanawha Cnty. No. 21-D-475)
Affirmed (3-0)

Ronald E. v. Kelli E., 24-ICA-165 (Fam. Ct. Jefferson Cnty. No. FC-19-2023-D-13)
Affirmed (3-0)

Siraaj M. v. Stephanie M., 24-ICA-168 (Fam. Ct. Jefferson Cnty. No. FC-19-2011-D-509)
Affirmed (3-0)

Marlena P. v. Kendal P., 24-ICA-170 (Fam. Ct. Wayne Cnty. No. FC-50-2019-D-196)
Affirmed (3-0)

Blackhawk Mining, LLC v. Harris Argabright, 24-ICA-184 (Workers' Compensation Board of Review)
Affirmed (3-0)

Lewis A. Whaley, D.O. v. Hoyer, Hoyer, & Smith, PLLC, Christopher Smith, and David Hoyer, 24-ICA-189 (Cir. Ct. Kanawha Cnty. No. 21-C-288)
Affirmed (3-0)

Charity C. v. James W., 24-ICA-199 (Fam. Ct. Jackson Cnty. No. FC-18-2018-D-78)
Vacated and Remanded (3-0)

ACNR Resources, Inc. v. Timothy M. Price, 24-ICA-204 (Workers' Compensation Board of Review)
Affirmed (3-0)

Katherine A. v. Jerry A., 24-ICA-213 (Fam. Ct. Ohio Cnty. No. FC-35-2022-D-82)
Affirmed (3-0)

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David M. v. West Virginia Department of Human Services, Bureau for Child Support Enforcement, and Nicole H., 24-ICA-217 (Fam. Ct. Taylor Cnty. No. FC-46-2011-D-17)

Affirmed (3-0)

Ken J. Gregory v. Raleigh County Board of Education, 24-ICA-221 (Workers' Compensation Board of Review)

Affirmed (3-0)

Norina D. v. David D., 24-ICA-222 (Fam. Ct. Jackson Cnty. No. FC-18-2023-D-15)

Vacated and Remanded (3-0)

Susan M. Breeden-Adkins v. Insperity Services, L.P., 24-ICA-230 (Workers' Compensation Board of Review)

Affirmed (3-0)

Penske v. James A. Hughey, 24-ICA-231 (Workers' Compensation Board of Review)

Affirmed (3-0)

Upsbur County Commission v. John M. Coffman, 24-ICA-232 (Workers' Compensation Board of Review)

Affirmed (3-0)

Donald Smith, II v. Marshall County Coal Resources, Inc., 24-ICA-236 (Workers' Compensation Board of Review)

Affirmed (3-0)

Sharon Smith v. Constellium US Holding I, LLC, 24-ICA-238 (Workers' Compensation Board of Review)

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

James Spack v. Mike's Appliances, LLC, 24-ICA-241 (Workers' Compensation Board of Review)

Affirmed (3-0)

Ricky Johnson v. Pinnacle Mining Company, 24-ICA-250 (Workers' Compensation Board of Review)

Affirmed (3-0)

Zach Spring v. Tetra Technologies, Inc., 24-ICA-272 (Workers' Compensation Board of Review)

Affirmed (3-0)

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WVTB, LLC v. Harry L. Weeks, III, Reyian Mangontong, Sheena Mangontong, Scott R. Mumpower, Tierney A. Riner, Princeton Shoals Homeowners Association, Berkeley County Planning Commission, and Sherman Land Holdings, LLC, 23-ICA-433 (Cir. Ct. Berkeley Cnty. No. CC-02-2019-C-122)
Affirmed (3-0) (Judge Greear, concurring)

Melissa L. Bleigh v. Dominion Energy Transmission, Inc., and HG Energy II Appalachia, LLC, 23-ICA-435 (Cir. Ct. Gilmer Cnty. No. CC-11-2020-C-2)
Affirmed (3-0)

Jarred Hanshaw and Tessa Hanshaw v. Columbia Gas, Columbia Gas Transmission, LLC, Columbia Gas Transmission Corp., Columbia Pipeline Group Services, Appalachian Power Company, and Carol Leist, 23-ICA-474 (Cir. Ct. Wayne Cnty. No. CC-50-2022-C-44)
Affirmed (3-0)

Nancy Thompson, Administratrix of the Estate of Latisha Thompson v. Wetzel County Hospital Association, 23-ICA-475 (Cir. Ct. Wetzel Cnty. No. CC-52-2022-C-40)
Affirmed, in part, Vacated, in part, and Remanded (3-0)

Diane Judy v. Eastern West Virginia Community and Technical College, 23-ICA-477 (Cir. Ct. Hardy Cnty. No. CC-16-2020-C-28)
Affirmed (3-0)

Drilco Oil and Gas, Inc., Drilco 2019 1V2H Drilling Program, LLC, and Hugh D. Dale, Jr. v. Signal Ventures, LLC, 23-ICA-492 (Cir. Ct. Calhoun Cnty. No. CC-07-2023-C-3)
Affirmed (3-0)

Jeremiah L. Jones v. Town of Lumberport, West Virginia, 23-ICA-540 (Cir. Ct. Harrison Cnty. No. CC-17-2023-C-75)
Affirmed (2-1) (Chief Judge Scarr, dissenting)

Steven A. Hamner and Christine Arnold Hamner v. Robert Brent Hull, Brenda Hull, and Blue Ridge Construction Group, Inc., 23-ICA-565 (Cir. Ct. Upshur Cnty. No. CC-49-2018-P-49)
Affirmed (3-0)

Elizabeth Paugh v. MountainHeart Community, Scott A. Adkins, in his capacity as Acting Commissioner of WorkForce West Virginia, and WorkForce West Virginia Board of Review, 24-ICA-56 (WorkForce West Virginia Board of Review No. R-2023-2328)
Vacated and Remanded (3-0)

Logan County Board of Education and West Virginia Department of Education v. Briana Mary Crisp and Erica Reann Lockhart, 24-ICA-64 (West Virginia Public Employees Grievance Board No. 2023-0581-CONS)
Affirmed (3-0)

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Claudia N. v. Frank N., 24-ICA-82 and 24-ICA-83 (Fam. Ct. Harrison Cnty. No. FC-17-2022-D-141)

Affirmed (3-0)

J.D., a Protected Individual v. West Virginia Department of Human Services, Bureau for Medical Services, 24-ICA-88 (West Virginia Department of Human Services, Bureau for Medical Services Board of Review No. 23-BOR-3276)

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

Vickie Spenard v. Specialized IRA Services FBO Account #103-206 and Property Connection, LLC, 24-ICA-93 (Cir. Ct. Cabell Cnty. No. CC-06-2022-C-338)

Affirmed (3-0)

Sherry Holstine v. Suzanne Hughes, 24-ICA-105 (Cir. Ct. Boone Cnty. No. CC-03-2023-C-92)

Affirmed (2-1) (Chief Justice Scarr, dissenting)

Shelia Hallman-Warner v. Ryan Umina, 24-ICA-132 (Cir. Ct. Kanawha Cnty. No. 23-C-266)

Affirmed (3-0)

Joyce C. v. West Virginia Department of Human Resources, Bureau for Social Services, 24-ICA-140 (West Virginia Office of Inspector General Board of Review No. 23-BOR-3385)

Affirmed (3-0)

James Goodwin, John Ingram, Raymond Lovejoy, Jeffrey Allen, Charles Lilly, and Raymond Muncy v. 3M Company, American Optical Corporation, Cabot CSC Corporation, Cabot Corporation, Aearo Technologies, LLC, Aearo, LLC, Mine Safety Appliances Company, LLC, Eastern States Mine Supply Company, Raleigh Mine and Industrial Supply, and United Central Industrial Supply, LLC, 24-ICA-186 (Cir. Ct. McDowell Cnty. Nos. CC-27-2021-C-76 to -80 and CC-27-2023-C-12)

Affirmed (3-0)

Veronica Cobble v. Bridgette Lester, 24-ICA-201 (Cir. Ct. Raleigh Cnty. No. CC-41-2024-C-AP-2)

Affirmed (3-0)

Zachariah D. v. Jessica H., 24-ICA-215 (Fam. Ct. Randolph Cnty. No. FC-42-2017-D-142)

Affirmed (3-0)

Donald Elam II v. Patti Elam, 24-ICA-216 (Fam. Ct. Boone Cnty. No. FC-03-2022-D-52)

Remanded (2-1) (Judge Greear, dissenting)

Bens Creek Operations v. Grover Powers, 24-ICA-233 (Workers' Compensation Board of Review)

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

Anna M. v. Desmond M., 24-ICA-239 (Fam. Ct. Jackson Cnty. No. FC-18-2023-D-167)
Affirmed (3-0)

Shanice D. Jones v. West Virginia Department of Health and Human Resources, 24-ICA-274 (Workers' Compensation Board of Review)
Affirmed (2-0) (Chief Judge Scarr, not participating)

Mark O'Dell v. Nicholas County Board of Education, 24-ICA-277 (Workers' Compensation Board of Review)
Affirmed (2-0) (Chief Judge Scarr, not participating)

Willie Belmonte Jr. v. Brystal Belmonte, 24-ICA-281 (Fam. Ct. Jefferson Cnty. No. FC-19-2024-D-41)
Vacated and Remanded (3-0)

Letina Carter v. Humana, Inc., 24-ICA-283 (Workers' Compensation Board of Review)
Affirmed (2-0) (Chief Justice Scarr, not participating)

ICG Beckley, LLC v. Arthur Davis, 24-ICA-300 (Workers' Compensation Board of Review)
Affirmed (3-0)

Justin C. v. Ashley C., 24-ICA-312 (Fam. Ct. Kanawha Cnty. No. FC-20-2022-D-312)
Affirmed (3-0)

Cynthia White v. Mark White, 24-ICA-319 (Fam. Ct. Fayette Cnty. No. FC-10-2013-D-202)
Affirmed (3-0)

RULE 20 ARGUMENT GRANTED

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

Health Care Authority Combined Cases, 24-ICA-97, -98, -99, -100, -122 and -123 (West Virginia Health Care Authority Nos. 23-2/3/4-12702-PC, 23-2/3-12689-PC, 23-1/4-12694-PC, 23-12-12717-PC, 23-2/3/4-12697-PC, and 23-2/3/4/5-12699-PC) (3-0)

Jason Wilhelm & Crystal Wilhelm v. Tunnel Ridge, LLC, 24-ICA-118 (Cir. Ct. Ohio Cnty. No. CC-35-2021-C-156) (3-0)

Antero Resources Corporation v. Elwanda J. Pike, in her capacity as representative of the Estate of Rufus Fordyce Pike, John Kent Pike, Jr., Daniel Edward Pike, James P. Moffitt, Tanya L. Yoho, Ted Arthur McCullough, Robert A. Borchers, Richie Petroleum Corporation, AMP Fund III, LP, and Diversified

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Production LLC, successor in interest to Alliance Petroleum Co., LLC, 24-ICA-115 (Cir. Ct. Tyler Cnty. No. CC-48-2019-C-22) (3-0)

West Virginia Department of Human Services, Bureau for Child Support Enforcement v. Benjamin M., 24-ICA-205 (Fam. Ct. Braxton Cnty. No. FC-04-2022-D-66) (3-0)

West Virginia Department of Transportation, Division of Highways v. Olympus Painting Contractors, Inc., 24-ICA-183 (Cir. Ct. Kanawha Cnty. No. 22-C-292) (3-0)

RULE 19 ARGUMENT GRANTED

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

Stephen H. Blaydes, M.D. v. Princeton Community Hospital Association, Inc., 24-ICA-156 (Cir. Ct. Mercer Cnty. No. CC-28-2022-C-137) (3-0)

Steak Escape of Kanawha City II, LLC, d/b/a Steak Escape & Josh Macleery v. Jason Hudson, 24-ICA-173 (Cir. Ct. Kanawha Cnty. No. 22-C-706) (3-0)

Hull Property Group, LLC, and Charles WV Mall, LLC v. Quarrier St, LLC, US Bank National Association, successor by merger to LaSalle Bank National Association, as Trustee for Bear Sterns Commercial Mortgage Securities, Inc., Commercial Mortgage Pass-Through Certificates, Series 2007-TOP28, and C-III Asset Management, LLC, f/k/a Centerline Servicing, Inc., incorrectly designated as d/b/a Greystone Special Servicing Corporation Service Company, 24-ICA-67 (Cir. Ct. Kanawha Cnty. No. 22-C-128) (3-0)

ORDERS

Orders of note were entered in the following cases:

West Virginia Early Learning Academy at the Capitol v. Susan Rabel, 24-ICA-437 (Workers' Compensation Board of Review)
Motion for Stay Refused (3-0)

Jennifer C. v. Joshua S., 24-ICA-428 (Fam. Ct. Jefferson Cnty. FC-19-2024-D-7)
Motion to Dismiss Refused (3-0)

Tammy V. v. Kenneth D., 24-ICA-405 (Fam. Ct. Grant Cnty. FC-12-2014-D-61)
Motion to Hold in Abeyance Granted (3-0)

DaShanda G. v. Shane G., 24-ICA-368 (Fam. Ct. Jefferson Cnty. FC-19-2023-D-242)
Motion to Dismiss Refused (3-0)