

2025 Annual Report of the Mass Litigation Panel

Panel Chair:

Judge Gregory L. Howard, Jr., Sixth Judicial Circuit, (Term expires June 30, 2027) was appointed to serve as Chair beginning October 20, 2023, through June 30, 2024. Judge Howard was re-appointed to serve as Chair from July 1, 2024, through June 30, 2025, and from July 1, 2025, through June 30, 2026.

Panel Members:

Judge Jason A. Wharton, Fourth Judicial Circuit (Term expires June 30, 2026).

Judge Chad Lovejoy, Sixth Judicial Circuit (Term expires June 30, 2026).

Judge Jack Alsop, Senior Status, (Term expires June 30, 2027).

Justice John A. Hutchison, Senior Status, (Term expires June 30, 2027).

Judge Stephanie Abraham, Eighth Judicial Circuit (Term expires June 30, 2028).

Judge Perri Jo DeChristopher, Twenty-First Judicial Circuit (Term expires June 30, 2028).

Pending Mass Litigations:

Asbestos Personal Injury Litigation Civil Action No. 03-C-9600	Kanawha County	Jack Alsop, Presiding Judge John A. Hutchison, Presiding Judge
FELA Asbestos Cases Civil Action No. 02-C-9500	Kanawha County	Gregory L. Howard, Jr., Presiding Judge
Mingo County Coal Slurry Litigation Civil Action No. 10-C-5000	Ohio County	Gregory L. Howard, Jr., Presiding Judge
Opioid Litigation Civil Action No. 19-C-9000	Kanawha County	Alan D. Moats, Lead Presiding Judge Derek C. Swope, Presiding Judge Gregory L. Howard, Jr., Resolution Judge

Asbestos Personal Injury Litigation

Trial Groups Scheduled in 2025

3 Asbestos Personal Injury trial groups were scheduled for trial in 2025. Each trial group consisted of 40 cases - 20 living mesothelioma, deceased mesothelioma, and living lung cancer cases, and 20 backlog lung cancer cases – for a total of 120 cases scheduled for trial in 2025. Although most of the cases were resolved before trial, a small number of cases were moved to future trial groups. Presiding Judge Jack Alsop, Presiding Judge John A. Hutchison, and Panel Counsel Kim Fields reviewed hundreds of motions and other matters in the normal course of managing the three trial groups, while entering thousands of orders in this litigation.

Evaluation of Procedures and Initiative to Reduce the Number of Open Cases on the Asbestos Docket

Presiding Judge Alsop, Presiding Judge Hutchison, and Panel Counsel Kim Fields worked with Liaison Counsel to re-evaluate procedures for managing the Asbestos Personal Injury Litigation during 2025. As a result, numerous orders were entered addressing administrative issues, electronic filing and service, and procedures for final closure of cases in this litigation.

On March 10, 2025, the Presiding Judges conducted a hearing and tasked Plaintiffs' Liaison Counsel with reviewing two lists of cases that appeared to be open on the asbestos docket – (1) pre-2008 filed cases and (2) the File & Serve*Xpress* e-filed docket – which as of the March 10, 2025, hearing totaled **6,028** cases. Plaintiffs' Liaison Counsel reviewed these cases and reported that as of December 31, 2025, Notices of Final Dismissal of Pending Claims were submitted in **4,828** cases. The Presiding Judges have ordered final dismissal, and the Kanawha County Circuit Clerk's office has closed these **4,828** cases. The Panel extends their appreciation to Cathy Gatson and the Kanawha County Circuit Clerk's office, Plaintiffs' Liaison Counsel, Defendants' Liaison Counsel, and their staffs for their outstanding work and cooperation on this important initiative.

Plaintiffs' Liaison Counsel further reported that: **340** cases were previously closed; **6** cases are expected to be closed but the final dismissal order has not been filed; **370** cases remain open with pending litigation;¹ **432** cases are resolved but remain open for settlement collection; **7** cases are status unknown because Plaintiffs disassociated from their counsel or no response has been received by Plaintiffs' Liaison Counsel to their inquiry; and Plaintiffs' Liaison Counsel was unable to identify Plaintiffs' counsel in **45** cases.²

To give an idea of the volume of work performed in this litigation, **114,429** documents were electronically filed, and **4,708** orders were electronically entered in 2025. If the **3,518** final dismissal orders entered in pre-2008 cases that are not in File & Serve*Xpress* are added, a total of **8,226** orders were entered in this litigation in 2025.

FELA Asbestos Cases

6 FELA Asbestos were pending in 2025: 3 cases filed in 2020; 1 case filed in 2022; 1 case filed in 2023; and 1 case filed in 2024. The 2022 case was dismissed on January 27, 2026.³ Presiding Judge Gregory L. Howard, Jr. conducted status conferences on January 27, 2025, scheduled oral argument and ruled on dispositive motions in 13 cases, and scheduled 3 trials to be conducted in 2026.

Mingo County Coal Slurry Litigation

Judge Gregory L. Howard, Jr. continues to monitor the Mingo County Coal Slurry Litigation Medical Monitoring Program's Irrevocable Medical Care Trust.

Opioid Litigation

All matters in controversy between all Plaintiffs and all Defendants have been resolved. The NAS cases were dismissed, with prejudice, subject to appeal, by Orders entered May 31, 2023,⁴ and

¹ This number does not include **72** new cases filed since the March 10, 2025, hearing, which brings the number of open cases with pending litigation to **442**.

² The Presiding Judges obtained information regarding the **45** cases where Plaintiffs' Liaison Counsel was unable to identify Plaintiffs' counsel and the **7** cases where status is unknown and issued notices of intent to dismiss and orders to show cause pursuant to Rule 41(b) of the West Virginia Rules of Civil Procedure in those cases.

³ *Joint Stipulation for Dismissal* (Transaction ID 78303421) entered January 27, 2026.

⁴ *Order Granting Defendants' Motions to Dismiss* (Transaction ID 70112431) entered May 31, 2023.

June 27, 2023,⁵ pursuant to motions to dismiss filed by all Defendants. Plaintiffs filed Notices of Appeal to the Intermediate Court of Appeals and on December 27, 2024, the ICA issued an opinion affirming in part, reversing in part, vacating in part, and remanding the cases for further proceedings consistent with the ICA's opinion.⁶ Plaintiffs subsequently filed a Notice of Appeal to the Supreme Court. Further proceedings of the Mass Litigation Panel in these cases are stayed until resolution of the appeal.⁷

Presiding Judge Alan D. Moats and Presiding Judge Derek C. Swope continue to review the quarterly reports for the West Virginia First Qualified Settlement Fund, jointly filed by the Fund Administrator and the Custodial Bank, and enter orders regarding payment of administrative costs,⁸ as well as the Qualified Settlement Fund Administrator's motion and recommendations for 2025 distribution of opioid abatement funds.⁹

⁵ *Order Regarding Motions to Dismiss* (Transaction ID 70266225) entered June 27, 2023.

⁶ *A.D.A. as next friend of L.R.A. v. Johnson & Johnson*, 912 S.E.2d 37 (W. Va. 2024).

⁷ *Order* entered April 8, 2025, *A.D.A., et al. v. McKesson Corp., et al.*, Case No. 25-149.

⁸ *See* Orders entered March 6, 2025 (Transaction ID 75782899), May 16, 2025 (Transaction ID 76286780), August 12, 2025 (Transaction ID 76844400), and November 12, 2025 (Transaction ID 77759514).

⁹ *Order Regarding Qualified Settlement Fund Administrator's Motion and Recommendations for 2025 Distribution of Opioid Abatement Funds* (Transaction ID 76913693) entered August 22, 2025.