

STATE OF WEST VIRGINIA

At a Regular Term of the Supreme Court of Appeals continued and held at Charleston, Kanawha County, on the 11th day of March, 2010, the following order was made and entered:

IN RE: PROVISIONAL APPROVAL AND REQUEST FOR PUBLIC COMMENT PROPOSED AMENDMENT TO WEST VIRGINIA TRIAL COURT RULES

On a former day, came the Honorable Alan D. Moats, Chair, Mass Litigation Panel, and presented to the Court a proposed change to Rule 26.08 of the West Virginia Trial Court Rules. Upon consideration whereof, the Court if of the opinion to and doth hereby provisionally approve said amendment to the rule, with a period of public comment to conclude on April 12, 2010, with comments to be filed in writing with the Clerk of this Court, to read as follows:

“WEST VIRGINIA TRIAL COURT RULES

Rule 26.08. Powers of Presiding Judge.

(a) The Presiding Judge is authorized to preside in any circuit in which Mass Litigation or proceedings therein are pending, or in which Mass Litigation or proceedings therein are transferred for purposes consistent with the Panel's case management and trial methodologies.

(b) With the advice and consent of the Panel, the Presiding Judge is authorized to consolidate and/or transfer Mass Litigation or proceedings therein from one circuit to one or more other circuits to facilitate the Panel's case management and trial methodologies and to order the transfer of court files to the appropriate circuit.

(c) In the absence of an agreement of the parties, the Presiding Judge is authorized to appoint Liaison Counsel and/or Lead Counsel and, after consultation with all counsel, to determine the method and manner of compensation for Liaison Counsel and/or Lead Counsel.

(d) The Presiding Judge is authorized to adopt a case management order that specifies the use of a Certificate of Service List, Notice of Appearance and/or Notice of Withdrawal and, after considering the due process rights of the parties, to adopt any procedures deemed appropriate to fairly and efficiently manage and resolve Mass Litigation.

(e) The Presiding Judge shall have the sole authority to supervise the jury selection process, to disqualify a prospective juror from jury service, and to excuse jurors from juror service in Mass Litigation to which the Presiding Judge has been assigned, all pursuant to W.Va. Code § 52-1-1 et seq."

A True Copy

Attest: _____


Clerk, Supreme Court of Appeals