

ADMINISTRATIVE ORDER

SUPREME COURT OF APPEALS OF WEST VIRGINIA

**Brotherhood Mutual Insurance Co.,
a foreign corporation, a/s/o The Keystone
Apostolic Church, f/k/a The Pentecostal
Assembly of Jesus Christ, a non-profit association,
Plaintiff**

vs. Civil Action No. 16-C-293 (Kanawha County)

**Central West Virginia Regional
Airport Authority, Inc., et al.,
Defendants**

In a prior Administrative Order entered on November 18, 2016, the Chief Justice of the Supreme Court of Appeals directed the Mass Litigation Panel or a designated member thereof to conduct a hearing to receive evidence and entertain arguments by the parties or any judge, and submit findings of fact and a recommendation to the Chief Justice as to whether the following Kanawha County civil actions should be referred to the Panel or be consolidated before a judge of the Thirteenth Judicial Circuit under Rule 42 of the West Virginia Rules of Civil Procedure:

- *Brotherhood Mutual Insurance Co., a/s/o The Keystone Apostolic Church, f/k/a The Pentecostal Assembly of Jesus Christ vs. Central West Virginia Regional Airport Authority, Inc., et al.*, Civil Action No. 16-C-293
- *Central West Virginia Regional Airport Authority vs. Triad Engineering, Inc., et al.*, Civil Action No. 15-C-1022;
- *Theodore and Rebecca Carter vs. Central West Virginia Regional Airport Authority, et al.*, Civil Action No. 15-C-1074;
- *Kenneth W. Carter vs. Cast & Baker Corporation, et al.*, Civil Action No. 15-C-1791;
- *Robert L. Harrah II vs. Cast & Baker Corporation, et al.*, Civil Action No. 15-C-1792;
- *Terry and Rosemary Letart vs. Cast & Baker Corporation, et al.*, Civil Action No. 15-C-1793;
- *Deborah K. Harrah vs. Cast & Baker Corporation, et al.*, Civil Action No. 15-C-1794; and
- *The Keystone Apostolic Church, f/k/a The Pentecostal Assembly of Christ vs. Central West Virginia Regional Airport Authority*, Civil Action No. 16-C-536.

The Chief Justice has been advised that on December 9, 2016, the Honorable Alan D. Moats and the Honorable Jack Alsop convened and received evidence and arguments as to whether the above-styled civil actions should be referred to the Panel or be consolidated before a judge of the Thirteenth Judicial Circuit under Rule 42 of the West Virginia Rules of Civil Procedure. The Honorable John A. Hutchison and the Honorable Derek C. Swope were also present for oral argument and conferred with Judges Moats and Alsop regarding the pending motion to refer.

During the December 9, 2016, hearing, counsel advised the Panel that two additional, related actions have been filed. The related Kanawha County civil actions are: *James Johnson, et al. vs. Cast & Baker Corporation, et al.*, Civil Action No. 16-C-1826; and *Patricia A. Wolfe, et al. vs. Cast & Baker Corporation, et al.*, Civil Action No. 16-C-1815.

On December 15, 2016, the “Findings of Fact, Conclusions of Law and Recommendation of the Mass Litigation Panel” (“Panel’s Recommendation”) were submitted to the Chief Justice.

Upon reviewing the motion to refer, reply memoranda, and the Panel’s Recommendation, the Chief Justice is of the opinion that the motion to refer should be granted; that it is appropriate to transfer the above-styled civil actions to the Mass Litigation Panel; and further, that the Mass Litigation Panel is authorized to transfer and join with the existing Mass Litigation any similar or related Kanawha County civil actions currently pending, as well as any subsequently filed actions arising from the March 12, 2015, failure of the mechanically stabilized earth retention structure at the end of Runway 5 at the Central West Virginia Regional Airport Authority’s Yeager Airport in Charleston, West Virginia.

IT IS, HEREBY, ORDERED, that, pursuant to 26.06(c)(3) of the West Virginia Trial Court Rules, the motion to refer the above-referenced civil actions to the Mass Litigation Panel be, and hereby is granted, including the additional related actions, *James Johnson, et al. vs. Cast & Baker Corporation, et al.*, Civil Action No. 16-C-1826; and *Patricia A. Wolfe, et al. vs. Cast & Baker Corporation, et al.*, Civil Action No. 16-C-1815, and these civil actions are transferred to the Mass Litigation Panel for further proceedings.

IT IS FURTHER ORDERED, that the Mass Litigation Panel is authorized to transfer and join with the existing Mass Litigation any similar or related Kanawha County civil actions currently pending, as well as any subsequently filed actions arising from the March 12, 2015, failure of the mechanically stabilized earth retention structure at the end of Runway 5 at the Central West Virginia Regional Airport Authority’s Yeager Airport in Charleston, West Virginia.

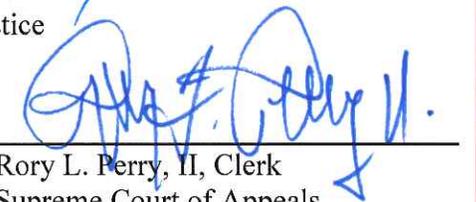
IT IS FURTHER ORDERED, that a copy of this Order be transmitted to the Honorable Alan D. Moats, Chair of the Mass Litigation Panel; the Honorable Charles E. King Jr., the Honorable James C. Stucky, the Honorable Tod J. Kaufman, and the Honorable Joanna I. Tabit, Judges of the Thirteenth Judicial Circuit; the Mass Litigation Manager; and the Circuit Clerk of Kanawha County.

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

ENTERED: DECEMBER 16, 2016



MENIS E. KETCHUM
Chief Justice

Attest: 

Rory L. Perry, II, Clerk
Supreme Court of Appeals