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Attorneys call state's Mass Litigation Panel excellent, efficient

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By KYLA ASBURY

CHARLESTON — Attorneys involved with West Virginia's Mass Litigation Panel have said the panel is an excellent forum, and a state Supreme Court justice says it has helped to clear up a backlog of thousands of lawsuits.

"The MLP provides an excellent forum to handle cases that qualify for referral," said Michael J. Farrell, an attorney with Farrell, White & Legg in Huntington. "Judge Alan Moats is an excellent jurist who has proved outstanding leadership for the MLP."

Farrell, who currently has 25 cases pending before the court, said his experience with the MLP court and its judges has been uniformly excellent.

Farrell represents defendants who appeal before the MLP. He said complex West Virginia cases are managed by the highly qualified MLP judiciary to provide fair, efficient and timely disposition of difficult cases.

Heather Heiskell Jones, the chair of Spilman Thomas & Battle's litigation department, said the MLP deals with mass litigation in an extremely efficient manner.

"The MLP was created to deal with mass litigation because mass litigation often has many plaintiffs and defendants and that gets bogged down in a circuit court," Jones said. "The MLP deals with these cases in an efficient and timely manner."

Jones said the judges on the MLP handle cases by-the-book.

"They work hard and follow the rules," Jones said. "They're sticklers for the rules and that's definitely a good thing."

Supreme Court Chief Justice Robin Jean Davis said the MLP was established to deal with the thousands of asbestos cases that were in the court system.

"The panel has specialized in shepherding these types of cases through the court system," Davis said. "The panel has evolved and has really helped to clear up the court system's docket."

Davis said the court no longer has a huge back log of thousands of cases.

"The judges chosen for the panel are all interested in mass litigation, have worked to create rules and have developed expertise in the area of mass litigation," Davis said.

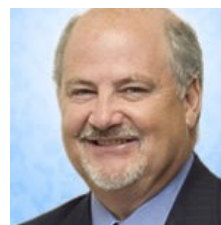
Davis said the panel has been highly innovative and creative and been a good mechanism for moving mass litigation cases through the court system.

"When the panel's judges go to the National Judicial College, other states look at our panel as one of the best in the nation," Davis said. "They see the West Virginia judiciary as a leader in the country in this area."

Davis said the panel works well together and does a great job.

"These judges are incredible," she said. "They've done great work."

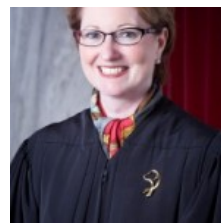
Moats, the circuit judge who also is chairman of the Mass Litigation Panel, said the MLP is very helpful and works well together.



Farrell



Jones



Davis



Moats

"We're able to resolve complex litigation effectively and timely," Moats said. "We've had specialized training, so that helps us to figure out the best procedures."

The MLP began in 1996, and Moats was appointed to the panel in 2002. He became chairman in 2007.

The other judges on the panel include 10th Judicial Circuit Judge John A. Hutchison; Eighth Judicial Circuit Judge Booker T. Stephens; 25th Judicial Circuit Judge Jay M. Hoke; Second Judicial Circuit David W. Hummel Jr.; Ninth Judicial Circuit Judge Derek C. Swope; and First Judicial Circuit James P. Mazzone.

Jones said the MLP saves both parties time and money.

"The cases are resolved more quickly than they would be in circuit court," Jones said. "They're dealt with more efficiently and you end up with a settlement or resolution in a timely manner."

"Mass litigation is a big deal in West Virginia and the MLP does an amazing job at taking care of mass litigation in our state. The judges are very knowledgeable and the panel is excellent."

The panel develops and implements case management and trial methods for mass litigation.

It also makes recommendations to the chief justice on the transfer of actions from one circuit to another in order to facilitate case management and trial methods developed by the panel.

In the past, the MLP has worked on asbestos litigation, Digitek litigation, flood damage litigation, overweight trucks litigation, tobacco litigation, float-sink litigation, the Mingo County coal slurry litigation, the Mountain State University litigation, University Commons litigation and Zoloft litigation.

Asbestos litigation involves individuals who were injured by exposure to asbestos.

Digitek litigation involves the drug's manufacturer Actavis, which issued a nationwide recall on April 25, 2008, of all strengths of Digitek due to the possibility that tablets with double the appropriate thickness may have been commercially released. The plaintiffs claimed injuries from exposure to out-of-specification tablets.

Flood damage litigation involves a July 8, 2001, flood that devastated areas of Wyoming, Raleigh, Fayette, Nicholas, Mercer, McDowell, Kanawha and Boone counties. The plaintiffs claimed Western Pocahontas Properties and Western Pocahontas Corp. increased water runoff from their land, which caused streams to overflow.

Overweight trucks litigation involves citizens in four West Virginia counties who claimed coal trucks were a public and private nuisance because they were too big for the roads on which they traveled.

Tobacco litigation involves cigarettes manufactured between 1964 and 1969 that were allegedly defective because of a failure to instruct and failure to warn.

Float-sink litigation involves individuals suing 26 different employers, manufacturers and distributors they claimed caused them health problems by exposing them to toxic chemicals used in float-sink laboratories and related facilities.

The Mingo County coal slurry litigation involves hundreds of Mingo County residents who sued Massey Energy, claiming the billions of gallons of coal slurry the company injected underground contaminated their well water, resulting in massive health problems in the community.

The Mountain State University litigation involves students who were part of the school's nursing program. The nursing students were urged to continue paying tuition to the school and were allegedly not informed when the school lost its accreditation.

The University Commons litigation involves the University Commons Riverside Home Owners Association, which brought suit on behalf of its members against various individuals and corporations seeking damages arising from the alleged defective development, negligent construction and misleading marketing of the University Commons Riverside Condominium Complex in Star City.

The Zoloft litigation involves birth defects suffered by infants whose mothers were prescribed and took Zoloft during their pregnancies. The plaintiffs claimed they were not informed of the risks Zoloft could cause to their unborn children.

Moats said electronic filing has helped everyone involved with the MLP process.

"It has helped us be able to work together despite the distance between us," Moats said.

E-filing began as a pilot program after Rule 15 of the Trial Court Rules was approved. It went into effect on Aug. 31, 2009.

Trial Court Rules 15 governs electronic filing and service of documents and maintenance of case-related information in circuit courts of West Virginia in certain mass litigation referred to the MLP.