

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

IN RE: ASBESTOS LITIGATION:

CIVIL ACTION NO.: 03-C-9600

**NOTICE OF CANCELLATION OF JUDGE CONDUCTED MEDIATION
OF LUNG CANCER GROUP 17 CASES ON**

THURSDAY, FEBRUARY 6, 2020

THIS DOCUMENT ONLY RELATES TO LUNG CANCER GROUP 17

You were previously informed that Lung Cancer Group 17 would go to trial in February 2020, immediately after Meso cases and that those cases would not have a paid mediator, but if you had a case in lung cancer group 17 you were required to engage in settlement conferences, with my assistance, on February 6, 2020, at the same time and place as the meso settlement conference.

In doing that I made a couple of assumptions that have proven to have no merit. I assumed that with the importance of the mesothelioma cases and the always possibility of an extended meso trial that you would be making every effort to settle your lung cancer cases prior to the start of the mesothelioma trial. I further assumed that because you would make those the settlement efforts that on February 6, I would be attempting to encourage settlement in a reasonable number of cases – perhaps 20 or 30. Instead, this is what the current situation is:

1. **Prim and Gallucci have 169 total defendants involved in three plaintiffs' cases.**
2. **GPW have 162 total defendants involved in three plaintiffs' cases.**
3. **Antion and McGee have 158 total defendants involved in eight plaintiffs' cases.**

4. **Motley- Rice have 66 total defendants involved in five plaintiffs' cases.**

I can't think of the right word to express my frustration with your failure to reduce the number of lung cancer cases to a reasonable number that, if we have to go to trial, it will not be like the mass trial that occurred in Charleston in another decade. Quite frankly I am concerned about the future of our great system of settling claims that has, for over 15 years, settled a substantial number of asbestos personal injury cases with very few trials when – to be perfectly frank –some of our West Virginia case law is tested in appeals that will surely be considered by what in now a conservative West Virginia Supreme Court of Appeals.

In my judgment the phrase “you reap what you sow” may come true to those who abuse the liberal civil procedure for suing questionable defendants, accusing them of causing personal injury to their clients when the evidence of their liability amounts to a mere gamble in a lawsuit. That may or may not apply to you, but with the excessive number of defendants in these lawsuits it is a matter that may need further investigation.

Bottom line: there is no way I can mediate these cases with the vast number of defendants. The mediation for lung cancer group 17 cases set for February 6 is canceled. This cancellation does not in any way concern the mediation that is frequently successful in the mesothelioma cases set at the same time. It will take place without my presence.

Dated this 5th day of February, 2020

/s/ Ronald E. Wilson
Ronald E. Wilson, Judge