

APPENDIX A – RULES OF APPELLATE

NOTICE OF APPEAL

Intermediate Court of Appeals
Supreme Court of Appeals of West Virginia

COPIES OF ALL
ORDERS BEING
APPEALED

1. COMPLETE CASE TITLE AND CASE NUMBERS IN LOWER TRIBUNAL

(Include all party designations, such as plaintiff, intervenor, etc. Use an extra sheet if necessary)

MIRANDA GUZMAN, individually and on behalf of her minor child A.G.; AMANDA TOLLEY, individually and on behalf of her minor children A.C. and E.C.; and CARLEY HUNTER, individually and on behalf of her minor child E.G., Plaintiffs v. WEST VIRGINIA BOARD OF EDUCATION, et al., Defendants;
Civil Action No.: CC-41-2025-C-230
(See attachment for full case style)

2. COUNTY OR LOWER TRIBUNAL APPEALED FROM AND NAME OF JUDGE(S) WHO ISSUED DECISION(S) (If the presiding judge was appointed by special assignment, include an explanation of the circumstances on an extra sheet.)

Raleigh County Circuit Court; Judge Michael E. Froble

3. PETITIONER(S) (list all parties who join in the appeal and provide the name, firm name, address, phone number, and e-mail address of counsel of record for each party. Self-represented parties must provide an address, phone number, and e-mail address.)

WEST VIRGINIA BOARD OF EDUCATION, et al.

See attachment

4. RESPONDENT(S) (list all parties against whom the appeal is taken and provide the name, firm name, address, phone number, and e-mail address of counsel of record for each party. For self-represented parties provide an address, phone number, and e-mail address.)

MIRANDA GUZMAN, individually and on behalf of her minor child A.G.; AMANDA TOLLEY, individually and on behalf of her minor children A.C. and E.C.; and CARLEY HUNTER, individually and on behalf of her minor child E.G.

See attachment

5. NON-PARTICIPANT(S) (list any parties to the lower tribunal action that will not be involved in the appeal and provide the name, firm name, address, telephone number and e-mail address of counsel of record for each non-participant. Provide the name, address, and telephone number of any self-represented litigant who was a party to the lower tribunal action but is not participating in the appeal.)

APPENDIX A – RULES OF APPELLATE PROCEDURE

CASE NAME: Guzman, et al. v. West Virginia Board of Education, et al.

<p>6. DATE OF ENTRY OF JUDGMENT ON APPEAL</p> <p>Preliminary Inj. Order entered August 12, 2025</p> <hr/> <p>DATE OF ENTRY OF JUDGMENT ON POST-TRIAL MOTIONS, IF ANY</p> <div style="border: 1px solid black; height: 40px; width: 100%;"></div>
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<p>7. CRIMINAL CASES: DEFENDANT’S SENTENCE AND BAIL STATUS</p> <div style="border: 1px solid black; height: 100px; width: 100%;"></div>
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8. **ABUSE AND NEGLECT CASES:** On an extra sheet, provide a brief list of the names, ages, and parent’s names of all minor children, a description of the current status of the parental rights of each parent as of the filing of the notice of appeal, a description of the proposed permanent placement of each child, and the name of each guardian ad litem appointed in the case.

9a. Is the order or judgment appealed a final decision on the merits as to all issues and all parties? YES / NO
If your answer is no, was the order or judgment entered pursuant to R. Civ. P. 54(b)? YES / NO
If your answer is no, you must attach a brief explanation as to why the order or judgment being appealed is proper for the court to consider.

9b. Is the family court order entered under W. Va. Code 48-9-203(f)? YES / NO

10. Has this case previously been appealed? YES / NO
If yes, provide the case name, docket number and disposition of each prior appeal.

11. Are there any related cases currently pending in the Intermediate Court or Supreme Court or in a lower tribunal? YES / NO If yes, cite the case, provide the status, and provide a description of how it is related.
Allegra v. Gilmer Cty. BOE, Circuit Court of Gilmer County; See attachment

12. Is any part of the case confidential? YES / NO
If yes, identify which part and provide specific authority for confidentiality.

13. If an appealing party is a corporation an extra sheet must list the names of parent corporations and the name of any public company that owns ten percent or more of the corporation’s stock. If this section is not applicable, please so indicate below.
 The corporation who is a party to this appeal does not have a parent corporation and no publicly held company owns ten percent or more of the corporation’s stock.

14. Do you know of any reason why one or more of the Intermediate Court Judges or Supreme Court Justices should be disqualified from this case? YES / NO If yes, set forth the basis on an extra sheet. Providing the information required in this section does not relieve a party from the obligation to file a motion for disqualification in accordance with Rule 33.

APPENDIX A – RULES OF APPELLATE PROCEDURE

CASE NAME: Guzman, et al. v. West Virginia Board of Education, et al.

NOTICE OF APPEAL

15. Is a transcript of proceedings necessary for the Court to fairly consider the assignments of error in the case?

YES / NO **If yes, you must complete the appellate transcript request form on page 4 of this form.**

16. **NATURE OF THE CASE, RELIEF SOUGHT, and OUTCOME BELOW** (Limit to two double-spaced pages; please attach.)

17. **ASSIGNMENTS OF ERROR** (Express the assignments in the terms and circumstances of the case but without unnecessary detail. Separately number each assignment of error and for each assignment: (1) state the issue; (2) provide a succinct statement as to why the court should review the issue. Limit to eight pages double-spaced; please attach.)

18. **ATTACHMENTS**

Attach to this notice of appeal the following documents in order: (1) extra sheets containing supplemental information in response to sections 1-14 of this form; (2) a double-spaced statement of the nature of the case, not to exceed two pages, as material required by section 16 of this form; (3) a double-spaced statement of the assignments of error not to exceed eight pages as required by section 17 of this form; (4) a copy of the lower tribunal’s decision or order from which you are appealing; (5) a copy of any order deciding a timely post-trial motion; (6) a copy of any order extending the time period for appeal; and (7) the statutory docket fee of \$200 (made payable to the State of West Virginia if made by check or money order); or a copy of the lower court’s granting of the application for fee waiver in this case. The statutory docket fee does not apply to criminal cases, appeals from the Workers’ Compensation Board of Review or original jurisdiction actions. The statutory docket fee does not apply to appeals from family court to the Intermediate Court of Appeals; however, the statutory docket fee applies to appeals from family court to the Supreme Court of Appeals, whether taken directly or after an appeal to the Intermediate Court of Appeals.

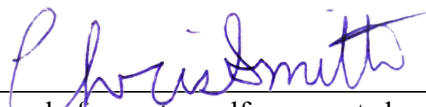
NOTICE:

You must file a separate affidavit and application anytime your financial situation no longer meets the official guidelines or anytime the court orders you to do so.

CERTIFICATIONS

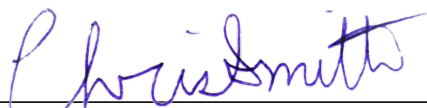
I hereby certify that I have performed a review of the case that is reasonable under the circumstances and that the contents of the Notice of Appeal are accurate and complete.

8/15/2025
Date


Counsel of record or self-represented party

I hereby certify that on or before the date below, copies of this notice of appeal and attachments were served on all parties to the case, and copies were provided to the clerk of the circuit court from which the appeal is taken and to each court reporter from whom a transcript is requested.

8/15/2025
Date


Counsel of record or self-represented party

APPENDIX A – RULES OF APPELLATE PROCEDURE

CASE NAME: Guzman, et al. v. West Virginia Board of Education, et al.

APPELLATE TRANSCRIPT REQUEST FORM

INSTRUCTIONS:

1. If a transcript is necessary for your appeal, you must complete this form and make appropriate financial arrangements with each court reporter from whom a transcript is requested.
2. Specify each portion of the proceedings that must be transcribed for purposes of appeal. *See* Rule of Appellate Procedure 9(a).
3. A separate request form must be completed for each court reporter from whom a transcript is requested. If you are unsure of the court reporter(s) involved, contact the circuit clerk’s office for that information.
4. Failure to make timely and satisfactory arrangements for transcript production, including necessary financial arrangements, may result in denial of motions for extension of the appeal period, or may result in dismissal of the appeal for failure to prosecute.

Name of Court Report, ERO, or Typist: Carolyn R. DiLorenzo, CCR

Address of Court Reporter: 114 Dixon Avenue, Beckley, WV 25801

Case No.: 2025-C-230 **County:** Raleigh **Date of Final Order:** 8/12/2025

Date of Proceeding	Type of Proceeding	Length of Proceeding	Name of Judge(s)	Portions Previously Prepared
7/24/2025	Preliminary Inj.Hearing	2 hours	Judge Michael Froble	Complete

CERTIFICATIONS

I hereby certify that the transcripts requested herein are necessary for a fair consideration of the issues set forth in the Notice of Appeal.

I hereby further certify that I have contacted the court reporter and satisfactory financial arrangements for payment of the transcript have been made as follows:

- Private funds. (Deposit of \$_____ enclosed with court reporter’s copy. Attach documentation.)
- Criminal or habeas corpus appeal with fee waiver (Attach order appointing counsel or order stating defendant is eligible.)
- Abuse and neglect or delinquency appeal with fee waiver (Attach order appointing counsel.)
- Advance payment waived by court reporter (Attach documentation.)

8/15/2025

Date mailed to court reporter

Christina Smith

Counsel of record or self-represented party

APPENDIX A – RULES OF APPELLATE PROCEDURE

NOTICE OF APPEAL – EXTRA SHEET

CASE NAME: Guzman, et al. v. West Virginia Board of Education, et al.

Response to SECTION:

Petitioners have filed a separate attachment including the required information.

Item 1. Complete Case Title in Lower Tribunal

MIRANDA GUZMAN, *individually and on behalf of her minor child A.G.*; AMANDA TOLLEY, *individually and on behalf of her minor children A.C. and E.C.*; and CARLEY HUNTER, *individually and on behalf of her minor child E.G.*,

Plaintiffs,

v.

WEST VIRGINIA BOARD OF EDUCATION; NANCY J. WHITE, *in her official capacity as President of the Board of Education*; VICTOR GABRIEL, F. SCOTT ROTRUCK, L. PAUL HARDESTY, ROBERT W. DUNLEVEY, CHRISTOPHER STANSBURY, DEBORAH SULLIVAN, GREGORY WOOTEN, SARAH ARMSTRONG TUCKER, and CATHY JUSTICE, *all in their official capacities as members of the West Virginia Board of Education*; MICHELE BLATT, *in her official capacity as State Superintendent of Schools*; RALEIGH COUNTY BOARD OF EDUCATION; LARRY FORD, RICHARD SNUFFER, CHARLOTTE HUTCHENS, MARIE HAMRICK, and MARSHA SMITH, *all in their official capacities as members of the Raleigh County Board of Education*; and SERENA L. STARCHER, *in her official capacity as Superintendent, Raleigh County Board of Education*,

Defendants,

and

JANE DOE,

Intervenor.

Item 3: Petitioners

Counsel for the Petitioners is as follows:

Benjamin L. Bailey (WVSB #200)
Christopher D. Smith (WVSB #13050)
BAILEY & GLASSER LLP
209 Capitol Street
Charleston, WV 25301
Telephone: (304) 345-6555
Facsimile: (304) 342-1110
bbailey@baileyglasser.com
csmith@baileyglasser.com

Denali S. Hedrick (WVSB #14066)
BAILEY & GLASSER LLP
94 Long Street, Suite 200
Westover, WV 26501
Telephone: (304) 345-6555
Facsimile: (304) 342-1110
dhedrick@baileyglasser.com

Counsel for Petitioners WEST VIRGINIA BOARD OF EDUCATION; NANCY J. WHITE, in her official capacity as President of the Board of Education; VICTOR GABRIEL, F. SCOTT ROTRUCK, L. PAUL HARDESTY, ROBERT W. DUNLEVEY, CHRISTOPHER STANSBURY, DEBORAH SULLIVAN, GREGORY WOOTEN, SARAH ARMSTRONG TUCKER, and CATHY JUSTICE, all in their official capacities as members of the West Virginia Board of Education; and MICHELE BLATT, in her official capacity as State Superintendent of Schools

Robert J. Kent (WVSB # 5010)
Bowles Rice LLP
501 Avery Street, Fifth Floor
Post Office Box 49
Parkersburg, WV 26102
(304) 420-5504
rkent@bowlesrice.com
rmoore@bowlesrice.com

Leigh Anne Wilson (WVSB #13927)
Bowles Rice LLP
125 Granville Square, Suite 400
Morgantown, WV 26501
(304) 554-2603
lwilson@bowlesrice.com

Corey L. Palumbo (WVSB #7765)
Bowles Rice LLP
600 Quarrier Street
Post Office Box 1386
Charleston, WV 25325
(304) 347-1781
cpalumbo@bowlesrice.com

Counsel for Petitioners Raleigh County Board of Education; Larry Ford, Richard Snuffer, Charlotte Hutchens, Marie Hamrick, Marsha Smith, and Serena L. Starcher, all in their Official Capacities

Thomas J. Hurney, Jr. (WVSB # 1833)
JACKSON KELLY PLLC
500 Lee Street East, Suite 1600
Post Office Box 553
Charleston, West Virginia 25322
(304) 340-1346
thurney@jacksonkelly.com

Marc E. Williams, Esq. (WVSB # 4062)
**NELSON MULLINS RILEY &
SCARBOROUGH LLP**
949 Third Avenue, Suite 200
Huntington, West Virginia 25701
Telephone: (304) 526-3500
Fax: (304) 526-3599
marc.williams@nelsonmullins.com

Counsel for Intervenor, Jane Doe

Item 4: Respondents

Counsel for the Respondents is as follows:

John H. Bryan
411 Main Street
P.O. Box 366
Union, West Virginia 24983
(304) 772-4999
jhb@johnbryanlaw.com

Aaron Siri
Elizabeth A. Brehm
Buck Dougherty
Catherine Cline
SIRI & GLIMSTAD LLP
745 Fifth Ave, Suite 500
New York, NY 10151
(888) 747-4529
aaron@sirillp.com
ebrehm@sirillp.com
bdougherty@sirillp.com
ccline@sirillp.com

Walker D. Moller
SIRI & GLIMSTAD LLP
1105 Congress Avenue
Suite 925-C36
Austin, TX 78701
(888) 747-4529
wmoller@sirillp.com

Christopher Wiest
CHRIS WIEST ATTORNEY AT LAW, PLLC
50 E. Rivercenter Blvd., Ste. 1280
Covington, KY 41011
(513) 257-1895
chris@cwiestlaw.com

Counsel for Respondents MIRANDA GUZMAN, individually and on behalf of her minor child A.G.; AMANDA TOLLEY, individually and on behalf of her minor children A.C. and E.C.; and CARLEY HUNTER, individually and on behalf of her minor child E.G.

Item 9a. Basis for this Court’s Jurisdiction

In this case, the Petitioners are appealing an interlocutory circuit court order granting preliminary injunctive relief. Under syllabus point 2 of *State ex rel. McGraw v. Telecheck Servs., Inc.*, 213 W. Va. 438, 440, 582 S.E.2d 885, 887 (2003), this Court held that Article VIII, Section 3 of the West Virginia Constitution “grants this Court appellate jurisdiction of civil cases in equity,” including “a grant of jurisdiction to hear appeals from interlocutory orders by circuit courts relating to preliminary and temporary injunctive relief.” Jurisdiction at the Supreme Court of Appeals instead of the Intermediate Court of Appeals is proper under West Virginia Code § 51-11-4(d)(8), which states that the Intermediate Court of Appeals does not have appellate jurisdiction over “[i]nterlocutory appeals.” *See also* W. Va. R. App. P. 1(b) (stating that the Intermediate Court of Appeals has no jurisdiction over “interlocutory appeals unless otherwise specifically provided for under law”).

Item 11: Current Related Cases

The Court held a preliminary injunction hearing on August 15, 2025, which involves the same religious exemption in this case.

Item 14. Disqualification of Supreme Court Justices

Petitioners are aware that Justices Armstead and Trump both were legislators when the Equal Protection for Religion Act or the analogous Religious Freedom Act were taken up in the West Virginia Legislature during their time serving in the Legislature.

Item 16. Nature of the Case, Relief Sought, and Outcome Below

West Virginia Code § 16-3-4 (the Vaccine Law) requires students attending public school in West Virginia to be immunized against certain preventable, dangerous diseases. The text of the Vaccine Law contains one exemption: a medical exemption for students to whom an immunization presents a medical risk or for whom vaccination is contraindicated. Even though the text of the Vaccine Law authorizes only medical exemptions, the Respondents contend that West Virginia Code § 35-1A-1, the Equal Protection for Religion Act (EPRA), grafts an extratextual religious exemption onto the Vaccine Law. Following the entry of Executive Order 7-25, which directed the West Virginia Bureau of Public Health to issue extratextual religious exemptions to the Vaccine Law, the Respondents each obtained religious exemption certificates from the West Virginia Bureau of Public Health. The West Virginia Board of Education directed county boards of education, including the Raleigh County Board of Education, to continue enforcing the Vaccine Law as written and recognize only medical exemptions to the Vaccine Law.

On June 24, 2025, Respondent Miranda Guzman filed this action in Raleigh County Circuit Court. She alleged that the Petitioners violated EPRA by recognizing only medical exemptions and sought preliminary and permanent injunctive relief requiring the Petitioners to recognize religious exemptions to the Vaccine Law. She did not provide the West Virginia Board of Education with thirty days' notice of her lawsuit as required by West Virginia Code § 55-17-3, and she did not immediately serve the Petitioners.

On July 14, 2025, the Respondents filed an amended complaint naming additional plaintiffs. On July 15, 2025, before any Petitioner was served, the Raleigh County Circuit Court set a hearing on Respondents' request for a preliminary injunction on July 24, 2025. Respondents did not move for a preliminary injunction until July 16, 2025. On July 18, 2025, less than a week before the preliminary injunction hearing, many of the Petitioners were finally served.

On July 22, 2025, the West Virginia Board of Education responded to Respondents' Motion for Preliminary Injunction and argued that EPRA did not graft an extratextual religious exemption onto the Vaccine Law. Even if EPRA did, the West Virginia Board of Education argued that the Vaccine Law survived strict scrutiny under EPRA. On July 23, 2025, the Raleigh County Board of Education and Superintendent responded to Respondents' Motion for Preliminary Injunction and made similar arguments.

On July 24, 2025, the parties appeared before the Raleigh County Circuit Court for a hearing on Respondents' Motion. At that hearing, the Circuit Court held that EPRA grafted a religious exemption onto the Vaccine Law, concluded without taking evidence that the Vaccine Law could not survive strict scrutiny, and granted Respondents' Motion for Summary Judgment. The Court also indicated that it would like to hold a permanent injunction hearing swiftly, indicating at various points that it believed a statute may require it to hold a hearing on a permanent injunction within fourteen days. The parties agreed to work together to schedule a hearing date.

On August 6, 2025, the parties conducted a scheduling conference under West Virginia Rule of Civil Procedure 26(f). Instead of filing a 26(f) report, as the Rule contemplates, the Respondents moved the Circuit Court to set a permanent injunction hearing on September 11 and 12, 2025. The Respondents opposed, asking the Court to direct the parties to file a 26(f) report and set a hearing in January 2026 so the parties could conduct expedited discovery.

On August 12, 2025, the Circuit Court entered its written order granting Respondents' Motion for Preliminary Injunction, directing the parties to prepare and exchange expert reports, witness lists, and final exhibit lists by August 29, 2025 (without the benefit of discovery), and setting a permanent injunction hearing on September 10 and 11, 2025—less than two months after Respondents were served.

Item 17. Assignments of Error

I. The Circuit Court erred by determining that West Virginia Code § 55-17-3 did not jurisdictionally bar Respondents' claims against the West Virginia Board of Education Petitioners. That statute requires thirty days' notice prior to suing a state agency. The Respondents did not provide that notice. Although there is an exception to the statute when providing thirty days' notice would cause irreparable harm, there is no such harm in this case. Here, the Respondents waited nearly one month after filing suit to serve the West Virginia Board of Education Petitioners. That delay shows the Respondents were not irreparably harmed by complying with West Virginia Code § 55-17-3, and the Circuit Court erred when it held otherwise. This Court should review the issue because the Circuit Court may be without jurisdiction to adjudicate this matter.

II. The Circuit Court erred as a matter of law by grafting an extratextual religious exemption onto the Vaccine Law. As written, the Vaccine Law contains only one recognized exemption, the medical exemption. EPRA does not change that. Neither the text nor the statutory title of EPRA state that EPRA amended the Vaccine Law to include a religious exemption, and the Circuit Court erred when it held otherwise.

III. The Circuit Court erred by determining that the Vaccine Law "substantially burdens" Respondents' free exercise of religion. The right to free exercise of religion is a vital right, but it is not a boundless right. The Supreme Court of the United States has long recognized that the right to free exercise of religion does not give a person "freedom from compulsory vaccination" because the "right to practice religion freely does not include liberty to expose the community or the child to communicable disease or the latter to ill health or death." *Prince v. Massachusetts*, 321 U.S. 158, 166–67 (1944). Nevertheless, the Circuit Court erroneously held that the Vaccine Law "substantially burdens" Respondents' free exercise rights.

IV. The Circuit Court erred by holding that the Vaccine Law could not survive strict scrutiny under EPRA. It first held that the Petitioners could not show that the state had a compelling interest in protecting the health and welfare of its citizens. But this Court has recognized that the state *does* have a compelling interest in protecting the health and welfare of its citizens. The Circuit Court then determined that the Vaccine Law was not the least restrictive or an essential means of enforcing the state’s compelling interest in protecting the health of its citizens. It contended that medical exemptions, other states’ laws, and the fact that the Vaccine Law does not extend to school personnel showed that the Vaccine Law was not the least restrictive means of achieving a compelling government interest. That holding was error.

V. The Circuit Court erred by holding that the Vaccine Law violated a section of EPRA that bars government conduct that “[t]reat[s] religious conduct more restrictively than any conduct of reasonably comparable risk.” In its analysis, the Circuit Court did not compare religious to conduct to comparable non-religious conduct. Instead, it analyzed other “unregulated behaviors” and the medical exemption provision to conclude that the Vaccine Law treats religious conduct more stringently than secular conduct. For example, the Circuit Court concluded that the state’s failure to require mandatory vaccines at sporting venues somehow showed that the Vaccine Law treated religious conduct more restrictively than secular conduct. But unrelated, “unregulated behaviors” do not show that the Vaccine Law treats religious conduct more restrictively than non-religious conduct, and the Circuit Court erred when it held otherwise.

VI. The Circuit Court erred by setting this case for permanent injunction—effectively a trial—less than two months after Defendants were served. The West Virginia Rules of Civil Procedure create a framework for scheduling that ensures all parties are able to conduct discovery and develop their case. Despite this, the Circuit Court, citing only “efficiency and judicial economy” and an

inapplicable provision of West Virginia Rule of Civil Procedure 65, set this case for permanent injunction so quickly that it effectively denied Petitioners the opportunity to develop their case. That holding was error—nothing in the West Virginia Rules of Civil Procedure authorizes circuit courts to deny parties due process.