WEST VIRGINIA CODE CHAPTER 31b ARTICLE 11

WV Legislature

§31B-11-1101. Right of action.

A member of a limited liability company may maintain an action in the right of the company if the members or managers having authority to do so have refused to commence the action or an effort to cause those members or managers to commence the action is not likely to succeed.

WV Legislature

§31B-11-1102. Proper plaintiff.

In a derivative action for a limited liability company, the plaintiff must be a member of the company when the action is commenced; and:

(1) Must have been a member at the time of the transaction of which the plaintiff complains; or

(2) The plaintiff's status as a member must have devolved upon the plaintiff by operation of law or pursuant to the terms of the operating agreement from a person who was a member at the time of the transaction.

WV Legislature

§31B-11-1103. Pleading.

In a derivative action for a limited liability company, the complaint must set forth with particularity the effort of the plaintiff to secure initiation of the action by a member or manager or the reasons for not making the effort.

WV Legislature

§31B-11-1104. Expenses.

If a derivative action for a limited liability company is successful, in whole or in part, or if anything is received by the plaintiff as a result of a judgment, compromise or settlement of an action or claim, the court may award the plaintiff reasonable expenses, including reasonable attorney's fees, and shall direct the plaintiff to remit to the limited liability company the remainder of the proceeds received.

WV Legislature