## WEST VIRGINIA CODE: §44D-8B-9

## §44D-8B-9. Court involvement.

- (a) On application of an authorized fiduciary, a person entitled to notice under §44D-8B-7(c) of this code, a beneficiary, or with respect to a charitable interest any other person that has standing to enforce the charitable interest, the court may:
- (1) Provide instructions to the authorized fiduciary regarding whether a proposed exercise of the decanting power is permitted under this article and consistent with the fiduciary duties of the authorized fiduciary;
- (2) Appoint a special fiduciary and authorize the special fiduciary to determine whether the decanting power should be exercised under this article and to exercise the decanting power;
- (3) Approve an exercise of the decanting power;
- (4) Determine that a proposed or attempted exercise of the decanting power is ineffective because:
- (A) After applying §44D-8B-22 of this code, the proposed or attempted exercise does not, or did not, comply with this article; or
- (B) The proposed or attempted exercise would be or was an abuse of the fiduciary's discretion or a breach of fiduciary duty;
- (5) Determine the extent to which §44D-8B-22 of this code applies to a prior exercise of the decanting power;
- (6) Provide instructions to the trustee regarding the application of §44D-8B-22 of this code to a prior exercise of the decanting power; or
- (7) Order other relief to carry out the purposes of this article.
- (b) On application of an authorized fiduciary, the court may approve:
- (1) An increase in the fiduciary's compensation under §44D-8B-16 of this code; or
- (2) A modification under §44D-8B-18 of this code of a provision granting a person the right to remove or replace the fiduciary.