

ADMISTRATIVE ORDER

SUPREME COURT OF APPEALS OF WEST VIRGINIA

**Gito, Inc. d/b/a Nello Construction Company,
for the use and benefit of Cost Company,
Plaintiff**

vs. Civil Action No. 13-C-13 (Marshall County)

**Board of Education of the County of Marshall,
West Virginia,
Defendant/Third-Party Plaintiff**

vs.

**Scalise Industries Corporation, a wholly owned
subsidiary of EMCOR Group, Inc.,
Third-Party Defendant**

The Honorable Mark A. Karl, Judge of the Second Judicial Circuit, has advised the Chief Justice of the Supreme Court of Appeals that Third-Party Defendant Scalise Industries Corporation, a wholly owned subsidiary of EMCOR Group, Inc. ("Scalise"), filed a motion to refer the above-styled case to the Business Court Division pursuant to Rule 29 of the West Virginia Trial Court Rules ("TCR"). Plaintiff Gito, Inc. d/b/a Nello Construction Company, for the use and benefit of Cost Company, filed a motion to join in the referral request. Defendant and Third-Party Plaintiff Board of Education of the County of Marshall, West Virginia, filed a response in opposition to the referral request, and Third-Party Defendant Scalise filed a reply.

Upon careful review and consideration of the motion, the exhibits to the motion, the motion to join in the referral, the response to the motion, the reply memorandum, and the concurrence in the request for referral by the trial court, the Chief Justice has determined that the principal claims in the action are between business entities as required by Trial Court Rule 29.04(a)(1), that specialized treatment is likely to improve the expectation of a fair and reasonable resolution of the controversy as required by Trial Court Rule 29.04(a)(2), and the motion to refer should therefore be granted.

It is hereby ORDERED that the motion to refer this case to the Business Court Division is granted, and this order shall be transmitted to the Honorable Christopher C. Wilkes, Chair of the Business Court Division, for assignment of a presiding judge and such other actions as are necessary to effectuate the provisions of TCR 29.

It is further ORDERED that any members of the Business Court Division assigned to this matter by Judge Wilkes are authorized pursuant to Article VIII § 3 of the West Virginia Constitution and TCR 29.07(b) to preside over the above-styled case in Marshall County.

It is further ORDERED that a copy of this ORDER be transmitted to the Central Office of the Business Court Division; to the Honorable Mark A. Karl; and to the Clerk of the Circuit Court of Marshall County, who is to provide copies of the same to all parties of record or their counsel.

ENTERED: JUNE 28, 2013



BRENT D. BENJAMIN
Chief Justice