

ADMINISTRATIVE ORDER

SUPREME COURT OF APPEALS OF WEST VIRGINIA

**David A. Smith,  
Plaintiff**

v.     **No. 09-C-133 (Greenbrier County)**

**Michael Hendricks; Subaru of America, Inc.,  
a New Jersey corporation; Subaru of Indiana  
Automotive, Inc., an Indiana corporation; and  
Fuji Heavy Industries, LTD., a Japanese corporation,  
Defendants**

The Honorable Joseph C. Pomponio Jr., Judge of the Eleventh Judicial Circuit, has submitted to the Chief Justice of the Supreme Court of Appeals his motion to refer the above-styled case to the Business Court Division pursuant to Rule 29 of the West Virginia Trial Court Rules ("TCR"). Responses were filed on behalf of David A. Smith by counsel, Marvin W. Masters, Christopher L. Brinkley, and The Masters Law Firm lc, and on behalf of Subaru of America, Inc., Subaru of Indiana Automotive, Inc., and Fuji Heavy Industries, LTD. by counsel, Samuel D. Madia, Michael Bonasso, and Flaherty Sensabaugh Bonasso PLLC.

Upon careful review and consideration of the motion and the reply memoranda, the Chief Justice has determined that this litigation does not meet the definition of business litigation as set forth in Trial Court Rule 29.04(a)(1) and (a)(2), and the motion to refer should therefore be denied.

It is hereby ORDERED that the motion to refer this case to the Business Court Division is DENIED and that a copy of this order be transmitted to the Honorable Christopher C. Wilkes, Chair of the Business Court Division; to the Central Office of the Business Court Division; to the Honorable Joseph C. Pomponio Jr.; and to the Clerk of the Circuit Court of Greenbrier County, who is to provide copies of the same to all parties of record or their counsel.

ENTERED: SEPTEMBER 24, 2013

  
BRENT D. BENJAMIN  
Chief Justice