

ADMINISTRATIVE ORDER

SUPREME COURT OF APPEALS OF WEST VIRGINIA

**Vandalia Capital II, LLC, et al.,
Plaintiffs**

vs. Civil Action No. 13-C-570 (Kanawha County)

**David P. Pray, et al.,
Defendants**

vs.

**The Woods Development Company, LLC,
Third-Party Defendant**

The Chief Justice of the Supreme Court of Appeals has been advised that Plaintiff Vandalia Capital II, LLC, by counsel, Scott S. Segal and Victor S. Woods, and The Segal Law Firm LC, and Mark R. Staun, and the law firm of Hartley & O'Brien, PLLC; Plaintiff United Bank, Inc., by counsel, Julia A. Chincheck, Floyd E. Boone Jr., James E. Scott, and Daniel J. Cohn, and the law firm of Bowles Rice LLP; the Non-Breaching Vandalia Affiliates;¹ and Third-Party Defendant The Woods Development Company, LLC, by counsel, Scott H. Kaminski, and the law firm of Balgo & Kaminski, L.C., have 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"). Defendants David P. Pray and the David P. Pray Revocable Trust, by counsel, Brian A. Glasser and Thanos Basdekis, and the law firm of Bailey & Glasser, LLP, filed a response in opposition to the motion to refer.

Chief Justice Robin Jean Davis has voluntarily recused herself from considering said motion.

At an earlier stage of this case, a motion to refer was denied on the basis that the principal claims were not between business entities. Although an earlier motion to refer was denied, an additional business entity has since been added to the case, and joins in the motion to refer. This fact, combined with the absence of any time limitation in TCR 29.06, means that the motion to refer is appropriate for consideration.

Upon careful review and consideration of the motion and reply memorandum, the Acting Chief Justice has determined that the principal claims in the action involve matters of significance to the transactions, operations, or governance between business entities as required by TCR

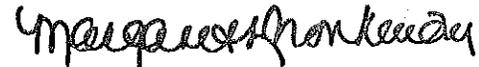
¹ The motion to refer states, "[t]he Non-Breaching Vandalia Affiliates are plaintiffs, along with United and Vandalia, in the action below and they are: Ralph Ballard III, Stephen B. Farmer, David P. Ferretti, Shawn P. George, Mark A. Grimmatt, Robert Huggins, Andrew B. Jordan, R. Scott Long, Andrew A. Payne III, Rooke Asset Partners LP, Andrew K. Rooke, and Timothy K. Wilcox. Like Defendants David P. Pray and the David P. Pray Revocable Trust, the Non-Breaching Vandalia Affiliates are either members of Vandalia or they are related to or affiliated with one of Vandalia's members."

29.04(a)(1). The mere fact that the action involves an individual does not, of itself, exclude the case from eligibility. The Acting Chief Justice has further determined that specialized treatment is likely to improve the expectation of a fair and reasonable resolution of the controversy as required by TCR 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 a copy of this ORDER be transmitted to the Central Office of the Business Court Division; the Honorable Louis H. Bloom, Judge of the Thirteenth Judicial Circuit; and to the Clerk of the Circuit Court of Kanawha County, who is to provide copies of the same to all parties of record or their counsel.

ENTERED: SEPTEMBER 24, 2014



MARGARET L. WORKMAN
Acting Chief Justice