

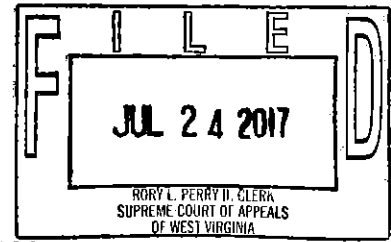
## IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

ERNEST B. DAVIS, JR., and  
MAPLE RIDGE, LLC

Plaintiffs,

V.

CIVIL ACTION NO: 17-C-130



MARCO RESOURCES LLC and  
EVERETT COOK,

Defendants

## DEFENDANTS' RESPONSE TO PLAINTIFF'S MOTION TO REFER TO THE BUSINESS COURT DIVISION

For reply to Plaintiff's request that this matter be submitted to the Business Court Division, the Defendants answer and say:

1. This case is not suited for, nor cases of this nature were ever intended to be submitted to a Court dealing with business. This is a rental case. There was never a signed Lease, thus the rent is only on a month to month basis. The rent allegedly due on a month to month basis is offset by issues of leakage from the roof, and others having access to the premises, thus destroying the quiet enjoyment of title afforded to the defendants herein.

With respect to the investment in the coal operation, the defendants state that the plaintiff is entitled to, upon request, Seven and One Half Percent (7 ½ %) interest in Marco Resources, LLC. Defendants have never denied that, and have always been willing, able and ready to convey unto plaintiff an interest of Seven and One Half Percent (7 ½ %) in Marco Resources, LLC. Currently Marco is not engaged in any type of productive business activity, although the exploration is still ongoing for

possible coal transactions. Defendant has never asked for his interest in Marco Resources, LLC to be conveyed.

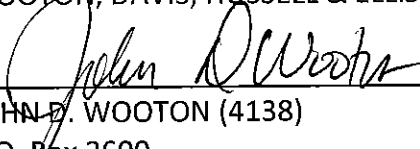
2. In essence, this case boils down to a mere month to month tenancy on a lease, and this is not the type of case intended for nor should be considered by a body such as Business Court.

Wherefore, the said defendants respectfully request the Court to deny the Motion to Transfer to Business Court.

MARCO RESOURCES LLC and  
EVERETT COOK,  
BY COUNSEL

WOOTON, DAVIS, HUSSELL & ELLIS, PLLC

BY: \_\_\_\_\_

  
JOHN D. WOOTON (4138)  
P.O. Box 2600  
Beckley, WV 25802-2600

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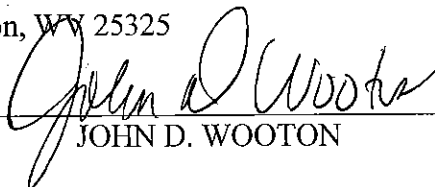
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**CERTIFICATE OF SERVICE**

I, John D. Wooton, counsel for Defendants do hereby certify that today a true copy of the Defendants' Response to Plaintiffs' Motion to Refer to Business Court Division was this day mailed to the following, by first class mail, postage prepaid, this 28<sup>th</sup> day of July 2017.

Ronda L. Harvey  
Patrick C. Timony  
BOWLES RICE LLP  
600 Quarrier Street  
P.O. Box 1386  
Charleston, WV 25325

  
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JOHN D. WOOTON