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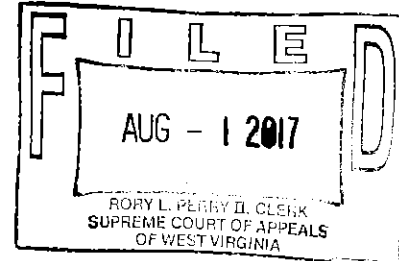
IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

RIVER CITY ALE WORKS, LLC,
Plaintiff(s),

vs.

Ohio County Circuit Court
Civil Action No. 17-C-58

WHEELING NATIONAL
HERITAGE AREA CORPORATION
& THE ARTISAN CENTER,
Defendant(s).



TO: THE HONORABLE CHIEF JUSTICE

MOTION TO REFER CASE TO THE BUSINESS COURT DIVISION

Pursuant to Rule 29.06 of the West Virginia Trial Court Rules, the Defendant, Wheeling Heritage National Area Corporation, by counsel, Patrick S. Cassidy, Esq., Irvin N. Shapell, Esq., and Cassidy, Cogan, Shapell & Voegelin, L.C., respectfully requests the above-styled case be referred to the Business Court Division.

In regard to additional related actions:

☒ There are no known related actions.

The following related actions could be the subject of consolidation, and are
now pending
or
may be filed in the future. (Please list case style, number, and Court if any)

This action involves: (Please check all that apply)

☒ Breach of Contract;

Sale or Purchase of Commercial Entity;

Sale or Purchase of Commercial Real Estate;

Sale or Purchase of Commercial Products Covered by the Uniform Commercial Code;

☒ Terms of a Commercial Lease;

Commercial Non-consumer debts;

Internal Affairs of a Commercial Entity;

Trade Secrets and Trademark Infringement;

Non-compete Agreements;

Intellectual Property, Securities, Technology Disputes;

Commercial Torts;

{00149914.1}

(continued on next)

Insurance Coverage Disputes in
Commercial Insurance Policies;
Professional Liability Claims in
Connection with the Rendering of
Professional Services to a Commercial
Entity;
Anti-trust Actions between Commercial
Entities;

☒ Injunctive and Declaratory Relief
Between
Commercial Entities;
Liability of Shareholders, Directors,
Officers, Partners, etc.;

Mergers, Consolidations, Sale of Assets,
Issuance of Debt, Equity and Like Interest;
Shareholders Derivative Claims;
Commercial Bank Transactions;
Franchisees/Franchisors;
Internet, Electronic Commerce and
Biotechnology
☒ Disputes involving Commercial Entities; or
Other (Describe) _____

In support of this motion, this matter contains issues significant to businesses, and presents novel and/or complex commercial or technological issues for which specialized treatment will be helpful, as more fully described here:

This case involves the interpretation of the terms of a commercial lease and of the actions of the commercial tenant that constitute the default of that lease in accordance with the legal precedents of West Virginia. Plaintiff's Declaratory Action alleges that the parties to a commercial lease had controlling understandings outside the four corners of the lease, while Defendant asserts that the lease document itself controls Defendant's actions in noticing Plaintiff's default and terminating the lease, in accordance with the lease terms. This case raises complex and important issues regarding the enforcement of commercial leases by their terms in cases in which there is a claim of unwritten understandings not embodied in the lease document. Commercial lessors and lessees must have consistent enforcement of lease documents, by their terms, in order to maintain a consistent legal environment for these important contracts.

In further support of this Motion, please find attached hereto an accurate copy of the operative Complaint, the Answer and Counterclaim, and the docket sheet.

In regard to expedited review, the Movant:

☒ DOES NOT request an expedited review under W.Va. Trial Court Rule 29.06(a)(4), and gives notice that all affected parties may file a memorandum stating their position, in accordance with W.Va. Trial Court Rule 29.

hereby REQUESTS that the Chief Justice grant this Motion to Refer without responses, pursuant to W.Va. Trial Court Rule 29.06(a)(4), and contends that the following constitutes good cause to do so: _____

WHEREFORE, the undersigned hereby MOVES, pursuant to W.Va. Trial Court Rule 29, the Chief Justice of the West Virginia Supreme Court of Appeals to refer this case to the Business Court Division.

Respectfully submitted, this 1st day of August, 2017,



Patrick S. Cassidy, Counsel for Defendants

(WV Bar No. 671)

CASSIDY, COGAN,

SHAPELL & VOEGELIN, L.C.

The First State Capitol

1413 Eoff Street

Wheeling, WV 26003

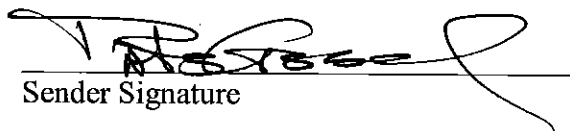
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CERTIFICATE OF SERVICE

I, Patrick S. Cassidy, Esq., do hereby certify that on this 1st day of August, 2017, I have served the foregoing **"Motion to Refer Case to Business Court Division,"** with attachments by U.S. First Class Mail to **Mark A. Kepple, Esq., Bailey & Wyant, PLLC, 1219 Chapline Street, Wheeling, WV 26003,** to the **Ohio County Circuit Clerk's Office,** to **Honorable Ronald E. Wilson, Circuit Court Judge,** and the **Business Court Division Central Office, Berkeley County Judicial Center, 380 West South Street, Suite 2100, Martinsburg, WV 25401.**



Sender Signature