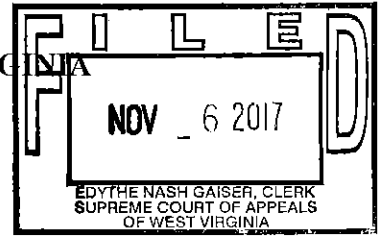


IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA



**RALEIGH COUNTY  
EMERGENCY SERVICES AUTHORITY**

*Plaintiff,*

v.

Raleigh County Circuit Court  
Civil Action No. 17-C-253

**J. DAN SNEAD**, an individual;  
**J. DAN SNEAD & ASSOCIATES, INC.**,  
a West Virginia Corporation;

*Defendants and Cross-Claim Plaintiffs*

and

**CLINGENPEEL, MCBRAYER & ASSOCIATES, INC.**,  
a West Virginia Corporation.

*Defendant and Cross-Claim Defendant.*

**MOTION TO REFER CASE TO THE BUSINESS COURT DIVISION**

COMES NOW Defendant Clingenpeel, McBrayer & Associates, Inc., formerly doing business as CMA Engineering ("CMA"), by counsel, Mark S. Brennan Sr. and the law firm of Vandeventer Black, LLP, and hereby moves pursuant to Rule 29.06 of the West Virginia Trial Court Rules that the above-styled case be referred to the Business Court Division. In support of its Motion, the Defendant states as follows:

1. This action involves multiple alleged breaches of contract involving the design and construction of the HVAC system in a building used by Plaintiff, and raises complicated commercial and technological issues for which specialized treatment would be helpful in reaching a fair and reasonable resolution of the dispute.

2. This dispute presents complex commercial issues including, but not limited to, issues related to the interpretation and application of written and oral contracts among the owner, architect, and the architect's consultants, as well as issues concerning whether those contracts inure to the benefit of third-parties and issues relating to owner betterment, mitigation of damages, loss of use, bankruptcy, and corporate dissolution.

3. In addition, this dispute involves highly technical mechanical engineering issues concerning the building's heating, ventilation, and air conditioning ("HVAC") system, including issues pertaining to the design, installation and performance of the fluid cooler, heat exchanger, boiler, heat pumps and loop pumps, and the system's ductwork and piping. These issues will likely require several mechanical engineering experts to address.

4. In support of this motion, attached are a copy of the operative complaint, answers, cross-claim, and docket sheet.

5. To CMA's knowledge, there are no related actions pending, nor is there a likelihood of related actions being filed in the future.

6. For these reasons, CMA respectfully requests that this matter be referred to the Business Court Division for further litigation.

Respectfully submitted,

**CLINGENPEEL, MCBRAYER &  
ASSOCIATES, INC.**

By:   
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**CERTIFICATE OF SERVICE**

I hereby certify that on November 3, 2017 I served a true copy of the forgoing by First Class U.S. Mail, postage prepaid, and e-mail, to:

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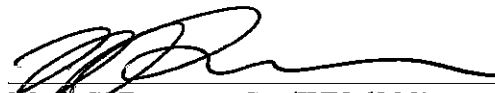
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