

IN THE CIRCUIT COURT OF HARRISON COUNTY, WEST VIRGINIA

STOCKMEIER URETHANES U.S.A, INC.,
A West Virginia Corporation,

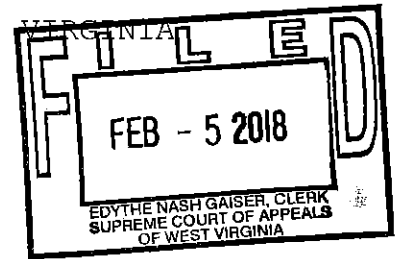
Plaintiff,

v.

Civil Action No. 17-C-349-2

ROGER SMITH,

Defendant.



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

The defendant, Roger Smith, by counsel, Gregory H. Schillace, pursuant to Rule 29.06 of the West Virginia Trial Court Rules, moves to refer the above-styled action to the Business Court Division. The nature of this action involves breach and/or violation of the West Virginia Uniform Trade Secrets Act, West Virginia Code §47-22-1 et seq.; breach of the contract between the plaintiff and the defendant (former CEO and Senior Advisor of the plaintiff); as well as breach of the duties of loyalty and confidentiality.

The counterclaim filed by the defendant asserts causes of action for defamation, breach of contract and discrimination based upon age in violation of West Virginia Code §5-11-1 et seq. The referral of this case to the business court division is appropriate

as the principal claims involve matters of significance to the transactions, operations, as well as governance between business entities and senior management employees.

The above-styled action contains novel and complex issues of significance business entities in West Virginia due, in part, to the claims involving the West Virginia Uniform Trade Secrets Act. The trade secrets involved in this action are related to polyurethane formulas and manufacturing processes which are specialized and technical.

This action is not a standard employee suit as contemplated by Rule 29.04(c)(3) of the West Virginia Trial Court Rules. The plaintiff, although a West Virginia Corporation, is a member of the Stockmeier Group which identifies itself as a global player for standard chemical products as well as specialties for numerous industries. See attached hereto as Exhibit 1 Website information from Stockmeier Group.

The Stockmeier Group includes Stockmeier Chemie; HDS-CHEMIE Handels GES.M.B.H.; Stockmeier Chemicals BELUX; Kruse Automotive; KAPP-CHEMIE and Stockmeier Food as well as the plaintiff herein. Although the plaintiff is a West Virginia Corporation the majority of its Board of Directors are believed to be European residents and citizens.

The plaintiff as well as the United Kingdom, German and French divisions of Stockmeier Urethanes produces polyurethane products

for industrial applications as well as sport and leisure applications. Prior to becoming the chief operating officer of the plaintiff, the defendant was in the polyurethanes industry since 1972 work for three other companies.

This civil action involves complex technology issues regarding chemical formulas for the manufacturer of polyurethane as well as the level of confidentiality with respect to the polyurethane manufacturing process throughout this specialized industry. Although the counterclaim contains elements which may typically be contained in civil actions by employees, the causes action contained in the counterclaim are more complex than typical as the defendant was a member of senior management.

Business Court referral is also particularly warranted as the complaint contains claims asserted pursuant to the West Virginia Uniform Trade Secrets Act. As a uniform act enacted in a majority of states, specialized knowledge, expertise and familiarity with this act as well as decisions applying the uniform act in other jurisdictions is necessary.

Pursuant to Rule 29.06(a) (1) of the West Virginia Trial Court Rules attached hereto are the following documents:

- (a) Complaint;
- (b) Answer and Counterclaim;
- (c) Partial Motion to Dismiss Counterclaim and Reply to Counterclaim of the Plaintiff;
- (d) Docket sheet with respect to this action.

The defendant, while employed with the plaintiff had written contractual agreements for his service as both chief operating officer and as the senior advisor. The plaintiff asserts that the knowledge and information which the defendant brought to the plaintiff in 2013 became proprietary, confidential and trade secret information of the plaintiff.

The defendant denies that any of the claimed trade secret, proprietary and confidentiality information is in fact protected information. Business Court referral will permit the claims asserted by the plaintiff and defendant, which are important to the West Virginia business community, to be addressed properly.

WHEREFORE, the plaintiffs respectfully request that the above-styled civil action be referred to the Business Court Division.

Dated this 2nd day of February, 2018.

A handwritten signature in black ink, appearing to read 'G. H. Schillace', is written over a horizontal line.

Gregory H. Schillace
State Bar No. 5597

Counsel for the Defendant

Schillace Law Office
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Clarksburg, West Virginia 26302-1526
Telephone: 304-624-1000
Facsimile: 304-624-9100

NO. _____

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

CHARLESTON

STOCKMEIER URETHANES U.S.A, INC.,
A West Virginia Corporation,

Plaintiff,

v.

Civil Action No. 17-C-349-2

ROGER SMITH,

Defendant.

FROM THE CIRCUIT COURT OF HARRISON COUNTY, WEST VIRGINIA
HONORABLE Thomas A. Bedell, JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on the 2nd day of February, 2018, I served the foregoing **MOTION OF THE DEFENDANT TO REFER CASE TO BUSINESS COURT DIVISION** upon all opposing parties via hand delivery or via e-mail and by depositing a true copy thereof in the United States mail, first-class postage prepaid, in an envelope addressed as follows:

Albert Marano, Clerk
Circuit Court of Harrison County
301 W. Main Street
Clarksburg, West Virginia 26301
Via Hand Delivery

The Honorable Thomas A. Bedell
Circuit Court of Harrison County
301 W. Main Street
Clarksburg, West Virginia 26301
Via Hand Delivery

Shawn A. Morgan, Esquire
Steptoe & Johnson PLLC
400 White Oaks Boulevard
Bridgeport, West Virginia 26330
U.S. Mail & E-mail

