

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  
**THOMAS A. BEDELL**, Judge

ROGER SMITH,

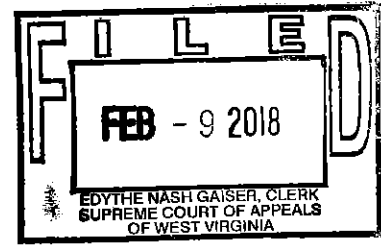
Defendant.

TO: THE HONORABLE CHIEF JUSTICE, ALLEN H. LOUGHRY, II

**REPLY MEMORANDUM OF THE HONORABLE THOMAS A. BEDELL  
TO THE *MOTION OF THE DEFENDANT TO REFER CASE TO THE  
BUSINESS COURT DIVISION PURSUANT TO RULE 29.06(a)(4) OF  
THE WEST VIRGINIA TRIAL COURT RULES***

Comes now The Honorable Thomas A. Bedell, Judge, Division 2, Circuit Court of Harrison County, West Virginia to timely file his Reply Memorandum pursuant to Rule 29.06(a)(4) of the *West Virginia Trial Court Rules* in response to the Defendant, Roger Smith's, *Motion Of The Defendant To Refer Case To The Business Court Division*.

This affected judge has not yet received A *Notice Of Filing Of Motion To Refer To The Business Court Division* by and through Edythe Nash Gaiser, Clerk of Court, Supreme Court of Appeals of West Virginia thereby giving him actual notice of such filing and docketing. However, he has received a copy of such Motion with accompanying documents and exhibit from Defendant, Roger Smith, by and through his legal counsel, in keeping with such applicable Trial Court Rule.



This affected judge now replies to Defendant's Motion to Refer for the benefit of Chief Justice Allen H. Loughry, II and for his honorable review all thereon, to-wit:

1. Since the filing of such Motion to Refer and prior to the preparation of this Reply, this affected judge has not caused to be entered any Order to stay further proceedings herein as is allowed within its discretion pursuant to *West Virginia Trial Court Rule 29.06(b)*. There is a Pre-Trial Scheduling Conference set for February 8, 2018 and from which this Court intends to have entered a *Pre-Trial and Scheduling Order* to control further proceedings herein before it and pending further determination of Defendant's Motion to Refer.

2. There have been no further filings made a matter of record herein, as reflected by records maintained in the Office of the Circuit Clerk of this Court, at the time of this affected judge's preparation and submission of his Reply Memorandum.

3. In keeping with *West Virginia Trial Court Rule 29.06(a)(1)*, the Defendant's Motion to Refer appears to adequately reflect the nature of this Civil Action and to establish a sufficient basis for referral by meeting the criteria of "Business Litigation" as particularly defined in *West Virginia Trial Court Rule 29.04(a)(1)(2)(3)*.

4. This affected judge further confirms that:

(a) There are currently no other known related actions pending before this affected judge or in this circuit.

(b) Other than Plaintiff's Partial Motion To Dismiss Counterclaim (as recognized in Defendant's Motion to Refer), there are no other pending Motions in this matter requiring further determinations at this present time.

### Conclusion

The undersigned affected judge believes himself to be fully able to preside over these matters competently, efficiently, and with more than adequate expectation for a fair, reasonable and final resolution of the controversies alleged by and between the parties in this Civil Action. However, he further believes and thereby concurs with Defendant, as represented by his legal counsel, that this action satisfies the substantive requirements to sufficiently constitute "Business Litigation".

As such, this affected judge is not opposed and would take no umbrage to having this Civil Action referred to the Business Court Division for further management and resolution as contemplated in *West Virginia Trial Court Rule 29.01 et seq* and, thereby, lighten his work load upon which he is in full favor.

### Filing and Certificate of Service

In keeping with Rule 29.06(a)(4), I am filing this Reply Memorandum with the Clerk of the Supreme Court of Appeals as well as certifying service of a true copy hereof to the Clerk of the Harrison County Circuit Court, the Central Office of the Business Court Division and all parties through their identified legal counsel via first class United States Mail.

This matter is respectfully submitted to you on February 6, 2018 for your most kind consideration.



**THOMAS A. BEDELL**, Judge  
15th Judicial Circuit ~ Division 2  
Harrison County Circuit Court



FIFTEENTH JUDICIAL CIRCUIT  
HARRISON COUNTY

THOMAS A. BEDELL, JUDGE  
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HARRISON COUNTY COURTHOUSE  
301 WEST MAIN STREET  
CLARKSBURG, WEST VIRGINIA 26301

February 6, 2018

Carol A. Miller, Executive Director  
Business Court Division  
Berkeley County Judicial Center  
380 W. South Street ~ Suite 2100  
Martinsburg, WV 25401

Re: Reply Memorandum to *Motion of the Defendant to Refer Cases to the Business Court Division* in Harrison County Civil Action No. 17-C-349-2

Dear Ms. Miller:

Please find enclosed a copy of my original Reply Memorandum to Motion of the Defendant to Refer in the above-referenced civil action in keeping with Rule 29.06(a)(4) of the *West Virginia Trial Court Rules*.

The original Reply Memorandum has this day been sent to Ms. Edythe Nash Gaiser, Clerk, for presentation and further review by Chief Justice Allen H. Loughry, II, and copies thereof sent to respective legal counsel of record as well as delivered to the Harrison County Circuit Clerk for filing therein.

Thanking you for your time and most kind attention to this matter, I remain

Very truly yours,

THOMAS A. BEDELL, Judge

Encl: Reply Memorandum (copy)

Xc: Edythe Nash Gaiser, Clerk of Court ✓  
WV Supreme Court of Appeal  
Legal Counsel