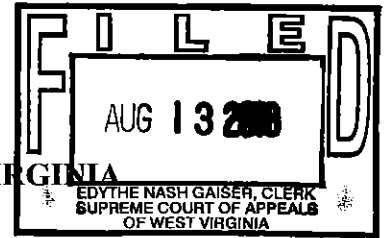


**IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA
[BUSINESS COURT DIVISION]**



TREN SERVICES, INC.,

Plaintiff.

v.

**B.C.D. Action No. _____
[Logan County Circuit Court Civil Action
No.: 18-C-155]**

**DEDICATED LINE SERVICE INC,
and GREGORY BLEVINS, individually,
and MATTHEW WILLIAMS, individually,**

Defendants.

**MOTION TO REFER ON BEHALF OF
DEFENDANTS DEDICATED LINE SERVICE INC.,
AND GREGORY BLEVINS**

COME NOW Defendants Dedicated Line Service Inc. and Gregory Blevins, by counsel,
and hereby move this Court to refer the above captioned civil action to the Business Court
Division. In support of their Motion, Defendants state as follows:

I. The Business Court Division Has Jurisdiction over This Civil Action.

1. West Virginia Code § 51-2-15 and Rule 29 of the West Virginia Trial Court Rules ("TCR") provide that civil actions which constitute "Business Litigation" are eligible for transfer to the West Virginia Business Court Division.
2. "Business Litigation" is defined by TCR 29 as a civil action in which:
 - (1) the principal claim or claims involves matters of significance to transactions, operations, or governance between business entities;
and

(2) the dispute presents commercial and/or technology issues in which specialized treatment is likely to improve the expectation of a fair and reasonable resolution of the controversy because of the need for specialized knowledge or expertise in the subject matter or familiarity with some specific law or legal principles that may be applicable; and

(3) the principal claim or claim do not involve [consumer litigation].

TCR 29.04(a)(1)-(3).

3. Per recent amendments to TCR 29, any party or judge may seek a referral “Business Litigation” to the Business Court Division by filing a Motion to Refer with the Clerk of this Court, after the time to answer the complaint has expired. TCR 29.06(a)(1). Such a motion must included a copy the “complaint, answer, docket sheet and any other documents that support referral....” *Id.* Accordingly, a true and accurate copy of Plaintiff Tren Services (“Plaintiff”) Compliant is attached hereto as Exhibit A. A true and accurate copy of the docket sheet is attached hereto as Exhibit B.

4. Defendants are involved in a civil action filed by Plaintiff in the Circuit Court of Logan County, West Virginia, wherein the principal claims between the parties fall within the subject matter jurisdiction of the Business Court Division. More specifically, Plaintiff’s Complaint meets each of three criteria provided in TCR 29.04(a)(1)-(3).

5. First, pursuant to TCR 29.04(a)(1), the “principal claims” stated in Plaintiff’s Complaint involve “matters of significance” among Plaintiff, a corporation, and (3) other business entities. The individual defendant Mr. Blevins is named solely due to his capacities as a member or officer of Defendants Dedicated Line Service Inc. And as this Court just observed, “The mere fact that the action involves an individual does not, of itself, exclude the case from

eligibility.” *United Bank, Inc. V. Clarence E. White et al.*, No. 14-C-572 (Kanawha County) (“Administrative Order of the Supreme Court of Appeals of West Virginian”.¹

6. More specifically, Plaintiff’s Complaint seeks relief Defendants.....

7. Second, pursuant to TCR 29.04(a)(2), “specialized treatment of the parties’ claims is likely to “improve the expectation” of a fair and reasonable resolution of their controversy. A judge that possesses “familiarity with” two complex legal principles related to business entities and contract law-(1) the doctrine of impracticability and (2) piercing the corporate veil-will likely improve the expectation of a fair and reasonable resolution of the parties’ claims.

8. To explain, Plaintiff seemingly bases all of its allegations on the planning, formation and operation of Defendant Dedicated Line Service Inc., a business registered in the State of West Virginia. Thus, the Plaintiff, a West Virginia business, is bringing an action against Defendant Dedicated Line Service Inc., a West Virginia business, for allegations solely relating to the planning, formation and operation of the business. Thus, this is the type of case that was designed to be heard in the Business Court Division.

II. Defendant’s Motion is Timely before This Court.

9. Where a civil action falls within the jurisdiction of the West Virginia Business Court Division, any party may file a Motion to Refer “ after the time to answer the complaint has expired.” TCR 29.06(a)(2). Defendants responded to Plaintiff’s Complaint on August 10, 2018 as a result of an agreement to extend the time in which to file a responsive pleading. Accordingly, this matter is timely before this Court.

¹A true and accurate copy of this Court’s decision is attached hereto as Exhibit D.


III. Transfer of This Civil Action to the Business Court Division Will Not Affect the Litigation of any Related Pending or Future Actions.

10. As required by TCR 29.06(a)(1), Defendants state that they are unaware of any pending or future actions related to the parties' controversy.

WHEREFORE, Defendants Dedicated Line Service and Gregory Blevins respectfully request that his Court refer this civil action to the Business Court Division.

Dedicated Line Service and Gregory Blevins

By Counsel



Robert B. Kuenzel, WV State Bar 8972
Kuenzel Law, PLLC
36 Adams Street
P.O. Box 607
Chapmanville, WV 25508-0607
304.310.4263
304.310.4264 (facsimile)

**IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA
[BUSINESS COURT DIVISION]**

TREN SERVICES, INC.,

Plaintiff.

v.

**Civil Action No.: 18-C-155
Honorable Joshua Butcher, Judge**

**DEDICATED LINE SERVICE INC,
and GREGORY BLEVINS, individually,
and MATTHEW WILLIAS, individually,**


Defendants.

CERTIFICATE OF SERVICE

The undersigned does hereby certify that he has served a true copy of the attached
Motion to Refer to Business Court Division upon the person(s) listed below on the 10th day of
August , 2018 , by depositing a true copy of same in the United States Mail, postage prepaid,
or via facsimile, or via hand delivery, or via electronic transmission, addressed follows:

Steven Wolfe
Wolfe, White & Associates
P.O. Box 536
Logan, WV 25601

Matthew Williams
144 Eagles Roost Road
Chapmanville, WV 25508


Robert B. Kuenzel, WV State Bar 8972
Kuenzel Laws, PLLC
36 Adams Street
P.O. Box 607
Chapmanville, WV 25508-0607
304.310.4263
304.310.4264 (facsimile)