

**STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS**

**WORLDWIDE EQUIPMENT LEASING, INC.,
A Foreign Corporation,**

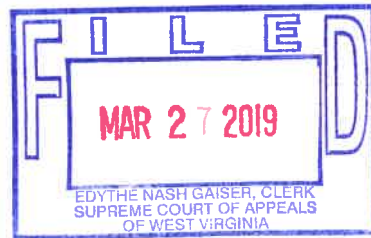
Plaintiff/Movant,

v.

**Raleigh Co. Cir. Civil Action No. 18-C-374-H
Judge: Vickers**

**CROOK BROTHERS, INC. f/k/a
MULTIFRESH, INC., a West Virginia
Corporation; CROOK BROTHERS
TRUCKING, LLC, a West Virginia Limited
Liability Company; CROOK COLD
STORAGE, LLC; a West Virginia Limited
Liability Company; and KENNETH CROOK,**

Defendants.



**DEFENDANTS' RESPONSE IN OPPOSITION TO PLAINTIFF'S MOTION TO REFER
TO THE BUSINESS COURT DIVISION**

COME NOW, the Defendants, Crook Brothers, Inc. Crook Brothers Trucking, LLC, Crook Cold Storage, LLC, ("Crook Brothers, Inc.") and Kenneth Crook, by their counsel, and note their opposition to the Plaintiff's motion to refer this matter to the Business Court Division for the reasons set out below.

The Crook companies are related business entities that are engaged in the business of wholesaling and distributing fresh produce. Kenneth Crook is an individual involved in the management of those companies. The Plaintiff, Worldwide Equipment Leasing, Inc., ("WELease") is a company engaged in the business of leasing commercial vehicles, including refrigerated vans. Crook Brothers, Inc. entered into a lease arrangement with WELease whereby Crook Brothers leased a fleet of refrigerated vans upon terms set out in the lease agreement between the parties and related schedules. During the course of these leases disputes arose between Crook Brothers, Inc., and WELease involving interpretation of that Agreement and duties of the parties thereunder. Ultimately WELease, without proper justification, breached its agreement with

Crook Brothers, Inc. and retook possession of several trucks prior to the end of the term of the lease resulting in harm to Crook Brothers, Inc.

The other party Defendants, Crook Brothers Trucking, LLC, Crook Cold Storage, LLC and Kenneth Crook, are named due to WELease's allegations that they have indemnity obligations under the subject lease agreement.

Rule 29.04 of the *West Virginia Trial Court Rules* defines "Business Litigation" proper for referral to the Business Court Division as pending actions in which: (1) the principal claim involves transactions between business entities; (2) the dispute involves commercial or technology issues where there is a need for specialized knowledge or expertise in the subject matter or familiarity with a specific law or legal principal that may improve the expectation of a fair and reasonable resolution; and (3) the principal claim does not involve consumer or personal matters.

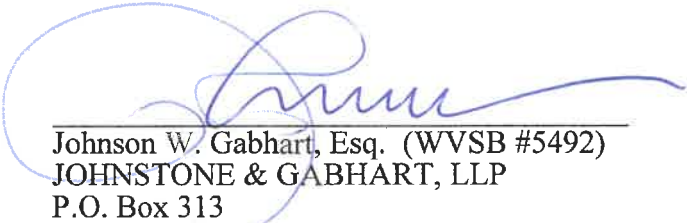
In this case, the principal claims both by the Plaintiff and the Counterclaim of the Defendant, do involve a commercial matter, the interpretation and operation of a commercial lease agreement involving the lease of commercial trucks. However, the case does not involve any unusual or complex legal principles, nor is there any need for specialized knowledge or expertise involving the operation of refrigerated, commercial vans.

The primary questions to be dealt with by the finder of fact in this case involve the review of a fairly simple commercial lease agreement, a determination as to whether either of the parties have failed to live up to their obligations under the terms of that agreement and a determination of any losses resulting therefrom. This is not a matter that requires any specialized knowledge of contract language or truck rentals and the Circuit Court of Raleigh County is certainly well-abled to address the issues presented.

For these reasons the Defendants respectfully object to and oppose the Plaintiff's motion to refer this matter to the Business Court Division.

Respectfully submitted,

**CROOK BROTHERS, INC., BROOK
BROTHERS TRUCKING, LLC, CROOK
COLD STORAGE, LLC, AND
KENNETH CROOK,**
By Counsel:



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Defendants.

CERTIFICATE OF SERVICE

I, Johnson W. Gabhart, counsel for the Defendants, do hereby certify that I served a true copy of the foregoing **“DEFENDANTS’ RESPONSE IN OPPOSITION TO PLAINTIFF’S MOTION TO REFER TO THE BUSINESS COURT DIVISION”** this 27th day of March, 2019, via U.S. mail, postage prepaid, addressed to the following:

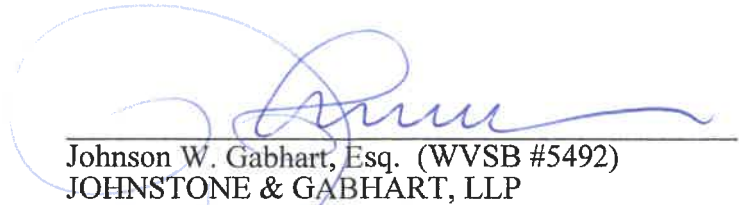
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