

IN THE CIRCUIT COURT OF HARRISON COUNTY, WEST VIRGINIA

ANTERO RESOURCES CORPORATION,

Petitioner,

v.

Civil Action No. 20-P-83-2

THOMAS A. BEDELL, Chief Judge

THE HONORABLE DALE STEAGER,
West Virginia State Tax Commissioner,
THE HONORABLE JOSEPH R. ROMANO,
Assessor of Harrison County, and
THE COUNTY COMMISSION OF HARRISON COUNTY,
Sitting as a Board of Assessment Appeals,

Respondents.

TO: THE HONORABLE CHIEF JUSTICE, TIM ARMSTEAD

**REPLY MEMORANDUM OF THE HONORABLE THOMAS A. BEDELL
TO ANTERO RESOURCES CORPORATION'S MOTION 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, Chief 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 Petitioner's *Antero Resources Corporation's Motion To Refer Case To The Business Court Division* which is further accompanied by Exhibits A and B.¹

¹ This affected judge has no record of being provided or otherwise received a "courtesy copy" of such Motion to Refer or accompanying Exhibits in keeping with West Virginia Trial Court Rule 29(a)(3) as of the date of its Reply Memorandum. However, as copies thereof were filed herein on September 21, 2020, they have been reviewed by this affected judge along with the entirety of the civil action file herein.

Exhibit A being a copy of West Virginia State Tax Department's "Important Notice To Producers Of Natural Gas And Oil For Property Tax Year 2021" (dated June 30, 2020) with attachment; Exhibit B being copies of Harrison County Circuit Clerk's Case Index Page (Docket Sheet) for Civil Action No. 20-83(-2) dated September 11, 2020 and *Petition Of Petitioner Antero Resources Corporation*.

A Notice Of Filing Of Motion To Refer To The Business Court Division dated September 23, 2020 and provided by Edythe Nash Gaiser, Clerk of Court, Supreme Court of Appeals of West Virginia, to the Clerk of this Court was filed herein on September 23, 2020. This affected judge was further and duly provided a courtesy copy of such Notice of Filing stating such Motion to Refer had been filed and docketed pursuant to Rule 29.06(a)(1) of the West Virginia Trial Court Rules and that a Reply Memorandum may be timely filed on or before October 8, 2020.

Upon such filings and notice as well as in keeping with Rule 29.06(a)(4) of the West Virginia Trial Court Rules, this affected judge now timely replies, in memorandum form, to Petitioner's Motion to Refer for the benefit of Chief Justice Tim Armstead and for his honorable review all thereof and subsequent determinations all thereon, to-wit:

1. Since the filing of such Motion to Refer herein on September 21, 2020 and prior to the preparation of this Reply Memorandum, this affected judge has not caused to be entered any order to stay further proceedings herein as is allowed within its discretion pursuant to Rule 29.06(b) of the West Virginia Trial Court Rules.

2. Prior the filing of such Motion to Refer, the record herein reflects that all named Respondents have been served with a *Civil Summons* and *Complaint*. Additional pleadings filed since such service include: (a) *Answer Of The Honorable Dale W. Steager, WV State Tax Commissioner, To Petition Of Petitioner Antero Resources Corporation* filed on June 30, 2020; (b) *Answer Of The Honorable Joseph R. Romano To Petition Of Petitioner Antero Resources Corporation* filed on June 11, 2020; and (c) *Answer And Response Of The County Commission Of Harrison County To Petition* filed on May 13, 2020.

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

4. In keeping with West Virginia Trial Court Rule 29.06(a)(1), the Plaintiff's Motion to Refer appears to adequately reflect the nature and complexity of this Civil Action to establish a sufficient basis for referral by meeting the criteria of "Business Litigation" as particularly defined in subparts (a)(1) and (a)(2) as well as provided in subpart (a)(3) as to "complex tax appeals" in Rule 29.04 of the West Virginia Trial Court Rules.

5. It is confirmed that there are currently no other known related actions pending before this affected judge or in this circuit.²

6. It is further confirmed that there are no other pending Motions or other procedural matters in this Civil Action requiring further determinations at this present time.

7. It further appears that earlier civil actions of such similar nature have been referred and transferred to the Business Court Division that involve(d) quite similar if not identical claims and issues of law as those herein.³

Conclusion

This affected judge believes himself fully able to preside over this civil action competently, efficiently, and with more than adequate expectation for a fair, reasonable and final resolution of the controversies alleged by and between the parties herein.

² However, it does appear that related actions are possibly pending in the Second and Third Circuits before other possibly affected judges for similar matters arising in Tyler, Doddridge and Ritchie Counties respectively. Those concerns are addressed in detail by Petitioner in its Motion to Refer. (*See* Motion to Refer, p. 2 at ¶ 2 and p. 3 at ¶ 1).

³ One such civil action having originally been before this affected judge prior to referral and transfer, to-wit: Harrison County Civil Action No. 17-C-98-2.

However, this affected judge further believes and thereby concurs with Petitioner, as represented by Petitioner's legal counsel, that this action satisfies the substantive requirements to sufficiently constitute "Business Litigation". Thereupon, this affected judge is not opposed to having this Civil Action referred to the Business Court Division for further management and resolution as contemplated under Rule 29 of the West Virginia Trial Court Rules.

Therefore, should it be deemed appropriate to refer this matter directly upon Petitioner, Antero Resources Corporation's, Motion to Refer or to otherwise direct the Business Court to conduct a hearing and make recommendations concerning further proceedings under West Virginia Trial Court Rule 29.06(c), this Court will not take umbrage to your actions and accordingly be in full support thereof.

Filing and Certificate of Service

In keeping with Rule 29.06(a)(4), this Reply Memorandum is being filed with the Clerk of the Supreme Court of Appeals with service of true copies to the Clerk of the Harrison County Circuit Court, the Central Office of the Business Court Division, and to all parties through their identified legal counsel via first class United States Mail certified.

Having so responded, this Reply Memorandum is respectfully submitted on September 30, 2020 for your most kind consideration.



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