



FIFTEENTH JUDICIAL CIRCUIT
DIVISION 3

HARRISON COUNTY

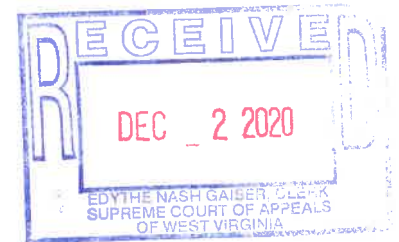
JAMES A. MATISH, JUDGE
PHONE (304) 624-8593
FAX (304) 624-8592

HARRISON COUNTY COURTHOUSE
301 WEST MAIN STREET, ROOM 116
CLARKSBURG, WEST VIRGINIA 26301

November 25, 2020

Via Regular Mail

Edythe Nash Gaiser, Clerk of Court
Supreme Court of Appeals of West Virginia
State Capitol Room E-317
1900 Kanawha Boulevard East
Charleston, West Virginia 25305



Re: *Capital Wealth Advisors v. Thomas Benyon, et al.*
Civil Action No. 20-C-209-3

Dear Clerk:

Enclosed, please find the original *Judicial Response to Defendants' Motion to Refer to the Business Court Division*, from the undersigned Judge. True copies of the same have been served in accordance with West Virginia Trial Court Rule 29.06.

Thank you for time and assistance. Please do not hesitate to contact me if you have any questions or concerns.

Regards,

Judge James A. Matish

cc: John F. Gianola; Robert J. D'Anniballe, Jr.; Albert Marano; Central Office,
Business Court Division

IN THE CIRCUIT COURT OF HARRISON COUNTY, WEST VIRGINIA

CAPITAL WEALTH ADVISORS, INC.

Plaintiff,

v.

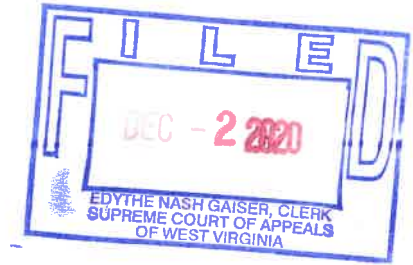
Civil Action No. 20-C-209-3

Judge James A. Matish

THOMAS BENYON,
BENJAMIN STEINER,
MARTIN METHODIEV, and
CAPITAL WEALTH ADVISORS, LLC,

Defendants.

TO: THE HONORABLE CHIEF JUSTICE



JUDICIAL RESPONSE
TO MOTION TO REFER TO THE BUSINESS COURT DIVISION

Pursuant to Rule 29.06 of the West Virginia Trial Court Rules, the Honorable James A. Matish, Circuit Judge for the Fifteenth Judicial Circuit, respectfully submits his response in the above-styled Civil Action No. 20-C-209-3, currently pending before the Circuit Court of Harrison County, Division 3, to a motion that the case be referred to the Business Court Division.

The complaint in this case was filed on August 18, 2020. The Defendant responded with a motion to dismiss the complaint on September 23, 2020. The Defendant moved to refer this case to the Business Court Division on November 5, 2020. The Plaintiff responded on November 24, 2020, stating that it did not object to this case being referred to the Business Court Division.

The principal claim in this case involves certain dealings between the Defendants and CityNet, LLC, an Internet service provider with its base of operations

in Bridgeport. Plaintiff claims that Defendants tortiously and fraudulently obtained confidential information belonging to Plaintiff from CityNet, to the detriment of Plaintiff's business.

This Court has no objection to referral to the Business Court Division. The disputes to be tried involve complex issues relating to business torts, corporate structure and operations, and information technology. Specialized treatment by a court with specialized knowledge of the subject matter and familiarity with the specific law and/or legal principles relating to these issues will certainly improve the expectation of a fair and reasonable resolution of the controversy. The claims involve complex tort claims, which are eligible to be referred to the Business Court Division under West Virginia Trial Court Rule 29.04(a)(1) and 29.04(a)(2). Additionally, the Court is unaware of any related actions currently pending or if any such actions will be filed in the future, other than Defendants' representation that litigation is pending in Florida.

The Court has served a copy of the Motion on all parties specified in Rule 29.06(a)(3): John F. Gianola, Counsel for Plaintiff, Robert J. D'Anniballe, Jr., Counsel for Defendants; Albert Marano, Circuit Clerk of Harrison County; and the Central Office of the Business Court Division. This original Response has been mailed to Edythe Nash Gaiser, Clerk of the Supreme Court of Appeals of West Virginia.

Respectfully submitted on November 25, 2020,



Judge James A. Matish
15th Judicial Circuit, Division 3