

**IN THE CIRCUIT COURT OF HARRISON COUNTY, WEST VIRGINIA  
BUSINESS COURT DIVISION**

**RONALD LANE, INC., a West  
Virginia Corporation, CHRISTOPHER  
LANE and NORMAN LANE,**

**Plaintiffs,**

**v.**

**Civil Action No.: 21-C-12-2  
Presiding: Judge Lorensen**

7-15-2021  
R. Goodwin, II  
R. Owen  
T. Owen  
L. di Trapano  
S. Higgins  
J. Hoblitzell  
M. Elshieby  
J. Granola  
J. Granola  
D. Taylor, Jr.  
K. McGee

**RONALD LANE,**

**Defendant.**

**and**

**RONALD LANE,**

**Plaintiff,**

**vs.**

**Civil Action No. 21-C-60 Kanawha  
Presiding: Judge Lorensen**

**CHRISTOPHER LANE,  
NORMAN LANE, and  
RONALD LANE, INC.  
a West Virginia limited liability corporation,**

**Defendants.**

**ORDER GRANTING ALL PARTIES' MOTION TO  
TRANSFER AND CONSOLIDATE RELATED CASES**

On June 8, 2021, Plaintiffs, Ronald Lane, Inc. ("RLI"), Christopher Lane, and Norman Lane, as well as Defendant, Ronald Lane, (collectively, the "Parties") filed with this Court their Joint Motion to Transfer and Consolidate Related Cases (the "Motion").

1. The Motion pertains to the following two related actions between the exact same parties who are represented by the same counsel:

- Circuit Court of Harrison County, Civil Action No. 21-C-12-2 (the “Harrison County Action”); and
- Circuit Court of Kanawha County, Civil Action No. 21-C-60 (the “Kanawha County Action”).

The Harrison County Action and the Kanawha County Action arise from the same aggregate set of operative facts, were referred to the Business Court Division by the same Order by the Supreme Court of Appeals, and have been assigned to the same Presiding Judge and Resolution Judge.

2. As indicated by the name of the Motion, the Parties request that the Kanawha County Action be transferred to the Circuit Court of Harrison County, and once transferred, consolidated with the Harrison County Action into a single action. The Motion is unopposed by any Party to the Harrison County Action or the Kanawha County Action.

3. Decisions on whether to transfer and/or consolidate related cases pending before different courts is governed by Rule 42(b) of the West Virginia Rules of Civil Procedure, which provides, in pertinent part, as follows:

When two or more actions arising out of the same transaction or occurrence are pending before different courts . . . the court in which the first such action was commenced *shall* order all the actions transferred to it or any other court in which any such action is pending. The court to which the actions are transferred may . . . order all the actions consolidated[.] . . . .

(Emphasis added). Accordingly, where the actions pending in different courts arise out of the same transaction or occurrence, the decision to transfer is mandatory, even though the decision to consolidate is discretionary. Syl., *Hanlon v. Joy Mfg. Co.*, 187 W. Va. 280 (1992); Syl., *Bank of Ripley v. Thompson*, 149 W. Va. 183 (1964).

4. Two or more actions arise out of the same transaction or occurrence for purposes of Rule 42(b) if they “arise[] out of the same aggregate of operative facts.” *State ex rel. Taylor v. Nibert*, 220 W. Va. 129, 133 (2006) (quotations, citations, and italics omitted).

5. The Harrison County Action and the Kanawha County Action arise out of the same aggregate of operative facts because, *inter alia*, they contain claims relating to real property acquired by the same individual (Ronald Lane) and improved and maintained with the equipment, labor, and resources of the same corporation (RLI). Moreover, the Harrison County Action and the Kanawha County Action were assigned to the same Presiding Judge and Resolution Judge. Because the Harrison County Action and the Kanawha County Action arise from the same transaction or occurrence, transfer is mandatory under West Virginia law.

6. The Parties have represented that they are each in agreement that transfer of the Kanawha County Action to Harrison County is preferred, as opposed to transfer of the Harrison County Action to Kanawha County.

7. In addition to transfer of the Kanawha County Action to Harrison County, the Parties also request that the Harrison County Action and the Kanawha County Action be consolidated into a single action. The following factors guide the Court’s consideration of whether a request for consolidation should be granted under West Virginia Rule of Civil Procedure 42:

- a. “[W]hether the risks of prejudice and possible confusion outweigh the considerations of judicial dispatch and economy;”
- b. “[W]hat burden would be on the parties, witnesses, and available judicial resources posed by multiple lawsuits;”
- c. “[T]he length of time required to conclude multiple lawsuits as compared to the time required to conclude a single lawsuit;” and
- d. “[T]he relative expense to all concerned of the single-trial, multiple-trial alternatives.”

Syl. Pt. 1, in part, *State ex rel. Appalachian Power Co. v. MacQueen*, 198 W. Va. 1 (1996) (quotations and citations omitted).

8. All factors enumerated in Paragraph 7 support consolidating the Harrison County and Kanawha County Actions. All parties desire for both actions to be consolidated, and no party would be prejudiced thereby. In addition, making the Parties duplicate efforts and proceed with two separate actions when one action suffices would unnecessarily increase the burden imposed on the Parties, as well as the length of time and expense required to resolve all disputes.

9. Accordingly, transfer of the Kanawha County Action, including its court files, to the Circuit Court of Harrison County and consolidation of the Harrison County Action and the Kanawha County Action into a single action will promote judicial economy by avoiding the duplication of efforts and by reducing the time and expense that would otherwise be required to resolve two separate actions, with one action pending in Harrison County and the other pending in the opposite end of the state in Kanawha County.

10. Having considered the information provided by the Parties to the Court, the Court FINDS and CONCLUDES that the Kanawha County Action should be transferred to this Court and consolidated with the Harrison County Action.

WHEREFORE, this Court ORDERS:

1. That the Kanawha County Action be transferred to the Circuit Court of Harrison County, West Virginia, Business Court Division;
2. That the Circuit Clerk of Kanawha County shall send the court file in the Kanawha County Action (Civil Action No. 21-C-60) to the Circuit Clerk of Harrison County;
3. That, upon transfer of the Kanawha County Action to Harrison County, the Kanawha County Action and the Harrison County action shall be consolidated into the instant matter and all filings shall be made with the Clerk for;
4. That the Clerk of this Court is hereby ordered to file a copy of this Order in both the Harrison County Action and the Kanawha County Action; and

5. The Clerk of this Court is hereby directed to send an executed copy of this Order to all counsel of record.

ENTERED this 15 day of July 2021.



JUDGE MICHAEL D. LORENSEN

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