

FILED
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CATHY S. GATSON, CLERK
KANAWHA COUNTY CIRCUIT COURT

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA
BUSINESS COURT DIVISION

LEWIS CLARK TIERNEY, III; et al.,

Plaintiffs,

v.

Civil Action No. 18-C-90
Presiding: Judge Farrell
Resolution: Judge Lorensen

ANN TIERNEY SMITH, et al.,

Defendants.

**AGREED ORDER GRANTING MOTION
FOR SUBSTITUTION OF ANN TIERNEY SMITH**

Before the Court is the motion of Plaintiffs, Lewis Clark Tierney, III, et al. ("Plaintiffs") to substitute Ann Barclay deWet and Laurence E.T. Smith, for Defendant Ann Tierney Smith, who passed away on December 27, 2021.

As indicated by the submission of this Agreed Order, no party objects to *Plaintiffs' Motion for Substitution of Parties* and the Court takes the matter under submission without hearing. Pursuant to Rule 25(a)(1) of the West Virginia Rules of Civil Procedure, "[i]f a party dies and the claim is thereby not extinguished, the court may order substitution of the proper parties." W. Va. R. Civ. Pro. 25(a)(1) in part. Furthermore, "[t]he motion for substitution may be made by any party or by the successors or representatives of the deceased party." *Id.*

Having considered all applicable authorities, and the record as a whole, and there being no objection thereto, the Court hereby **GRANTS** Plaintiff's Motion and **ORDERS** that Ann Barclay deWet and Laurence E.T. Smith in their capacity as executrix and executor, respectively, be substituted for Defendant Ann Tierney Smith. The Court grants this motion pursuant to its limited jurisdiction attendant to the appeal of this matter to the Supreme Court of Appeals of West

THE UNITED STATES OF AMERICA

DEPARTMENT OF JUSTICE

OFFICE OF THE ATTORNEY GENERAL

WASHINGTON

February 1, 1942

TO THE HONORABLE CHIEF JUSTICE OF THE SUPREME COURT OF THE UNITED STATES

FROM THE ATTORNEY GENERAL

RE: *Ex parte* [Name]

1. [Text]

2. [Text]

3. [Text]

4. [Text]

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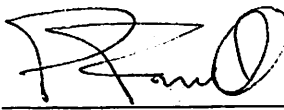
14. [Text]

Virginia. Grant of Plaintiffs' Motion in no way prejudices or limits the right of the defendants to assert any argument on appeal.

The Court directs the Circuit Clerk to distribute attested copies of this order to all counsel of record and to the Business Court Central Office at West Virginia business Court Division, 380 West South Street, Suite 2100, Martinsburg, West Virginia, 25401.

Entered this 4 day of Jan, 2022.

STATE OF WEST VIRGINIA
COUNTY OF KANAWHA, SS
I, CATHY S. SATSON, CLERK OF CIRCUIT COURT OF SAID COUNTY
AND IN SAID STATE, DO HEREBY CERTIFY THAT THE FOREGOING
IS A TRUE COPY FROM THE RECORDS OF SAID COURT
GIVEN UNDER MY HAND AND SEAL OF SAID COURT THIS 7th
DAY OF April 2022
Cathy S. Satson CLERK
CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA
L. Allen



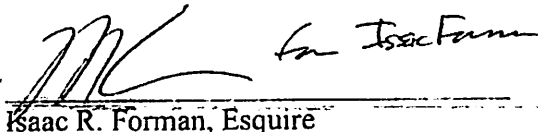
JUDGE PAUL T. FARRELL
Judge of the West Virginia Business Court Division

Agreed to by:

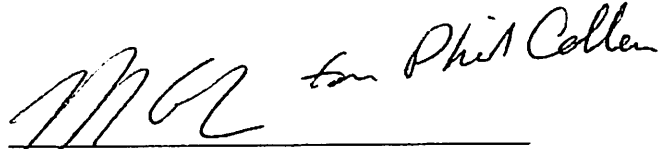


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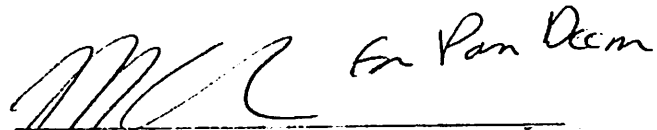


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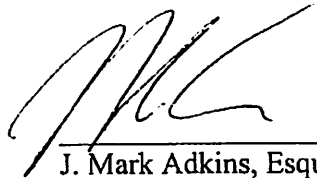
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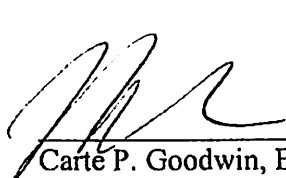
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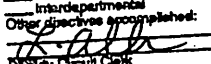
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Date: 4/7/2022
Certified copies sent to:
☒ counsel of record
☒ parties
☐ other (please indicate)
By: ☒ certified/1st class mail
☐ fax
☐ hand delivery
☐ interdepartmental
Other directives accomplished:

Deputy Circuit Clerk

*C. Goodwin
J. Adkins
R. Allen
J. Gorman
P. Collier
Bus Ct*

100-443887-1000