

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

DOUGLAS E. GRIFFITH, JR.,
an individual, and
ILEASE & RENTALS, LLC,
a West Virginia Limited Liability Company,

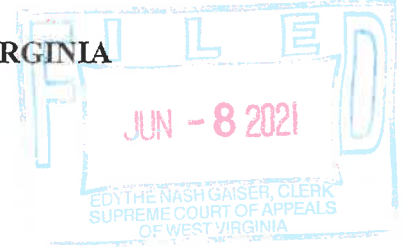
Plaintiffs,

v.

MVB BANK, INC, a West Virginia
Corporation, and JARROD FURGASON,
an individual,

Defendants.

Harrison County Circuit Court
Civil Action No. 20-C-231
Judge James A. Matish



MOTION TO REFER CASE TO THE BUSINESS COURT DIVISION

TO: The Honorable Chief Justice

NOW COME Plaintiffs Douglas E. Griffith, Jr., and iLease & Rentals, LLC (respectively “Mr. Griffith” and “iLease”), by their undersigned counsel, and pursuant to Rule 29.06 of the West Virginia Trial Court Rules respectfully request the above-styled case be referred to the Business Court Division.

In regard to additional related actions:

- ☒ There are no known related actions.
- ☐ The following related actions could be the subject of consolidation, and are
- ☐ now pending
- or
- ☐ may be filed in the future. (Please list case style, number, and Court if any)

This action involves: (Please check all that apply)

- | | |
|--|---|
| <input checked="" type="checkbox"/> Breach of Contract; | Professional Services to a Commercial Entity; |
| <input type="checkbox"/> Sale or Purchase of Commercial Entity; | <input type="checkbox"/> Anti-trust Actions between Commercial Entities; |
| <input type="checkbox"/> Sale or Purchase of Commercial Real Estate; | <input type="checkbox"/> Injunctive and Declaratory Relief Between Commercial Entities; |
| <input type="checkbox"/> Sale or Purchase of Commercial Products Covered by the Uniform Commercial Code; | <input checked="" type="checkbox"/> Liability of Shareholders, Directors, Officers, Partners, etc.; |
| <input type="checkbox"/> Terms of a Commercial Lease; | <input type="checkbox"/> Mergers, Consolidations, Sale of Assets, Issuance of Debt, Equity and Like Interest; |
| <input checked="" type="checkbox"/> Commercial Non-consumer debts;
(continued on next) | <input type="checkbox"/> Shareholders Derivative Claims; |
| <input checked="" type="checkbox"/> Internal Affairs of a Commercial Entity; | <input checked="" type="checkbox"/> Commercial Bank Transactions; |
| <input type="checkbox"/> Trade Secrets and Trademark Infringement; | <input type="checkbox"/> Franchisees/Franchisors; |
| <input type="checkbox"/> Non-compete Agreements; | <input type="checkbox"/> Internet, Electronic Commerce and Biotechnology |
| <input checked="" type="checkbox"/> Intellectual Property, Securities, Technology Disputes; | <input checked="" type="checkbox"/> Disputes involving Commercial Entities;
or |
| <input checked="" type="checkbox"/> Commercial Torts; | <input type="checkbox"/> Other (Describe) _____ |
| <input type="checkbox"/> Insurance Coverage Disputes in Commercial Insurance Policies; | |
| <input type="checkbox"/> Professional Liability Claims in Connection with the Rendering of | |

In support of this Motion, Plaintiffs represent that this matter contains issues significant to businesses, and presents novel and/or complex commercial or technological issues for which specialized treatment will be helpful, as more fully described here:

In this Civil Action Plaintiffs Douglas E. Griffith Jr. and iLease & Rentals, LLC, a limited liability company co-owned by Mr. Griffith, assert claims against Defendants MVB Bank, Inc. and its former Market President W. Jarrod Furgason arising out of a failed transaction involving a commercial letter of credit, an insurance premium financing and securitization transaction and related acts. The Complaint states causes of action for Negligence, Breach of Contract, Fraud/Fraudulent Misrepresentation, Unfair Trade Practices, Violation of Insurance Sales Consumer Protection Act and

Negligent Supervision and Retention as to MVB Bank's Market President. *See Complaint, attached as EXHIBIT A.* Both Defendants MVB Bank and Mr. Furgason generally deny Plaintiffs' allegations. *See Answers, attached as, respectively, EXHIBITS B and C.* On or about April 7, 2021, Defendant MVB Bank, with leave of Court, filed a Counterclaim against iLease & Rentals, LLC and Mr. Griffith for alleged events of default under certain commercial loan agreements and guarantees. *See Counterclaim, attached as EXHIBIT D (exhibits to Counterclaim omitted).* Plaintiffs generally deny the allegations of the Counterclaim. *See Answer to Counterclaim, attached as EXHIBIT E.* All of the transactions described in the Complaint, Counterclaim and other pleadings are primarily commercial in nature.

This case fits squarely within the definition of "business litigation" as defined in W.Va. T.C.R. 29.04 and involves complicated issues associated with banking, securities offerings, esoteric financing vehicles, and the liability of Defendant MVB Bank and its Market President Mr. Furgason for recommending such a scheme to Plaintiffs. In addition to the complex legal issues presented by the pleadings (**EXHIBITS A through E**), MVB Bank has already issued twenty-five (25) Subpoenas Duces Tecum to state-chartered and national banks, accounting firms, financial services providers, insurance agencies, investment advisors, attorneys and law firms located in West Virginia and across the United States seeking information regarding MVB Bank employees, officers, directors, customers, and others which overwhelmingly implicate commercial transactions and enterprises. *See, e.g. "Document Requests" directed to subpoenaed parties by MVB Bank, attached as EXHIBIT F and EXHIBIT I, #20-27, 32-35, 64-76, 81-86, 90-91, 94-99, 103-104.*

For purposes of referral to the Business Court Division, the term "business litigation" covers actions pending in Circuit Court in which:

- (1) the principal claim or claims involve matters of significance to the transactions, operations, or governance between business entities; and

- (2) the dispute presents commercial and/or technology issues in which specialized treatment is likely to improve the expectation of a fair and reasonable resolution of the controversy because of the need for specialized knowledge or expertise in the subject matter or familiarity with some specific law or legal principles that may be applicable; and
- (3) the principal claim or claims do not involve: consumer litigation, such as products liability, personal injury, wrongful death, consumer class actions, actions arising under the West Virginia Consumer Credit Act and consumer insurance coverage disputes; non-commercial insurance disputes relating to bad faith, or disputes in which an individual may be covered under a commercial policy, but is involved in the dispute in an individual capacity; employee suits; consumer environmental actions; consumer malpractice actions; consumer and residential real estate, such as landlord-tenant disputes; domestic relations; criminal cases; eminent domain or condemnation; and administrative disputes with government organizations and regulatory agencies. . .

W. Va. T.C.R., Rule 29.04. The term “business litigation” does not exclude actions involving individuals as parties or that may have non-commercial aspects. The Business Court Division was established to provide specialized treatment for cases in which the *dominant* claims are related to commerce, are complex and would benefit from particular expertise. W.Va.T.C.R. 29.04(1). Adjudication of this matter and the issues involved will certainly require specialized knowledge and/or expertise in banking, insurance, loan servicing, alternative financing, securities offerings, and the legal principles surrounding these subjects. MVB Bank and Plaintiffs have ongoing business relationships. MVB Bank has asserted commercial claims against Plaintiffs and has sought information from Plaintiffs’ attorneys, accountants, bankers, insurers, and financiers claiming that all such business information is relevant. Under the circumstances, Defendants cannot credibly deny that business transactions are predominant in this litigation. This case fits well within the criteria set forth in W.Va.T.C.R. 29.04 and is appropriate for referral.

This Motion to Refer is made at the suggestion of Circuit Court Judge James A. Matish. On March 10, 2021, during a telephonic Scheduling Conference, Judge Matish asked the parties to consider

whether the case should be referred to the Business Court Division. Per Judge Matish's Order, each party provided the Court with its position on referral. *See letters dated March 26, 2021, attached as gross EXHIBIT G.* By letter dated May 24, 2021, Judge Matish asked that Plaintiffs file the instant Motion to Refer. See **EXHIBIT H**.

The purpose of the Business Court Division is to fairly and expeditiously resolve business litigation for West Virginia litigants. Plaintiffs believe that this case can be most efficiently and fairly resolved if it is referred to the Business Court Division without delay.


In further support of this Motion, please find attached hereto the following documents: Complaint, Answers, Counterclaim and Answer (**EXHIBITS A – E**), Sample Document Requests Directed by MVB Bank to Subpoena recipients (**EXHIBIT F**), Letters to the Circuit Court regarding referral to Business Court (**EXHIBIT G**), Letter from Judge Matish requesting filing of Motion to Refer (**EXHIBIT H**) and Harrison County Circuit Clerk Docket (**EXHIBIT I**).

In regard to expedited review, the Movants:

- ☒ DO NOT request an expedited review under W.Va. Trial Court Rule 29.06(a)(4), and give notice that all affected parties may file a memorandum stating their position, in accordance with W.Va. Trial Court Rule 29.
- ☐ hereby REQUEST that the Chief Justice grant this Motion to Refer without responses, pursuant to W.Va. Trial Court Rule 29.06(a)(4), and contend that the following constitutes good cause to do so: _____

WHEREFORE, Plaintiffs Douglas E. Griffith, Jr. and iLease & Rentals, LLC, hereby move The Court pursuant to W.Va. Trial Court Rule 29 and the Chief Justice of the Supreme Court of Appeals of West Virginia to refer this case to the Business Court Division.

Respectfully submitted, this 4 day of June, 2021,

By: 

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*Counsel to Douglas E. Griffith, Jr.
and iLease & Rentals, LLC*

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

DOUGLAS E. GRIFFITH, JR.,
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v.

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Defendants.

Harrison County Circuit Court
Civil Action No. 20-C-231
Judge James A. Matish

CERTIFICATE OF SERVICE

I, Holly S. Planinsic, do hereby certify that on this 4th day of June, 2021, I have served the foregoing "*Motion to Refer Case to Business Court Division*," with attachments by first class mail as follows:

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Clarksburg, WV 26301-2967

Business Court Division Central Office
Berkeley County Judicial Center
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Martinsburg, WV 25401

**DOUGLAS E. GRIFFITH, JR. and ILEASE
& RENTALS, LLC**

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IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

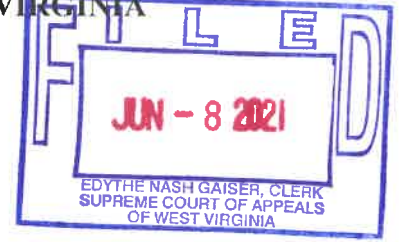
**DOUGLAS E. GRIFFITH, JR.,
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**Harrison County Circuit Court
Civil Action No. 20-C-231
Judge James A. Matish**

MOTION TO REFER CASE TO THE BUSINESS COURT DIVISION
INDEX OF EXHIBITS

- EXHIBIT A – Complaint**
- EXHIBIT B – MVB Bank, Inc.’s Answer to Plaintiffs’ Complaint**
- EXHIBIT C – Answer and Affirmative Defenses of Defendant Jarrod Furgason to Complaint**
- EXHIBIT D - MVB Bank, Inc.’s, Counterclaim Against iLease & Rentals, LLC, and Douglas E. Griffith, Jr.**
- EXHIBIT E - Answer to MVB Bank, Inc.’s Counterclaim**
- EXHIBIT F - Sample Document Requests Directed to Subpoenaed Parties**
- EXHIBIT G - March 26, 2021 Letters to Judge James A. Matish**
- EXHIBIT H - May 24, 2021 Letter from Judge James A. Matish**
- EXHIBIT I - Harrison County Circuit Court Docket – Case No. 20-C-231**

IN THE CIRCUIT COURT OF HARRISON COUNTY, WEST VIRGINIA

DOUGLAS E. GRIFFITH, JR.,
an individual, and
iLEASE & RENTALS, LLC,
a West Virginia Limited Liability Company,

Plaintiffs,

v.

MVB BANK, INC, a West Virginia
Corporation, and JARROD FURGASON,
an individual,

Defendants.

20-C-313
CIVIL ACTION NO.
Judge *Matish*

COMPLAINT

COME NOW, Plaintiffs Douglas E. Griffith, Jr., (hereinafter "Griffith") and iLease & Rentals, LLC, (hereinafter "iLease"), (Griffith and iLease are collectively referred to as "Plaintiff" and/or "Plaintiffs"), by their undersigned counsel, and in support of their claims against Defendants MVB Bank, Inc. (hereinafter "MVB") and Jarrod Furgason (hereinafter "Furgason") (MVB and Furgason are collectively referred to as "Defendant" or "Defendants"), respectfully state as follows:

PARTIES

1. Plaintiff Douglas E. Griffith, Jr. at all times material to this Complaint, was an individual resident of West Virginia. As of the date of filing this Complaint, Griffith is a resident of Florida and owns real and personal property located in the State of West Virginia. Griffith is the co-owner and Managing Member of Plaintiff iLease & Rentals, LLC and a longstanding customer of MVB Bank in Harrison County, West Virginia.

EXHIBIT A

2. Plaintiff iLease & Rentals, LLC, is a West Virginia limited liability company which has its principal office and place of business in Harrison County, West Virginia. iLease is jointly owned by Plaintiff Griffith and Christopher P. Sander, a resident of Harrison County, West Virginia. iLease is a longstanding customer of MVB in Harrison County, West Virginia.

3. Defendant MVB Bank, Inc., is a West Virginia corporation and state-chartered banking institution. MVB conducts business throughout the State of West Virginia and regularly conducted business with Plaintiffs at a physical bank location in Bridgeport, Harrison County West Virginia.

4. At all times material herein, Defendant Jarrod Furgason was a Market President and an officer of Defendant MVB Bank, Inc. Upon information and belief, Defendant Furgason is a resident of Kanawha County, West Virginia, and at all times material herein conducted business in Harrison County, including business with Plaintiffs, in his capacity as an officer, employee and agent of Defendant MVB Bank.

5. Defendant Furgason, at all times material to this Complaint, was an employee and officer of Defendant MVB, acting within the scope of his employment in Harrison County, West Virginia as Market President in accordance with the express and/or implied authority and at the direction of Defendant MVB. Defendant MVB is directly liable for all acts complained of in this Complaint and liable pursuant to the doctrine of *respondeat superior*.

VENUE & JURISDICTION

6. Venue for this case is proper in Harrison County, West Virginia pursuant to W.Va. Code §56-1-1(a)(1) and (5). The causes of action asserted herein arose in Harrison County, West Virginia. Additionally, many of the acts, omissions, communications, activities

and transactions at issue, including the insurance related transactions described herein, occurred in Harrison County, West Virginia.

7. Jurisdiction is proper in this Court pursuant to W.Va. Code §51-2-2.

FACTS

8. For years, Plaintiffs have had personal and business accounts and consumer and commercial loans with MVB and have relied primarily on MVB for their banking needs. Defendant MVB through its officers, employees and agents, including Defendant Furgason, have cultivated a relationship with Plaintiffs by, *inter alia*, providing what were claimed to be special perks and priority treatment designed to entice Plaintiffs to utilize MVB for all of their personal and commercial banking needs.

9. As the principal banker for Plaintiffs, Defendants obtained personal and intimate knowledge of Plaintiffs' financial condition and creditworthiness and had broad access to detailed confidential financial information regarding each Plaintiff. Plaintiffs were required to furnish Defendants with their financial data on an ongoing basis as part of the parties' continuing banking relationship and Defendants were empowered to obtain such information directly from Plaintiffs' accountants as part of the parties' special relationship. Defendants maintained this personal confidential information as fiduciaries and Defendants had a fiduciary relationship with Plaintiffs at all times material herein.

10. Defendant Furgason was assigned by MVB to be the primary contact for iLease and its principals and frequently traveled to the MVB location in Bridgeport, Harrison County, West Virginia to conduct business with Plaintiffs.

11. As Market President and authorized agent of MVB, in or around May 2019, Defendant Furgason approached Mr. Sander and Plaintiff Griffith with "a unique insurance

product" and investment offered by Defendant MVB. Defendant Furgason represented to Plaintiff Griffith and Mr. Sander that MVB could obtain a universal life insurance policy for each Defendant Griffith and Mr. Sander without them having to pay any premiums out-of-pocket, that would generate a substantial income during their lives and provide a death benefit of \$30,000,000 or more (hereinafter the "insurance/investment opportunity," "scheme" or "Plan").

12. Furgason further represented that a universal life insurance policy with these beneficial features would be secured by MVB for both Plaintiff Griffith and Mr. Sander with assistance from professional advisors associated with MVB and doing business as Opus Funding Partners ("Opus") and LifeGuard. Defendant MVB hosted the principals of Opus in Harrison County, West Virginia, where they were introduced to "preferred" customers of Defendants including Mr. Sander. Defendants also distributed promotional materials prepared by Opus to MVB customers and arranged meetings with the principals of Opus and LifeGuard and select MVB customers, including Plaintiff Griffith, to educate MVB customers about the insurance /investment opportunity.

13. To further entice and induce Plaintiffs to participate, Defendant Furgason represented that Defendant MVB's "legal team" had reviewed and approved the Plan. He further revealed that the President & CEO of MVB Bank had already taken advantage of the insurance/investment opportunity.

14. While engaging in the acts described in this Complaint, Defendants, together with agents of Opus and LifeGuard, were attempting to identify and target MVB customers with the financial means and other attributes to qualify for large life insurance policies that could be packaged with other policies in a fraudulent insurance/investment scheme for their mutual profit.

Absent the solicitation of Plaintiffs by Defendants, Plaintiffs would not have been aware of the Plan.

15. Defendants sponsored and held out the principals of Opus and LifeGuard and their associates to MVB customers, including Plaintiffs, as successful, knowledgeable, experienced, professional and reputable finance, insurance and investment professionals. Defendants MVB and Furgason knew or should have known that Opus and LifeGuard had little to no record of success and that their principals had been accused of engaging in improper business practices and/or declared bankruptcy.

16. Plaintiffs Griffith and iLease detrimentally relied upon Defendants' representations, promises and recommendations and agreed to participate in the insurance/investment opportunity promoted and recommended by Defendants MVB and Furgason.

17. In order to exercise the opportunity, Defendants initially directed Plaintiff Griffith and Mr. Sander to each procure a letter of credit with a competitor of MVB - 1st United Bank. The letter of credit arranged¹ by Defendants was then pledged as collateral for a short-term loan from third-party financing company BankDirect Capital Finance ("BankDirect") that was not registered to do business or regulated in West Virginia.

18. Defendants' Plan presented to Plaintiffs in late June 2019 provided that the short-term loan funds from BankDirect would be used to pay a one-time premium on a universal life insurance policy from a highly rated insurer. Within 90 to 150 days of the closing of the BankDirect loan, a second financier known as LifeGuard was to purchase the short-term loan

¹ Due to the large amount of cash needed to secure the letters of credit, a decision was made by Plaintiffs to first proceed with the insurance/investment opportunity only for Plaintiff Griffith. After Mr. Griffith's transaction was complete and the funds securing the letter of credit released, Mr. Sander was to repeat the process using the same funds.

from BankDirect. At that point, based on Defendants' representations, all of Plaintiffs' funds deposited at 1st United Bank to secure the letter of credit were to be released and returned to Plaintiffs.

19. Defendants represented that the universal life insurance policy on Plaintiff Griffith's life, financed through the Plan, would generate enough income to pay all premiums owed for the duration of the policy and, within a few years after the inception of the policy, would also generate substantial income. According to Defendants' representations, the "unique insurance product" (the insurance/investment opportunity) they marketed to Plaintiffs "can get you a 20mm universal life insurance policy with \$0 out of pocket expense."

20. Defendants MVB and Furgason explicitly assured, represented, contracted and promised Plaintiffs numerous times and in various ways that "you are getting \$14,000,000 in premiums paid for 15 yrs on a 20mm universal life ins policy & only thing u have to do is post an \$855,000 letter of credit for 90-150 days. U will NEVER personally make a pmt." Defendants further explicitly represented, contracted and promised that Plaintiffs "will get your [cash] collateral back in 90-150 days." These representations were false and constituted misrepresentations.

21. At Defendants' explicit direction, and in reliance on Defendants' representations, Plaintiff iLease borrowed from its existing line of credit at MVB and, together with additional funds belonging to iLease, deposited those funds of approximately \$430,634 at 1st United Bank to help secure the necessary letter of credit.

22. Defendant Furgason, with direct involvement of MVB employees in its Harrison County office, instructed that funds drawn on the line of credit first be deposited into Plaintiff Griffith's personal account at MVB and then wired from that MVB account to 1st United Bank.

23. Defendants required documentation for these borrowings by Plaintiff iLease, including collateral schedules and financial statements, even though Defendants knew that the iLease funds were being used to orchestrate transactions in furtherance of the life insurance/investment scheme.

24. In early August 2019, Furgason advised Plaintiffs that the funds borrowed by Plaintiff iLease from MVB and deposited at 1st United Bank were insufficient security for the letter of credit. Plaintiffs then were directed by Defendants to transfer additional funds to 1st United from Plaintiffs' deposit accounts at MVB.

25. Between June and August 2019, Defendants directed Plaintiff Griffith to "cash in" his and his wife's existing whole life insurance policies. The amount realized from Plaintiff Griffith's surrender of his life insurance policies, in excess of \$195,000, was also deposited at 1st United Bank as additional security for the letter of credit.

26. The letter of credit transaction engineered by Defendants Furgason and MVB was completed in September 2019.

27. Around September 2019 Defendants MVB and Furgason arranged for Plaintiff Griffith's purchase of a life insurance policy through Jeanie Baker ("Agent Baker"), a Utah-licensed agent associated with Opus and/or Lifeguard. Plaintiffs had no prior dealings with or knowledge of Agent Baker, Opus or Lifeguard and were directed to do business with her due to her association with Defendant MVB and as part of Defendants' insurance/investment scheme.

28. Defendant Furgason was the primary contact with Agent Baker and handled the application and other paperwork required for the purchase by Plaintiff Griffith of a universal life insurance policy with a \$30,000,000 death benefit. An Application for Individual Life Insurance was submitted on behalf of Plaintiff Griffith to Penn Mutual Insurance Company. Upon

information and belief, the majority of the information on the Application was supplied by Defendants MVB and Furgason.

29. Defendant Furgason presented Plaintiff Griffith with a series of signature pages required for the insurance application that were executed by Griffith at the direction of Defendants and then submitted by Defendants to Agent Baker.

30. A Penn Mutual Policy for Plaintiff Griffith was issued on or about September 16, 2019. Based on Defendants' representations, Plaintiffs understood that the Penn Mutual Policy was a universal life insurance policy purchased as part of the Plan that required no premium payments to remain in force, would generate significant income after a few years and pay a minimum guaranteed \$30,000,000 death benefit.

31. In anticipation of the issuance of the Penn Mutual Policy and to facilitate the Plan, in June 2019, Defendant MVB retained a West Virginia law firm, (referred to herein as "R.M.") to represent MVB in its dealings with Plaintiffs. Defendant Furgason directed Plaintiff Griffith to cooperate and coordinate with R.M. to complete the legal documentation required for the completion of the Plan.

32. R.M., as legal counsel for MVB Bank, prepared two irrevocable life insurance trusts ("ILITs") for Plaintiff Griffith's signature. At Defendants' direction, in early September, 2019, Plaintiff Griffith signed the ILITs at the office of R.M. in Harrison County, West Virginia.

33. After execution by Plaintiff Griffith of the ILITs prepared by R.M. on behalf of Defendant MVB, Defendant Furgason, with Opus and LifeGuard, arranged the short-term BankDirect loan.

34. To ensure that the BankDirect financing was approved, Defendant Furgason furnished Plaintiff Griffith with a list of questions that Defendants expected would be asked by a

BankDirect representative in advance of a telephone interview scheduled by Defendants. Defendant Furgason also furnished Plaintiff Griffith with the answers Griffith was to provide to the questioner. After the telephone interview, the life insurance premium financing arrangement recommended by Defendants MVB and Furgason to Plaintiffs as part of the Plan was approved by BankDirect.

35. To facilitate the BankDirect loan and final steps of the Plan, on or about September 9, 2019, Defendants secured the services of a second law firm referred to herein as "G.T." to document and close the BankDirect premium financing transaction.

36. Defendant Furgason furnished G.T. with the BankDirect loan documents on September 25, 2019 and advised Plaintiffs that G.T. would "review [the documents] to make sure you [Plaintiffs] are protected . . . this is in [your] best interest." Defendant Furgason further represented that he would also be reviewing the documents on Plaintiffs' behalf.

37. Defendants approved the BankDirect loan terms and documents and obtained Plaintiff Griffith's signatures required for the closing. Based on Defendants' recommendations, promises and representations together with their constant control, direction, oversight and approval, Plaintiff Griffith closed on the insurance premium financing transaction (which was part of the "Plan") with BankDirect sometime in early October 2019.

38. BankDirect and MVB Bank received fees of, respectively, \$15,000 and \$12,500 which were reflected on a list of disbursements made at closing. An entity known as "Oak Insurance Group, LLC," previously unknown to Plaintiffs, received a "loan origination fee" of roughly \$100,000 from the loan proceeds.

39. Upon information and belief, in addition to the disclosed payment to MVB by BankDirect at closing, Defendants received an undisclosed portion of the "loan origination fee"

paid to "Oak Insurance Group, LLC" and/or a portion of loan funds inaccurately identified on the closing statement as a "premium payment" as a commission or kickback for referring Plaintiff Griffith for participation in the Plan. Upon information and belief, additional commissions and fees were paid to other entities or individuals affiliated with Defendants but were also fraudulently misrepresented on the closing statement and related disclosures.

40. Around the time of the BankDirect loan closing in October 2019, Plaintiff iLease required operating capital but was unable to draw on its line of credit with Defendant MVB. This lack of available funds was caused by the substantial withdrawals on Plaintiff iLease's line of credit and transfers of deposits to 1st United Bank that had been directed by Defendants as part of the Plan.

41. During the time the funds from Plaintiff iLease's line of credit were being held at 1st United Bank to secure the letter of credit, Plaintiff iLease requested that Defendant MVB waive interest and other charges on its line of credit. Plaintiffs' request was refused.

42. Plaintiff iLease has continued making payments of interest and other charges associated with its line of credit at Defendant MVB in amounts that have not been determined. Plaintiffs iLease and Griffith and Mr. Sander were also required during this time to continue to furnish detailed confidential financial information to Defendants as a condition of MVB's extension of credit.

43. Knowing that Plaintiffs were facing a cash shortage, Defendants advised Plaintiffs that MVB was unable to process an application for an increase to their line of credit or an extension or forbearance to permit Plaintiff iLease to access funds for the operation of its business while its money was being held at 1st United. Defendants MVB and Furgason then arranged for another competitor, Premier Bank, to provide another loan to Plaintiff Griffith.

44. In lieu of additional financing through MVB, Defendants advised Plaintiffs that Plaintiff Griffith should obtain a line of credit from a pre-arranged loan officer at Premier Bank and which loan was to be secured by Griffith's unencumbered home in Weston, West Virginia.

45. Defendants MVB and Furgason arranged for the home loan at Premier Bank because, in their words, canceling Plaintiffs' participation in the Plan was "NOT an option" and the 1st United letter of credit had already been furnished to BankDirect. As a result, according to Defendants, it was impossible for Plaintiffs to obtain a return of their funds or to cancel their participation until all steps in the Plan were completed.

46. The Premier Bank home loan to Plaintiff Griffith closed on or about October 17, 2019. Defendants MVB and Furgason required that all of the loan funds provided by Premier Bank be deposited into the iLease account at MVB Bank as further security for the iLease line of credit. At the direction of Defendants MVB and Furgason and pursuant to the Plan, Plaintiffs deposited in excess of \$400,000 in Premier Bank loan proceeds into an MVB account.

47. After executing each of Defendants' instructions with respect to the letter of credit, universal life insurance policy, the ILITs prepared to MVB's specifications by MVB's counsel, the insurance premium financing transaction with BankDirect, and the Premier Bank home loan - all in furtherance of the Plan - Defendants repeatedly assured Plaintiffs that the final step in the Plan, the purchase or "take out" of the BankDirect loan by LifeGuard on terms that would generate enough income to pay all insurance premiums for the life of the policy and return of all of Plaintiffs' collateral, was imminent.

48. After several months of being strung along with a series of excuses and promises, Plaintiffs were finally advised in early 2020 that the insurance/investment scheme had failed, that LifeGuard would not provide financing and that Plaintiff Griffith's life insurance policy would

likely be converted to a one year term policy with no cash value or any of the features (income, insurance, no out-of-pocket premiums, return of all collateral, etc.) promised by Defendants.

49. Contrary to the explicit representations of Defendants MVB and Furgason made over a period of months, and as a result thereof, Plaintiffs have incurred damages in excess of \$1,000,000 plus penalties, interest, fees and costs, which continue to accrue, and considerable debt obligations that remain and continue to increase. Plaintiffs have now discovered that the majority of their funds/assets, which were promised to be returned to them in full, were distributed or diverted to Defendants MVB and Furgason and their associates or others in the form of fees, commissions and other charges or payoffs that were misrepresented and/or never disclosed to or agreed upon by Plaintiffs.

50. Upon information and belief, contrary to the representations and disclosures made by Defendants MVB and Furgason, less than half of the loan proceeds from the BankDirect loan went toward a premium payment on Plaintiff Griffith's life insurance policy. The remaining funds, approximately \$430,000, were paid to Defendants MVB and Furgason, Agent Baker, Oak Insurance Group, Opus and LifeGuard and others unknown.

51. During the insurance/investment scheme, Defendant Furgason falsely represented to Plaintiffs that Defendants had not and would not receive any payment for arranging, assisting and/or participating in the transactions that were part of the Plan described herein.

52. When Plaintiffs finally learned in early 2020 that the Plan presented, promoted, recommended and sold by Defendants had been a scam, Defendant Furgason and/or Opus attempted to convince Plaintiff Griffith to obtain a life insurance agent's license so that he could offset his losses by selling similar insurance/investment products to unwitting friends and associates.

53. Plaintiffs Griffith and iLease have a longstanding special relationship, fiduciary in nature, with Defendants MVB and Furgason and, as such, Plaintiffs expected that Defendants would exercise reasonable care in recommending, arranging, documenting and executing financial, insurance and investment transactions at MVB and other institutions as part of the Plan described herein and act solely in Plaintiffs' best interests.

54. Plaintiffs' expectations were heightened through Defendants MVB and Furgason's solicitations targeted to Plaintiffs as an opportunity reserved for Defendants' most qualified and valued customers and for MVB's most senior executive management, including its President & CEO. In addition, Defendants represented that their "legal team" had reviewed, approved and blessed the Plan and that it was particularly suited to Plaintiffs' financial goals.

55. While actively soliciting Plaintiffs' participation in the insurance/investment scheme, and inducing Plaintiffs to act in furtherance of Defendants' directives, Defendants MVB and Furgason represented that they were providing extraordinary services and products to Plaintiffs Griffith and iLease which were not offered to regular customers of MVB Bank.

56. Specifically, as a result of their special relationship with Plaintiffs, Defendants knew or should have reasonably foreseen that Plaintiffs would incur substantial losses and damages as a result of:

- (a) Withdrawal of funds from iLease's line of credit at MVB Bank which were deposited at 1st United Bank;
- (b) diverting receipts from iLease that would ordinarily have been deposited at MVB Bank in order to secure the letter of credit at 1st United Bank;
- (c) advising Plaintiff Griffith to "cash in" his and his wife's existing whole life insurance policies to raise funds for the letter of credit and to generate increased fees and commissions for Defendants;
- (d) neglecting to disclose to Plaintiffs the true nature of the insurance/investment opportunity (the "Plan") and the risks associated with their participation;

- (e) failing to investigate the bona fides of Opus and LifeGuard and their agents before introducing them to MVB customers and associating in a venture that relied on Defendants' identification of affluent targets;
- (f) engaging in activities that may have constituted a fraudulent and illegal offer of unregistered securities to Plaintiffs and others;
- (g) failing to disclose to Plaintiffs the true terms, costs and fees associated with each transaction that formed part of the Plan;
- (h) failing to notify Plaintiffs of the serious risks of loss and harmful contingencies associated with what ultimately turned out to be an insurance investment scam; and
- (i) failing to disclose and/or accurately state the compensation, premiums and other fees and costs to Plaintiffs that were actually received by Defendants and their agents, including funds paid to MVB Bank and/or Furgason as part of the insurance premium financing transaction and other aspects of the Plan.

57. All averments in this Complaint alleging damages are incorporated in each Count of this Complaint and said damages were a proximate result of the acts set forth in such Count. All averments in this Complaint are incorporated in each count of this Complaint.

COUNT I - Negligence

58. Defendants negligently and carelessly sold and/or marketed the Plan to Plaintiffs and/or negligently and carelessly assisted in the sale and marketing of the Plan and violated their duties to Plaintiffs. As a result Plaintiffs were damaged and injured as is herein described.

59. Defendants MVB and Furgason, by virtue of their special relationship with Plaintiffs, owed a duty to Plaintiffs to exercise reasonable care and skill in the handling of Plaintiffs' banking and financial affairs and in the marketing, recommendation and procurement of insurance, investments and/or other financially-related products, services and plans.

60. Defendants had a duty to follow reasonable and prudent standards of care applicable to financial institutions, fiduciaries and insurance agents to determine and disclose the

suitability and viability of the Plans' transactions for which they directly solicited Plaintiffs' participation.

61. Defendants' duties to Plaintiffs are duties of care imposed by West Virginia common-law, statutes and regulations pertaining to banks, the regulation of insurance, fiduciaries and financial institutions and restrictions on the offering of unregistered securities and investments. Defendants breached their duties to Plaintiffs in the particulars set forth herein and negligently and carelessly failed to properly disclose the risks and contingencies of the Plan, failing to act to prevent or mitigate the harm and damages suffered and to be suffered by Plaintiffs and by misrepresenting the benefits and insurance/investment product.

62. As a direct and proximate result of Defendants' egregious breaches of duty, carelessness and negligence Plaintiffs have suffered and will continue to suffer harm and damages as set forth herein.

COUNT II – Breach of Contract

63. Defendants MVB and Furgason breached their contract with Plaintiffs by soliciting Defendants to participate in the Plan which included the procurement of an insurance policy as described herein and failing to perform their representations and promises described herein.

64. Defendants explicitly promised Plaintiffs that they would obtain a universal life insurance policy insuring the life of Plaintiff Griffith with a death benefit of at least \$30,000,000. and other features that would produce income for Plaintiffs during the lifetime of Plaintiff Griffith and which would not cost them anything out-of-pocket other than posting a short-term letter of credit secured by funds contributed by both Plaintiffs for a short period of time that would then be released and returned to Plaintiffs.

65. Plaintiffs Griffith and iLease did as Defendants directed and performed all acts requested by Defendants in furtherance of the Plan and to secure an insurance policy.

66. Defendants MVB and Furgason failed to perform their obligations in that they did not deliver a life insurance policy with the promised features and benefits and therefore breached their contract with Plaintiffs.

67. As the direct and proximate result of Defendants' breach of contract, Plaintiffs Griffith and iLease have been damaged by failing to obtain the promised life insurance policy with a \$30,000,000 death benefit which would also pay income to Plaintiffs during Plaintiff Griffith's lifetime together with the loss of assets in excess of \$1,000,000 together with remaining debt and loss of credit, all of which is continuing and permanent and such other damages as are set forth herein, which continue to accrue.

COUNT III -- Fraud / Fraudulent Misrepresentation

68. Defendants MVB and Furgason knew or should have known of the exorbitant cost and extremely high risks and contingencies associated with the Plan they marketed, recommended, and/or sold to Plaintiffs and that their representations were not true.

69. At all times during their communications, meetings and other interactions, Defendants Furgason and MVB misrepresented to Plaintiffs that the insurance / investment opportunity they promoted was a suitable and beneficial strategy for Plaintiffs' business and personal goals. At no time did Defendants ever indicate to Plaintiffs that there was any possible contingency or risk regarding the outcome of the transactions they marketed, recommended, and/or sold to Plaintiffs.

70. At no time did Defendant MVB or Defendant Furgason disclose the substantial and avoidable losses that would be caused by directing Plaintiff Griffith to cash in his and his wife's existing whole life insurance policies to supply cash for the Plan.

71. At no time did Defendant MVB or Defendant Furgason disclose what the actual cost was for the life insurance policy and the "Plan" that Plaintiff Griffith purchased or that he was ultimately going to end up with a one-year term policy costing at least \$855,000 more than was represented.

72. Defendants MVB and Furgason never disclosed to Plaintiffs the true extent of their financial interests in the joint venture with Opus and/or LifeGuard and the Plan. In fact, Defendants used Plaintiffs, their longtime customers, as products for Defendants' own financial gain and represented to third-parties that they had other customers lined up to participate in the same insurance/investment scheme. Upon information and belief, Plaintiffs participation was used to market the Plan to other unwitting "preferred" MVB clients and/or others.

73. Defendants MVB and Furgason intentionally made false statements of material fact and/or omitted material facts they had a duty to disclose with respect to the various transactions described in this Complaint including but not limited to the following:

- (a) Defendants MVB and Furgason falsely represented that Plaintiffs' funds on deposit at 1st United Bank would be returned to them in full within 90 - 150 days of the issuance of the letter of credit;
- (b) Defendants MVB and Furgason falsely represented that they were applying for and purchasing a universal life insurance policy for Plaintiff Griffith that would generate investment income and a substantial death benefit of at least \$30,000,000;
- (c) Defendants MVB and Furgason falsely represented that Plaintiff iLease would not be damaged by depositing funds at 1st United Bank on a short-term basis drawn on its existing line of credit with MVB;

- (d) Defendants MVB and Furgason supplied Plaintiffs with information that was to be provided to BankDirect at their specific direction under circumstances that were falsely represented to Plaintiffs;
- (e) In order to induce Plaintiffs' participation in the Plan, Defendants MVB and Furgason falsely represented that several other preferred customers of MVB and MVB's President & CEO had successfully completed the same Plan and that MVB's "legal team" had approved the scheme;
- (f) Defendants MVB and Furgason falsely represented that the principals at Opus and LifeGuard were experienced, knowledgeable and reputable with respect to executing the insurance/investment Plan in which they solicited Plaintiffs' involvement;
- (g) Defendants MVB and Furgason falsely represented that a second loan or investment transaction had been committed to by LifeGuard which would obviate the need for Plaintiffs to make any premium payments on the universal life insurance policy and would result in significant investment returns and death benefit of at least \$30,000,000;
- (h) Defendants MVB and Furgason additionally made false statements of fact with respect to the fees charged by MVB and Ferguson and disbursement of loan funds received from BankDirect;
- (i) Defendants MVB and Furgason provided false statements of fact with respect to the actual costs and risks of the financing, life insurance premium funding arrangements and, upon information and belief, the potentially illegal offer to Plaintiffs of unregistered securities in violation of West Virginia law; and
- (j) Defendants MVB and Ferguson falsely represented that Plaintiffs would receive a \$30,000,000, life insurance policy, income during Griffith's lifetime and not pay any out-of-pocket premiums.

74. Defendants MVB and Furgason intended that Plaintiffs rely on each of the foregoing representations, and other misstatements they made regarding the life insurance financing transaction and other transactions that were part of the Plan described in this Complaint.

75. Plaintiffs were reasonable in relying on the statements of Defendants and in fact did rely to their detriment on Defendants' statements regarding the activities described herein.

76. Plaintiffs have suffered significant and substantial damage and will continue to suffer financial losses and other damages as set forth herein as a result of their reasonable and detrimental reliance on Defendants' representations.

77. As a result of the intentional acts, omissions and misrepresentations of Defendants, Plaintiffs have incurred staggering losses and expenses, will lose all funds securing the letter of credit, have been billed in excess of \$1,500,000 in additional life insurance premiums, have suffered substantial losses by surrendering whole-life insurance policies, are liable for the entire principal amount of the loan, interest and other charges and additional out-of-pocket funds including interest on money drawn from the Plaintiff iLease's line of credit at MVB Bank and Premier Bank home loan, have experienced and will continue to experience permanent emotional distress, aggravation, annoyance and inconvenience and such other damages as are described herein.

COUNT IV – Unfair Trade Practices
Misrepresentation and False Advertising of Insurance Policies

78. Prior to Defendants inducing Plaintiff Griffith to surrender his and his wife's existing whole life insurance policies, Defendants MVB and Furgason had actual knowledge that Plaintiff Griffith was an unsophisticated investor with only pedestrian knowledge of insurance and investments and that he had zero knowledge of or experience with insurance premium financing.

79. Prior to soliciting Plaintiffs' involvement in the insurance/investment scheme, Defendants MVB and Furgason knew or should have known of the high risks associated with the life insurance premium financing and Plan they marketed, recommended and/or sold to Plaintiffs. Nonetheless, Defendants actively induced Plaintiffs' participation in the Plan and

represented that the universal life insurance policy being purchased by Plaintiffs would generate significant investment income and a death benefit of at least \$30,000,000.

80. Defendants MVB and Furgason knew that Plaintiff Griffith and Plaintiff iLease had as their goals, respectively, the ability to produce income and ensure the long-term viability of iLease and secure the financial future of Plaintiff Griffith's family following his death.

81. Defendants MVB and Furgason knew that Plaintiff Griffith would suffer a significant financial loss and the loss of insurability by cashing in the existing whole life insurance policies he and his wife had in place. Nonetheless, Defendants recommended the surrender of Plaintiff Griffith's and his wife's existing life insurance policies because they were more interested in maximizing the commissions and fees they would receive through the Plan.

82. Defendants MVB and Furgason engaged in unfair methods of competition and unfair or deceptive acts or practices in the business of insurance in various ways, with such frequency as to indicate a general business practice, including, but not limited to:

- a) Misrepresenting the benefits, advantages, conditions or terms of the insurance policy marketed to and purchased by Plaintiff Griffith and Plaintiff iLease;

* * *

- b) Misrepresenting the dividends or other income to be received by Plaintiff Griffith and/or iLease on the insurance policy;

* * *

- c) Misrepresenting facts or omitting facts which induced Plaintiff Griffith and his wife to surrender and cash in their existing whole life insurance policies.

83. As a direct and proximate result of the acts alleged in this Complaint, Plaintiffs Griffith and iLease were damaged and injured as is described herein.

COUNT V – Violations of Insurance Sales Consumer Protection Act

84. Defendant MVB Bank and Defendant Furgason, separately and together, are a “financial institution” within the meaning of W.Va. Code §33-11A-3(c).

85. In his role as Market President of MVB Bank, Defendant Furgason solicited Plaintiffs Griffith and iLease for the purpose of inducing them to purchase insurance and engage in other transactions to benefit Defendants.

86. At all times relevant to this Complaint, including to the present, Defendant Furgason, as Market President, was Plaintiffs’ primary contact for their retail and commercial banking relationship with MVB with respect to their deposit accounts and loans. In this capacity, Defendant Furgason was the individual to whom Plaintiff Griffith and Plaintiff iLease communicated requests for extensions and modifications of credit.

87. Defendants’ involvement in Plaintiffs’ purchase of insurance, life insurance premium financing and failed Plan was initiated and directed by Defendants with others involved in the business of insurance. Defendants were solely responsible for introducing and referring Plaintiffs Griffith and iLease to these third parties who were participating in the insurance/investment scheme and received remuneration in the form of commissions, kickbacks or other payments as a result.

88. Upon information and belief, beginning in May 2019 and to the present, the terms of credit provided to Plaintiff Griffith and Plaintiff iLease, including but not limited to the availability of certain forbearances during the COVID-19 pandemic, have been affected by and tied to the Plaintiffs’ continued participation in the Plan promoted, recommended, arranged and engineered by Defendants MVB and Furgason. Additionally, the terms of credit extended to Plaintiff Griffith and Plaintiff iLease have been conditioned, at least in part, on their willingness

to obtain credit from other financial institutions in a manner directed by Defendants to facilitate the Plan.

89. Defendants MVB and Furgason have violated the Insurance Sales Consumer Protection Act in various ways, with such frequency as to indicate a general business practice, including, but not limited to:

- a. Soliciting Plaintiff Griffith for the purpose of inducing his purchase of universal life insurance without the required licensure;

* * *

- b. Solicitation of Plaintiff Griffith for the purpose of inducing his purchase of universal life insurance by an individual whose responsibilities include loan transactions and transactions involving the extension of credit;

* * *

- c. Referring Plaintiff Griffith to others for purposes of the purchase of an insurance product without disclosing the fees and commissions Defendants would receive out of Plaintiffs' funds;

* * *

- d. Conditioning terms of loans and extensions of credit and forbearance on Plaintiff's agreement to purchase insurance products and to continue Plaintiffs' participation in the insurance/investment scheme overseen by Defendants;

* * *

- e. Failing to make the required disclosures to Plaintiffs of, *inter alia*, the true nature of the insurance product being purchased by Plaintiffs, the risks associated with the insurance transactions and the lack of any guarantee of any benefit or return from the insurance product.

* * *

90. As a direct and proximate result of the acts alleged in this Count, including Defendants' numerous violations of the Insurance Sales Consumer Protection Act, Plaintiffs Griffith and iLease were damaged and injured as is herein described.

COUNT VI - Negligent Supervision and Retention

91. At all times relevant to this Complaint, Defendant Furgason was Market President and an officer and/or agent and employee of Defendant MVB Bank. MVB, as the employer of Defendant Furgason, was required to supervise the activities of Furgason and to have appropriate controls in place to protect MVB customers, including Plaintiffs.

92. Defendant MVB was or should have been aware of Furgason's activities in procuring a letter of credit from a competing bank as well as recommending and assisting in transactions meant to evade and/or violate the contractual obligations and/or regulatory requirements placed on Defendant MVB Bank and which facilitated Mr. Furgason's activities.

93. Defendant MVB knew or should have known of the dubious provenance of the advisors who were given access to MVB Bank "preferred" clients, including but not limited to Plaintiffs and failed to take any action to prevent or ameliorate the harm suffered by Plaintiffs as a result of their adherence to the repeated recommendations and directions of Defendants.

94. Upon information and belief, individuals at the highest level of management of MVB Bank, Inc. met with and sponsored the activities of the principals and agents of Opus and LifeGuard in an effort to target specific MVB customers. Defendant Furgason represented to third parties that MVB had other select customers lined up to participate in the same Plan and at least one MVB officer had already participated in the same insurance/investment scheme.

95. MVB has breached its duties to properly supervise Mr. Furgason and to guard against his improper actions all done within the scope of his employment with MVB Bank when

it knew or should have known of his activities. As a direct and proximate result of MVB's negligent supervision and retention, Plaintiffs have suffered irreparable harm and will continue to suffer harm in an amount to be proven at trial and as set forth herein.

COUNT VII - Punitive Damages

96. All of the acts of Defendants Furgason and MVB as alleged in each Count of this Complaint were willful, wanton, and malicious and/or reckless and/or in reckless disregard of the rights of their customers, Plaintiffs Griffith and iLease, and in derogation of the parties' special relationship and all of defendants' actions were done with actual malice, and, as such, punitive damages are warranted.

COUNT VIII - Damages

97. As a direct and proximate result of the acts of MVB Bank, Inc. and Jarrod Furgason as alleged in each count of this Complaint, Plaintiffs sustained and incurred the following damages:

- (a) Actual monetary losses in excess of \$1,000,000 associated with the failed insurance / investment scheme and with the surrender of the whole life insurance policies owned by Plaintiffs and Griffiths' wife together with debt obligations which are permanent and continuing and yet to be specifically quantified but are in excess of \$1,500,000;
- (b) Increased liabilities in an amount to be determined;
- (c) Damage to Plaintiffs' credit rating and other ratings maintained and used in financing and insurance underwriting;
- (d) Emotional distress in the past and in the future;
- (e) Annoyance, aggravation and inconvenience, lost profits, and loss of the value of the money to which Plaintiffs would be entitled;
- (f) Increased costs and expenses associated with conducting their business and personal financial affairs;
- (g) Costs associated with the prosecution of this action;

- (h) Damages in an amount necessary to purchase a \$30,000,000 life insurance policy which will generate substantial income for life with an A+ -rated insurer; and
- (i) Attorney fees and costs, pre and post judgement interest, fees for other services rendered and to be rendered in the prosecution of their claims if permitted by law.

WHEREFORE, Plaintiffs Douglas E. Griffith, Jr. and iLease & Rentals, LLC, demand judgment against Defendants MVB Bank, Inc. and Jarrod Furgason for compensatory and punitive damages in such amounts as a judge and/or jury shall find, together with prejudgment and post-judgment interest, attorney fees and costs incurred in and about the prosecution of this action, and for such other relief as this Court or a jury may find just and proper.

TRIAL BY JURY IS DEMANDED

Respectfully submitted,

By:



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H0017287.1

IN THE CIRCUIT COURT OF HARRISON COUNTY, WEST VIRGINIA

DOUGLAS E. GRIFFITH, JR.,
an individual, and
iLEASE & RENTALS, LLC,
A West Virginia Limited Liability Company,

Plaintiffs,

v.

CIVIL ACTION NO.: 20-C-231
Honorable James A. Matish

MVB BANK, INC., a West Virginia
Corporation, and JARROD FURGASON,
an individual,

Defendants.

MVB BANK, INC.'S ANSWER TO PLAINTIFFS' COMPLAINT

Defendant MVB Bank, Inc. ("MVB") for its Answer to Plaintiffs' Complaint states as follows:

PARTIES:

1. MVB admits that Plaintiff Griffith is a customer of MVB and a member of Plaintiff iLease. As to the remainder of the allegations, MVB is without knowledge or information sufficient to form a belief as to the truthfulness of the allegations contained in paragraph one (1) and therefore denies them and demands strict proof thereof.
2. MVB admits that iLease & Rentals, LLC ("iLease") has conducted business with MVB. As to the remaining allegations in paragraph two (2), MVB is without knowledge or information sufficient to form a belief as to the truthfulness of those allegations and therefore denies them and demands strict proof thereof.
3. MVB admits the allegations contained in paragraph three (3).
4. MVB admits that it employed Jarrod Furgason ("Mr. Furgason") until August 31, 2020. To the extent Plaintiff contends Mr. Furgason conducted business with Plaintiffs "in his capacity

as an officer, employee and agent of Defendant MVB Bank” that is a legal conclusion to which no response is required. To the extent a response is required, MVB denies that allegation and demands strict proof thereof. As to the remaining allegations in paragraph four (4), MVB is without knowledge or information sufficient to form a belief as to the truthfulness of those allegations and therefore denies them and demands strict proof thereof.

5. MVB admits that it employed Mr. Furgason as Market President until August 31, 2020. The remaining allegations in Paragraph five (5) are legal conclusions, such as MVB is liable under the doctrine of *respondeat superior*, to which no response is required. To the extent a response is required, MVB denies the allegations in paragraph five and demands strict proof thereof.

VENUE & JURISDICTION

6. Paragraph six (6) contains legal conclusions to which no response is required. To the extent a response is required, MVB denies the allegations in paragraph six and demands strict proof thereof.

7. Paragraph seven (7) contains legal conclusions to which no response is required. To the extent a response is required, MVB denies the allegations in paragraph seven and demands strict proof thereof.

FACTS

8. MVB admits that Plaintiffs maintained personal and business banking accounts with MVB. MVB denies the remainder of the allegations in paragraph eight (8) and demands strict proof thereof.

9. MVB admits that Plaintiffs furnished MVB with financial data as part of the banking business between MVB and Plaintiffs. To the extent Plaintiffs contend that MVB was Plaintiffs' "fiduciary" and that MVB "maintained a fiduciary relationship" with Plaintiffs, those allegations are legal conclusions to which no response is required. To the extent a response is required, MVB denies those allegations and demands strict proof thereof.

10. MVB admits that while Mr. Furgason was a contact for Plaintiff iLease and that they conducted business in the Bridgeport MVB office.

11. MVB denies the allegations in paragraph eleven (11) and demands strict proof thereof.

12. MVB denies the allegations in paragraph twelve (12) and demands strict proof thereof.

13. Paragraph thirteen (13) contains allegations wholly related to the conduct of Mr. Furgason. MVB is without knowledge or information sufficient to form a belief as to the truthfulness of those allegations and therefore denies them and demands strict proof thereof.

14. MVB denies the allegations in paragraph fourteen (14) and demands strict proof thereof.

15. MVB denies the allegations in paragraph fifteen (15) and demands strict proof thereof.

16. MVB denies the allegations in paragraph sixteen (16) and demands strict proof thereof.

17. MVB denies the allegations in paragraph seventeen (17) and demands strict proof thereof.

18. MVB denies the allegations in paragraph eighteen (18) and demands strict proof thereof.

19. MVB denies the allegations in paragraph nineteen (19) and demands strict proof thereof.

20. MVB denies the allegations in paragraph twenty (20) and demands strict proof thereof.

21. MVB admits that Plaintiff iLease has drawn from and maintains a line of credit at MVB. MVB denies the remainder of the allegations in paragraph twenty-one (21) and demands strict proof thereof.

22. MVB admits that funds were drawn from Plaintiff iLease's line of credit, deposited into Plaintiff Griffith's personal account, and wired to First United Bank.

23. MVB admits that it required Plaintiff iLease to complete certain paperwork before completing the transaction described in paragraph twenty-two (22) and provided Plaintiff iLease with paperwork to properly document that transaction. To the extent Plaintiffs allege these actions were taken in furtherance of a "scheme" or that MVB had any knowledge of the alleged "scheme," those allegations are denied. MVB does admit, however, that Plaintiff was required by the representations in loan paperwork he completed prior to any transaction with MVB to truthfully state the purposes of the loan.

24. As to the representations allegedly made by Mr. Furgason in paragraph twenty-four (24), MVB is without knowledge or information sufficient to form a belief as to the truthfulness of those allegations and therefore denies them and demands strict proof thereof. MVB denies the remainder of the allegations in paragraph twenty-four (24) and demands strict proof thereof.

25. MVB denies the allegations in paragraph twenty-five (25) and demands proof thereof.

26. MVB admits that Plaintiff Griffith was granted a letter of credit by First United Bank in September 2019. To the extent Plaintiff contends that MVB "engineered" the letter of credit transaction or controlled First United Bank's independent lending decisions, MVB denies the allegations in paragraph twenty-six (26) and demands strict proof thereof.

27. MVB denies the allegations in paragraph twenty-seven (27) and demands strict proof thereof.

28. MVB denies the allegations in paragraph twenty-eight (28) and demands strict proof thereof.

29. MVB denies the allegations in paragraph twenty-nine (29) to the extent Plaintiffs contend MVB "directed" or "submitted" the insurance application. As to the remainder of the allegations, they are premised on Mr. Furgason's independent conduct, and MVB is without knowledge or information sufficient to form a belief as to the truthfulness of those allegations. Therefore, MVB therefore denies those allegations and demands strict proof thereof.

30. MVB denies the allegations in paragraph thirty (30) and demands strict proof thereof.

~~31. MVB denies the allegations in paragraph thirty-one (31) and demands strict proof thereof.~~

32. MVB denies the allegations in paragraph thirty-two (32) and demands strict proof thereof.

33. MVB denies the allegations in paragraph thirty-three (33) and demands strict proof thereof.

34. To the extent this paragraph alleges that Mr. Furgason gave Plaintiffs a list of questions and answers for the interview process, MVB is without knowledge or information sufficient to form a belief as to the truthfulness of the allegations contained in paragraph thirty-four (34) and therefore denies them and demands strict proof thereof. As the remainder of the allegations, MVB denies them and demands strict proof thereof.

35. MVB admits that Plaintiff Griffith was represented in his personal capacity by G.T. for the transaction at issue in this Complaint, that G.T. is an acclaimed international law firm, and that G.T. provided Plaintiff Griffith with advice regarding the transaction at issue in this Complaint. As to the remainder of the allegations in paragraph thirty-five (35), MVB denies them and demands strict proof thereof.

36. The allegations in paragraph thirty-six (36) are wholly related to the conduct of Mr. Furgason, and MVB is therefore without knowledge or information sufficient to form a belief as

to the truthfulness of the allegations contained in paragraph thirty-six. Therefore, it denies them and demands strict proof thereof.

37. MVB denies the allegations in paragraph thirty-seven (37) and demands strict proof thereof.

38. MVB denies the allegations in paragraph thirty-eight (38) and demands strict proof thereof.

39. MVB denies the allegations in paragraph thirty-nine (39) and demands strict proof thereof.

40. MVB is without knowledge or information sufficient to form a belief as to the truthfulness of the allegations contained in paragraph forty (40) and therefore denies them and demands strict proof thereof.

41. MVB admits that Plaintiff iLease asked it to waive interest and charges on its line of credit and that MVB denied those requests.

42. MVB admits that Plaintiffs were required to furnish the information MVB requires in connection with financial transactions. MVB denies that Plaintiffs have continued making payments on their accounts and therefore demands strict proof of that allegation.

43. MVB denies the allegations in paragraph forty-three (43) and demands strict proof thereof.

44. MVB denies the allegations in paragraph forty-four (44) and demands strict proof thereof.

45. MVB denies the allegations in paragraph forty-five (45) and demands strict proof thereof.

46. MVB denies the allegations in paragraph forty-six (46) and demands strict proof thereof. Specifically, MVB disputes that it "directed" Plaintiffs to do anything; instead, they controlled their own financial decisions.

47. MVB denies the allegations in paragraph forty-seven (47) and demands strict proof thereof.

48. MVB denies the allegations in paragraph forty-eight (48) and demands strict proof thereof.

49. MVB denies the allegations in paragraph forty-nine (49) and demands strict proof thereof.
50. MVB denies the allegations in paragraph fifty (50) and demands strict proof thereof.
51. This paragraph contains no allegations regarding MVB's conduct, and MVB is therefore without knowledge or information sufficient to form a belief as to the truthfulness of the allegations contained in paragraph fifty-one (51) and therefore denies them and demands strict proof thereof.
52. This paragraph contains no allegations regarding MVB's conduct, and MVB is therefore without knowledge or information sufficient to form a belief as to the truthfulness of the allegations contained in paragraph fifty-two (52) and therefore denies them and demands strict proof thereof.
53. MVB denies the allegations in paragraph fifty-three (53) and demands strict proof thereof.
54. MVB denies the allegations in paragraph fifty-four (54) and demands strict proof thereof.
55. MVB denies the allegations in paragraph fifty-five (55) and demands strict proof thereof.
56. MVB denies the allegations in paragraph fifty-six (56) and demands strict proof thereof.
57. MVB incorporates each of its responses above into each response to Plaintiffs' individual counts.

COUNT I-Negligence

58. MVB denies the allegations in paragraph fifty-eight (58) and demands strict proof thereof.
59. Paragraph fifty-nine (59) contains legal conclusions to which no response is required. To the extent a response is required, MVB denies the allegations in paragraph fifty-nine and demands strict proof thereof.
60. Paragraph sixty (60) contains legal conclusions to which no response is required. To the extent a response is required, MVB denies the allegations in paragraph sixty and demands strict proof thereof.

61. Paragraph sixty-one (61) contains legal conclusions to which no response is required. To the extent a response is required, MVB denies the allegations in paragraph sixty-one and demands strict proof thereof.

62. MVB denies the allegations in paragraph sixty-two (62) and demands strict proof thereof.

COUNT II-Breach of Contract

63. MVB denies the allegations in paragraph sixty-three (63) and demands strict proof thereof.

64. MVB denies the allegations in paragraph sixty-four (64) and demands strict proof thereof.

65. MVB denies the allegations in paragraph sixty-five (65) and demands strict proof thereof.

66. MVB denies the allegations in paragraph sixty-six (66) and demands strict proof thereof.

67. MVB denies the allegations in paragraph sixty-seven (67) and demands strict proof thereof.

COUNT III-Fraud/Fraudulent Misrepresentation

68. MVB denies the allegations in paragraph sixty-eight (68) and demands strict proof thereof.

69. MVB denies the allegations in paragraph sixty-nine (69) and demands strict proof thereof.

70. MVB denies the allegations in paragraph seventy (70) and demands strict proof thereof.

71. MVB denies the allegations in paragraph seventy-one (71) and demands strict proof thereof.

72. MVB denies the allegations in paragraph seventy-two (72) and demands strict proof thereof.

73. MVB denies the allegations in paragraph seventy-three (73) and demands strict proof thereof.

74. MVB denies the allegations in paragraph seventy-four (74) and demands strict proof thereof.

75. MVB denies the allegations in paragraph seventy-five (75) and demands strict proof thereof.

76. MVB denies the allegations in paragraph seventy-six (76) and demands strict proof thereof.

77. MVB denies the allegations in paragraph seventy-seven (77) and demands strict proof thereof.

COUNT IV-Unfair Trade Practices
Misrepresentation and False Advertising of Insurance Policies

78. MVB denies the allegations in paragraph seventy-eight (78) and demands strict proof thereof.

79. MVB denies the allegations in paragraph seventy-nine (79) and demands strict proof thereof.

80. MVB denies the allegations in paragraph eighty (80) and demands strict proof thereof.

81. MVB denies the allegations in paragraph eighty-one (81) and demands strict proof thereof.

82. MVB denies the allegations in paragraph eighty-two (82) and demands strict proof thereof.

83. MVB denies the allegations in paragraph eighty-three (83) and demands strict proof thereof.

COUNT V-Violation of Insurance Sales Consumer Protection Act

84. Paragraph eighty-four (84) contains legal conclusions to which no response is required. To the extent a response is required, MVB denies the allegations in paragraph six and demands strict proof thereof.

85. MVB denies the allegations in paragraph eighty-five (85) and demands strict proof thereof.

86. MVB denies the allegations in paragraph eighty-six (86) and demands strict proof thereof.

87. MVB denies the allegations in paragraph eighty-seven (87) and demands strict proof thereof.

88. MVB denies the allegations in paragraph eighty-eight (88) and demands strict proof thereof.

89. MVB denies the allegations in paragraph eighty-nine (89) and demands strict proof thereof.

90. MVB denies the allegations in paragraph ninety (90) and demands strict proof thereof.

COUNT VI-Negligent Supervision and Retention

91. Paragraph ninety-one (91) contains legal conclusions to which no response is required. To the extent a response is required, MVB denies the allegations in paragraph ninety-one and demands strict proof thereof.

92. MVB denies the allegations in paragraph ninety-two (92) and demands strict proof thereof.

93. MVB denies the allegations in paragraph ninety-three (93) and demands strict proof thereof.

94. MVB denies the allegations in paragraph ninety-four (94) and demands strict proof thereof.

95. MVB denies the allegations in paragraph ninety-five (95) and demands strict proof thereof.

COUNT VII-Punitive Damages

96. MVB denies the allegations in paragraph ninety-six (96) and demands strict proof thereof.

COUNT VIII-Damages

97. MVB denies the allegations in paragraph ninety-seven (97) and demands strict proof thereof.

98. MVB denies each and every other allegation of the Complaint not specifically admitted herein to be true.

AFFIRMATIVE DEFENSES

Having fully answered the allegations in the Complaint, MVB now asserts the following Affirmative Defenses in further response thereto:

FIRST DEFENSE (Failure to State a Claim)

Plaintiffs' Complaint and each and every paragraph thereof fails to state a claim against MVB upon which relief can be granted.

SECOND DEFENSE (No Causal Connection)

No act or omission on the part of the MVB caused or contributed to the injuries alleged by Plaintiffs.

THIRD DEFENSE (Statute of Limitations/Repose)

Plaintiffs' causes of action are barred by the applicable statute of limitations or repose.

FOURTH DEFENSE (Laches, Waiver, and/or Estoppel)

Plaintiffs' claims are barred by the doctrines of laches, waiver, estoppel, collateral estoppel, and/or adjudication.

FIFTH DEFENSE
(Lack of Privity)

The lack of privity between Plaintiffs and the MVB bars Plaintiffs' claims, if any, based on contractual theories.

SIXTH DEFENSE
(Statute of Frauds)

Plaintiffs' claims are barred by the statute of frauds.

SEVENTH DEFENSE
(Comparative Negligence or Fault)

The damages allegedly sustained by Plaintiffs were directly and proximately caused by Plaintiffs' own decisions, negligence, or fault and Plaintiffs' failure to mitigate their damages and/or the decisions, negligence, or fault of third parties over whom MVB had no control. Therefore, the damages allegedly sustained by Plaintiffs should be barred or reduced in accordance with the principles of comparative negligence or fault.

EIGHTH DEFENSE
(Aggregate Fault)

If any fault is determined to be attributable to MVB, it is only liable to Plaintiffs in an amount that its fault, if any, bears to the aggregate amount of fault of all other tortfeasors.

NINTH DEFENSE
(Failure to Mitigate Damages)

Plaintiffs' claims are barred or reduced to the extent the evidence establishes that Plaintiffs failed to properly mitigate damages.

TENTH DEFENSE
(Superseding or Intervening Cause)

Plaintiffs' alleged injuries were caused by the preceding, intervening, or superseding acts, fault, and/or negligence of Plaintiffs and/or others. MVB pleads and relies on the independent, unforeseeable acts of others as superseding, intervening causes of the injuries alleged.

ELEVENTH DEFENSE
(Compliance with Duty)

MVB discharged, according to law and due care, each and every duty, if any, that it may have owed to Plaintiffs.

TWELFTH DEFENSE
(Preemption)

Plaintiffs' claims are preempted by federal and state statutes and regulations that govern this issue.

THIRTEENTH DEFENSE
(Punitive Damages Unavailable)

Plaintiffs fail to state sufficient facts under any theory or cause of action that would justify imposition of punitive or exemplary damages under any applicable law.

FOURTEENTH DEFENSE
(Punitive Damages Unwarranted)

Plaintiffs fail to allege facts from which it can reasonably be inferred that MVB acted with reckless indifference to or conscious disregard for the safety of others sufficient to warrant punitive damages.

FIFTEENTH DEFENSE
(Unconstitutionality of Punitive Damages)

Insofar as Plaintiffs seek recovery of punitive damages, their claim is barred, in whole or in part by the Fifth, Sixth, Eighth, and Fourteenth Amendments to the Constitution of the United States, as well as the West Virginia Constitution.

SIXTEENTH DEFENSE
(Punitive Damages Cap)

Insofar as Plaintiffs seek recovery of punitive damages, their damages are capped according to W. Va. Code § 55-7-29(c).

SEVENTEENTH DEFENSE
(Statutory Bar to Recovery)

MVB pleads, as affirmative defenses, any statute or other legal authority that pertains to Plaintiff's claims that serve to bar, reduce, limit, or otherwise control Plaintiffs' recovery against MVB.

EIGHTEENTH DEFENSE
(Defenses of any Co-Defendants)

MVB incorporates by reference any other affirmative defenses raised by its co-defendants to the extent such affirmative defenses are also applicable to MVB.

NINETEENTH DEFENSE
(Contribution and Indemnification)

MVB asserts its right to indemnity, or in the alternative, contribution from all other defendants, or in the alternative, for comparative offset and contribution for the negligence, liability, fault, or conduct alleged in Plaintiffs' Complaint which is determined to be attributable to other defendants or other parties, persons, or entities.

TWENTIETH DEFENSE

(Defenses available under W. Va. Code § 33-11A-1, *et seq.*)

MVB asserts all defenses available to it under W. Va. Code § 33-11A-1, *et seq.* and that Article's implementing regulations.

TWENTY-FIRST DEFENSE

(Additional Defenses)

MVB hereby gives notice that it intends to rely upon any additional defenses that become available or apparent during discovery and, thus, reserve the right to amend their Answer to assert such additional defenses.

MVB BANK, INC.,
By Counsel.



Brian A. Glasser (WVSB #6597)
Christopher D. Smith (WVSB #13050)
Bailey & Glasser LLP
209 Capitol Street
Charleston, WV 25301
Telephone: (304) 345-6555
Facsimile: (304) 342-1110

CERTIFICATE OF SERVICE

I, Christopher D. Smith, undersigned counsel for MVB Bank, Inc., here by certifies that on this 19th day of October, 2020, a copy of **MVB Bank, Inc.'s Answer to Plaintiffs' Complaint** was served via First Class United States Mail, postage prepaid, on the following counsel:

Robert P. Fitzsimmons
Fitzsimmons Law Firm, PLLC
1609 Warwood Avenue
Wheeling, WV 26003

Holly S. Planinsic
Herndon, Morton, Herndon & Yaeger
83 Edgington Lane
Wheeling, WV 26003

Mark A. Atkinson
John J. Polak
Atkinson & Polak, PLLC
P. O. Box 549
Charleston, WV 25322



Christopher D. Smith (WVSB #13050)

IN THE CIRCUIT COURT OF HARRISON COUNTY, WEST VIRGINIA

DOUGLAS E. GRIFFITH, JR.,
an individual, and
iLEASE & RENTALS, LLC,
A West Virginia Limited Liability Company,

Plaintiffs,

v.

CIVIL ACTION NO.: 20-C-231
Judge Matish

MVB BANK, INC., a West Virginia
Corporation, and JARROD FURGASON,
an individual,

Defendants.

**ANSWER AND AFFIRMATIVE DEFENSES OF DEFENDANT
JARROD FURGASON TO COMPLAINT**

For his Answer to Plaintiffs' Complaint, Defendant Jarrod Furgason, by counsel, states as follows:

1. With regard to the allegations of paragraph 1 of the Complaint, Defendant Furgason admits that Plaintiff Griffith is a customer of MVB Bank, Inc. ("MVB") and a member of Plaintiff iLease Rentals, LLC ("iLease"). Defendant Furgason is without sufficient knowledge to admit or deny the remainder of the allegations of paragraph 1 of the Complaint.
2. With regard to the allegations of paragraph 2 of the Complaint, Defendant Furgason admits that Plaintiff iLease is a customer of MVB. Defendant Furgason is without sufficient knowledge to admit or deny the remainder of the allegations of paragraph 2 of the Complaint.
3. With regard to the allegations of paragraph 3 of the Complaint, Defendant Furgason admits that MVB is a West Virginia corporation and state-chartered banking institution conducting business in West Virginia. Defendant Furgason is without sufficient knowledge to admit or deny the remainder of the allegations of paragraph 3 of the Complaint.
4. With regard to the allegations of paragraph 4 of the Complaint, Defendant

Furgason admits that he was employed by MVB until August 31, 2020, that he is a resident of Kanawha County, West Virginia, and that, at times, he conducted business on behalf of MVB in Harrison County, West Virginia. The remaining allegations of paragraph 4 of the Complaint are legal conclusions and, therefore, do not require a response by this defendant.

5. With regard to the allegations of paragraph 5 of the Complaint, Defendant Furgason admits that he was employed by MVB until August 31, 2020. The remaining allegations of paragraph 5 of the Complaint are legal conclusions and, therefore, do not require a response by this defendant.

6. The allegations of paragraph 6 of the Complaint are legal conclusions and, therefore, do not require a response by this defendant. Defendant Furgason denies that there were any acts, omissions, communications, activities and/or transactions that occurred in Harrison County, West Virginia that might give rise to any liability to the Plaintiffs.

7. The allegations of paragraph 7 of the Complaint are legal conclusions and, therefore, do not require a response by this defendant.

8. With regard to the allegations of paragraph 8 of the Complaint, Defendant Furgason admits that Plaintiffs have maintained accounts with MVB. Defendant Furgason denies the remainder of the allegations of paragraph 8 of the Complaint.

9. Defendant Furgason is without sufficient knowledge to admit or deny the allegations of paragraph 9 of the Complaint.

10. With regard to the allegations of paragraph 10 of the Complaint, Defendant Furgason admits that he was assigned to be a contact with Plaintiff iLease and that business with iLease was conducted in the Bridgeport, West Virginia office.

11. Defendant Furgason denies the allegations of paragraph 11 of the Complaint.
12. Defendant Furgason denies the allegations of paragraph 12 of the Complaint.
13. Defendant Furgason denies the allegations of paragraph 13 of the Complaint.
14. Defendant Furgason denies the allegations of paragraph 14 of the Complaint.
15. Defendant Furgason denies the allegations of paragraph 15 of the Complaint.
16. Defendant Furgason denies the allegations of paragraph 16 of the Complaint.
17. Defendant Furgason denies the allegations of paragraph 17 of the Complaint.
18. Defendant Furgason denies the allegations of paragraph 18 of the Complaint.
19. Defendant Furgason denies the allegations of paragraph 19 of the Complaint.

20. Defendant Furgason denies the allegations of paragraph 20 of the Complaint.

21. Defendant Furgason denies the allegations of paragraph 21 of the Complaint.

22. With regard to the allegations of paragraph 22 of the Complaint, Defendant Furgason admits that, upon the explicit instructions of Plaintiff Griffith, funds were drawn from Plaintiff iLease's line of credit, deposited into Plaintiff Griffith's personal account and wired to First United Bank.

23. With regard to the allegations of paragraph 23 of the Complaint, Defendant Furgason admits that MVB required documentation for any borrowings by Plaintiffs. Defendant Furgason denies the remainder of the allegations of paragraph 23 of the Complaint.

24. With regard to the allegations of the first sentence of paragraph 24 of the Complaint, Defendant Furgason admits that he passed along information to the Plaintiffs that he had received from others, that the funds deposited at First United Bank were insufficient. Defendant Furgason denies the remaining allegations of paragraph 24 of the Complaint.

25. Defendant Furgason denies the allegations of paragraph 25 of the Complaint.

26. Defendant Furgason denies the allegations of paragraph 26 of the Complaint.

27. Defendant Furgason denies the allegations of paragraph 27 of the Complaint.

28. Defendant Furgason denies the allegations of paragraph 28 of the Complaint.

29. Defendant Furgason denies the allegations of paragraph 29 of the Complaint.

30. Defendant Furgason denies the allegations of paragraph 30 of the Complaint.

31. Defendant Furgason denies the allegations of paragraph 31 of the Complaint.

32. Defendant Furgason denies the allegations of paragraph 32 of the Complaint.

33. Defendant Furgason denies the allegations of paragraph 33 of the Complaint.

34. Defendant Furgason denies the allegations of paragraph 34 of the Complaint.

35. With regard to the allegations of paragraph 35 of the Complaint, Defendant Furgason admits that Plaintiff Furgason was represented by G.T. Defendant Furgason denies the remainder of the allegations of paragraph 35 of the Complaint.

36. With regard to the allegations of paragraph 36 of the Complaint, Defendant Furgason admits that he transmitted loan documents that he had received from others to G.T., as Plaintiffs' legal counsel, and further admits that he reviewed the loan documents himself.

37. Defendant Furgason denies the allegations of paragraph 37 of the Complaint.

38. Defendant Furgason denies the allegations of paragraph 38 of the Complaint.

39. Defendant Furgason denies the allegations of paragraph 39 of the Complaint.

40. Defendant Furgason is without sufficient knowledge to admit or deny the allegations of paragraph 40 of the Complaint.

41. With regard to the allegations of paragraph 41 of the Complaint, Defendant Furgason admits that Plaintiff iLease asked MVB to waive interest and charges on its line of credit and that MVB denied those requests.

42. Defendant Furgason is without sufficient knowledge to admit or deny the allegations of paragraph 42 of the Complaint.

43. Defendant Furgason denies the allegations of paragraph 43 of the Complaint.

44. Defendant Furgason denies the allegations of paragraph 44 of the Complaint.

45. Defendant Furgason denies the allegations of paragraph 45 of the Complaint.

46. With regard to the allegations of paragraph 46 of the Complaint, Defendant Furgason is without sufficient knowledge to admit or deny the allegations of the first sentence of paragraph 46. Defendant Furgason denies the remainder of the allegations of paragraph 46 of the Complaint.

47. Defendant Furgason denies the allegations of paragraph 47 of the Complaint.

48. Defendant Furgason denies the allegations of paragraph 48 of the Complaint.

49. Defendant Furgason denies the allegations of paragraph 49 of the Complaint.

50. Defendant Furgason denies the allegations of paragraph 50 of the Complaint.

51. Defendant Furgason denies the allegations of paragraph 51 of the Complaint.

52. Defendant Furgason denies the allegations of paragraph 52 of the Complaint.

53. Defendant Furgason denies the allegations of paragraph 53 of the Complaint.

54. Defendant Furgason denies the allegations of paragraph 54 of the Complaint.

55. Defendant Furgason denies the allegations of paragraph 55 of the Complaint.

56. Defendant Furgason denies the allegations of paragraph 56 of the Complaint.

57. With regard to the allegations of paragraph 57 of the Complaint, Defendant Furgason incorporates by reference his responses all previous allegations of the Complaint.

58. Defendant Furgason denies the allegations of paragraphs 58 through 90 of the Complaint.

59. The allegations contained in paragraphs 91 to 95 of the Complaint are not

directed to this Defendant and, therefore do not require a response by this Defendant. To the extent that any of the allegations are deemed to be directed to Defendant Furgason, they are denied.

60. Defendant Furgason denies the allegations of paragraph 96 of the Complaint.

61. Defendant Furgason denies the allegations of paragraph 97 of the Complaint

62. Defendant Furgason denies each and every other allegation of the Complaint not expressly admitted herein and denies that Plaintiffs are entitled to relief of any kind from this Defendant.

FIRST AFFIRMATIVE DEFENSE

The Complaint fails to state a claim against this Defendant upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Plaintiffs' damages, if any exist, are the direct result of the actions of others for which this Defendant bears no responsibility.

THIRD AFFIRMATIVE DEFENSE

Defendant Furgason asserts the defense of comparative fault.

FOURTH AFFIRMATIVE DEFENSE

Defendant Furgason asserts the defense of assumption of risk.

FIFTH AFFIRMATIVE DEFENSE

Defendant Furgason was not a party to any contract with either or both of the Plaintiffs.

SIXTH AFFIRMATIVE DEFENSE

The Unfair Trade Practices Act does not apply to this defendant.

SEVENTH AFFIRMATIVE DEFENSE

Defendant Furgason asserts that he breached no duty owed to the Plaintiffs.

EIGHTH AFFIRMATIVE DEFENSE

No action or inaction of this Defendant was the proximate cause of, or contributed to, the injuries allegedly suffered by the Plaintiffs.

NINTH AFFIRMATIVE DEFENSE

Plaintiffs have failed to properly mitigate their damages, if any.

TENTH AFFIRMATIVE DEFENSE

Plaintiffs have failed to join an indispensable party or parties to this suit.

ELEVENTH AFFIRMATIVE DEFENSE

An award of punitive damages under the facts and circumstances herein would violate this Defendant's rights under the United States Constitution and the Constitution of the State of West Virginia.

TWELFTH AFFIRMATIVE DEFENSE

Defendant Furgason raises and preserves any and all immunities available under the law.

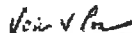
THIRTEENTH AFFIRMATIVE DEFENSE

Defendant Furgason adopts and incorporates by reference any affirmative defense asserted by any other Defendant to this action, to the extent such affirmative defense applies to this Defendant.

Defendant Furgason reserves the right to raise any and all other affirmative defenses found in common law or West Virginia Rules of Civil Procedure 8(c) and 12(b) as they may become known.

WHEREFORE, Defendant Jarrod Furgason, prays that Plaintiffs' Complaint against him be dismissed, that he be awarded his fees and costs incurred in the defense of this action and that he be granted such other and further relief as the Court deems appropriate.

JARROD FURGASON,
By Counsel,



Mark A. Atkinson (WVSB No. 184)
John J. Polak (WVSB No. 2929)
ATKINSON & POLAK, PLLC
BB&T Square, Suite 1300
300 Summers Street
P.O. Box 549
Charleston, WV 25322
(304) 346-5100

CERTIFICATE OF SERVICE

I, John J. Polak, counsel for Jarrod Furgason, do hereby certify that service of the "ANSWER AND AFFIRMATIVE DEFENSES OF DEFENDANT JARROD FURGASON TO COMPLAINT" was made upon the parties listed below by emailing and mailing a true and exact copy thereof to:

Robert P. Fitzsimmons
Fitzsimmons Law Firm PLLC
1609 Warwood Avenue
Wheeling, WV 26003


Holly S. Planinsic
Herndon, Morton, Herndon & Yeager
83 Edgington Lane
Wheeling, WV 26003

Counsel for Plaintiffs

Brian A. Glasser
Christopher D. Smith
Bailey & Glasser LLP
209 Capitol Street
Charleston, WV 25301

Counsel for Defendant MVB Bank, Inc.

on this 30th day of October, 2020.



John J. Polak (WVSB No. 2929)

EXHIBIT C

IN THE CIRCUIT COURT OF HARRISON COUNTY, WEST VIRGINIA

**DOUGLAS E. GRIFFITH, JR.,
an individual, and
ILEASE & RENTALS, LLC,
A West Virginia Limited Liability Company,**

Plaintiffs,

v.

**CIVIL ACTION NO.: 20-C-231
Honorable James A. Matish**

**MVB BANK, INC., a West Virginia
Corporation, and JARROD FURGASON,
an individual,**

Defendants

and

**MVB BANK, INC., a West Virginia
Corporation,**

Counterclaim Plaintiff,

v.

**DOUGLAS E. GRIFFITH, JR.,
an individual, and
ILEASE & RENTALS, LLC,
A West Virginia Limited Liability Company,**

Counterclaim Defendants.

**MVB BANK, INC.'S, COUNTERCLAIM
AGAINST ILEASE & RENTALS, LLC, AND DOUGLAS E. GRIFFITH, JR.**

The Defendant / Counterclaim Plaintiff, MVB Bank, Inc., ("MVB Bank"), through the undersigned counsel, files its Counterclaim against the Plaintiffs, iLease & Rentals, LLC, and Douglas E. Griffith, Jr. (collectively, the "Counterclaim Defendants"). In support, MVB Bank states as follows:

EXHIBIT D

PARTIES

1. Counterclaim Defendant, iLease & Rentals, LLC ("iLease"), is a West Virginia limited liability company which has its principal office and place of business in Harrison County, West Virginia. iLease is jointly owned by Counterclaim Defendant Douglas E. Griffith, Jr., and Christopher P. Sander.

2. Counterclaim Defendant, Douglas E. Griffith, Jr. ("Mr. Griffith"), was, at all times material hereto, a resident of West Virginia. Mr. Griffith is the co-owner and Managing Member of iLease, and a longstanding customer of the Counterclaim Plaintiff, MVB Bank.

3. Counterclaim Plaintiff, MVB Bank, is a West Virginia corporation conducting business in Harrison County, West Virginia.

VENUE & JURISDICTION

4. Venue is proper in Harrison County, West Virginia, pursuant to W. Va. Code §56-1-1(a)(1). The causes of action set forth herein arose in Harrison County, West Virginia. Moreover, the acts and omissions described herein occurred in Harrison County, West Virginia.

5. Jurisdiction is proper in this Court pursuant to W. Va. Code §51-2-2.

GENERAL ALLEGATIONS

6. In addition to holding numerous personal and business accounts with MVB Bank, the Counterclaim Defendants are borrowers under certain consumer and commercial loans advanced by MVB Bank.

7. iLease has defaulted under the terms of two of those commercial loans.

8. Mr. Griffith is a guarantor of those two commercial loans. Mr. Griffith has also defaulted under the terms of his commercial guaranties.

9. Prior to the filing of this Counterclaim, the Counterclaim Defendants were given requisite notice under West Virginia law. All prerequisites to the filing of this action have been satisfied.

A. Equipment-Backed Loan and Guaranty

10. iLease and MVB Bank entered into that certain Commercial Security Agreement dated October 11, 2017, as amended from time to time, as well as that certain Promissory Note of even date, as amended from time to time (together the "Equipment-Backed Loan"). Attached as **Exhibit "A"** is a true and correct copy of the Equipment-Backed Loan.

11. Additionally, Mr. Griffith is a guarantor under the terms of the certain Commercial Guaranty dated October 11, 2017 (the "Equipment-Backed Guaranty") executed contemporaneously with the Equipment-Backed Loan and is, therefore, obligated to remedy iLease's default under the loan. Attached as **Exhibit "B"** is a true and correct copy of the Equipment-Backed Guaranty.

12. In the event of default by iLease, the Equipment-Backed Guaranty gives MVB Bank the right to seek payment from Mr. Griffith, as well as a right of setoff in all the accounts Mr. Griffith personally holds with MVB Bank.

13. iLease defaulted under the terms of the Equipment-Backed Loan.

14. Indeed, pursuant to the Equipment-Backed Loan, MVB Bank loaned iLease \$1,334,340.00 and, in exchange, iLease agreed to pay MVB Bank \$21,208.55 on the 11th day of each month until the loan's maturity date of January 11, 2024.

15. iLease, however, failed to make the requisite payments to MVB Bank on December 11th, 2020, January 11th, 2021, and February 11, 2021, resulting in payment defaults under the explicit terms of the Equipment-Backed Loan.

16. At present, iLease is in default of the Equipment-Backed Loan in the amount of \$63,625.65, plus interest and late charges.

17. On January 20, 2021, because of iLease's continuing defaults under the Equipment-Backed Loan, MVB Bank provided notice to the Counterclaim Defendants that it was exercising its right to declare the entire unpaid principal balance and all accrued unpaid interest immediately due. Attached as **Exhibit "C"** is a true and correct copy of MVB Bank's January 20, 2021, Notice to the Counterclaim Defendants.

18. As such, iLease is obligated to satisfy its remaining obligations under the Equipment-Backed Loan to MVB Bank immediately. However, despite demands, iLease has failed to remit payment to MVB Bank.

19. Moreover, Mr. Griffith, as guarantor under the Equipment-Backed Guaranty, is liable for all outstanding amounts owed by iLease under the Equipment-Backed Loan and must

remit payment to MVB Bank immediately. Despite demands, Mr. Griffith has failed to remit payment to MVB Bank.

20. The Counterclaim Defendants are required to pay MVB Bank's attorney fees and costs pursuant to the Equipment-Backed Loan and Equipment-Backed Guaranty.

B. A/R-Backed Loan and Guaranty

21. iLease and MVB Bank also entered into that certain Business Loan Agreement dated January 23, 2019, as amended from time to time, as well as that certain Promissory Note of even date, as amended from time to time (the "A/R-Backed Loan"). Attached as **Exhibit "D"** is a true and correct copy of the A/R-Backed Loan.

22. Additionally, Mr. Griffith is a guarantor under the terms of the certain Commercial Guaranty dated January 23, 2019 (the "A/R-Backed Guaranty") executed contemporaneously with the A/R-Backed Loan and is, therefore, obligated to remedy iLease's default under such loan. Attached as **Exhibit "E"** is a true and correct copy of the A/R-Backed Guaranty.

23. In the event of default by iLease, the A/R-Backed Guaranty gives MVB Bank the right to seek payment from Mr. Griffith, as well as a right of setoff in all the accounts Mr. Griffith personally holds with MVB Bank.

24. iLease defaulted under the terms of the A/R-Backed Loan.

25. Indeed, pursuant to the A/R-Backed Loan, MVB Bank loaned iLease \$1,000,000.00 via a line of credit. The A/R Backed Loan requires iLease to maintain a maximum Loan to Value of 80% of Eligible Accounts Receivable. If, at any time, the line of credit outstanding principal balance exceeds 80% of the Loan to Value of Eligible Accounts Receivables,

iLease is required to pay down the line of credit outstanding principal balance to bring the line of credit within approval guidelines. *See* Exhibit "D."

26. iLease failed to maintain the required maximum Loan to Value of 80% of Eligible Accounts Receivable and, therefore, defaulted under the terms of the A/R-Backed Loan. These defaults are of a continuing nature.

27. Unfortunately, MVB Bank did not learn of iLease's continuing defaults under the A/R-Backed Loan until October 2020 when it discovered that the monthly borrowing base calculations, which were submitted by iLease to MVB Bank, and wherein iLease certified its compliance with the borrowing base requirements of the A/R-Backed Loan, contained gross inaccuracies and miscalculations.

28. Moreover, the A/R-Backed Loan reached maturity on July 23, 2020, requiring iLease to pay to MVB Bank the aggregate outstanding principal amounts, accrued unpaid interest, outstanding fees, costs, and charges.

29. iLease has failed to remit the required payments despite MVB Bank's service of a Notice of Note Maturity and Expiration Date, Default and Demand for Payment on December 29, 2020 (the "A/R Notice"). Attached as **Exhibit "F"** is a true and correct copy of the A/R Notice. MVB Bank sent additional notice and demand for payment on January 20, 2021. *See* Exhibit C.

30. To date, iLease's default has not been cured. As such, iLease is obligated to satisfy its remaining obligations to MVB Bank immediately.

31. Moreover, Mr. Griffith, as guarantor under the A/R-Backed Guaranty, is liable for all outstanding amounts owed by iLease under the A/R-Backed Loan and must remit payment to

MVB Bank immediately. Despite demands, Mr. Griffith has failed to remit payment to MVB Bank.

32. The Counterclaim Defendants are required to pay MVB Bank's attorney fees and costs pursuant to the A/R-Backed Loan and A/R-Backed Guaranty.

**COUNT I - BREACH OF CONTRACT
AGAINST ILEASE FOR THE EQUIPMENT-BACKED LOAN**

33. MVB Bank realleges and fully incorporates paragraphs one through twenty, as though set forth fully herein.

34. iLease and MVB Bank entered into a valid contract: The Equipment-Backed Loan.

35. Pursuant to the Equipment-Backed Loan, MVB Bank loaned iLease \$1,334,340.00 and, in exchange, iLease agreed to pay MVB Bank \$21,208.55 on the 11th day of each month until the loan's maturity date of January 11, 2024.

36. iLease failed to make the requisite payments to MVB Bank on December 11th, 2020, January 11th, 2021, and February 11, 2021, resulting in payment defaults under the explicit terms of the Equipment-Backed Loan. This breach of contract is continuing.

37. At present, iLease is in default in the amount of \$63,625.65, plus interest and late charges.

38. On January 20, 2021, because of iLease's continuing defaults under the Equipment-Backed Loan, MVB Bank exercised its right to declare the entire unpaid principal balance and all accrued unpaid interest immediately due. *See* Exhibit "C."

39. As such, iLease is obligated to satisfy its remaining obligations under the Equipment-Backed Loan to MVB Bank immediately. Despite demands, iLease has failed to remit payment to MVB Bank.

40. iLease's breach of its contract with MVB Bank has harmed and caused damage to MVB Bank.

41. iLease is liable to MVB Bank for damages, including the attorney fees and costs MVB Bank incurs in bringing this action.

WHEREFORE, the Counterclaim Plaintiff, MVB Bank, respectfully requests that the Court enter a Final Judgment in its favor and against the Counterclaim Defendant, iLease & Rentals, for damages, pre- and post-judgment interest, attorney fees, court costs, and for such other relief as the Court deems just.

**COUNT II – BREACH OF GUARANTY
AGAINST GRIFFITH FOR THE EQUIPMENT-BACKED GUARANTY**

42. MVB Bank realleges and fully incorporates paragraphs one through twenty, as though set forth fully herein.

43. Mr. Griffith entered into a contract with MVB Bank: The Equipment-Backed Guaranty.

44. In the event of default by iLease under the terms of the Equipment-Backed Loan, the Equipment-Backed Guaranty gives MVB Bank the right to seek payment from Mr. Griffith for iLease's default, as well as a right of setoff in all the accounts Mr. Griffith personally holds with MVB Bank.

45. Mr. Griffith, as guarantor pursuant to the Equipment-Backed Guaranty, is liable for all outstanding amounts owed to MVB Bank by iLease and must remit payment to MVB Bank immediately.

46. Mr. Griffith's failure to remit payment to MVB Bank pursuant to the terms of the Equipment-Backed Guaranty constitutes a breach of contract.

47. Mr. Griffith's breach of his contract with MVB Bank has harmed and caused damage to MVB Bank.

48. Mr. Griffith is liable to MVB Bank for damages, including the attorney fees and costs MVB Bank incurs in bringing this action.

WHEREFORE, the Counterclaim Plaintiff, MVB Bank, respectfully requests that the Court enter a Final Judgment in its favor and against the Counterclaim Defendant, Douglas E. Griffith, Jr., for damages, pre- and post-judgment interest, attorney fees, court costs, and for such other relief as the Court deems just.

**COUNT III – BREACH OF CONTRACT
AGAINST ILEASE FOR THE A/R-BACKED LOAN**

49. MVB Bank realleges and fully incorporates paragraphs one through nine and twenty-one through thirty-two, as though set forth fully herein.

50. iLease and MVB Bank entered into a valid contract: The A/R-Backed Loan.

51. Pursuant to the A/R-Backed Loan, MVB Bank loaned iLease \$1,000,000.00 via a line of credit.

52. The A/R Backed Loan requires iLease to maintain a maximum Loan to Value of 80% of Eligible Accounts Receivable. If, at any time, the line of credit outstanding principal balance exceeds 80% of the Loan to Value of Eligible Accounts Receivables, iLease is required to pay down the line of credit outstanding principal balance to bring the line of credit within approval guidelines. *See Exhibit "D."*

53. iLease failed to maintain the required maximum Loan to Value of 80% of Eligible Accounts Receivable and defaulted under the terms of the A/R-Backed Loan. These defaults are of a continuing nature.

54. Moreover, the A/R-Backed Loan reached maturity on July 23, 2020, requiring iLease to pay to MVB Bank the aggregate outstanding principal amounts, accrued unpaid interest, outstanding fees, costs, and charges.

55. iLease has failed to remit the required payments despite notice and demand by MVB Bank.

56. iLease's breach of its contract with MVB Bank has harmed and caused damage to MVB Bank.

57. iLease is liable to MVB Bank for damages, including the attorney fees and costs MVB Bank incurs in bringing this action.

WHEREFORE, the Counterclaim Plaintiff, MVB Bank, respectfully requests that the Court enter a Final Judgment in its favor and against the Counterclaim Defendant, iLease & Rentals, for damages, pre- and post-judgment interest, attorney fees, court costs, and for such other relief as the Court deems just.

**COUNT IV – BREACH OF GUARANTY
AGAINST GRIFFITH FOR THE A/R-BACKED GUARANTY**

58. MVB Bank realleges and fully incorporates paragraphs one through nine and twenty-one through thirty-two, as though set forth fully herein.

59. Mr. Griffith entered into a contract with MVB Bank: The A/R-Backed Guaranty.

60. In the event of default by iLease under the terms of the A/R-Backed Loan, the A/R-Backed Guaranty gives MVB Bank the right to seek payment from Mr. Griffith for iLease's default, as well as a right of setoff in all the accounts Mr. Griffith personally holds with MVB Bank.

61. Mr. Griffith, as guarantor pursuant to the A/R-Backed Guaranty, is liable for all outstanding amounts owed to MVB Bank by iLease and must remit payment to MVB Bank immediately.

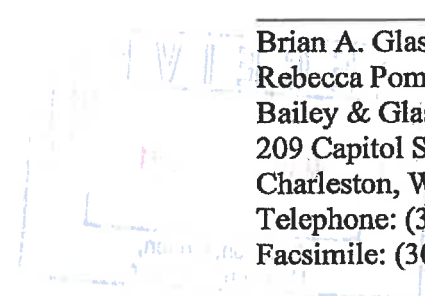
62. Mr. Griffith's failure to remit payment to MVB Bank pursuant to the terms of the A/R-Backed Guaranty constitutes a breach of contract.

63. Mr. Griffith's breach of his contract with MVB Bank has harmed and caused damage to MVB Bank.

64. Mr. Griffith is liable to MVB Bank for damages, including the attorney fees and costs MVB Bank incurs in bringing this action.

WHEREFORE, the Counterclaim Plaintiff, MVB Bank, respectfully requests that the Court enter a Final Judgment in its favor and against the Counterclaim Defendants, Douglas E. Griffith, Jr., for damages, pre- and post-judgment interest, attorney fees, court costs, and for such other relief as the Court deems just.

MVB BANK, INC.,
By Counsel.



Brian A. Glasser (WVSB #6597)
Rebecca Pomeroy (WVSB #8800)
Bailey & Glasser LLP
209 Capitol Street
Charleston, WV 25301
Telephone: (304) 345-6555
Facsimile: (304) 342-1110

EXHIBITS TO COUNTERCLAIM OMITTED

IN THE CIRCUIT COURT OF HARRISON COUNTY, WEST VIRGINIA

**DOUGLAS E. GRIFFITH, JR.,
an individual, and
iLEASE & RENTALS, LLC,
a West Virginia Limited Liability Company,**

Plaintiffs,

v.

**MVB BANK, INC, a West Virginia
Corporation, and JARROD FURGASON,
an individual,**

Defendants.

**CIVIL ACTION NO. 20-C-231
Judge Matish**

ANSWER TO MVB BANK, INC.'S COUNTERCLAIM

NOW COMES Douglas E. Griffith, Jr., and iLease & Rentals, LLC (respectively "Mr. Griffith" and "iLease"), by their undersigned counsel, and in response to Defendant MVB Bank, Inc.'s Counterclaim respectfully respond as follows:

PARTIES

1. Mr. Griffith and iLease admit the allegations of paragraph 1 of MVB's Counterclaim.
2. Mr. Griffith and iLease admit the allegations of paragraph 2 of MVB's Counterclaim.
3. Mr. Griffith and iLease admit the allegations of paragraph 3 of MVB's Counterclaim.

VENUE & JURISDICTION

4. Mr. Griffith and iLease admit the allegations of paragraph 4 of MVB's Counterclaim.

EXHIBIT E

5. Mr. Griffith and iLease admit the allegations of paragraph 5 of MVB's Counterclaim.

GENERAL ALLEGATIONS

6. Mr. Griffith and iLease admit the allegations of paragraph 6 of MVB's Counterclaim.

7. Mr. Griffith and iLease deny the allegations of paragraph 7 of MVB's Counterclaim.

8. Mr. Griffith and iLease deny the allegations of paragraph 8 of MVB's Counterclaim.

9. Mr. Griffith and iLease deny that all required notices have been properly provided or that the notices provided certain accurate information and further deny the remaining allegations of paragraph 9 of MVB's Counterclaim.

10. Mr. Griffith and iLease admit that MVB Bank extended a loan to iLease around October 11, 2017. Mr. Griffith and iLease do not have sufficient information to discern what periodic amendments, oral or written, are referred to by MVB in paragraph 10 of its Counterclaim and therefore deny the remaining allegations.

11. The document attached to the Counterclaim speaks for itself. To the extent a response is required Mr. Griffith and iLease deny that there is a default by iLease under the "Equipment-Backed Loan" and therefore deny the remaining allegations of MVB in paragraph 11 of its Counterclaim.

12. Mr. Griffith and iLease deny that there is a default by iLease under the "Equipment-Backed Loan" and deny the remaining allegations of MVB in paragraph 12 of its Counterclaim. Mr. Griffith and iLease further deny that MVB may exercise any set off.

13. Mr. Griffith and iLease deny the allegations of paragraph 13 of MVB's Counterclaim.

14. Mr. Griffith and iLease do not have sufficient information to admit or deny the allegations of paragraph 14 of MVB's Counterclaim and therefore deny the same.

15. Mr. Griffith and iLease do not have sufficient information to admit or deny the allegations of paragraph 15 of MVB's Counterclaim and therefore deny the same.

16. Mr. Griffith and iLease deny the allegations of paragraph 16 of MVB's Counterclaim.

17. Mr. Griffith and iLease deny the allegations of paragraph 17 of MVB's Counterclaim.

18. Mr. Griffith and iLease deny the allegations of paragraph 18 of MVB's Counterclaim.

19. Mr. Griffith and iLease deny the allegations of paragraph 19 of MVB's Counterclaim.

20. Mr. Griffith and iLease deny the allegations of paragraph 20 of MVB's Counterclaim or that MVB is entitled to exercise the remedies described in its Counterclaim.

21. Mr. Griffith and iLease admit that MVB Bank extended a loan to iLease around January 23, 2019. Although MVB refers to the loan as an "A/R- Backed Loan" it is, in fact, the Line of Credit referenced in Plaintiff's Complaint and referred to as such in this Answer. Mr. Griffith and iLease do not have sufficient information to discern what periodic amendments, oral or written, are referred to by MVB in paragraph 21 of its Counterclaim and therefore deny the remaining allegations.

22. Mr. Griffith and iLease admit that MVB extended a Line of Credit to iLease around January 23, 2019. Mr. Griffith and iLease do not have sufficient information to discern what periodic amendments, oral or written, are referred to by MVB in paragraph 22 of its Counterclaim and therefore deny the remaining allegations.

23. The document attached to the Counterclaim speaks for itself. To the extent a response is required Mr. Griffith and iLease deny that there is a default by iLease under the "Equipment-Backed Loan" and therefore deny the remaining allegations of MVB in paragraph 23 of its Counterclaim.

24. Mr. Griffith and iLease admit that there may have been a payment default under the Line of Credit but deny the allegations of paragraph 24 of MVB's Counterclaim.

25. The document attached to the Counterclaim speaks for itself. To the extent a response is required Mr. Griffith and iLease deny that there is a default by iLease under the "Equipment-Backed Loan" and therefore deny the remaining allegations of MVB in paragraph 25 of its Counterclaim.

26. Mr. Griffith and iLease deny the allegations of paragraph 26 of MVB's Counterclaim.

27. Mr. Griffith and iLease deny that MVB was unaware of the status or value of the iLease accounts receivable at any time since the Line of Credit was extended. Mr. Griffith and iLease do not have sufficient information to discern what periodic amendments, oral or written, are referred to by MVB in paragraph 26 of its Counterclaim and therefore deny the same.

28. Mr. Griffith and iLease deny the allegations of paragraph 28 of MVB's Counterclaim.

29. Mr. Griffith and iLease deny the allegations of paragraph 29 of MVB's Counterclaim and deny that any notices provided by MVB with respect to the Line of Credit contained accurate information.

30. Mr. Griffith and iLease deny the allegations of paragraph 30 of MVB's Counterclaim.

31. Mr. Griffith and iLease deny the allegations of paragraph 31 of MVB's Counterclaim.

32. Mr. Griffith and iLease deny the allegations of paragraph 32 of MVB's Counterclaim.

**COUNT I – BREACH OF CONTRACT AGAINST ILEASE FOR THE
EQUIPMENT-BACKED LOAN**

33. iLease hereby incorporates by reference paragraphs 1 through 32 of this Answer to MVB's Counterclaim as if fully set forth herein.

34. iLease is without sufficient information to admit or deny the validity of the Equipment Backed Loan and therefore denies the allegations of paragraph 34 of MVB's Counterclaim.

35. iLease does not have sufficient information to admit or deny the allegations of paragraph 35 of MVB's Counterclaim and therefore denies the same.

36. iLease denies the allegations of paragraph 35 of MVB's Counterclaim.

37. iLease denies the allegations of paragraph 36 of MVB's Counterclaim.

38. iLease denies that MVB has any rights to accelerate any amounts due and therefore denies the allegations of paragraph 37 of MVB's Counterclaim.

39. iLease denies the allegations of paragraph 38 of MVB's Counterclaim.

40. iLease denies the allegations of paragraph 39 of MVB's Counterclaim.

41. iLease denies the allegations of paragraph 40 of MVB's Counterclaim.

**COUNT II – BREACH OF GUARANTY AGAINST GRIFFITH FOR THE
EQUIPMENT-BACKED GUARANTY**

42. Mr. Griffith hereby incorporates by reference paragraphs 1 through 41 of this Answer to MVB's Counterclaim as if fully set forth herein.

43. Mr. Griffith denies the allegations of paragraph 43 of MVB's Counterclaim.
44. Mr. Griffith denies the allegations of paragraph 44 of MVB's Counterclaim.
45. Mr. Griffith denies the allegations of paragraph 45 of MVB's Counterclaim.
46. Mr. Griffith denies the allegations of paragraph 46 of MVB's Counterclaim.
47. Mr. Griffith denies the allegations of paragraph 47 of MVB's Counterclaim.
48. Mr. Griffith denies the allegations of paragraph 48 of MVB's Counterclaim.

**COUNT III - BREACH OF GUARANTY AGAINST
ILEASE FOR THE A/R-BACKED LOAN**

49. iLease hereby incorporates by reference paragraphs 1 through 48 of this Answer to MVB's Counterclaim as if fully set forth herein.

50. iLease denies the allegations of paragraph 50 of MVB's Counterclaim.
51. iLease denies the allegations of paragraph 51 of MVB's Counterclaim.
52. iLease denies the allegations of paragraph 52 of MVB's Counterclaim.
53. iLease denies the allegations of paragraph 53 of MVB's Counterclaim.
54. iLease denies the allegations of paragraph 54 of MVB's Counterclaim.
55. iLease denies the allegations of paragraph 55 of MVB's Counterclaim.
56. iLease denies the allegations of paragraph 56 of MVB's Counterclaim.
57. iLease denies the allegations of paragraph 57 of MVB's Counterclaim.

**COUNT IV – BREACH ON CONTRACT AGAINST
GRIFFITH FOR THE A/R-BACKED GUARANTY**

58. Mr. Griffith hereby incorporates by reference paragraphs 1 through 57 of this Answer to MVB's Counterclaim as if fully set forth herein.

59. Mr. Griffith denies the allegations of paragraph 59 of MVB's Counterclaim.

60. Mr. Griffith denies the allegations of paragraph 60 of MVB's Counterclaim.

61. Mr. Griffith denies the allegations of paragraph 61 of MVB's Counterclaim.

62. Mr. Griffith denies the allegations of paragraph 62 of MVB's Counterclaim.

63. Mr. Griffith denies the allegations of paragraph 63 of MVB's Counterclaim.

64. Mr. Griffith denies the allegations of paragraph 64 of MVB's Counterclaim.

AFFIRMATIVE DEFENSES

FIRST

MVB Bank is equitably estopped from pursuing the claims set forth in its Counterclaim.

SECOND

MVB Bank is barred from asserting the claims set forth in its Counterclaim by its actual and constructive fraud.

THIRD

MVB Bank is barred, in whole or in part, from asserting the claims set forth in its Counterclaim to the extent that the contracts it identifies were used for illegal purposes such as its sale of insurance products and violations of laws applicable to financial institutions.

FOURTH

MVB Bank's claims are barred, in whole or in part, by its implied waiver.

FIFTH

MVB Bank's claims are barred, in whole or in part, by its unclean hands such that it would be inequitable to permit it any recovery.

SIXTH

MVB Bank's claims are barred, in whole or in part, by its inequitable conduct.

SEVENTH

MVB Bank's claims are barred, in whole or in part, by its egregious bad faith conduct.

EIGHTH

MVB Bank's claims are barred, in whole or in part, by its abuse of privilege and breach of fiduciary duties.

NINTH

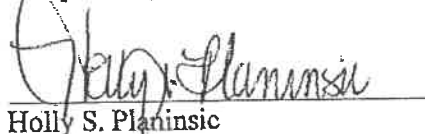
MVB Bank caused, in whole or in part, the breaches and/or damages complained of in its Counterclaim.

TENTH

MVB Bank's claims are barred, in whole or in part, by the unconscionability of the terms of the transactions in which it induced the participation of Mr. Griffith and iLease.

Respectfully submitted,

By:



Holly S. Planinsic
W.Va. State Bar I.D. #6551
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83 Edgington Lane
Wheeling, WV 26003
Phone: (304) 242-2300
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Robert P. Fitzsimmons, Esq.
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1609 Warwood Avenue
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E-Mail: bob@fitzsimmonsfirm.com

*Counsel to Douglas E. Griffith, Jr.
and iLease & Rentals, LLC*

H0022867.1

IN THE CIRCUIT COURT OF HARRISON COUNTY, WEST VIRGINIA

**DOUGLAS E. GRIFFITH, JR.,
an individual, and
ILEASE & RENTALS, LLC,
a West Virginia Limited Liability Company,**

**Plaintiffs,
v.**

**MVB BANK, INC, a West Virginia
Corporation, and JARROD FURGASON,
an individual,**

Defendants.

**CIVIL ACTION NO. 20-C-231
Judge Matish**

CERTIFICATE OF SERVICE

Service of the foregoing **Answer to MVB Bank, Inc.'s Counterclaim** was had upon the following individuals via electronic mail and regular mail this 7th day of May, 2021, as follows:

John J. Polak, Esq.
Mark A. Atkinson, Esq.
Counsel for Jarrod Furgason
Atkinson & Polak, PLLC
P. O. Box 549
Charleston, WV 25322
E-Mail: emboles@amplaw.com
E-Mail: jjpolak@amplaw.com

Brian A. Glasser, Esq.
Rebecca D. Pomeroy, Esq.
Counsel for MVB Bank, Inc.
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E-Mail: bpomeroy@bailevglasser.com

**DOUGLAS E. GRIFFITH, JR. and
LEASE & RENTALS, LLC**

By: Holly S. Planinsic

Holly S. Planinsic
Counsel for Plaintiffs
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Robert P. Fitzsimmons, Esq.
Counsel for Plaintiffs
FITZSIMMONS LAW FIRM, PLLC
1609 Warwood Avenue
Wheeling, WV 26003
Phone: 304-277-1700
Fax: 304-277-1705
E-Mail: bob@fitzsimmonsfirm.com

Subpoenaed Parties

Exhibit A to Subpoena Duces Tecum to

Please refer to the following definitions when responding to these requests:

Document. The term "document" includes, without limitations, all originals, copies (if the originals are not available), non-identical copies and drafts of the following items, whether printed or recorded (through a sound, video or other electronic, magnetic or digital recording system) or reproduced by hand, whether or not claimed to be privileged or confidential, including: but not limited to-- letters, communications, correspondence, memoranda, records, diaries, summaries of personal conversations or interviews, expressions or statements of policy, lists of persons attending meetings or conferences, reports or summaries of meetings, minutes or records or notes of meetings or conferences, reports or summaries of investigations, notes, opinions or reports of advisors or consultants, opinions or reports of experts, contracts, agreements, analyses, studies, logs, surveys, circulars, press releases, calendars, appointment books, bulletins, brochures, manuals, data sheets, pictures, photographs, illustrations, blueprints, films, drawings, plans, tape recordings, videotapes; electronic communications including but not limited to email and/or faxes, interoffice communications, and any other writings, papers and tangible things of whatever description whatsoever, including but not limited to any information contained in any computer, server, mainframe, or other storage device whether located on-site or at any off-site facility, within Your possession, custody, or control. The term "document" shall also include and encompass all electronically stored information.

Transaction. The term "transaction" includes any business interaction, including, but not limited to, the purchase or potential purchase of goods or services, loans, insurance or and applications for loans or insurance products.

Person. "Person" means any individual, firm, company, corporation, association, partnership, or other form of public or private entity.

Related to, regarding. The term "related to" or "regarding" are to be interpreted broadly and in addition to their customary and usual meaning, these terms mean reporting on, regarding, showing or indicating knowledge of, mentioning, discussing, reflecting, recording, constituting, embodying, setting forth and/or evidencing.

Document Requests

1. Since September 2018, please produce all documents exchanged between you and the following persons: Opus Funding Partners, LLC and its employees; Lifeguard Financial and its employees; Oak Insurance Group and its employees; Mountain West Insurance and its employees; Penn Mutual Insurance and its employees; American Insurance Company, LLC and its employees; MVB Bank, Inc. and its employees; Cava & Banko, PLLC and its employees; BankDirect Capital and its employees; First United Bank and Trust and its employees; Jarrod Furgason; Johanle Aman; Larry Anders; Vincent Cava; Andrew Banko; David Alvarez; Jimmy Cava; Colin Danley; Stephen Gentry; Matthew Dean; Brad Greathouse; Greg Greene; Heather Harlan; Ross Johnson; Martin Kalb; Taylor Johnson; Larry Mazza; Christopher Morris; Michael Ogline; Kent George; Doreen Seamon; John Schirripa; Donald Robinson; Mark Goodman; Robert Scott; Wayne Stefanovich; Frank Sutton; Bonnie Tucker; Jeanie Baker; Jordan Miller; Richard Urbealis; Derek Urbealis; Carma McCartney; and Tyler Franklin.
2. Since September 2018, please produce all non-privileged documents exchanged between you and the following persons: Douglas Griffith, Jr., iLease & Rentals, Inc., Christopher Sander, or Robinson & McElwee.
3. Produce any documents related to any of the allegations set forth in the complaint styled *Douglas Griffith, Jr., et al. v. MVB Bank, Inc.*, Civil Action No. 20-C-231 in the Circuit Court of Harrison County, WV, a copy of which is attached hereto.

ROBERT P. FITZSIMMONS
1609 Warwood Avenue
Wheeling, West Virginia 26003-7110
FitzsimmonsFirm.com



FITZSIMMONS
LAW FIRM

WV: (304) 277-1700
OH: (740) 695-1702
Toll: (866) 206-7077
Fax: (304) 277-1705

March 26, 2021

Honorable James A. Matish
Harrison County Courthouse
301 West Main Street
Clarksburg, WV 26301-2967
VIA: E-MAIL (sean.bright@courtsww.gov) & REGULAR MAIL

**RE: Douglas E. Griffith, Jr. and iLease & Rentals, LLC v. MVB Bank, Inc.
and Jarrod Furgason - Civil Action No. 20-C-231**

Dear Judge Matish:

After considering your comments at the Initial Conference on March 10 regarding a possible transfer to the Business Court Division, we wish to advise the Court of our position that this case is appropriate for such a referral. Although individuals are involved as litigants, the claims sound in breach of contract, securities offerings, commercial torts, commercial bank transactions and liability of corporate officers. Given the complex and potentially novel nature of the issues presented, we would be in favor of having the case proceed in the Business Court Division. We discussed this issue with MVB's counsel and understand that they would like the case to remain in Harrison County Circuit Court.

We have no objection to the grant of MVB Bank's pending *Motion for Leave to Amend Answer to Assert Counterclaim*, so a hearing will not be necessary.

Please let us know if you would like us to present a Motion under Trial Court Rule 29.06 for a referral to the Business Court Division or if you will make the referral directly to the Supreme Court. If additional information is required from us, please do not hesitate to contact me or Holly.

Very truly yours,

ROBERT P. FITZSIMMONS

RPF/

cc: Sean D. Bright, Esq.
Rebecca D. Pomeroy, Esq. / Brian A. Glasser, Esq.
John J. Polak, Esq. / Mark A. Atkinson, Esq.



March 26, 2021

VIA E-MAIL AND FIRST-CLASS MAILHonorable James A. Matish
Harrison County Courthouse
301 West Main Street
Clarksburg, WV 26301-2967
james.matish@courtsww.govRe: *Griffith et al. v. MVB Bank, Inc. et al.*, Civil Action No. 20-C-231

Dear Judge Matish:

At the Court's direction, the parties have discussed whether this case should be transferred to the Business Court Division. While the discussion was amicable and productive, the parties have been unable to agree on the propriety of such a transfer. Plaintiffs believe it is proper. As discussed below, MVB Bank, Inc. ("MVB") and Jarrod Furgason, do not.

As you are aware, only "Business Litigation" may be referred to the Business Court Division for resolution if it meets three specific criteria. *See, e.g.*, W. Va. Tr. Ct. R. 29.05(a) & (b); W. Va. Tr. Ct. R. 29.06(a)(1). Critically, the test is conjunctive, meaning a case must satisfy all three prongs to qualify for referral to the Business Court. We believe this case fails the first and third prongs.

First, and most fundamentally, the principal claims in this case do not solely "involve matters of significance to the transactions, operations, or governance *between business entities*." W. Va. Tr. Ct. R. 29.04(a) (emphasis added). Instead, the principal claims are between Plaintiffs—one business entity (*i.e.*, iLease & Rentals, LLC) and one individual (*i.e.*, Douglas Griffith)—and an individual (*i.e.*, Jarrod Furgason). While the Complaint generally asserts claims against MVB and Mr. Furgason, Plaintiffs allege that Mr. Furgason was the "primary contact for iLease and its principals," Compl. ¶ 10, "approached . . . Plaintiff Griffith with 'a unique insurance product,'" *id.* ¶ 11, made various representations about the supposed investment opportunity, *see, e.g., id.* ¶¶ 11–13, and handled all the necessary paperwork, *see id.* ¶ 29. Simply put, although they attempt to blur the lines at various points, Plaintiffs allege that Mr. Furgason—an individual—"solicited Plaintiffs Griffith and iLease for the purpose of inducing them to purchase insurance." *Id.* ¶ 85.

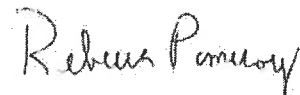
Honorable James A. Matish
March 26, 2021
Page 2

And their pre-trial memorandum confirms that the case's principal claims are between Plaintiffs and Mr. Furgason, *not* between multiple business entities. In that memorandum, once again, Plaintiffs claim they were "solicited by . . . Jarrod Furgason to participate in what was termed a unique insurance/investment opportunity using life insurance premium financing." Pl.'s Pre-trial Mem. ¶ 4. They claim they undertook various actions at Mr. Furgason's direction. *Id.* ¶ 5(c). And they admit that Mr. Furgason "directed *each and every aspect* of the transaction." *Id.* ¶ 4 (emphasis added). Because Plaintiffs' principal claims do not concern transactions between business entities, this case should not be transferred to the Business Court Division.

Second, Plaintiffs' principal claims also involve consumer litigation—namely, alleged unfair trade practices and alleged violations of the Insurance Sales Consumer Protection Act. *See* Compl. ¶¶ 78–90. This fact would also preclude transfer to the Business Court Division.

For these reasons, we believe the case should remain in the Harrison County Circuit Court. Should you have any questions regarding the above, please do not hesitate to contact me.

Sincerely,



Rebecca Pomeroy

cc: Robert P. Fitzsimmons (via e-mail)
Holly S. Planinsic (via e-mail)
John Polak/Mark A. Atkinson (via e-mail)



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

May 24, 2021

Mr. Robert P. Fitzsimmons
Fitzsimmons Law Firm
1609 Warwood Avenue
Wheeling, WV 26003-7110

Ms. Rebecca Pomeroy
Bailey Glasser, LLP.
209 Capitol Street
Charleston, WV 25301


Mr. Mark A. Atkinson
Mr. John J. Polak
Atkinson & Polak, PLLC.
Post Office Box 549
Charleston, WV 25322

Re: Douglas E. Griffith, et al. v. MVB Bank, Inc. et al.
Civil Action No: 20-C-231-3

Dear Counsel:

Upon review of the pleadings, including the defendants' counterclaim against the plaintiffs and counsel's letters of March 26, 2021, the Court feels that this matter would meet the criteria under Trial Court Rule 29.06 for a referral to the Business Court Division and has no objection to the plaintiffs' counsel preparing an appropriate motion.

Very truly yours,



James A. Matish

JAM;jlw

cc: Court file

EXHIBIT H

MAY 26 2021

CASE NO. 20-C-231

OPENED 9/14/2020

JUDGE... JAMES A. MATISH

PLAINTIFF. DOUGLAS E. GRIFFITH, JR.
VS DEFENDANT. MVB BANK, INC.

PRO ATTY.. ROBERT P. FITZSIMMONS, ESQ
DEF ATTY..

PAGE# DATE MEMORANDUM.....

00001 9/14/20 Receipt, CCIS, Complaint, Summons issued thru SOS w/30 day
00002 9/14/20 return upon MVB Bank, Inc., Summons issued thru CRRRD w/20
00003 9/14/20 day return upon J. Furgason, COS for service of Pl's Interr
00004 9/14/20 and Requests for Prod of Docs served w/Complaint. rlh
00005 9/21/20 Cert. mail grn. card to J. Ferguson signed no date djs
00006 9/23/20 Serv. ret. of summons, complaint to SOS for MVB Bank 9/18/20
00007 10/20/20 CCIS, MVB Bank's answer to plttfs' complaint, COS filed by djs
00008 10/20/20 C. Smith jsd
00009 11/02/20 CCIS
00010 11/02/20 Answer & Affirmative Defenses of Def. J. Furgason to jsd
00011 11/02/20 Complaint w/COS filed by J. Polak
00012 11/09/20 AGREED PROTECTIVE ORDER. C-H. Planinsic, R. Fitzsimmons, rlh
00013 11/09/20 C. Smith and J. Polak.
00014 11/19/20 COS MVB Bank Inc responses to plaintiffs interrogatories and ah
00015 11/19/20 requests for production of documents
00016 11/19/20 COS MVB Bank Inc 1st set of rerquests for production and ah
00017 11/19/20 interrogatories to plaintiff Douglas Griffith Jr. ah
00018 11/19/20 COS MVB Bank Inc 1st set of rerquests for production release ah
00019 11/19/20 & Rentals LLC
00020 12/09/20 Notice of intent to serve subpoena duces tecum w/atchmts. djs
00021 12/09/20 COS filed by C. Smith
00022 12/09/20 Notice of intent to serve sub poena duces tecum w/atchmts. djs
00023 12/09/20 COS filed by C. Smith
00024 12/10/20 Serv. Ret. Subpoena to SOS for Premier Bank, Inc. on 12-7-20 ah
00025 12/18/20 Notice of intent to serve subpoenas duces tecum w/cos
00026 12/23/20 Proof of Service for Subpoena Duces Tecum filed by Bailey mdr
00027 12/23/20 Glasser.
00028 1/04/21 COS for civil case subpoena duces tecum filed by H. djs
00029 1/04/21 Planinsic
00030 1/07/21 COS request for production of documents directed to ah
00031 1/07/21 defendant Jarrod Ferguson
00032 1/11/21 Serv. Ret. 1 subpoena duces tecum to SOS for Robinson & jsd
00033 1/11/21 McElwee PLLC on 1-6-21
00034 1/21/21 Notice of Intent to Serve Subpoenas Duces Tecum, w/COS filed jsd
00035 1/21/21 by C. Smith
00036 1/22/21 COS For Pltff. D. E. Griffith, Jr.'s Answer & Responses to
00037 1/22/21 Def. MVB Bank Inc.'s First Set of Requests for Production & jsd
00038 1/22/21 Interrrs. Filed by H. Planinsic
00039 1/22/21 COS For Responses of Pltff. ilease & Rentals, LLC to Def.
00040 1/22/21 MVB Bank, Inc.'s First Set of Requests for Production of jsd
00041 1/22/21 Docs. Filed by H. Planinsic
00042 2/03/21 Notice Scheduling Telephonic Pre-Trial/Scheduling Conference

CASE NO. 20-C-231

OPENED 9/14/2020

JUDGE... JAMES A. MATISH

PLAINTIFF. DOUGLAS E. GRIFFITH, JR.
VS DEFENDANT. MVB BANK, INC.

PRO ATTY.. ROBERT P. FITZSIMMONS, ESQ
DEF ATTY..

PAGE#	DATE	MEMORANDUM.....	
00043	2/03/21	Pre-Trial Conf. set for 3-10-2021 @ 1:30 pm via telephone	
00044	2/03/21	C- were sent to R. Fitzsimmons, H. Planinsic, B. Glasser,	
00045	2/03/21	C. Smith, M. Atkinson & J. Polak.	sp
00046	2/08/21	COS Response of defendant Jarrod Ferguson to request for	
00047	2/08/21	production of documents filed by J Polak	ah
00048	2/16/21	COS for Civil Case Subpoena Duces Tecum, filed by H.	
00049	2/16/21	Planinsic	jsd
00050	3/02/21	Notice of Appearance of Counsel w/cos	ah
00051	3/08/21	MVB Bank Inc.'s Motion for Leave to Amend Answer to Assert	
00052	3/08/21	Counterclaim Against the Pltff.'s, w/COS filed by R. Pomeroy	
00053	3/08/21	MVB Bank Inc.'s Counterclaim Against ILease & Rentals, LLC &	
00054	3/08/21	D. E. Griffith, Jr./Exhibits A-F, w/COS filed by R. Pomeroy	
00055	3/10/21	Pltffs' pre-trial memorandum filed by H. Planinsic,	
00056	3/10/21	Def. J. Furgason's pre-trial memorandum filed by J. Polak	
00057	3/10/21	MVB Bank's pre-trial memorandum filed by R. Pomeroy djs	
00058	3/10/21	Def. MVB Bank, Inc.'s Section 55-7-13-D Notice Regarding	
00059	3/11/21	Potential Nonparty Fault, w/COS filed by R. Pomeroy	jsd
00060	3/11/21	Serv. Ret. 1 Subpoena Duces Tecum to SOS to Capital One,	jsd
00061	3/11/21	N.A. on 3-5-21	
00062	3/15/21	Def. J. Furgason's notice of non-party fault, COS filed by	djs
00063	3/15/21	J. Polak	
00064	3/26/21	Notice of Intent to Serve Subpoena Duces Tecum/Attachments	
00065	3/26/21	on Citizens Bank of Weston, w/COS filed by R. Pomeroy	jsd
00066	3/26/21	Notice of Intent to Serve Subpoena Duces Tecum/Attachments	
00067	3/26/21	on The Law Office of Sarah Nealis Bohan PLLC, w/COS filed by	jsd
00068	3/26/21	R. Pomeroy	
00069	3/29/21	Notice of intent to serve subpoena duces tecum, COS	
00070	3/29/21	w/atchmts. filed by R. Pomeroy	djs
00071	3/29/21	Notice of intent to serve subpoena duces tecum, COS	
00072	3/30/21	w/atchmts. filed by R. Pomeroy	djs
00073	4/05/21	Notice of Intent to serve subpoena duces tecum on Martin	
00074	4/05/21	Kalb w/cos and attachments	ah
00075	4/05/21	Notice of Intent to serve subpoena duces tecum on Greeberg	
00076	4/05/21	Traurig LLP w/cos and attachments	ah
00077	4/07/21	AGREED ORDER ON MVB BANK, INC.'S MOTION FOR LEAVE TO AMEND	
00078	4/07/21	ANSWER TO ASSERT COUNTERCLAIM AGAINST THE PLAINTIFFS. C-	
00079	4/07/21	R. Pomeroy, R. Fitzsimmons, H. Planinsic, J. Polak & M.	
00080	4/07/21	Atkinson.	sp
00081	4/08/21	Notice of intent to serve subpoena duces tecum w/cos and	
00082	4/08/21	attachments	ah
00083	4/19/21	Citizen's Bank of Weston motion to quash civil case	
00084	4/19/21	subpoena, COS w/atchmt. filed by W. Weber II	djs

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00085	4/19/21	Notice of intent to serve subpoena duces tecum, COS	
00086	4/19/21	w/atchmt. filed by R. Pomeroy	djs
00087	4/19/21	COS for MVB Bank's first set of interrers. to iLease & Rentals	
00088	4/19/21	COS for MVB Bank's second request for prod. to iLease &	
00089	4/19/21	Rentals filed by B. Glasser	djs
00090	4/21/21	Notice of intent to serve subpoenas duces tecum on Richard	
00091	4/21/21	Urbealis and Derek Urbealis with COS and Attachments	
00092	5/10/21	Answer to MVB Bank, Inc.'s Counterclaim, w/COS filed by H.	
00093	5/10/21	Planinsic	jsd
00094	5/17/21	Notice of Intent to Serve Subpoenas Duces Tecum on True	
00095	5/17/21	Flameless Rentals, LLC w/ COS filed by R. Pomeroy.	sp
00096	5/17/21	Notice of Intent to Serve Subpoenas Duces Tecum on Willow-	
00097	5/17/21	beach Investments, LLC w/ COS filed by R. Pomeroy.	sp
00098	5/24/21	Notice of Intent to Serve Subpoena Duces Tecum w/ COS filed	
00099	5/24/21	by R. Pomeroy.	sp
00100	5/24/21	Filed by court: Letter to judge from R. Pomeroy	djs
00101	5/24/21	Letter to counsel from judge, Filed by court: Letter to	
00102	5/24/21	judge from R. Fitzsimmons	djs
00103	5/26/21	Notice of Intent to Serve Subpoenas Duces Tecum/ Exhibit A	
00104	5/26/21	w/COS filed by R. Pomeroy	jsd

Harrison County Circuit Court Docket

EXHIBIT I