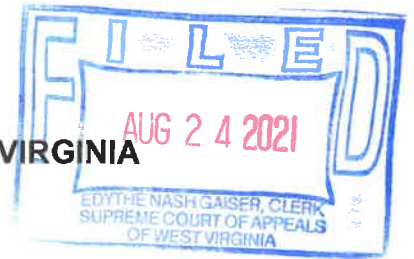


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IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

**JEANETTE WHITE, Administratrix of
the Estate of William Gregory White,**

Plaintiff,

FILE COPY

v.

Civil Action No. 20-C-626

(Circuit Court of Kanawha County, West Virginia)

**WHITE BROTHERS CONSULTING, LLC,
a West Virginia limited liability company,
and TIMOTHY T. WHITE, individually,**

Defendants.

TO: THE HONORABLE EVAN H. JENKINS, CHIEF JUSTICE

**PLAINTIFF'S REPLY MEMORANDUM IN OPPOSITION TO
DEFENDANTS' MOTION TO REFER CASE TO BUSINESS COURT DIVISION**

Plaintiff Jeanette White, Administratrix of the Estate of William Gregory White ("Administratrix"), by and through her counsel, Edward P. Tiffey and Tiffey Law Practice, PLLC, hereby replies in opposition to Defendants' Motion to Refer Case to Business Court Division ("Motion to Refer"), pursuant to Trial Court Rule 29.06(a)(4), as follows:

1. Defendants' Motion to Refer requires denial on the following grounds:
 - Administratrix is an individual and not a business entity. Defendant Timothy T. White is an individual and not a business entity. Thus, the first prong of the definition of "Business Litigation" appearing in Rule 29.04(a)(1) is not satisfied as this case is not between business entities;
 - Count II of the Complaint sounds in Conversion by the defendants of the \$1.3 million in life insurance proceeds on the life of the decedent, William Gregory White ("Decedent"). Administratrix seeks to recover the same on behalf of the Decedent's estate. Consequently, the Business Court Division lacks jurisdiction to adjudicate this case under Rule 29.04(a)(3); and

- The Circuit Court appointed a Receiver on November 9, 2020 and a Special Commissioner for discovery matters on April 5, 2021 in its informed discretion, and has managed this civil action appropriately. Trial Court 29 does not contemplate a case referral where a Receiver and/or Special Commissioner is appointed by the Circuit Court.

2. Administratrix filed her Complaint on July 28, 2020. The Complaint avers, *inter alia*, that White Brothers Consulting, LLC ("WBC") was a partnership in fact and at law. Count I seeks recovery of the fair value of the Decedent's partnership interest in WBC under the West Virginia Code. Count II sounds in Conversion of \$1.3 million in life insurance proceeds by the Defendants following the decedent's passing. Both counts are directed to WBC and Timothy T. White as defendants.

3. Administratrix is an individual person. Defendant Timothy T. White is an individual person.

4. Clearly, this civil action is not "between business entities" as required in the first prong of the definition of "Business Litigation" appearing in Trial Court Rule 29.04(a)(1). Therefore, this civil action is not eligible for transfer to the Business Court Division.

5. Administratrix's Count II claim for Conversion is beyond the jurisdictional reach of the Business Court Division. Rule 29.04(a)(3) precludes referral of cases where there exists an insurance dispute "in which an individual may be covered under a commercial policy, but is involved in the dispute in an individual capacity." Administratrix contends that the subject \$1.3 million in life insurance proceeds on the life of the Decedent are personal to him and, therefore, pursues their recovery. Thus, the Decedent and his estate are involved in the dispute over life insurance proceeds.

Accordingly, the Business Court Division does not have jurisdiction over this case.¹

6. Defendants' Motion to Refer is untimely, as it comes more than twelve (12) months after the filing of the Complaint.

7. Moreover, Defendants' Motion to Refer comes more than nine (9) months following the Circuit Court's Order of November 9, 2020 appointing a Receiver to preserve and protect the predicates for the Decedent's interest to be purchased, and to preserve and protect all assets, records, and life insurance proceeds herein. The Circuit Court's Order is attached hereto as Exhibit A.²

8. Further, Defendants' Motion to Refer comes after the following recent developments in Circuit Court:

- April 5, 2021 Order appointing a Special Commissioner for discovery matters;
- May 18, 2021 Hearing on Plaintiff's Motions to Compel held by the Special Commissioner;
- The Special Commissioner's Recommended Decision dated May 19, 2021;
- Order entered June 2, 2021 directing the parties to comply with the terms of the Recommended Decision;
- Plaintiff's Motion to Enforce Order Adopting Special Commissioner Recommendation filed on July 26, 2021; and
- Defendants' production of responsive documents concurrently with their Motion to Refer, as seen in their Clerk letters dated August 5, 2021.

Copies of these Orders and pleadings are attached hereto as Exhibits B through G.

¹ Indeed, Administratrix's claim for Conversion is substantial and real. Count II is not to be overlooked or conflated with Count I for Defendants' convenience.

² The Circuit Court's Order of November 9, 2020 was not included in Defendants' Motion to Refer.

9. The within Exhibits A through G demonstrate that the Circuit Court has ably and appropriately managed this civil action in its informed discretion, and will continue to do so, as it is the sole Court having jurisdiction. Meanwhile, Trial Court 29 does not contemplate the referral of a case where a Receiver and/or a Special Commissioner is appointed by the Circuit Court.

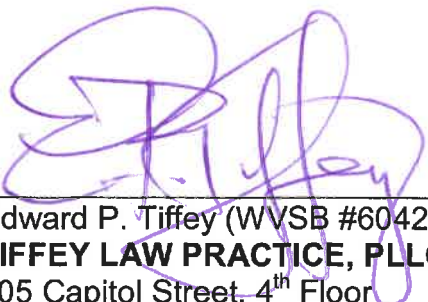
10. Lastly, the matters raised by the Complaint are well within the purview of the Circuit Court for adjudication. There is no dispute that WBC is a small business. A fair value small business valuation will be completed by the parties. And the separate Conversion claim will be discovered and adjudicated in the ordinary course.

11. The Business Court Division is designed to receive civil actions involving opposing business entities (unlike here) where there is no insurance dispute involving an individual (unlike here). The absence of these predicates precludes referral of this case to the Business Court Division.

WHEREFORE, for reasons heretofore stated and pursuant to the text of Trial Court Rules 29.04(a)(1) and 29.04(a)(3), Administratrix respectfully requests entry of an Order denying the Motion to Refer.

**JEANETTE WHITE, Administratrix of
the Estate of William Gregory White**

By Counsel



Edward P. Tiffey (WVSB #6042)
TIFFEY LAW PRACTICE, PLLC
205 Capitol Street, 4th Floor
P.O. Box 3785
Charleston, WV 25337-3785
(304) 344-3200
(304) 344-9919 (fax)

EXHIBIT A

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

**JEANETTE WHITE, Administratrix of
the Estate of William Gregory White,**

Plaintiff,

v.

**Civil Action No. 20-C-626
Hon. Tera L. Salango**

**WHITE BROTHERS CONSULTING, LLC,
a West Virginia limited liability company,
and TIMOTHY T. WHITE, individually,**

Defendants.

ORDER

Pending before the Court is Plaintiff's Emergency Motion for Judicial Supervision of Partnership Winding Up and Assets and Appointment of Receiver. The Court convened a status conference on September 24, 2020 and established a briefing schedule. Having considered the pleadings of record and briefs received, the Court finds and concludes as follows:

FINDINGS OF FACT

1. Plaintiff's Complaint seeks a fair value purchase of the decedent's partnership interest in Defendant White Brothers Consulting, LLC ("WBC"), and to recover life insurance proceeds converted by the defendants.
2. Defendants' Answer to the Complaint denies that WBC is a partnership.
3. Decedent William G. White ("the decedent") was the natural brother of Defendant Timothy T. White ("Tim White").

4. On December 1, 2011, WBC was created and recognized as a limited liability company by the West Virginia Secretary of State. The Articles of Organization show Tim White, the decedent, and Lee Snyder ("three gentlemen") as members.

5. There is a typewritten Operating Agreement for WBC. It is not dated. It is not executed. There is no indication of initial contributions to capital, whether by percentage or units, as seen in Section 3.2. In addition, there is no indication of an election or appointment of Managers as seen in Section 5.3. The beginning and end of the document refer to adoption of the Operating Agreement upon execution by the "Initial Members."

6. There is no showing thus far that Tim White, the decedent, and Lee Snyder followed the unexecuted Operating Agreement in conducting the business and affairs of WBC.

7. On April 17, 2015, the three gentlemen acknowledged in writing that they were members of a partnership and jointly authorized the purchase of life insurance for themselves, in which WBC will serve as the owner and beneficiary of the policies. At the same time, a local insurance broker prepared a bulletin for the three gentlemen on the purchase of life insurance coverage for a buy-sale agreement.

8. The decedent's life insurance application noted that the purpose of the insurance was for "Buy-Sale" and that WBC was worth \$4 million. The application led to the purchase of a \$1.3 million life insurance policy on the decedent.

9. On December 16, 2018, the decedent passed away. Plaintiff avers that Tim White acknowledged at that time that the life insurance proceeds were for his brother's family, as seen in her Affidavit attached to her reply brief.

10. On June 26, 2019, Tim White offered Lee Snyder a buyout of his entire interest in WBC and its property based on the end of calendar year 2018, and not based on the date of the decedent's passing. The buyout consisted of cash, pay off of a truck note, 2019 draws, and granting title to trailer equipment and a terrain vehicle. Tim White opened his buyout letter as follows:

"Based on our discussions and the fact that our **partnership** within White Brothers Consulting, LLC (WBC, LLC) was **dissolved** following the death of Bill White..."

(emphasis added).

11. On September 15, 2020, the defendants filed the 2019 Tax Return for WBC through their accountant.

12. Schedule K-1 of the 2019 Tax Return shows a liquidation of the decedent's interest in WBC in the amount of \$512,783.00. Plaintiff has not received it. The same schedule reflects the components of this stated amount, namely \$433,333 in life insurance proceeds and \$79,450 for the decedent's capital account. These amounts are found in the attachments to the June 26, 2019 buyout letter from Tim White to Lee Snyder, in which \$433,333 in life insurance proceeds were used for the buyout.

13. Tim White is the lone member of WBC in this contested matter.

14. Plaintiff's motion seeks judicial supervision and an appointment of a Receiver to preserve and protect WBC assets and records, as well as the life insurance proceeds. Defendants oppose the same, dismiss the Plaintiff's concerns as unfounded, and are silent as to the preservation and protection of all assets, records and life insurance proceeds.

CONCLUSIONS OF LAW

1. This matter is in its early stages. Plaintiff initiated this civil action under the partnership statutes of the West Virginia Code appearing in Chapter 47B. Defendants maintain that Chapter 31B applies on the basis that WBC is a limited liability company.

2. While it is clear that WBC was created as a limited liability company, there is evidence already that it operated as a partnership and was dissolved.

3. The crux of the pending motion is for the preservation of assets and financial and business records for examination, valuation, and an eventual purchase of the decedent's interest. Meanwhile, the parties disagree as to whether the subject life insurance proceeds are property of the decedent's estate or WBC.

4. Both Chapter 47B and Chapter 31B call for the purchase of the decedent's interest. It is not necessary at this juncture for the Court to determine as a matter of law which Chapter applies to the purchase of the decedent's interest. However, it is necessary for the Court to protect and preserve the assets and financial and business records, including life insurance proceeds, as they are the components for an eventual statutory purchase of the decedent's interest.

5. There exists ample good cause for this Court to invoke West Virginia Code §47B-8-3(a) to exercise judicial supervision of assets and records herein. The Court also has West Virginia Code §53-6-1 available to it to appoint a Receiver, in its sound discretion, to assist in its supervision.

6. Accordingly, this Court finds that good cause has been shown and **ORDERS** the protection and preservation of WBC assets, the subject life insurance

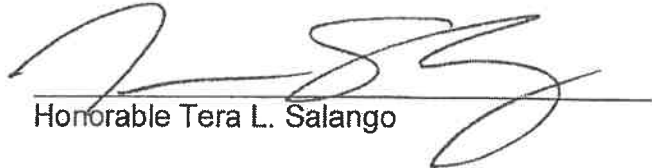
proceeds, and attendant business and financial records. To this end, the Court appoints G. Nicholas Casey, Jr. to serve as Receiver.

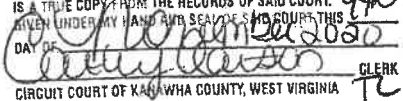
7. The Court enters this Order, in its sound and informed discretion, to preserve and protect the predicates for the decedent's interest to be purchased, and in view of the aforementioned liquidated interest of the decedent, which is substantial and has not been received by Plaintiff. This Order also serves to avoid danger to, or risk of loss or misappropriation of, the decedent's liquidated interest and all assets, records and life insurance proceeds, during the course of this contested proceeding. Indeed, the defendants' silence as to their preservation and protection of all assets, records, and life insurance proceeds is noted as further grounds for entering this Order.

The Court notes the exceptions and objections of the parties to the within ruling.

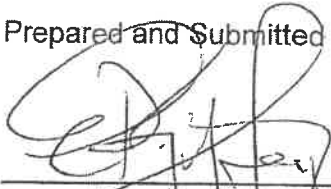
The Clerk is directed to send certified copies of this Order to all counsel of record and to the appointed Receiver.

ENTERED this 9th day of November, 2020.


Honorable Tera L. Salango

STATE OF WEST VIRGINIA
COUNTY OF KANAWHA, SS
I, CATHY S. GATSON, CLERK OF CIRCUIT COURT OF SAID COUNTY
AND IN SAID STATE, DO HEREBY CERTIFY THAT THE FOREGOING
IS A TRUE COPY FROM THE RECORDS OF SAID COURT. 9th
GIVEN UNDER MY HAND AND SEAL OF SAID COURT THIS 9th
DAY OF November, 2020

CATHY S. GATSON CLERK
CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA TC

Prepared and Submitted By:



Edward P. Tiffey (WVSB #6042)
TIFFEY LAW PRACTICE, PLLC
205 Capitol Street, 4th Floor
P.O. Box 3785
Charleston, WV 25337-3785
(304) 344-3200
(304) 344-9919 (fax)
Counsel for Plaintiff

EXHIBIT B

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

FILED

JEANETTE WHITE, Administratrix of
the Estate of William Gregory White,

2021 APR -5 AM 11:30

CATHY S. GARCIA, CLERK
KANAWHA COUNTY CIRCUIT COURT

Plaintiff,

v.

CIVIL ACTION NO. 20-C-626
JUDGE TERA L. SALANGO

WHITE BROTHERS CONSULTING, LLC,
a West Virginia limited liability company,
and TIMOTHY T. WHITE, individually,

Defendants.

ORDER

Currently pending before this Court are Plaintiff's *Motion to Compel Complete Responses to First Set of Requests for Production of Documents* and *Motion to Compel Complete Responses and Responsive Documents to Her Second Set of Requests for Production of Documents*. On this date, the Court, having received said *Motions*, having determined that said *Motions* require immediate attention, and having found that no available docket time exists in the near future, does hereby **ORDER** that said *Motions*, and any other currently pending discovery motions, be referred to a Special Commissioner to aid the litigants in achieving an expeditious resolution.

WHEREFORE, it is hereby **ORDERED** that this matter is referred to **BRUCE FREEMAN, ESQ.**, a practicing attorney at the bar of this Court, as Special Commissioner for the purposes of such discovery issues. Each interested party shall submit to the Special Commissioner any and all documents necessary and appropriate for the resolution of this matter within thirty (30) days of entry of this *Order*, or pursuant to the Special Commissioner's direction.

The Court **ORDERS** that the Special Commissioner will, in his recommendation to the Court, make a finding as to which party substantially prevails on the motion or other issues. Whichsoever party substantially prevails on the discovery issues shall bear no cost for the Special

Commissioner. The non-prevailing party shall pay all costs for the Special Commissioner unless otherwise agreed by the parties. In the event that neither party substantially prevails, the costs of the Special Commissioner shall be borne evenly by all parties involved.

Further, the Court **ORDERS** that the parties will have five (5) days from the date of the recommended decision of the Special Commissioner to file objections with the Court.

The Court **ORDERS** the Clerk of this Court to send certified copies of this order to all counsel of record and to Bruce Freeman at 1554 Kanawha Blvd. E., Charleston, West Virginia 25311.

ENTERED this 2nd day of April, 2021.


TERA L. SALANGO, Circuit Judge

STATE OF WEST VIRGINIA
COUNTY OF KANAWHA, SS
I, CATHY S. GATSON, CLERK OF CIRCUIT COURT OF SAID COUNTY
AND IN SAID STATE, DO HEREBY CERTIFY THAT THE FOREGOING
IS A TRUE COPY FROM THE RECORDS OF SAID COURT.
GIVEN UNDER MY HAND AND SEAL OF SAID COURT THIS 2nd day of April, 2021.
Cathy S. Gatson
CLERK
CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

EXHIBIT C

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

**JEANETTE WHITE, Administratrix of
the Estate of William Gregory White,**

Plaintiff,

v.

**Civil Action No. 20-C-626
Hon. Tera L. Salango**

**WHITE BROTHERS CONSULTING, LLC,
a West Virginia limited liability company,
and TIMOTHY T. WHITE, individually,**

Defendants.

AMENDED NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that a hearing will be held on Plaintiff's Motion to Compel Complete Responses to First Set of Requests for Production of Documents and Plaintiff's Motion to Compel Complete Responses and Responsive Documents to Her Second Set of Requests for Production of Documents to Compel before Special Commissioner Bruce L. Freeman at his offices located at 1554 Kanawha Boulevard, East, Charleston, West Virginia, on **Tuesday, May 18, 2021, at 1:00 p.m.**, at which time you may attend to protect your interests.

**JEANETTE WHITE, Administratrix of
the Estate of William Gregory White**

By Counsel



Edward P. Tiffey (WVSB #6042)
TIFFEY LAW PRACTICE, PLLC
205 Capitol Street, 4th Floor
P. O. Box 3785
Charleston, WV 25327-3785
(304) 344-3200
(304) 344-9919 (fax)

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

JEANETTE WHITE, Administratrix of
the Estate of William Gregory White,

Plaintiff,

v.

Civil Action No. 20-C-626
Hon. Tera L. Salango

WHITE BROTHERS CONSULTING, LLC,
a West Virginia limited liability company,
and TIMOTHY T. WHITE, individually,

Defendants.


CERTIFICATE OF SERVICE

I, Edward P. Tiffey, counsel for Plaintiff Jeanette White, Administratrix of the Estate of William Gregory White, do certify that on May 12, 2021 I served the forgoing **AMENDED NOTICE OF HEARING** upon counsel of record, via U.S. Mail, to the following:

Bruce L. Freeman, Esq.
FREEMAN & CHIARTAS PLLC
P.O. Box 347
Charleston, WV 25322
Special Commissioner

Kenneth E. Webb, Jr., Esq.
BOWLES RICE LLP
P.O. Box 1386
Charleston, WV 25325-1386
*Counsel for Defendants White Brothers
Consulting, LLC and Timothy T. White*

G. Nicholas Casey, Jr., Esq.
4401 Kanawha Avenue, S.E.
Charleston, WV 25304
Receiver



Edward P. Tiffey (WVSB #6042)

EXHIBIT D

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

JEANETTE WHITE, Administratrix of the
Estate of William Gregory White,

Plaintiff,

v.

Civil Action No. 20-C-626

WHITE BROTHERS CONSULTING, LLC,
a West Virginia limited liability company,
and TIMOTHY T. WHITE, individually,

Defendants.

RECOMMENDED DECISION OF THE SPECIAL COMMISSIONER

This case was referred to the undersigned as Special Commissioner, for purposes of discovery issues, by Order of the Honorable Tera L. Salango, Circuit Judge of the Thirteenth Judicial Circuit, whose Order is dated April 2, 2021. The matter was noticed and came for hearing on May 18, 2021. Appearing for the parties were Edward P. Tiffey for the plaintiff and Kenneth E. Webb Jr. for the defendants. Brought on for hearing was *Plaintiff's Motion to Compel Complete Responses to First Set of Requests for Production of Documents* and *Plaintiff's Motion to Compel Complete Responses and Responsive Documents to her Second Set of Requests for Production of Documents*.

FINDINGS OF FACTS AND CONCLUSIONS OF LAW

Plaintiff's Motion involves two sets of document requests. The defendants previously responded and/or objected. In an effort to address each item in dispute, the Special Commissioner met with counsel and after discussion, the following was resolved.

1. The Special Commissioner reviewed *Defendants' Response to Plaintiff's First Set of*

Requests for Production of Documents and determined defendants' response to be adequate and thus requiring no further supplementation.

2. The issues raised in *Plaintiff's Motion to Compel Complete Responses and Responsive Documents to her Second Set of Requests for Production of Documents* fall into two separate categories. The first dispute arises from defendants' denial of the existence of documents requested by the plaintiff. Because defendants' response did not clearly address the request, the Special Commissioner recommended that defendants' responses be supplemented with an explanation that no such documents exist. If defendants intend to object pursuant to Rule 26(b)(1)(c), W.V.R.C.P., that the discovery sought is unduly burdensome or expensive, the Special Commissioner recommended that they submit evidence in support of the objection.

The second issue with *Defendants' Responses to Plaintiff's Second Set of Requests for Production of Documents* is defendants' objections to the relevancy of the documents requested. Inasmuch as Rule 26, W.V.R.C.P., permits discovery of information which will be inadmissible at trial, as long as the information sought appears reasonably calculated to lead to the discovery of admissible evidence, it is the Special Commissioner's recommendation that defendants respond to all such requests.

TIME FRAME

The Special Commissioner recommends that the defendants file the above-referenced supplemental responses and/or documents on or before June 4, 2021.

FEES AND COSTS

The Special Commissioner has determined that the plaintiff has substantially prevailed and as such, recommends that the Special Commissioner's fee of \$350.00 per hour for three and one-half hours be paid by the defendants.

EXCEPTIONS

Parties have five (5) days from the date of this Recommended Decision to file Exceptions, if any, with the Court. Each Party of Record, by counsel, has been mailed a copy of this Recommended Decision on the date set out below.

Dated this 19th day of May, 2021.

A handwritten signature in dark ink, appearing to read 'B. Freeman', is written over a horizontal line.

Bruce L. Freeman
Special Commissioner

EXHIBIT E

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

JEANETTE WHITE, Administratrix of
the Estate of William Gregory White,

Plaintiff,

v.

CIVIL ACTION NO. 20-C-626
JUDGE TERA L. SALANGO

WHITE BROTHERS CONSULTING, LLC,
a West Virginia limited liability company,
and TIMOTHY T. WHITE, individually,

Defendants.

ORDER

This case was referred to Bruce Freeman, Esq., as Special Commissioner, for purposes of discovery issues, by Order of the Honorable Tera L. Salango, Circuit Judge of the Thirteenth Judicial Circuit, whose Order is dated April 2, 2021. The matter was noticed and came for hearing on May 18, 2021. Appearing for the parties were Edward P. Tiffey for the plaintiff and Kenneth E. Webb, Jr., for the defendant. Brought on for hearing was *Plaintiff's Motion to Compel Complete Responses to First Set of Requests for Production of Documents* and *Plaintiff's Motion to Compel Complete Responses and Responsive Documents to her Second Set of Requests for Production of Documents*.

FINDINGS OF FACTS AND CONCLUSIONS OF LAW

Plaintiff's *Motion* involves two sets of document requests. The defendants previously responded and/or objected. In an effort to address each item in dispute, the Special Commissioner met with counsel and after discussion the following was resolved.

The Special Commissioner reviewed Defendants' *Response to Plaintiff's First Set of Requests for Production of Documents* and determined defendants' response to be adequate and thus requiring no further supplementation.

The issues raised in Plaintiff's *Motion to Compel Complete Responses and Responsive Documents to Her Second Set of Requests for Production of Documents* fall into two separate categories. The first dispute arises from defendants' denial of the existence of documents requested by the plaintiff. Because defendants' response did not clearly address the request, the Special Commissioner recommended that defendants' responses be supplemented with an explanation that no such documents exist. If the defendants intend to object pursuant to Rule 26(b)(1)(c), that the discovery sought is unduly burdensome or expensive, the Special Commissioner recommended that they submit evidence in support of the objection.

The second issue with *Defendants' Responses to Plaintiff's Second Set of Requests for Production of Documents* is defendants' objection to the relevancy of the documents requested. Inasmuch as Rule 26 permits discovery of information which will be inadmissible at trial as long as the information sought appears reasonably calculated to lead to the discovery of admissible evidence, it is the Special Commissioner's recommendation that defendants respond to all such requests.

TIME FRAME

The Special Commissioner recommends that the defendant file the above-referenced supplemental responses and/or documentation on or before June 4, 2021.

FEES AND COSTS

The Special Commissioner has determined that the plaintiff substantially prevailed and accordingly, the Special Commissioner's fee of \$350.00 per hour for a period of three and one-half hours shall be paid by the defendants.

Wherefore, based on the foregoing findings of fact and conclusions of law, this Court adopts the recommendation of the Special Commissioner, Bruce Freeman, as set out herein, and hereby

Orders the parties comply with the terms of the aforementioned recommendation. The Defendants' exceptions and objections are noted for the record. The Clerk is directed to send a copy of this Order to all counsel of record, any unrepresented parties, and Bruce Freeman, Esq.

ENTERED this 28th day of May, 2021.


TERA L. SALANGO, Circuit Judge

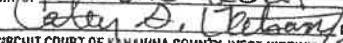
STATE OF WEST VIRGINIA
COUNTY OF KANAWHA, SS
I, CATHY S. GATSON, CLERK OF CIRCUIT COURT OF SAID COUNTY
AND IN SAID STATE, DO HEREBY CERTIFY THAT THE FOREGOING
IS A TRUE COPY FROM THE RECORDS OF SAID COURT.
GIVEN UNDER MY HAND AND SEAL OF SAID COURT THIS 28th
DAY OF June 2021

CATHY S. GATSON, CLERK
CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA MT

EXHIBIT F

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

**JEANETTE WHITE, Administratrix of
the Estate of William Gregory White,**

Plaintiff,

v.

**Civil Action No. 20-C-626
Hon. Tera L. Salango**

**WHITE BROTHERS CONSULTING, LLC,
a West Virginia limited liability company,
and TIMOTHY T. WHITE, individually,**

Defendants.

**PLAINTIFF'S MOTION TO ENFORCE ORDER
ADOPTING SPECIAL COMMISSIONER RECOMMENDATION**

Plaintiff Jeanette White, Administratrix of the Estate of William Gregory White, by counsel Edward P. Tiffey and Tiffey Law Practice, PLLC, now moves the Court to enforce its June 2, 2021 Order adopting the discovery recommendations of Special Commissioner Bruce L. Freeman as follows:

1. On April 2, 2021, the Court referred this matter to Mr. Freeman as Special Commissioner regarding a pair of Motions to Compel filed by Plaintiff.

2. On May 18, 2021, the Special Commissioner convened a hearing on *Plaintiff's Motion to Compel Complete Responses to First Set of Requests for Production of Documents* and *Plaintiff's Motion to Compel Complete Responses and Responsive Documents to her Second Set of Requests for Production of Documents* with counsel of record.

3. On May 19, 2021, the Special Commissioner issued his Recommended Decision to the Court and counsel, recommending that the Defendants file their necessary supplemental discovery responses and/or documents on or before June 4, 2021.

4. On May 24, 2021, the Defendants filed their exceptions to the Special Commissioner's Recommended Decision.

5. On June 2, 2021, the Court entered its Order adopting the Special Commissioner's Recommended Decision. Counsel then received a copy of the Order from the Circuit Clerk.

6. On June 15, 2021, Plaintiff inquired of the Defendants as to the status of Defendants' supplemental discovery responses and documents.

7. On June 21, 2021, Defendants requested additional time to comply with the Order. Plaintiff agreed to the request.

8. Plaintiff did not receive any response or responsive information during the weeks that followed.

9. On July 13, 2021, Plaintiff inquired again of the Defendants for supplemental discovery responses and documents. To date, there has been no response.

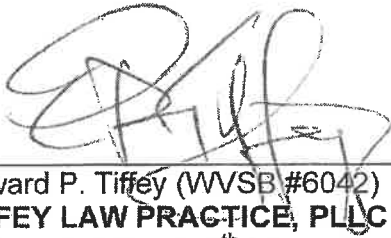
10. The Defendants have had more than ample time to comply with the Court's June 2, 2021 Order and produce what is required to be produced to the Plaintiff.

11. Accordingly, Plaintiff requests entry of an Order enforcing its June 2, 2021 Order, directing the immediate delivery of supplemental discovery responses and

documents by the Defendants, an award of her attorney fees and costs, and all such other relief this Court deems just and proper.

**JEANETTE WHITE, Administratrix of
the Estate of William Gregory White**

By Counsel

A handwritten signature in black ink, appearing to read 'E. P. Tiffey', is written over a horizontal line.

Edward P. Tiffey (WVSB #6042)
TIFFEY LAW PRACTICE, PLLC
205 Capitol Street, 4th Floor
P.O. Box 3785
Charleston, WV 25337-3785
(304) 344-3200
(304) 344-9919 (fax)

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

JEANETTE WHITE, Administratrix of
the Estate of William Gregory White,

Plaintiff,

v.

Civil Action No. 20-C-626
Hon. Tera L. Salango

WHITE BROTHERS CONSULTING, LLC,
a West Virginia limited liability company,
and TIMOTHY T. WHITE, individually,

Defendants.


CERTIFICATE OF SERVICE

I, Edward P. Tiffey, counsel for Plaintiff Jeanette White, Administratrix of the Estate of William Gregory White, do certify that on July 22, 2021 I served the forgoing **PLAINTIFF'S MOTION TO ENFORCE ORDER ADOPTING SPECIAL COMMISSIONER RECOMMENDATION** upon counsel of record, via U.S. Mail, to the following:

Kenneth E. Webb, Jr., Esq.
BOWLES RICE LLP
P.O. Box 1386
Charleston, WV 25325-1386
*Counsel for Defendants White Brothers
Consulting, LLC and Timothy T. White*

Bruce L. Freeman, Esq.
FREEMAN & CHIARTAS PLLC
P.O. Box 347
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Special Commissioner

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4401 Kanawha Avenue, S.E.
Charleston, WV 25304
Receiver



Edward P. Tiffey (WVSB #6042)

EXHIBIT G

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August 5, 2021

Cathy S. Gatson, Circuit Clerk
Circuit Court of Kanawha County
Kanawha County Judicial Annex
111 Court Street
Charleston, West Virginia 25301

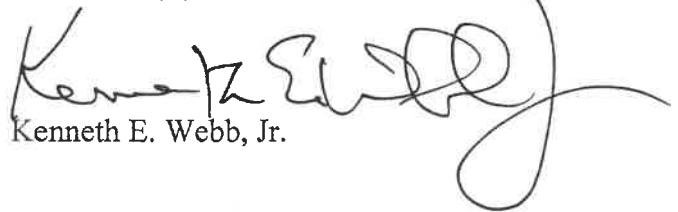
Re: Jeanette White v. White Brothers Consulting, LLC, et al.
Civil Action No. 20-C-626

Dear Ms. Gatson:

Please find enclosed for filing in the above-referenced matter the ***Certificate of Service for Defendants' Supplemental Response to Plaintiff's Second Set of Requests for Production of Documents.***

Thank you for your assistance in this matter.

Respectfully yours,



Kenneth E. Webb, Jr.

/cls

Enclosure

cc: (w/enclosure)

Edward P. Tiffey, Esquire

Bowles Rice

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August 5, 2021

The Honorable Edythe Nash Gaiser, Clerk
West Virginia Supreme Court of Appeals
Room 317, East
State Capitol Building
Charleston, West Virginia 25305

VIA HAND-DELIVERY

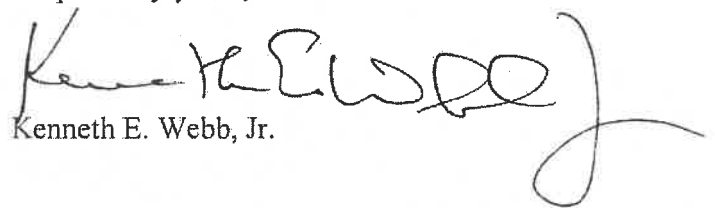
Re: Jeanette White v. White Brothers Consulting, LLC, et al.
Civil Action No. 20-C-626

Dear Ms. Gaiser:

Enclosed for filing in the above-referenced matter, please find an original and five (5) copies of *Defendants' Motion to Refer to the Business Court Division*.

Thank you for your attention to this matter.

Respectfully yours,



Kenneth E. Webb, Jr.

/cls

Enclosure

cc: (w/enclosure)

The Honorable Tera L. Salango, Judge
Cathy S. Gatson, Circuit Clerk
Lorri Stotler, Administrative Assistant
Edward P. Tiffey, Esquire

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

**JEANETTE WHITE, Administratrix of
the Estate of William Gregory White,**

Plaintiff,

v.

**Civil Action No. 20-C-626
(Circuit Court of Kanawha County, West Virginia)**

**WHITE BROTHERS CONSULTING, LLC,
a West Virginia limited liability company,
and TIMOTHY T. WHITE, individually,**

Defendants.

CERTIFICATE OF SERVICE

I, Edward P. Tiffey, counsel for Plaintiff Jeanette White, Administratrix of the Estate of William Gregory White, do certify that on August 24, 2021 I served the forgoing **PLAINTIFF'S REPLY MEMORANDUM IN OPPOSITION TO DEFENDANTS' MOTION TO REFER CASE TO BUSINESS COURT DIVISION** upon the following as indicated below:

The Honorable Tera L. Salango
13th Judicial Circuit
Kanawha County Judicial Building
111 Court Street
Charleston, WV 25301
(*via hand delivery*)

Cathy S. Gatson, Clerk
Kanawha County Circuit Court
Kanawha County Judicial Building
111 Court Street
Charleston, WV 25301
(*via hand delivery*)

Lorri Stotler, Administrative Assistant
Business Court Division Central Office
Berkeley County Judicial Center
380 West South Street, Suite 2100
Martinsburg, WV 25401
(*via U.S. Mail*)

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Consulting, LLC and Timothy T. White
(via hand delivery)*

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Edward P. Tiffey (WVSB #6042)