

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA  
CASE NO. 22-677

SCA EFiled: Oct 03 2022  
09:39AM EDT  
Transaction ID 68199586

SAVANNAH 605, LLC,  
KINZER BUSINESS REALTY, LTD.  
and FULTON T. McELROY  
IRREVOCABLE TRUST

Plaintiffs,

v.

EAST EQUIPMENT CO., LLC,  
and GARY RASH

Defendants.

Mingo County Circuit Court  
CIVIL ACTION NO.: 22-C-37  
Honorable Miki Thompson

**PLAINTIFFS SAVANNAH 605, LLC, KINZER BUSINESS REALTY,  
LTD. AND FULTON T. McELROY IRREVOCABLE TRUST'S  
MOTION FOR LEAVE TO FILE RESPONSE BRIEF TO  
DEFENDANT'S REPLY BRIEF REGARDING PLAINTIFFS  
SAVANNAH 605, LLC, KINZER BUSINESS REALTY,  
LTD. AND FULTON T. McELROY IRREVOCABLE TRUST'S  
MOTION TO REFER CASE TO THE BUSINESS COURT DIVISION**

**NOW COMES**, Plaintiffs Savannah 605, LLC, Kinzer Business Realty, Ltd. and Fulton T. McElroy Irrevocable Trust (collectively "Plaintiffs"), by and through their undersigned counsel, Howard M. Persinger, III, and Persinger & Persinger, L.C., and respectfully move the Court, pursuant to *W.Va.T.C.R. 29.06*, for leave to file a Reply in Support of its Motion to Refer Case to the Business Court Division. In their Response, defendants contend that this case does not meet all three requirements set forth in *W.Va.T.C.R. 29.03-29.04* for referral to Business Court. The Reply would be limited to addressing this new issue. A copy of Plaintiffs' Reply is attached hereto as **Exhibit A**.

**WHEREFORE**, for the forgoing reasons, Plaintiffs pray for leave to file Reply Brief, a true and correct copy of which appears as **Exhibit A**.

**SAVANNAH 605, LLC, KINZER  
BUSINESS REALTY, LTD, and  
FULTON T. McELROY  
IRREVOCABLE TRUST,**  
By Counsel,

/s/ Howard M. Persinger, III  
**HOWARD M. PERSINGER, III**  
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**CERTIFICATE OF SERVICE**

I, Howard M. Persinger, III, hereby certify that on the 3<sup>rd</sup> day of October, 2022, the foregoing, "***Plaintiffs Savannah 605, LLC, Kinzer Business Realty, Ltd. and Fulton T. McElroy Irrevocable Trust's Motion for Leave to File Reply Brief Regarding Defendants' Response to Plaintiffs Savannah 605, LLC, Kinzer Business Realty, Ltd. and Fulton T. McElroy Irrevocable Trust's Motion to Refer Case to the Business Court Division***" has been made upon the following interested parties via U.S. Mail, postage prepaid on this the 3<sup>rd</sup> day of October, 2022, addressed as follows:

**Nathan D. Brown, Esq.**  
Ferrell & Brown, PLLC  
Post Office Box 401  
Williamson, WV 25661  
*Counsel for Defendants,  
East Equipment Co., LLC & Gary Rash*

**WV Business Court Division**  
Berkley County Judicial Center  
Business Court Division  
Suite 2100  
380 W. South Street  
Martinsburg, WV 25401

**Honorable Miki Thompson**  
Mingo County Circuit Court  
Second Avenue  
Williamson, WV 25661

**Lonnie Hannah, Clerk**  
Mingo County Circuit Clerk  
Second Avenue  
Williamson, WV 25661

/s/ Howard M. Persinger, III  
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