

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

JAY-BEE OIL & GAS, INC.,  
JAY-BEE PRODUCTION CO., and  
JB EXPLORATION I, LLC  
a/k/a JAY-BEE EXPLORATION I, LLC,

SCA EFiled: Dec 13 2022  
06:42PM EST  
Transaction ID 68602804

Plaintiffs,

Supreme Court Docket No. 22-865  
Civil Action No. 20-C-5  
Honorable Jeffrey Cramer

v.

PANTHER DRILLING SYSTEMS, LLC,  
PROTOTYPE WELL PLANNING, LLC,  
and JAMES RIVER INSURANCE COMPANY,

Defendants.

**RESPONSE IN SUPPORT OF JAMES RIVER INSURANCE COMPANY'S  
MOTION TO REFER THIS MATTER TO THE BUSINESS COURT DIVISION**

Petitioner, Panther Drilling Systems, LLC ("Panther"), by counsel, files the following Response in Support of James River Insurance Company's ("JRIC") *Motion to Refer this Matter to the Business Court Division* pursuant to Rule 29 of the West Virginia Trial Court Rules. In support of JRIC's motion, the Panther states as follows:

**LEGAL ARGUMENT**

1. On or about November 23, 2022, JRIC filed the instant *Motion to Refer to the Business Court Division* in this matter.
2. On or about November 17, 2022, Panther filed its own Motion to refer a related action in the Circuit Court of Tyler County, West Virginia, to the West Virginia Business Court Division. The Tyler Court Circuit Court Civil Action Number for this related civil action is 15-P-9 and it was given a Supreme Court Docket Number of 22-849.
3. Panther now files this instant Response in support of JRIC's *Motion to Refer to the Business Court Division*. As stated in Panther's own Motion to Refer in Case No. 22-849, the

Declaratory Judgment action at issue is related to the extremely technical nature of the oil and gas industry in West Virginia. It also deals with issues of indemnity related to contracts performed and signed in multiple states, which calls into question complex issues of the question of law governing the various businesses in play. Furthermore, it should be found that if Case No. 22-849 is successfully referred to the West Virginia Business Court Division, then this instant related action should be referred as well.

4. Additionally, while it has been over two years since the action was originally filed, the West Virginia Trial Court Rules do not contain a timeframe for when a motion to refer can be filed as long as it is after the time period to file an Answer in the action has expired. Here, that criteria is met and the timing of the motion should not impact JRIC's position regarding referral.

5. Finally, while the action has been pending for two years, very few substantive rulings have been made and a scheduling order in these actions has just recently been entered. There would be no prejudice suffered by any party if this matter were to be referred to the West Virginia Business Court Division. In fact, as a related action to Case No. 22-849, it should be referred as well because the decisions related to indemnity provisions of the subject contracts have a direct impact on the complex facts of that action. As Case No. 22-849 should be referred to the West Virginia Business Court Division, so should this instant action.

WHEREFORE, for the foregoing reasons, the undersigned Panther Drilling Systems, LLC, supports James River Insurance Company's *Motion to Refer this Matter to the Business Court Division*, and requests all such other relief as this Honorable Court deems just and proper.

**PANTHER DRILLING SYSTEMS, LLC**

**By Counsel:**

/s/ Michael A. Secret

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Defendants.

**CERTIFICATE OF SERVICE**

I hereby certify that on this 13<sup>th</sup> day of December, 2022, a true and correct copy of the above and foregoing was served upon the following counsel via the Supreme Court of Appeals of West Virginia's e-filing system:

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