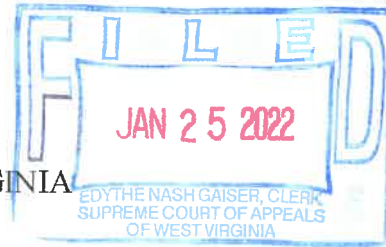


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IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

FREEDA LARCH and  
JIMMIE LARCH,

FILE COPY

Plaintiffs,

v.

CASE NO.: 22-BCD-01

BURDETTE REALTY IMPROVEMENT, INC.  
and JON BURDETTE,

Defendants.

**PLAINTIFFS' RESPONSE IN OPPOSITION TO  
DEFENDANTS' JOINT MOTION TO REFER TO THE  
WEST VIRGINIA BUSINESS COURT DIVISION**

Jimmy and Freeda Larch *oppose* the Defendants' joint motion to refer to this long-pending piece of litigation to the West Virginia Business Court Division. The Plaintiffs ask that the motion for referral be promptly denied so that this case can continue towards an expeditious resolution under the good judgment and guidance of presiding Kanawha County Circuit Judge Tera L. Salango.<sup>1</sup>

Contrary to the editorialized history of this case stated in Defendants' referral motion, the matter simply does not present any commercial or technology issues in which specialized treatment might improve the expectation of a fair and reasonable resolution. Certainly, there is nothing in this case of business significance that can justify further delaying final disposition in the matter. The Plaintiffs seek two types of relief—partition of real property under *W. Va. Code* § 37-4-1 and judicial dissolution of a closely held corporation pursuant to *W. Va. Code* § 31D-14-1430. Given the present status of this case, the referral sought by the Defendants is inappropriate. The motion for referral should be denied.

---

<sup>1</sup> Judge Salango is the third jurist to preside over this matter; the case was originally assigned to Judge James Stucky; Judge Stucky took leave from the bench for health reasons and subsequently retired; Senior Status Judge Thomas C. Evans sat in place of Judge Stucky to hear and decide the first round of motions; Judge Salango took office on November 16, 2018, to fill Judge Stucky's unexpired term; she has presided over this case for the intervening 38 months of the litigation.

## Partition

This case was filed on July 21, 2017 [Docket entry 1] as a simple action seeking partition of the real property assets of Burdette Realty Improvement Inc. (hereinafter BRI) pursuant to *W. Va. Code § 37-4-1*. [ Original complaint attached as Response Exhibit A]. The Circuit Court’s jurisdiction to grant partition depended on two conditions being met: 1) the corporation must have five or fewer shareholders and 2) the only substantial asset of the corporation must be real property. Both of these jurisdictional prerequisites were pleaded with specificity.

The Defendants accepted service of the original complaint on July 24, 2017. [Docket entry 2]. Two days later, on July 26, 2017, Defendant Jon Burdette called a special meeting of BRI’s shareholders at which he expressed a desire to amend corporate bylaws to permit a transfer of some shares of stock “to his wife and family if anything happened to him.” Mr. Burdette made a motion to carry out this change. There was no second from either of the other two shareholders, Jimmy and Freeda Larch. The motion should have died for lack of a second but Burdette then purportedly granted his attorney a “proxy” of one of his shares of stock. The attorney claimed that this “proxy” allowed him to second the motion. After essentially seconding his own motion, Mr. Burdette called for a vote and voted his majority shares to modify BRI bylaws and permit him to make stock transfers to his spouse and family. [minutes of special meeting attached as Response Exhibit B] The Plaintiffs voted “no” on the issue.

Less than two months after this special meeting, and after Defendant Burdette transferred one share of stock each to four of his family members, the Defendants jointly moved to dismiss, claiming the Court lacked jurisdiction because of the numerosity of shareholders resulting from this inter familial transfer. [Docket entry 5]. This issue was litigated over the next seven months until on April 12, 2018, Judge Thomas Evans denied the motion, correctly finding that the jurisdictional elements need exist only at the time the action was filed. Judge Evans specifically noted that post-filing changes in the corporate status would not deprive the Court of its jurisdiction. [Docket entry 17]; [Order attached as Response Exhibit C]. Judge Evans also granted a Plaintiffs’ motion for leave to file the amended complaint which is now before the

Court asserting actions both for partition and judicial dissolution pursuant to *W. Va. Code § 31D-14-1430*. [Docket entry 18] [Joint Motion Exhibit B].

The approximately two years following Judge Evans' ruling were consumed with both written and deposition discovery, in the midst of which BRI submitted a motion for partial summary judgment on the partition claim. BRI asserted to Judge Salango that she was without jurisdiction to grant such relief because real property was not the “only substantial asset” of the corporation. After the issue was thoroughly briefed by the parties, Judge Salango rendered a decision on February 2, 2021, denying the motion. [Joint Motion Exhibit H]. In a detailed and well researched five-page order, Judge Salango properly analyzed the meaning and application of the statutory phrase “substantial asset,” and applied her sound reasoning to the distinct facts of this case. It was her determination that a genuine issue of material fact was presented whether BRI’s real estate was, indeed, its only substantial asset.

Shortly after Judge Salango denied the motion for partial summary judgment, Plaintiffs moved, with supporting exhibits, for the entry of an order appointing commissioners to commence the process of partitioning BRI’s real estate. [Joint Motion Exhibit I]. The Defendants responded and a hearing on the motion was held before Judge Salango on August 26, 2021. This hearing resulted in a September 10, 2021, Order from Judge Salango deferring further consideration of the appointment of commissioners until the issue of fact relative to real estate as the “only substantial asset” of BRI is determined. The parties were granted a period of some 90 days to conduct additional discovery relevant to the issue, and an evidentiary hearing was scheduled to be held by Judge Salango on January 19, 2022, commencing at 1:00 PM. [Docket entry 135]; [Order attached as Response Exhibit D]. After the Defendants’ joint motion for a referral to the business court was filed, the evidentiary hearing scheduled for January 19, 2022, was continued pending the outcome of this motion. [Order attached as Response Exhibit E]<sup>2</sup>

---

<sup>2</sup> In fairness to the parties, Plaintiffs’ counsel states that due to counsel's concern regarding his age, health and the recent spike in the Omicron variant of Covid-19, there was a high probability a continuance of the January 19 hearing would have been requested regardless of this motion

The point of this history recitation is to demonstrate that none of the perceived benefits of a referral to the business court division exist in this case as it relates to the claim for partition relief under 37-4-1. The matter is being adequately presided over by a judge who has been involved in the case for over three years and who has put in motion a fact-finding procedure to address the jurisdictional issues raised by the Defendants. There is nothing in the partition claim that would mandate a current referral to the business court division.

### **Judicial Dissolution**

The Defendants support their motion, in part, with the concept that Plaintiffs' claim for judicial dissolution under *W. Va. Code § 31D-14-1430* somehow involves the interpretation of BRI bylaws, giving rise to issues of corporate governance. The Defendants repeatedly state that the Plaintiffs' actions are somehow meant to compel either of the Defendants to buy the Plaintiffs' outstanding shares of stock. This is supposed to amount to an effort on the part of the Plaintiffs to circumvent corporate bylaws restricting transfer of corporate shares to only existing shareholders and family members, and then only at corporate book value.

This argument simply represents a misunderstanding of the relief to which the Plaintiffs are entitled in judicial dissolution and the options available to the Defendants to avoid the ill effects of a judicial decree dissolving the corporation. Simply stated, if the Plaintiffs can prove, *as a matter of fact*, that the majority shareholders in BRI have committed, and will likely continue to commit, acts of oppression and fraud to deprive the Plaintiffs of the fair value of their interest in BRI, the Court may enter a decree of dissolution. *W. Va. Code § 31D-14-1433*. If that happens the corporation continues its existence, but only for the purposes set forth in *§31D-14-1405*. This would certainly be a disagreeable outcome for the majority shareholders, but that would be the price paid for oppressive and fraudulent conduct toward a minority.

If, however, the Defendants are proved to have acted fraudulently and oppressively relative to the Plaintiffs, they can avoid what they cast as catastrophic effects for the business by availing themselves of their rights to election in lieu of dissolution set out in *section § 31D-14-1434*. Regardless of what BRI's bylaws may say, and regardless of the distorted, self-aggrandizing meaning attached to those bylaws by the Defendants, they always have the right to

avoid dissolution by purchasing the shares owned by the Plaintiffs at the “fair value” of the shares. “Fair value” is a term of art in the West Virginia Business Corporation Act. The term is specifically defined in *W. Va. Code § 31D-13-1301(4)*. The bylaw provisions prohibiting third party transfers of stock and setting a value for voluntary inter family transfers simply have nothing to do with the claims alleged by the Plaintiffs in this case.

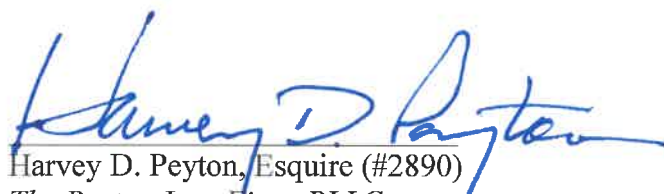
In summary, there currently exists no sound reason for referring this case to the business division. Doing so will only take the case away from a competent presiding circuit judge who has presided over the matter for the last three years. The Defendants’ joint motion should be summarily denied. With that denial, Judge Salango can proceed with her previously scheduled hearing on the issue of “substantial asset” and set the matter for a hearing on whether the action of the Defendants relative to the Plaintiffs has been oppressive and/or fraudulent within the meaning of *W. Va. Code § 31D-14-1430*.

#### **Conclusion**

For the reasons set forth above, the joint motion of the Defendants to refer this case to the business court division should be **denied**.

FREEDA LARCH and  
JIMMIE LARCH

BY COUNSEL



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Telephone: (304) 755-5556

Telefax: (304) 755-1255

**Counsel for Plaintiffs**

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

FREEDA LARCH and  
JIMMIE LARCH,

Plaintiffs,

v.

CASE NO.: 22-BCD-01

BURDETTE REALTY IMPROVEMENT, INC.  
and JON BURDETTE,

Defendants.

**CERTIFICATE OF SERVICE**

I, Harvey D. Peyton, counsel for Plaintiffs, do hereby certify that I have this 25<sup>th</sup> day of January, 2022, served a copy of the foregoing "PLAINTIFFS' RESPONSE IN OPPOSITION TO DEFENDANTS' JOINT MOTION TO REFER TO THE WEST VIRGINIA BUSINESS COURT DIVISION" upon the following parties of record by the same by First Class United States Mail, postage prepaid, to the following:

Christopher L. Hamb, Esq.  
Craig Scott Beeson, Esq.  
Lindsay M. Stollings, Esq.  
Robinson & McElwee, PLLC  
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P. O. Box 1791  
Charleston, WV 25326  
***Counsel for Burdette Realty Improvement, Inc.***

P. Rodney Jackson, Esq.  
401 Fifth Third Center  
700 Virginia Street  
Charleston, WV 25301  
***Counsel for Jon Burdette***

Carol A. Miller  
Business Court Executive Director  
Berkeley County Judicial Center  
Business Court Division  
Suite 2100  
380 W. South Street  
Martinsburg, WV 25401

Cathy S. Gatson, Clerk  
Kanawha County Circuit Court  
P. O. Box 2351  
Charleston, WV 25328

Hon. Tera Salango, Judge  
c/o Kanawha County Circuit Court  
P. O. Box 2351  
Charleston, WV 25328



---

HARVEY D. PEYTON

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

FREEDA LARCH and  
JIMMIE LARCH,

Plaintiffs,

v.

Civil Action No. 17-C-1230  
Honorable John R. Ketchum

BURDETTE REALTY IMPROVEMENT, INC.  
and JON BURDETTE,

Defendants.

COMPLAINT

Come now the Plaintiffs, Freeda and Jimmie Larch, by counsel, and for their Complaint against the Defendants herein state as follows:

1. Plaintiff Freeda Larch is a citizen and resident of Kanawha County, West Virginia.
2. Plaintiff Jimmie Larch is a citizen and resident of Kanawha County, West Virginia.
3. Defendant Burdette Realty Improvement, Inc. (hereinafter "BRI") is a West Virginia corporation with its principal office in Kanawha County, West Virginia.
4. Defendant Jon Burdette is a citizen and resident of Kanawha County, West Virginia.
5. Defendant BRI is a closely held corporation with three stockholders: Freeda Larch, Jimmie Larch, and Jon Burdette.
6. Defendant BRI's only substantial assets are real estate.
7. W.Va. Code § 37-4-1 allows one or more stockholders of a closely held



corporation, when there are no more than five stockholders and the only substantial asset of the corporation is real estate, to compel partition of the corporation's real estate.

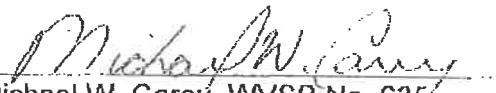
WHEREFORE, Plaintiffs respectfully request that this Court partition BRI's real property in a manner that this Court deems just and appropriate in light of each stockholder's ownership interest in BRI, and award Plaintiffs all such other and further relief as the Court may deem just and appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL ISSUES SO TRIABLE.

Respectfully submitted,

FREEDA LARCH and JIMMIE LARCH,

By Counsel,

  
Michael W. Carey, WVSB No. 635  
David R. Pogue, WVSB No. 10806  
Carey, Scott, Douglas & Kessler, PLLC  
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(304) 345-1234  
[mwcarey@csdlawfirm.com](mailto:mwcarey@csdlawfirm.com)  
[drpogue@csdlawfirm.com](mailto:drpogue@csdlawfirm.com)

**MINUTES OF SPECIAL MEETING OF  
THE SHAREHOLDERS OF  
BURDETTE REALTY IMPROVEMENT, INC.**

Pursuant to notice duly given, a special meeting of the shareholders of Burdette Realty Improvement, Inc. was held on July 26, 2017 at ten o'clock at the company offices. Jon Burdette as president of the company called the meeting to order and nominated P. Rod Jackson to serve as chairman of the meeting to which there was no objection.

All shareholders being present the chairman declared the presence of a quorum.

President Burdette then read the minutes of the last meeting which was held on December 13, 2016. There was some discussion as to whether Jimmie Larch was removed at this meeting as a director but upon further examination it was determined that he was removed as an officer but not a director.

There were no objections or corrections to these minutes.

The chairman then explained that the purpose of the special meeting was to amend the bylaws of the company to remove a change made on December 28, 2010 which mandated that transfers of shares had to be made to current shareholders only and to replace that with the provision as adopted on November 3, 2006 which permits transfers to immediate family members.

There was then a brief recess.

When the meeting reconvened, Jon Burdette explained that he wanted to leave his shares by will to his wife and family if anything happened to him but the current bylaw restriction would prevent him from doing that. Rod Jackson commented that the 2010 change was done by Foster Burdette, now deceased, because of some concerns with his marital situation.

Jon Burdette then moved the motion as described above and Rod Jackson as the holder of a proxy from Jon Burdette for one share seconded the motion. Mike Carey, representing Jimmie and Freeda Larch, then noted for the record that he was not sure that a proxy can be voted when the owner of the share is also present. The comment was duly noted for the record.

The chairman called for the vote. Jon Burdette and the chairman voted "yes" whereas Jimmie and Freeda Larch voted "no." The chairman then declared the motion adopted since Jon Burdette owns a majority of the outstanding stock.

There being no further business the meeting was adjourned.

**BURDETTE REALTY IMPROVEMENT, INC.**

**Stockholders**

  
\_\_\_\_\_  
Jon Burdette

\_\_\_\_\_  
Jimmie Larch

\_\_\_\_\_  
Freeda Larch

2018 APR 12 PM 4: 02

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

FREEDA LARCH and  
JIMMIE LARCH,

Plaintiffs,

v.

Civil Action No.: 17-C-1032  
Honorable James C. Stucky, Judge

BURDETTE REALTY IMPROVEMENT, INC.  
and JON BURDETTE,

Defendants.

**ORDER DENYING DEFENDANTS' JOINT MOTION TO DISMISS**

On April 5, 2018, the Court held a hearing on the "Joint Motion to Dismiss of Defendants Burdette Realty Improvement, Inc. and Jon Burdette." After consideration of the parties' written submissions and oral arguments, the Court finds and concludes as follows:

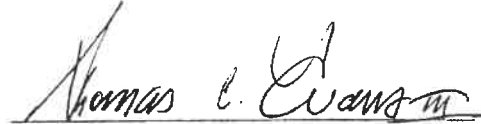
The Complaint in this matter seeks relief under W.Va. Code § 37-4-1, which allows one or more stockholders of a closely held corporation, when there are no more than five stockholders and the only substantial asset of the corporation is real estate, to compel partition of the corporation's real estate. As of July 21, 2017, the date that Plaintiffs filed their Complaint, Defendant Burdette Realty Improvement, Inc. ("BRI") had three shareholders: Plaintiff Freeda Larch, Plaintiff Jimmie Larch, and Defendant Jon Burdette. On or about July 26, 2017, five days *after* the Complaint was filed, Defendant Jon Burdette amended BRI's bylaws to allow him to transfer shares to family members. Shortly thereafter, Defendant Jon Burdette gifted one share of his stock in BRI to each of his mother, his wife, and his two children, and then proceeded to file the instant motion to dismiss arguing that Plaintiffs' Complaint fails because BRI now has more than five shareholders.

This Court believes that inasmuch as BRI had fewer than five stockholders on the date that

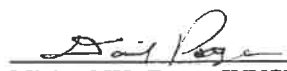
Plaintiffs' filed their Complaint invoking W.Va. Code § 37-4-1, Defendant Jon Burdette cannot deprive Plaintiffs of their rights under W.Va. Code § 37-4-1 by adding shareholders *after* the Plaintiffs initiated litigation under the statute. Were this Court to rule otherwise, parties to a partition proceeding could litigate a case for months or even years, and then after substantial time, effort, and judicial resources have been exhausted, a party who does not like the proposed distribution of properties could defeat partition by increasing the number of stockholders to more than five. Thus, the Court concludes that when a stockholder in a closely held corporation files a complaint seeking partition under W.Va. Code § 37-4-1, the number of stockholders at the time of the filing of the complaint is determinative. Accordingly, Defendants' joint motion to dismiss is hereby DENIED.

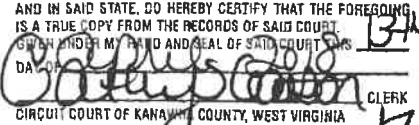
The Circuit Clerk is directed to forward a certified copy of this Order to all counsel of record.

Entered this 12<sup>th</sup> day of APR., 2018.

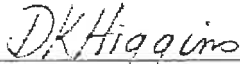
  
Honorable Thomas C. Evans, III, Judge

Prepared by:

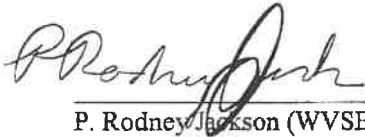
  
Michael W. Carey, WVSB No. 635  
David R. Pogue, WVSB No. 10806  
Carey, Scott, Douglas & Kessler, PLLC  
901 Chase Tower  
707 Virginia Street, East  
P.O. Box 913  
Charleston, WV 25323  
(304) 345-1234  
*Counsel for Plaintiffs*

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 12<sup>th</sup> DAY OF APRIL, 2018.  
  
CLERK  
CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

Approved as to form by:



David K. Higgins (WV Bar # 1713)  
Craig S. Beeson (WV Bar # 10907)  
Robinson & McElwee PLLC  
P. O. Box 1791  
Charleston, WV 25326  
*Counsel for Defendant*  
*Burdette Realty Improvement, Inc.*



P. Rodney Jackson (WVSB #1861)  
Law Offices of P. Rodney Jackson  
106 Capitol Street  
Charleston, WV 25301  
*Counsel for Defendant Jon Burdette*

*FILED*

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

2021 SEP 13 AM 10:18

FREEDA LARCH and  
JIMMIE LARCH,

CATHY S. CATSON, CLERK  
KANAWHA COUNTY CIRCUIT COURT

~ Plaintiffs,

v.

CIVIL ACTION NO.: 17-C-1032  
Judge: Tera L. Salango

BURDETTE REALTY IMPROVEMENT, INC.  
and JON BURDETTE,

Defendants.

**ORDER**

On August 26, 2021, this case came before the Court for a hearing on the Plaintiffs' Motion for the appointment of commissioners to move forward with partition of real property that is one of the subject matters of this civil action. Appearances were made by counsel for the Plaintiffs, Harvey D. Peyton, and the Plaintiff, Jimmie Larch. P. Rodney Jackson appeared as counsel for Defendant Jon Burdette. Christopher Hamb and Lindsay M. Stollings appeared on behalf of the Defendant, Burdette Realty Improvement, Inc.

The Court reviewed all of the filings relative to the Plaintiffs' motion and heard the statements and arguments of counsel. As the Court noted in its previous order denying the Defendants' motion for partial summary judgment on the claims for partition, a genuine issue of material fact exists whether the real property claimed by the Plaintiffs to be subject to partition is the "only substantial asset" of Burdette Realty Improvement, Inc. The Court's jurisdiction to proceed in partition is conditioned upon resolution of this issue of fact.

The parties expressed a desire to address this issue before scheduling further proceedings on the remaining counts alleged in the Plaintiffs' Amended Complaint. Accordingly, and by agreement of the parties, it is ORDERED as follows:

135-137

1. The Court defers further consideration of the Plaintiffs' motion for appointment of commissioners until the issue of fact relative to the real estate as the "only substantial asset" of Burdette Realty Improvement, Inc., is determined;

2. The parties shall undertake discovery as they see fit on the issue of whether the real estate that is the subject matter of the claim for partition is the "only substantial asset" of Burdette Realty Improvement, Inc. A) at the time this action was filed on July 2, 2017, and B) at the present time, and all such discovery shall be completed on or before the close of business on **Friday, December 3, 2021.**

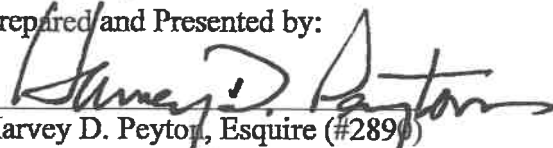
3. An evidentiary hearing on the issue of fact as to whether the real estate is the "only substantial asset" of Burdette Realty Improvement, Inc., shall be held before the Court on the **Wednesday, the 19th day of January, 2022, at 1:00 o'clock p.m.,** at which time the parties shall appear and be prepared to go forward with evidence in support of their relative positions.

4. Further proceedings on the causes of action alleged in Counts 2 and 3 of Plaintiffs' Amended Complaint shall be deferred pending resolution of the issue of this Court's jurisdiction to entertain partition.

ENTERED this 10<sup>th</sup> day of September 2021.

  
TERA L. SALANGO, JUDGE

Prepared and Presented by:

  
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The Peyton Law Firm, PLLC  
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2801 First Avenue  
Nitro, WV 25143  
**Counsel for Plaintiffs**



Inspected and Approved by:



Christopher L. Hamb, Esq.

Craig Scott Beeson, Esq.

Robinson & McElwee, PLLC

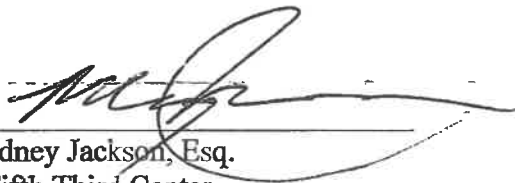
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*Counsel for Burdette Realty Improvement, Inc.*



P. Rodney Jackson, Esq.

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*Counsel for Jon Burdette*

Date: 9/14/21  
Certified copies sent to:  
☒ counsel of record  
☐ parties  
☒ other (please indicate)  
By: C. Hamb  
☒ certified/1st class mail  
☐ fax  
☐ hand delivery  
☐ interdepartmental  
Other directives accomplished:  
M. Peyton  
Deputy Clerk Court

FILED

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

2022 JAN 12 PM 2:01

FREEDA LARCH & JIMMIE LARCH

Plaintiffs,

v.

CATHY S. CATSON, CLERK  
KANAWHA COUNTY CIRCUIT COURT

CIVIL ACTION NO. 17-C-1032

The Honorable Tera L. Salango, Judge

BURDETTE REALTY IMPROVEMENT, INC.  
and JON BURDETTE;

Defendants.

AGREED ORDER CONTINUING HEARING

ON A PRIOR DAY came the Plaintiffs, by their counsel Harvey D. Peyton, Esquire and came the Defendant Burdette Realty Improvement, Inc. by its counsel, Craig S. Beeson, Esquire, Christopher L. Hamb, Esquire, and Lindsay M. Stollings, Esquire and came the Defendant Jon Burdette by his counsel, P. Rodney Jackson, Esquire and they did jointly move the Court to continue the evidentiary hearing presently set for January 19, 2022 at 1:00 p.m. pursuant to that certain Scheduling Order entered herein on September 10, 2021. There is a pending motion filed by the defendants to refer this matter to the Business Court. In view of that pending motion, holding an evidentiary hearing at this time might well require duplication of work by the parties, their counsel and the Court and its staff.

FOR ALL THE REASONS set forth hereinabove and for good cause shown, the Court is of the opinion to and doth hereby GRANT said Motion. ACCORDINGLY, it is hereby ORDERED, ADJUDGED and DECREED that the evidentiary hearing presently set for January 19, 2022 at 1:00 p.m. pursuant to that certain Scheduling Order entered herein on September 10, 2021 is CONTINUED, pending action by the Supreme Court of Appeals on the motion to refer this matter to the business court.


The Court Clerk is instructed to send a certified copy of this Agreed Order Continuing Hearing to all counsel of record and *pro se* parties, if there be any.

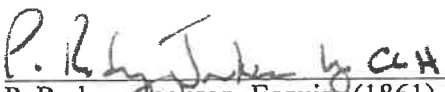
ENTERED this 12<sup>th</sup> day of January, 2022.

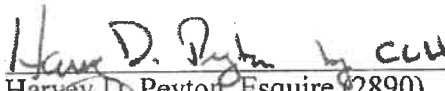
  
THE HONORABLE TERA L. SALANGO, JUDGE

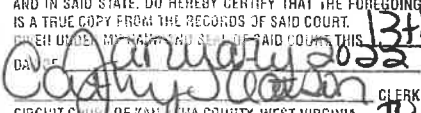
Prepared and presented jointly by:

ROBINSON & McELWEE PLLC

  
Christopher L. Hamb, Esquire (6902)  
Craig S. Beeson, Esquire (10907)  
Lindsay Stollings, Esquire (13923)  
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Phone: (843) 870-6879  
*Counsel for Defendant Jon Burdette*

  
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Thomas D. Peyton, Esquire (8841)  
The Peyton Law Firm, PLLC  
2801 First Avenue  
Nitro, WV 25143  
Phone: (304) 755-5556  
*Counsel for Plaintiffs*

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 13<sup>th</sup>  
DAY OF January 2022  
  
CATHY S. GATSON, CLERK  
CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA 10