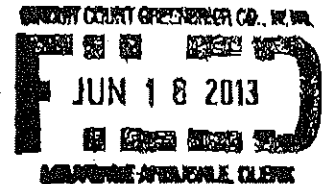


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6-21-13IN THE CIRCUIT COURT OF GREENBRIER COUNTY, WEST VIRGINIA
BUSINESS COURT DIVISIONBernard HOLLIDAY,
Plaintiff,

v.

Civil Action No. 13-C-78

William TONEY and Engineering
& Testing 2000, Inc., a West
Virginia Corporation.
Defendants.FINDINGS OF FACT AND RECOMMENDATION

This matter comes before this Court pursuant to a request of the presiding judge, the Honorable Joseph J. Pomponio, to refer the case to the Business Court Division. Upon transmission of the Judicial Request and Plaintiff's Response in support thereof, the Honorable Brent D. Benjamin, Chief Justice of the Supreme Court of Appeals of West Virginia, directed that a hearing be held to determine whether the above-styled matter should be referred to the Business Court Division. The undersigned was designated by the Honorable Christopher C. Wilkes, to conduct the hearing, to receive evidence and entertain argument as to whether the matter should be referred to the Business Court Division.

On the 17th day of June, 2013, the matter came on for a hearing upon the appearance of the following: Bernard Holliday, in person and by counsel, R. Brandon Johnson; and William Toney, by counsel William Crichton, appearing telephonically.

Plaintiff's complaint is in the nature of a derivative shareholder action, and arises from the deterioration of business and personal relations between the parties, who each share a one-half interest in the business at issue. The complaint alleges, inter alia, breach of fiduciary responsibility, wrongful conversion, and fraud, relative to the Defendant's conduct of and relating to the business co-owned by the parties.

In concurrence with the judicial request to refer the case to the Business Court Division, Plaintiff asserts that the disposition of this matter will likely involve dissolution of the corporation co-owned by the parties and thus will require valuation of the company. Indeed, the claim involves a matter of significance to and between business entities and presents certain commercial issues, namely valuation of corporate holdings, in which specialized treatment by the Division is likely to improve the expectation of a fair and reasonable resolution. The Defendant generally agrees with the statement of grounds for referral stated by counsel for the Plaintiff.

The recommendation of the undersigned is that the instant civil action is appropriate for referral to the Business Court Division under Trial Court Rule 29.

Respectfully submitted this 18th day of June, 2013.

James J. Rowe / JF

James J. Rowe, Judge
Business Court Division