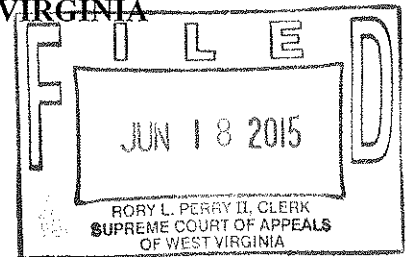


IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA



**DORAN H. FRAME, III; HIDDEN TRAILS
MOTORSPORTS AND RENTALS, LLC,
and HIDDEN TRAILS MOTORSPORTS, LLC,**

Plaintiffs,

**Kanawha County Circuit Court
Civil Action No. 15-C-699**

v.

**ERIC HOLCOMB; HIDDEN TRAILS
POWER SPORTS AND RENTALS, LLC,
HIDDEN TRAILS RECREATIONAL VEHICLES,
MOTORCYCLES & TRAILERS, LLC,
and BLAKE PROPERTIES, LLC,**

Defendants.

And

BLAKE PROPERTIES, LLC,

Counterclaim Plaintiff,

v.

**HIDDEN TRAILS MOTORSPORTS AND
RENTALS, LLC, HIDDEN TRAILS
MOTORSPORTS, LLC, and DORAN H.
FRAME, III**

Counterclaim Defendants.

TO: THE HONORABLE CHIEF JUSTICE

MOTION TO REFER CASE TO THE BUSINESS COURT DIVISION

Pursuant to Rule 29.06 of the West Virginia Trial Court Rules, the Defendants, by counsel, Isaac R. Forman, Esq., respectfully request the above-styled case be referred to the Business Court Division.

In regard to additional related actions:

- ☒ There are no known related actions.
- ☐ The following related actions could be the subject of consolidation, and are
now pending
or
may be filed in the future. (Please list case style, number, and Court if any)

This action involves: (Please check all that apply):

- | | |
|--|--|
| <input checked="" type="checkbox"/> Breach of Contract; | <input type="checkbox"/> Professional Liability Claims in Connection with the Rendering of Professional Services to a Commercial Entity; |
| <input checked="" type="checkbox"/> Sale or Purchase of Commercial Entity; Sale or Purchase of Commercial Real Estate; | <input type="checkbox"/> Anti-trust Actions between Commercial Entities; |
| <input checked="" type="checkbox"/> Sale or Purchase of Commercial Products Covered by the Uniform Commercial Code; | <input type="checkbox"/> Injunctive and Declaratory Relief Between Commercial Entities; |
| <input checked="" type="checkbox"/> Terms of a Commercial Lease; Commercial Non-consumer debts; | <input checked="" type="checkbox"/> Liability of Shareholders, Directors, Officers, Partners, etc.; |
| <input type="checkbox"/> Internal Affairs of a Commercial Entity; Trade Secrets and Trademark Infringement; | <input checked="" type="checkbox"/> Mergers, Consolidations, Sale of Assets, Issuance of Debt, Equity and Like Interest; |
| <input checked="" type="checkbox"/> Non-compete Agreements; | <input type="checkbox"/> Shareholders Derivative Claims; |
| <input type="checkbox"/> Intellectual Property, Securities, Technology Disputes; | <input type="checkbox"/> Commercial Bank Transactions; |
| <input checked="" type="checkbox"/> Commercial Torts; | <input type="checkbox"/> Franchisees/Franchisors; |
| <input type="checkbox"/> Insurance Coverage | <input type="checkbox"/> Internet, Electronic Commerce and Biotechnology |
| <input type="checkbox"/> Disputes in Commercial Insurance Policies; | <input checked="" type="checkbox"/> Disputes involving Commercial Entities; or |
| | <input type="checkbox"/> Other (Describe) _____ |

In support of this motion, this matter contains issues significant to businesses, and presents novel and/or complex commercial or technological issues for which specialized treatment will be helpful, as more fully described here: Issues significant to business entities include (1) the imposition of liability on members or managers of limited liability companies; (2) the treatment of written documents where subsequent allegations may contradict the written agreements; and (3) the enforcement of two commercial leases. From a technological perspective, the case will involve the potentially complex issue of analyzing alleged discrepancies in inventory statements generated by two distinct computerized inventory systems.

In further support of this Motion, please find attached hereto an accurate copy of the operative complaint(s), the operative answer(s), the docket sheet, and the following other documents: Buy-Sell Agreement, Bill of Sale, Covenant Not to Compete, and operative leases.

In regard to expedited review, the Movant:

- ☐ DOES NOT request an expedited review under W.Va. Trial Court Rule 29.06(a)(4), and gives notice that all affected parties may file a memorandum stating their position, in accordance with W.Va. Trial Court Rule 29.

☒ hereby REQUESTS that the Chief Justice grant this Motion to Refer without responses, pursuant to W.Va. Trial Court Rule 29.06(a)(4), and contends that the following constitutes good cause to do so: The dispute implicates a commercial lease for an ongoing business. The Lessee is withholding rent, presumably based on the litigation. Pursuant to the lease, the Lessor is entitled to recover reasonable costs and expenses. The efficiency of expedited review will reduce costs and expenses, thereby reducing the Lessor's potential damages. Most importantly, expedited review will save time and thereby reduce the period of withheld rent.

WHEREFORE, the undersigned hereby MOVES, pursuant to W.Va. Trial Court Rule 29, the Chief Justice of the West Virginia Supreme Court of Appeals to refer this case to the Business Court Division.

Respectfully submitted,



Marc Weintraub (WV Bar No. 8055)
Maryl C. Sattler (WV Bar. No. 11733)
Isaac R. Forman (WV Bar No. 11668)
Bailey & Glasser LLP
209 Capitol Street
Charleston, WV 25301
(304) 345-6555
(304) 342-1110 Fax

*Counsel for Eric Holcomb, Hidden Trails
Powersports & Rentals, LLC, Hidden Trails
Recreational Vehicles, Motorcycles &
Trailers, LLC, and Blake Properties, LLC*

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

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Defendants.

And

BLAKE PROPERTIES, LLC,

Counterclaim Plaintiff,

v.

**HIDDEN TRAILS MOTORSPORTS AND
RENTALS, LLC, HIDDEN TRAILS
MOTORSPORTS, LLC, and DORAN H.
FRAME, III**

Counterclaim Defendants.

CERTIFICATE OF SERVICE

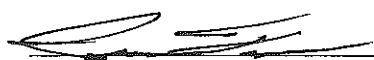
I, Isaac R. Forman, counsel for Eric Holcomb, Hidden Trails Power Sports and Rentals, LLC; Hidden Trails Recreational Vehicles, Motorcycles, and Trailers, LLC; and Blake Properties, LLC, certify that a true copy of “**Motion to Refer Case to the Business Court Division**” was this day served on the following via U.S. Mail, properly addressed as follows, on this 17th day of June, 2015:

The Honorable James C. Stucky
Kanawha County Judicial Building
P.O. Box 2351
111 Court Street
Charleston, WV 25301

Cathy S. Gatson, Circuit Clerk
Kanawha County Judicial Building
P.O. Box 2351
111 Court Street
Charleston, WV 25301

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

Howard M. Persinger III (WV Bar No. 6943)
Persinger & Persinger, L.C.
237 Capitol Street
Charleston, WV 25301
(304) 346-9333
(304) 346-9337 Fax



Isaac R. Forman (WV Bar No. 11668)
Bailey & Glasser LLP
209 Capitol Street
Charleston, WV 25301
(304) 345-6555
(304) 342-1110 Fax
iforman@baileyglasser.com