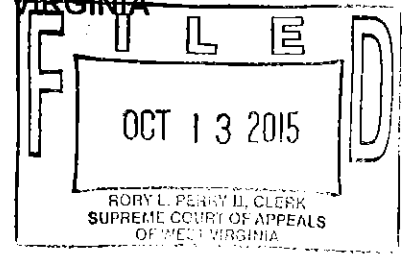


IN THE CIRCUIT COURT OF HARRISON COUNTY, WEST VIRGINIA

ALAN ENTERPRIZES, LLC

Plaintiff,



v.

Civil Action No. 14-C-503-2
THOMAS A. BEDELL, Chief JudgeMAC'S CONVENIENCE STORES LLC,
d/b/a Circle K, JOYCE SALMON, and
LOUIS DIAB,

Defendants.

TO: THE HONORABLE CHIEF JUSTICE

**REPLY MEMORANDUM OF THE HONORABLE THOMAS A. BEDELL TO THE
JOINT MOTION TO REFER ACTION TO THE BUSINESS COURT DIVISION
PURSUANT TO RULE 29.06(a)(4) OF THE WEST VIRGINIA TRIAL COURT RULES**

Comes now The Honorable Thomas A. Bedell, Chief Judge, Division 2, of the Circuit Court of Harrison County, West Virginia, to timely file his Reply Memorandum pursuant to Rule 29.06(a)(4) in response to the Plaintiff, Alan Enterprizes LLC and Defendants, Mac's Convenience Stores LLC d/b/a Circle K, Joyce Sammon and Louis Diab's, *Joint Motion To Refer Action To The Business Court Division*. A true copy of such Joint Motion to Refer filed with the Circuit Clerk of Harrison County by and through their respective legal counsel on September 24, 2015.¹

¹ A "courtesy copy" of such Joint Motion and accompanying Exhibits were served in keeping with *West Virginia Trial Court Rule 29(a)(3)* and were received by this presently presiding judge on September 24, 2015.

A Notice Of Filing Of Motion To Refer To The Business Court Division was filed with the Circuit Clerk of Harrison County on September 25, 2015 by and through Rory L. Perry II, Clerk of Court, Supreme Court of Appeals of West Virginia, informing this affected judge that such Motion to Refer had been filed and docketed in that office on September 23, 2015 pursuant to *West Virginia Trial Court Rule 29.06(a)(1)*. Such Notice further informed him that a reply memorandum may be filed in that office on or before October 13, 2015.

Upon such filings and notice as well as in keeping with *West Virginia Trial Court Rule 29.06(a)(4)*, this affected judge now timely replies in memorandum form to the parties' Joint Motion to Refer and for the benefit of Chief Justice Margaret L. Workman in her honorable review all thereof and subsequent determination, to-wit:

1. Since the filing of such Motion to Refer and prior to the preparation of this Reply, he has not caused to be entered any order to stay further proceedings herein as is allowed within its discretion pursuant to *West Virginia Trial Court Rule 29.06(b)*.
2. This Civil Action is presently proceeding under a controlling *Pre-Trial and Scheduling Order* previously entered herein on February 5, 2015 and which has not been subsequently modified or amended. Such Order, *inter alia*, ultimately schedules a Final Pre-Trial Conference/Settlement Conference for January 12, 2016, at 11:45 o'clock a.m. and Trial Date for Jury Trial during the weeks of January 18, 2016 and January 25, 2016.
3. The then joined parties herein previously selected Don O'Dell, Esq., to serve as mediator in this matter. Notice of such selection was filed on February 23, 2015.

4. Further controlling herein are an *Agreed Protective Order* and an *Agreed Supplemental Protective Order* respectively entered herein on March 2, 2015 and March 18, 2015 as to the inspection, use and designation of "confidential information" and the inspection and designation of "attorneys' eyes only information".

5. In keeping with *West Virginia Trial Court Rule 29.06(a)(1)*, the parties' Joint Motion to Refer appears to adequately reflect the nature of this Civil Action and to sufficiently establish the necessary basis for referral by meeting the criteria of "Business Litigation" as particularly defined in *West Virginia Trial Court Rule 29.04(a)(1)(2)(3)*.

6. It is confirmed that there are currently no known related actions pending and that there are no other pending Motions or other procedural matters in this Civil Action requiring further determinations at this present time.

Conclusion


The undersigned affected judge verily believes himself to be fully able to preside over these matters competently, efficiently, and with more than adequate expectation for a fair, reasonable and final resolution of the controversies alleged by and between the parties in this Civil Action. However, he further believes and thereby concurs with the parties, as represented by their respective legal counsel, that this action satisfies the substantive requirements to sufficiently constitute "Business Litigation". As such, he is not opposed to having this Civil Action referred to the Business Court Division for further management and resolution as contemplated in *West Virginia Trial Court Rule 29.01*.

Therefore, upon your review and determination, should you believe that it would be appropriate to refer this matter directly upon the Joint Motion to Refer or direct the Business Court Division to conduct a hearing and make recommendations concerning

further proceedings under *West Virginia Trial Court Rule 29.06(c)*, this Court would not take any umbrage to your actions and be in full support thereof.

In keeping with Rule 29.06(a)(4), I am filing this Reply Memorandum with the Clerk of the Supreme Court of Appeals as well as providing and serving a true copy thereof to all parties herein through their respective legal counsel via first class U. S. Mail, directly to the Clerk of the Harrison County Circuit Court and to the Central Office of the Business Court Division via first class U. S. Mail.

This matter is being respectfully submitted to you on this 7th day of October, 2015 for your most kind consideration.



THOMAS A. BEDELL, Chief Judge
15th Judicial Circuit
Harrison County Circuit Court ~ Division 2



FIFTEENTH JUDICIAL CIRCUIT
HARRISON COUNTY

THOMAS A. BEDELL, JUDGE
PHONE (304) 624-8630
FACSIMILE (304) 624-8736
thomas.bedell@courtwv.gov

October 7, 2015

HARRISON COUNTY COURTHOUSE
301 WEST MAIN STREET
CLARKSBURG, WEST VIRGINIA 26301

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

Re: Reply Memorandum to Joint Motion to Refer Action to the Business Court
Division in Harrison County Civil Action No. 14-C-503-2

Dear Ms. Miller:

On behalf of Judge Bedell, please find enclosed a copy of his original Reply Memorandum to the Joint Motion to Refer in the above-referenced civil action in keeping with Rule 29.06(a)(4) of the *West Virginia Trial Court Rules*.

The original Reply Memorandum has this day been sent to Mr. Rory L. Perry, II, for presentation and further review by Chief Justice Margaret L. Workman and copies thereof also sent to all legal counsel of record as well as delivered to the Harrison County Circuit Court Clerk for filing therein.

Thanking you for your time and most kind attention to this matter, I remain

Sincerely yours,

Kevin K. Griffith
Judicial Law Clerk
15th Judicial Circuit ~ Division 2

Encl: Reply Memorandum

Xc: Rory L. Perry, II, Clerk of Court ✓
WV Supreme Court of Appeal
Legal Counsel of Record