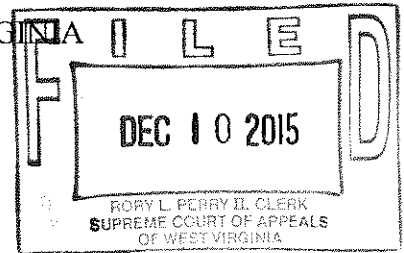


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15-BCD-24

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA



HOWARD R. CREWS, JR., SYDNEY
J. KUBESCH and T. STEPHEN
PHILLIPS, in their capacity as Trustees
of the Cole and Crane Real Estate
Trust, and COLANE CORPORATION,
a Delaware corporation,

Plaintiffs,

Logan County Circuit Court
Civil Action No. 15-C-145

vs.

KENTUCKY FUEL CORPORATION,
a Delaware corporation, and JAMES C.
JUSTICE COMPANIES, INC., a
Delaware corporation,

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 Plaintiffs, by counsel, Charles F. Bagley, III, Esq., respectfully requests 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"/> Terms of a Commercial Lease; |
| <input type="checkbox"/> Sale or Purchase of Commercial Entity; | <input type="checkbox"/> Commercial Non-consumer debts; |
| <input type="checkbox"/> Sale or Purchase of Commercial Real Estate; | <input type="checkbox"/> Internal Affairs of a Commercial Entity; |
| <input type="checkbox"/> Sale or Purchase of Commercial Products Covered by the Uniform Commercial Code; | <input type="checkbox"/> Trade Secrets and Trademark Infringement; |
| | <input type="checkbox"/> Non-compete Agreements; |

- | | |
|--|---|
| <input type="checkbox"/> Intellectual Property, Securities, Technology Disputes; | <input type="checkbox"/> Liability of Shareholders, Directors, Officers, Partners, etc.; |
| <input type="checkbox"/> Commercial Torts; | <input type="checkbox"/> Mergers, Consolidations, Sale of Assets, Issuance of Debt, Equity and Like Interest; |
| <input type="checkbox"/> Insurance Coverage Disputes in Commercial Insurance Policies; | <input type="checkbox"/> Shareholders Derivative Claims; |
| <input type="checkbox"/> Professional Liability Claims in Connection with the Rendering of Professional Services to a Commercial Entity; | <input type="checkbox"/> Commercial Bank Transactions; |
| <input type="checkbox"/> Anti-trust Actions between Commercial Entities; | <input type="checkbox"/> Franchisees/Franchisors; |
| <input type="checkbox"/> Injunctive and Declaratory Relief Between Commercial Entities; | <input type="checkbox"/> Internet, Electronic Commerce and Biotechnology |
| | <input 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: This Civil Action involves the interpretation of a coal lease dated September 30, 2000 between the parties which has been amended and assigned and is subject to a guaranty by the Defendants.

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: Find attached hereto an accurate copy of the operative Complaint, Answer.

In regard to expedited review, the Movant:

x 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: _____

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, this 9th day of December, 2015,



(signature)

Charles F. Bagley, III (WV ID #197)

Campbell Woods, PLLC

1002 Third Avenue

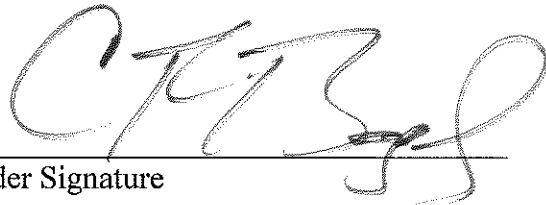
Post Office Box 1835

Huntington, West Virginia 25719

Phone – 304 529-2391

CERTIFICATE OF SERVICE

I, Charles F. Bagley, III, do hereby certify that on this 9th day of December, 2015, I have served the foregoing “Motion to Refer Case to Business Court Division,” with attachments by either hand delivery or first class mail to John F. Hussell, IV, Andrew L. Ellis and John D. Wooton, Jr., counsel for the Defendants, at Wooton, Wooton, Davis, Hussell & Ellis, PLLC, Post Office Box 3971, Charleston, West Virginia 25339; the Logan County Circuit Clerk’s Office; and the Business Court Division Central Office, Berkeley County Judicial Center, 380 West South Street, Suite 2100, Martinsburg, WV 25401.



Sender Signature