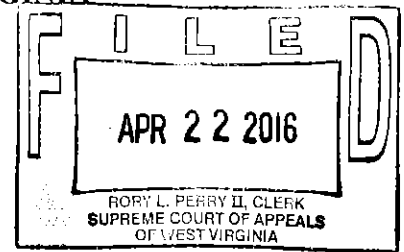


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IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

THE BRUCE MCDONALD HOLDING COMPANY,
DAVID B. MCDONALD LAND COMPANY,
OAKLEY, LLC, S.E. MCDONALD, LLC,
C.B. MORRIS, LLC, L.O.U., LLC,
GLENN T. YOST as attorney-in-fact for
ERNEST PHIPPS CREDIT SHELTER TRUST, and
CDC REAL ESTATE, LLC,



Plaintiffs,

Logan County Circuit Court
Civil Action No. 16-C-70

v.

ADDINGTON, INC., and
THE BRINK'S COMPANY,

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, Defendants Addington, Inc. ("Addington") and The Brink's Company ("Brink's") (together, the "Defendants"), by counsel, respectfully request that the above-styled case be referred to the Business Court Division. In support of their motion, the Defendants state as follows:

1. This case involves an Agreement of Lease ("Lease") dated June 19, 1978, between Plaintiffs ("McDonald Companies") as Lessors and Addington as Lessee. Brink's is guarantor of the Lease. The Lease covers coal lands owned by the McDonald Companies in Logan County. The Lease has a potential term until 2032.

2. This action involves the following: (1) claims for breach of contract; (2) the terms of a commercial lease; and (3) disputes among business entities involving the Lease.

3. The 22-page Complaint presents complex commercial issues for which specialized treatment will be helpful. Specifically, the Plaintiffs seek declaratory judgment regarding the interpretation of the Lease including, whether the Defendants had (1) a duty to diligently prosecute mining operations, (2) a duty to mine, prepare, market, and sell all the merchantable and mineable coal from the property by such means and methods as to ensure the highest available sales prices, and (3) a duty to pay royalties to the Plaintiffs at such prices. In addition, the Plaintiffs ask the Court to determine how royalty payments should be calculated and paid under the Lease, and whether the Defendants breached the Lease by incorrectly calculating the royalty payments.

4. In further support of this motion, please find attached hereto copies of the Complaint, the Answer, and the Docket Sheet.

5. While there are no related actions currently pending, the Lease has been the subject of three prior actions: The Bruce McDonald Holding Company, et al v. Elkay Mining Company, et al, Civil Action No. 84-C-256; The Bruce McDonald Holding Company, et al v. Elkay Mining Company, et al, Civil Action No. 86-C-195; and The Bruce McDonald Holding Company, et al v. Elkay Mining Company, et al, Civil Action No. 86-C-599. These cases were all heard and decided in a series of rulings by the Circuit Court of Logan County in 1987 and 1988. The rulings were appealed to this Court, but the Court refused the appeal, and the judgment of the Circuit Court became final. Based on the rulings in the prior litigation, this case also involves important issues of res judicata and collateral estoppel.

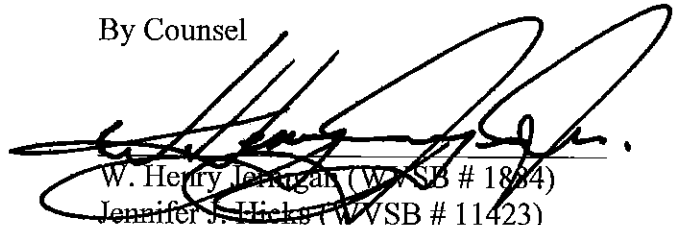
6. Defendants give notice that Plaintiffs may file a memorandum stating their position, in accordance with W.Va. Trial Court Rule 29.

* * *

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.

**ADDINGTON, INC., and
THE BRINK'S COMPANY**

By Counsel

A large, stylized handwritten signature in black ink, likely belonging to W. Henry Jernigan, is written over the printed name and contact information.

W. Henry Jernigan (WVSB # 1884)

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IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

**THE BRUCE MCDONALD HOLDING COMPANY,
DAVID B. MCDONALD LAND COMPANY,
OAKLEY, LLC, S.E. MCDONALD, LLC,
C.B. MORRIS, LLC, L.O.U., LLC,
GLENN T. YOST as attorney-in-fact for
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CDC REAL ESTATE, LLC,**

Plaintiffs,

v.

**Logan County Circuit Court
Civil Action No. 16-C-70**

**ADDINGTON, INC., and
THE BRINK'S COMPANY,**

Defendants.

CERTIFICATE OF SERVICE

I, Jennifer J. Hicks, do hereby certify that on this 22nd day of April, 2016, I have served the foregoing "Motion to Refer Case to Business Court Division," with attachments, by first class mail and email to:

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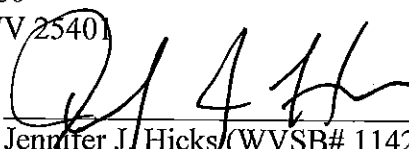
and

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and by hand delivery or first class mail to:

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