

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

THE FIRST STATE BANK,

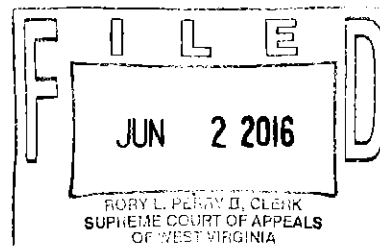
Plaintiff,

CIVIL ACTION NO: 15-C-742
JUDGE F. JANE HUSTEAD

v.

ZANE L. METZ, JR., ZANE L. METZ, III,
HOLLIE L. METZ and Z. L. METZ HOMES, LLC,

Defendants.

**MOTION TO REFER PENDING BUSINESS LITIGATION
TO THE BUSINESS COURT DIVISION OF CIRCUIT COURT**

Now comes your Petitioners, Z.L. Metz Homes, LLC, a North Carolina limited liability company, and its members, the individually named Co-Defendants, by counsel, W. Stephen Flesher, Esquire, Law Offices of W. Stephen Flesher, and move this Honorable Court for an Order of Referral of this civil cause to the Business Court Division. In compliance with Business Court Rule 29 and in support of said motion, your petitioners state as follows:

1. This civil case involves a complex business dispute between your Petitioners and a banking institution with which it has done business (The First State Bank of Barboursville). The dispute centers on the resolution of certain secured loan line of credit business accounts. The balances due on said loans, which are in line of credit form, are in dispute. The individually named Petitioners, who are each members of the LLC, are allegedly personally responsible for the secured notes, having signed personal guaranty agreements. (See attached Complaint and Answer for specific allegations and defenses.);
2. This motion is presented for reason that Petitioners believe this is a complex business matter which qualifies for referral to the Business Court Division and it requires a presiding judge possessing a great degree of business knowledge, background and experience. The circuit court judge assigned to this case is retiring and the judge's successor was recently elected; however, it is presently uncertain whether the assigned judge will complete their term or retire early. The Court's Scheduling Order has established a trial date of March 17, 2017. Petitioners are uncertain whether the newly-elected judge will be able to abide by the terms of the Scheduling Order. If this Honorable Court sees fit to grant the motion to refer, Petitioners understand that the Business Court Division will make every effort to resolve the case within ten (10) months of the Business Court Division case management and scheduling conference date; and

3. To the best of Petitioners' knowledge, there may be additional related actions (other than those involving the petitioners, directly, that may involve The First State Bank) which are either pending or are likely to be filed in the future.


WHEREFORE, for those grounds and circumstances set forth herein, your Petitioners pray for entry of an Order from this Honorable Court and/or by the Chief Justice, granting Petitioners' Motion to refer the underlying civil action to the Business Court Division.

RESPECTFULLY SUBMITTED,

ZANE L. METZ, JR., ZANE L. METZ, III,
HOLLIE L. METZ and Z. L. METZ HOMES, LLC,

Petitioners,

By Counsel



W. STEPHEN FLESHER, ESQUIRE
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*Counsel for Defendants below,
Petitioners herein*

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Defendants.

CERTIFICATE OF SERVICE

I, W. Stephen Flesher, counsel for Defendants below, Petitioners herein, do hereby certify that I have caused a copy of the foregoing *Motion to Refer Pending Business Litigation to the Business Court Division of Circuit Court*, to be served upon the following interested party:

Daniel T. Yon, Esquire
Bailes, Craig & Yon, PLLC
PO Box 1926
Huntington, West Virginia 25720
Counsel for Plaintiff

by placing a true and correct copy thereof in a properly addressed, postage-paid envelope and depositing the same in the United States mail this 1st day of June, 2016.



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