

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

**BLACKJEWEL L.L.C., a Delaware
limited liability company,**

Plaintiff,

v.

**Civil Action No. 19-C-74
Hon. Tod J. Kaufman, Judge**

**NATIONS EQUIPMENT FINANCE, LLC,
a Delaware limited liability company,
MATTHEW LIGHTFOOT, an individual,
and RANDY HICKS, an individual,**

Defendants.

DEFENDANTS' MOTION TO REFER ACTION AS BUSINESS LITIGATION

NOW COME the Defendants, by counsel, pursuant to Rule 29.06 of the Trial Court Rules, to refer this civil action as business litigation. In support of this motion, these Defendants state as follows:


1. Plaintiff Blackjewel L.L.C. and Defendant Nations Equipment Finance, LLC are both Delaware-registered limited liability companies, and the two individual Defendants are with Nations Equipment Finance, LLC.
2. The action arises out of Plaintiff providing Defendant company One Hundred Thousand and 0/100 Dollars (\$100,000) of due diligence money to have Defendant company assess whether Defendant company would provide a refinancing loan to Plaintiff.
3. Defendant claims that when it came time to refund the balance of the unused due diligence money, after deciding not to provide a refinancing

loan to Plaintiff, Defendant became the victim of an email fraudster who posed as the Plaintiff and provided fraudulent wiring instructions.

4. The law developing around these cases involves UCC and ordinary and reasonable business practices as to information technology security.
5. The Defendants have answered the complaint.
6. Consistent with the definitions set forth in Rule 29.04 of the Trial Court Rules, this case involves a matter of significance to the transaction between two business entities, which transaction gave rise to a dispute presenting commercial and technology issues, the resolution of which will require specialized knowledge and expertise in the subject matters. The claim does not involve consumer litigation.
7. Defendants enclose a copy of the complaint, answer, Defendants' first set of discovery to plaintiff, and the docket sheet to the Clerk of the West Virginia Supreme Court of Appeals and to the Central Office of the Business Court Division.

WHEREFORE, Defendants respectfully request Your Honorable Chief Justice to grant this motion and refer the case as business litigation to Region C.

**NATIONS EQUIPMENT
FINANCE, LLC, MATTHEW
LIGHFOOT, and RANDY HICKS
By Counsel**



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CERTIFICATE OF SERVICE

The undersigned, counsel for defendants, hereby certifies that on this 5th
day of April 2019 the foregoing *Defendants' Motion to Refer Action as Business
Litigation* was served upon counsel of record by depositing a true and exact copy
thereof in the U. S. mail, postage prepaid, in an envelope properly addressed and
stamped as follows:

Eric T. Frye, Esq.
Blackjewel L.L.C.
1051 Main Street
Milton, WV 25541
Counsel for Plaintiff


William R. Slicer, WV Bar No. 5177