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**IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA**

**JOHN SKIDMORE DEVELOPMENT, INC.,  
a West Virginia corporation**

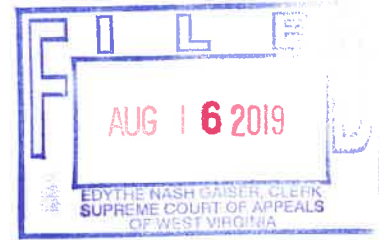
**Petitioner,**

**v.**

**CIVIL ACTION No. 19-P-23  
Circuit Court of Braxton County, West Virginia**

**SISTERS' ANTIQUE MALL, INC.,  
a West Virginia corporation; and  
DUNLAP RENTAL, LL.C, a  
West Virginia limited liability company;**

**Respondents.**



**RESPONDENTS' RESPONSE TO PETITIONERS'S  
MOTION TO REFER CASE TO BUSINESS COURT DIVISION**

Petitioner's Motion to Refer Case to Business Court Division asserts that this case is proper before this Court due to the complexity of the business issues presented; specifically, the interpretation of the Ground Lease Agreement and Amendment between corporate entities. In support, Petitioner cites West Virginia Code § 51-2-15 and Rule 29 as for the correct legal standard for the eligibility of a case to be transferred to the West Virginia Business Court Division. However, it must be noted that Trial Court Rule 29, Section 3, lists certain exceptions:

“The principal claim or claims do not involve; consumer litigation, such as products of liability, personal injury wrongful death, consumer class actions, actions arising under the West Virginia Consumer Credit Act and consumer insurance coverage disputes; non-commercial insurance disputes relating to bad faith, or disputes in which an individual may be covered under a commercial policy, but is involved in the dispute in an individual capacity; employee suits; consumer environmental actions; consumer malpractice actions; consumer and residential real estate, such as landlord-tenant disputes; domestic relations; criminal cases; eminent domain or condemnation; and administrative disputes with government

organizations and regulatory agencies, provided, however, that complex tax appeals are eligible to be referred to the Business Court Division”

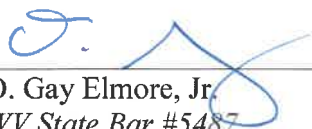
Thus, it is understood that certain types of cases are improper for Business Court jurisdiction. In this particular case, Respondents have filed an Answer and Verified Complaint against Petitioner (a copy of said “Answer of Respondents, Sisters’ Antique Mall, Inc., and Dunlap Rental, LLC, to Petitioner’s Petition for Declaratory Judgment to Declare Rights Under Lease Agreement and Verified Complaint of Respondents, Sisters; Antique Mall, Inc., and Dunlap Rental, LLC Against Petitioner, John Skidmore Development, Inc.”, is attached hereto for the Court’s convenience as Exhibit “A”); the subject Complaint contains an allegation of FRAUD AND MISREPRESENTATION not only against Petitioner, in its corporate form, but also against John Skidmore, Sr., individually, pursuant to West Virginia Code § 31D-6-622(b). (Complaint paragraphs 23-40 inclusive).

Therefore, this case would appear to comport with the type of cases specifically excepted by the Rule. In that this particular case involves allegations of fraud and misrepresentation on the part of the Petitioner and John Skidmore, individually, it would not be proper before the Business Court Division.

For this reason, Respondents asks that Petitioner’s Motion to Refer Case to Business Court Division be denied.

Respectfully Submitted.

Sisters’ Antique Mall, Inc.  
and Dunlap Rental, LLC  
By Counsel



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O. Gay Elmore, Jr.  
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121 Summers Street  
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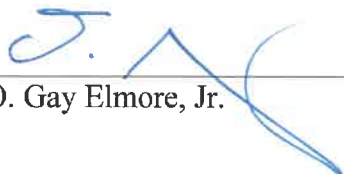
**Respondents.**

CERTIFICATE OF SERVICE

I, O. Gay Elmore, Jr., counsel for Respondents, Sisters' Antique Mall, Inc. and Dunlap Rental, LLC, does hereby certify that service of the foregoing *"Respondents' Response to Petitioner's Motion to Refer Case to Business Court Division"* was made upon the following by mailing a true and exact copy thereof to:

J. Mark Adkins  
Emily R. Lambright  
Zachary J. Rosencrance  
BOWLES RICE, LLP  
600 Quarrier Street  
Charleston, WV 25301

in a properly stamped and addressed envelope, postage prepaid, and deposited in the United States mail this 14th day of August, 2019.

  
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O. Gay Elmore, Jr.