

**IN THE CIRCUIT COURT OF MONONGALIA COUNTY, WEST VIRGINIA  
DIVISION ONE**

**BETTY PARMER**

**Plaintiff,**

**v.**

**Civil Action No: 14-C-374**

**UNITED BANK, INC. and  
RANDALL WILLIAMS,**

**Defendants.**

**JUDICIAL MOTION TO REFER CASE TO THE BUSINESS COURT DIVISION**

**TO THE HONORABLE CHIEF JUSTICE ROBIN JEAN DAVIS:**

Pursuant to Rule 29.06(A)(1) of the West Virginia Trial Court Rules, the Honorable Susan B. Tucker respectfully requests the above-styled case be referred to the Business Court Division, as it is this Court's determination that this litigation qualifies as business litigation that may be resolved more expeditiously by referral to the Business Court Division (hereinafter referred to as the Division). In support of this Motion, this Court states as follows:

1. In regard to additional related actions, the following related action could be the subject of consolidation, and is now pending in this Court:

"BETTY PARMER, Plaintiff, v. MITCHELL BROZIK, THOMAS KUPEC, BRANDON KUPEC, GREGORY MORGAN, and MB SECURITY, LLC, Defendants," Civil Action No. 13-C-651, presently pending in the Circuit Court of Monongalia County, Division One, 17<sup>th</sup> Judicial Circuit.

2. This action involves commercial issues and disputes that qualify as "business litigation" under West Virginia Trial Court Rule 29.04(a) including, but not limited to, commercial torts, and disputes among commercial entities.
3. This matter contains issues significant to businesses, and presents novel and/or complex commercial or technological issues for which specialized treatment will be helpful. Specifically, the Plaintiff alleges tortious conduct on behalf of the Defendants relating to the Defendants' \$2.5 million dollar loan to the Plaintiff, which loan was used to purchase certain notes from the Milan Puskar Trust, and ultimately (and allegedly without the Plaintiff's knowledge) resulted in the acquisition of the assets of the commercial entity known as Secure US, Inc. The Defendants have filed a Motion to Dismiss alleging this matter is barred by the statute of limitations. The Defendants also filed a Motion for Referral to Business Court Division on June 26, 2014 directly with the Hon. Phillip Gaujot of this judicial circuit, which asserts that this matter involves complicated matters of commercial and banking law associated with the claims alleged in the Plaintiff's Complaint, and which constitutes "business litigation" as defined in West Virginia Trial Court Rule 29.04(a).
4. In further support of this Motion, please find attached hereto an accurate copy of the operative complaint, the Defendant's Motion to Dismiss, the

docket sheet, and the Defendants' Motion for Referral to Business Court Division.

5. In regard to expedited review, this Court 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:

This action commenced with the filing of the Plaintiff's Complaint in the Circuit Court of Monongalia County on April 21, 2014, which was subsequently assigned to the Honorable Phillip D. Gaujot. On June 26, 2014, in accordance with the prior version of West Virginia Trial Court Rule 29.01, *et seq.* (the "Prior Rule"), the Defendants filed their Motion for Referral to Business Court Division directly with the Circuit Court, which was served on all parties. Under the provisions of Rule 29.06(a)(4) of the Prior Rule (and the provisions of the current Rule 29.06(a)(4)), any party to this litigation had a period of twenty (20) days after the Motion was filed to file a reply memorandum stating its position and opposition, if any. No reply memorandum was filed by any party.

Subsequently, on October 1, 2014, upon disclosure by the Court to the Parties and at the request of Plaintiff's counsel, Judge Gaujot voluntarily recused himself from this case due to a potential conflict. This matter was then re-assigned to this Court for further proceedings, at which point the Defendant's pending Motion for Referral to Business Court Division was addressed.

Inasmuch as the Defendant's Motion has been pending since June 26, 2014, no reply memorandum has been filed by any party after being properly served with the Defendant's Motion, and in the interests of prompt adjudication of this litigation and judicial economy, it is this Court's opinion that this matter is ripe for immediate consideration by the Chief Justice for referral to the Business Court Division.

WHEREFORE, this Court seeks referral of this matter to the Business Court Division pursuant to Rule 29.06(a)(1) of the WEST VIRGINIA TRIAL COURT RULES.

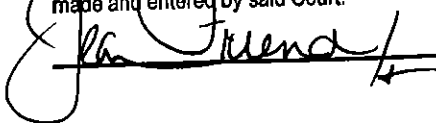
The Clerk of this Court shall forward certified copies of this Motion to the Clerk of the Supreme Court of Appeals, the Business Court Division Central Office, Berkeley County Judicial Center, 380 W. South Street, Suite 2100, Martinsburg, West Virginia 25401, and to the following counsel of record:

S. Sean Murphy, Esq.  
265 High Street, Suite 601  
Morgantown, West Virginia 26505  
**Counsel for Plaintiff, Betty Parmer**

Shawn P. George, Esq.  
George & Lorensen, PLLC  
1526 Kanawha Blvd., East  
Charleston, WV 25311  
**Counsel for Defendants United Bank, Inc.  
and Randall Williams**

Respectfully submitted this 10<sup>th</sup> day of October, 2014.

STATE OF WEST VIRGINIA, SS.  
I, Jean Friend, Clerk of the Circuit and Family Courts of  
Monongalia County State aforesaid do hereby certify that  
the attached ORDER is a true copy of the original Order  
made and entered by said Court.

 Circuit Clerk

  
SUSAN B. TUCKER, JUDGE