

IN THE CIRCUIT COURT OF BERKELEY COUNTY, WEST VIRGINIA  
BUSINESS COURT DIVISION

UNIVERSITY HEALTHCARE FOUNDATION, INC.  
f/k/a CITY HOSPITAL FOUNDATION, INC.,

2016 SEP -2 A 11:04

VIRGINIA M. SINE, CLERK

*Petitioner,*

v.

CASE NO. 16-AA-3  
Judge Wilkes

LARRY A. HESS, Assessor  
of Berkeley County, West Virginia, and  
MARK W. MATKOVICH, State Tax  
Commissioner,

*Respondents.*

**ORDER STAYING CASE PENDING**  
**OUTCOME OF APPEAL IN CASE NO. 14-AA-4**

On August 4, 2016, Chief Justice Menis E. Ketchum entered an Administrative Order granting a Motion to Refer the above-styled case to the Business Court Division. On August 11, 2016, the Business Court Division Chair, with the advice and consent of the Division, assigned the Honorable Christopher C. Wilkes to serve as the presiding judge in the above-styled case.

The Court notes that the Respondents in Berkeley County Business Court Civil Action No. 14-AA-4, styled *University Healthcare Foundation, Inc. v. Larry A. Hess et al.* (the "2014 Case"), timely appealed this Court's Final Order in that case to the Supreme Court of Appeals of West Virginia.<sup>1</sup> The Court further notes that the parties in Berkeley County Business Court Civil Action No. 15-AA-6, also styled *University Healthcare Foundation, Inc. v. Larry A. Hess et al.* (the "2015 Case"), previously agreed that the case should be stayed pending the

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<sup>1</sup> The Respondents' appeals are docketed with the Supreme Court of Appeals of West Virginia as Appeal Nos. 15-0597 and 15-0599, respectively.

outcome of the appeal in the 2014 Case, subject to the right of all parties to fully litigate the 2015 Case once the Supreme Court of Appeals of West Virginia issues its mandate.

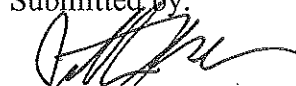
Finding that this matter is substantially related to the 2014 Case and the 2015 Case, and there being no objection by the parties, and the Court FINDING it proper to do so, the Court hereby ORDERS that this matter shall be, and hereby is, STAYED pending resolution of the Respondents' appeal of this Court's Final Order in Berkeley County Business Court Civil Action No. 14-AA-4, styled *University Healthcare Foundation, Inc. v. Larry A. Hess et al.*, subject to the right of all parties to fully litigate their positions in this case and the 2015 Case once the Supreme Court of Appeals of West Virginia issues its mandate. The Court FURTHER ORDERS that, upon receipt of the mandate of the Supreme Court of Appeals of West Virginia in the above-referenced appeal, the parties shall contact this Court and request a scheduling conference.

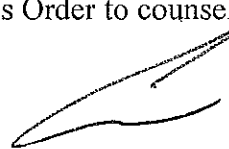
IT IS SO ORDERED.

The Clerk shall mail attested copies of this Order to counsel of record.

ENTERED: August 31, 2016

Submitted by:

  
Michael E. Caryl (WVSB #662)  
Tyler Mayhew (WVSB #11469)  
Counsel for Petitioner

  
CHRISTOPHER C. WILKES, JUDGE

Approved by:

15/NORWOOD BENTLEY, III (JTM, BY PERMISSION)  
Norwood Bentley, III (WVSB #4234)  
Counsel for Respondent Larry A. Hess

15/L. WAYNE WILLIAMS (JTM, BY PERMISSION)  
L. Wayne Williams (WVSB #4370)  
Counsel for Respondent Mark W. Matkovich

ATTEST

Virginia M. Sine  
Clerk Circuit Court

By: J. Cooper

Deputy Clerk