

FILED

**IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA
BUSINESS COURT DIVISION**

2018 JUN 18 PM 1:05

VANDALIA CAPITAL II, LLC, et al.,

CATHY S. GRIFFIN, CLERK
KANAWHA COUNTY CIRCUIT COURT

Plaintiffs,

v.

Civil Action No. 13-C-570

Presiding Judge: Paul T. Farrell

Resolution Judge: Russel M. Clawges, Jr.

**DAVID P. PRAY, Individually, and
as Trustee of the DAVID P. PRAY
REVOCABLE TRUST; DAVID P.
PRAY REVOCABLE TRUST; and
JOHN/JANE DOE,**

Defendants,

v.

THE WOODS DEVELOPMENT COMPANY, LLC

Third-Party Defendant.

**AGREED ORDER REINSTATING CASE ON ACTIVE DOCKET
AND SETTING STATUS CONFERENCE**

Upon consideration of the agreement of counsel for the parties interested herein, as represented by their signatures below, it is hereby ORDERED, ADJUDGED AND DECREED as follow:

1. Due to a settlement reached by certain of the parties, this Court by Order of December 16, 2016, dismissed this action, with prejudice as to certain claims and without prejudice as to certain other claims, as set forth therein, and the Court retained jurisdiction over the matter in the event of an alleged breach of the terms of the agreement between the settling parties;

2. On or about May 28, 2018-the plaintiff Vandalia Capital, II, LLC ("Vandalia"), filed with this Court a pleading entitled "Verified Motion to Reinstate Case and for Enforcement of Settlement Agreement", asserting that there had been a breach of the settlement agreement by the Pray defendants, and requesting that the Court reinstate the case on the Court's active docket and

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SCANNED

order an expedited evidentiary hearing to determine the obligations of the Pray defendants, and other relief;

3. On or about June 5, 2018, a Notice of Substitution of Counsel was filed by Stephen D. Annand, Esquire and Kent J. George, Esquire, and the law firm of Robinson & McElwee, PLLC, replacing Brian A. Glasser, Esquire and Thanos Basdekis, Esquire, and the law firm of Bailey & Glasser, LLP, as counsel to the Pray defendants;

4. On or about June 6, 2018 counsel for the plaintiff Vandalia contacted the Court's offices and obtained a hearing date of June 28, 2018, but when counsel for the Pray defendants were contacted they indicated that there were conflicts with that date;

5. The Court is advised that counsel for the parties have now conferred, and have agreed on an alternative hearing date of July 9, 2018, and further agreed that would be a Status Conference to discuss the time and steps necessary to address the issues raised by Vandalia's Motion, and the parties obtained from the Court's office a time of 9:30 am on that date, July 9, 2018, for that purpose;

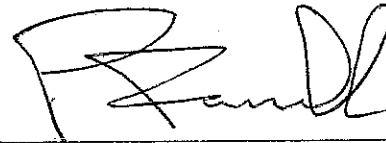
6. The Court is further advised that counsel for the Pray defendants have represented to counsel for Vandalia that they do not object to the Court reinstating the case on the active docket to address the substantive issues raised by Vandalia's Motion, and any issues raised by the Pray defendants in response to that Motion, and thus it is hereby ORDERED that the action is hereby REINSTATED on the Court's active docket for those purposes, and any other purposes deemed by the Court to be reasonable and appropriate under the circumstances, to further the interests of justice;

7. At the Status Conference on July 9, 2018, beginning at 9:30 am, among other matters as determined to be appropriate by the Court, the Court will entertain proposals by the parties, jointly or separately, as to: the issues in dispute; facts implicated by those issues; discovery

needed to address those issues; the proper manner of addressing the issues; and the period of time necessary to develop a record to put the matter before the Court for a determination as to how the issues can best be resolved in the most expeditious and appropriate manner.

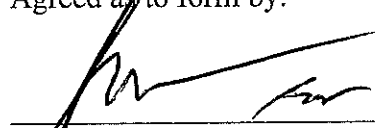
The Clerk is directed to send certified copies of this Order to all counsel of record listed herein.

Enter this 13 day of June, 2018.




HON. PAUL T. FARRELL
Circuit Judge – Business Court Division

Agreed as to form by:

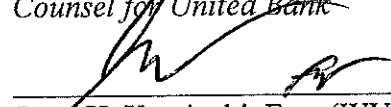


Mark R. Staun, Esq. (WV Bar #5728)
Hartley Law Group, PLLC
The Wagner Building
2001 Main Street, Suite 600
Wheeling, WV 26003
Counsel for Plaintiffs

STATE OF WEST VIRGINIA
COUNTY OF KANAWHA, SS
I, CATHY S. GATSON, CLERK OF CIRCUIT COURT OF SAID COUNTY
AND IN SAID STATE DO HEREBY CERTIFY THAT THE FOREGOING
IS A TRUE COPY FROM THE RECORDS OF SAID COURT
GIVEN UNDER MY HAND AND SEAL OF SAID COURT THIS 19
DAY OF JUNE 2018
CATHY S. GATSON, CLERK
CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA



Floyd Boone, Esq. (WV Bar #8784)
Julia A. Chincheck, Esq. (WV Bar #718)
Bowles Rice, LLP
PO Box 1386
Charleston, WV 25325-1386
Counsel for United Bank

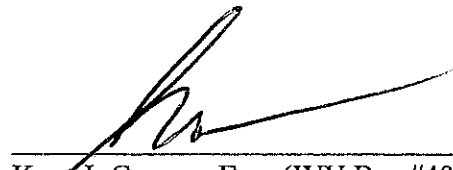


Scott H. Kaminski, Esq. (WV Bar #6338)
Kaminski Law, PLLC
214 Capitol St.
Charleston, WV 25301-2212
Counsel for the Woods Development Company, Inc.

Date: 6/19/20
Certified copies sent to:
☒ counsel of record
☒ parties
☐ other (please indicate)
By: [Signature]
☐ certified/1st class mail
☐ fax
☐ hand delivery
☐ interdepartmental
Other directives accomplished:
[Signature]
Deputy Circuit Clerk

Bus Ct
Judge
Farrell
M Staun
F. Boone
K. George

S Kaminski



Kent J. George, Esq. (WV Bar #4842)
Stephen D. Annand, Esq. (WV Bar #150)
ROBINSON & McELWEE PLLC
700 Virginia Street, East
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304-344-5800
Counsel for the Pray Defendants

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Third-Party Defendant.


CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 14th day of June, 2018, I filed the
aforementioned **AGREED ORDER REINSTATING CASE ON ACTIVE DOCKET AND
SETTING STATUS CONFERENCE** with the Court, as well as served a copy on all counsel of
record as follows:

Mark R. Staun, Esq.
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Counsel for the Pray Defendants