

Per Curiam:

Margaret Toppings, et al.,
Plaintiffs

vs. No. 30108

Meritech Mortgage Services, Inc.,
a corporation, and division of Saxon
Mortgage, Inc., et al., Defendants

FILED

June 19, 2002

RORY L. PERRY II, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

RELEASED

June 19, 2002

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This case involves a certified question from the Circuit Court of Lincoln County,
in Civil Action No. 00-C-146.

The certified question is as follows:

Whether a lender's form compulsory arbitration clause or rider, which mandates that all disputes arising out of a consumer transaction be submitted to a lender-designated decision maker compensated through a case-volume fee system whereby the decision maker's income as an arbitrator is dependent on continued referrals from the creditor, so impinges on neutrality and fundamental fairness that it is unconscionable and unenforceable under West Virginia law.

The trial court answered the question in the affirmative.

On June 13, 2002, this Court issued an opinion in the case of *State ex rel. Dunlap v. Berger*, ___ W.Va. ___, ___ S.E.2d ___ (No. 30035, June 13, 2002). Based on the opinion in *Dunlap*, and particularly in light of the discussion at footnote 12 therein, the Court is of the opinion that the Circuit Court of Lincoln County correctly answered the certified question, and accordingly this matter is dismissed and the case is remanded to the circuit court.

Justice Maynard would issue a full opinion in this case.

Question Answered, Dismissed and Remanded.