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April 26, 2022

VIA FEDERAL EXPRESS

Hon. Edythe Nash Gaiser, Clerk of the Court
Capitol Complex
1900 Kanawha Boulevard East
Building One, Room E-317
Charleston, WV 25305

Re: Propst v. Propst Plumbing and Heating, Inc., et al.
Jefferson County Circuit Court
Civil Action No. 21-C-141

Dear Ms. Gaiser:

Please find the Original "Defendants' Motion for Leave to File a Response to Plaintiff's Reply in Opposition to Motion to Refer Case to the Business Court Division" and five (5) copies in the above-referenced matter.

Should you have any questions, please do not hesitate to contact me.

Very truly yours,



F. Samuel Byrer

FSB/mbk

Enclosures (as stated)

cc: Mr. Doug Propst, Sr.
Alex A. Tsiatosos, Esq.
David B. Fawcett, Esq.
Peter L. Chakmakian, Esq.
Richard G. Gay, Esq.
Jefferson County Circuit Clerk's Office
Business Court Division Central Office

COPY

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

LINDA PROPST,
Individually and on behalf of
Propst Plumbing and Heating, Inc.,
Plaintiff(s),

Docket No. 22-BCD-06
Jefferson County Circuit Court
Civil Action No. 21-C-141

vs.

PROPST PLUMBING AND HEATING,
INC., P.D. PROPST ENTERPRISES,
LLC, PAUL D. PROPST, SR., and PAUL
D. PROPST, JR.,
Defendant(s).

DEFENDANTS' MOTION FOR LEAVE TO FILE A RESPONSE
TO PLAINTIFF'S REPLY IN OPPOSITION TO MOTION
TO REFER CASE TO THE BUSINESS COURT DIVISION

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and Paul D. Propst, Jr.*

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IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

LINDA PROPST,
Individually and on behalf of
Propst Plumbing and Heating, Inc.,
Plaintiff(s),

Docket No. 22-BCD-06
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vs.

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INC., P.D. PROPST ENTERPRISES,
LLC, PAUL D. PROPST, SR., and PAUL
D. PROPST, JR.,
Defendant(s).

TO: THE HONORABLE CHIEF JUSTICE

**DEFENDANTS' MOTION FOR LEAVE TO FILE A RESPONSE TO
PLAINTIFF'S REPLY IN OPPOSITION TO MOTION
TO REFER CASE TO THE BUSINESS COURT DIVISION**

Come now Defendant Propst Plumbing and Heating, Inc., Defendant P.D. Propst Enterprises, LLC, Defendant Paul D. Propst, Sr., and Defendant Paul D. Propst, Jr., by their respective counsel, and respectfully move the Court, pursuant to Rule 29(a) of the West Virginia Rules of Appellate Procedure, for leave to file a short response to the Reply filed on behalf of "Linda Propst individually and on behalf of Propst Plumbing and Heating, Inc."

In support of their Motion, the defendants submit as follows:

1. On April 5, 2022, the Defendants filed their Motion to Refer Case to the Business Court Division.
2. The Motion was filed following the form provided on the website of the West Virginia Supreme Court of Appeals which contained examples of the types of claims applicable to Business Court Division cases. Several of the causes of action listed on the form were alleged in the underlying complaint in this case.

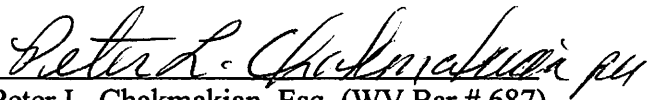
3. The Plaintiffs' Complaint filed by Linda Propst individually and on behalf of Propst Plumbing and Heating, Inc. named as the first two defendants Propst Plumbing and Heating, Inc. and Propst Enterprises, LLC.


4. Despite the repeated allegations in the Plaintiffs' Complaint, both on behalf of and against Propst Plumbing and Heating, Inc., and against P.D. Propst Enterprises, LLC, as well as numerous allegations against corporate officers and claimed misconduct of the corporation, its officers and the limited liability company, the Defendants have surprisingly asserted that "this is not a business court case." (See page 1 of the Plaintiff's Reply in Opposition to Motion to Refer Case to the Business Court Division). This allegation is difficult to square with Paragraph 1 of the Complaint: "This action arises out of the unlawful attempt of the Defendants [Propst Plumbing and Heating, Inc., P.D. Propst Enterprises, LLC, Paul D. Propst, Sr. and Paul D. Propst, Jr., officers of the corporation] from the profitable family business." The Complaint references "usurpation of corporate opportunities," "oppression of minority shareholders," breach of fiduciary duties arising out of corporate relationships and Defendants' "attempts to deprive her of the incidents and benefits of ownership of the family business." (Complaint Paragraph 2).

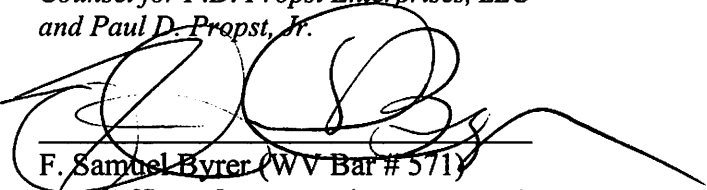
5. Defendants disagree with the Plaintiffs' assertion that this is not a Business Court case and respectfully ask leave to file a response to provide this Court more detail supporting the Motion to Refer Case to the Business Court Division.

Wherefore Defendant Propst Plumbing and Heating, Inc., Defendant P.D. Propst Enterprises, LLC, Defendant Paul D. Propst, Sr., and Defendant Paul D. Propst, Jr., pray that the Court grant them leave to file a brief and straightforward response to the Reply filed by the Plaintiffs in Opposition to Defendants' Motion to Transfer the Case to the Business Court Division.

Respectfully submitted,


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authentic
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LINDA PROPST,
Individually and on behalf of
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Plaintiff(s),

No. 22-BCD-06
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Civil Action No. 21-C-141

vs.

PROPST PLUMBING AND HEATING,
INC., P.D. PROPST ENTERPRISES,
LLC, PAUL D. PROPST, SR., and PAUL
D. PROPST, JR.,

Defendant(s).

CERTIFICATE OF SERVICE

I, F. Samuel Byrer, do hereby certify that on this 26th day of April, 2022, I have served the foregoing **“Defendants’ Motion for Leave to File a Response to Plaintiff’s Reply in Opposition to Motion to Refer Case to Business Court Division,”** by either hand delivery or first class mail to:

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Jefferson County Circuit Clerk's Office
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A handwritten signature in black ink, appearing to read 'F. Samuel Byrer', written over a horizontal line.

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