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May 6, 2022

The Honorable Edythe Nash Gaiser
Supreme Court of Appeals of West Virginia
State Capitol Building, Room E-317
1900 Kanawha Boulevard East
Charleston, WV 25305

Re: Propst v. Propst Plumbing and Heating, Inc., et al.
Jefferson County Civil Action no. 21-C-141
Motion to Refer Case to the Business Court Division

Dear Madam Clerk,

Enclosed please find the original and five (5) copies of Plaintiff Linda Propst's ***Response to Defendant's Motion for Leave to File a Response to Plaintiff's Reply in Opposition to Motion to Refer Case to the Business Court Division*** in the above-styled case. I apologize for the unwieldy title of document, but I ask that you please file the original and distribute the copies in the customary manner.

Thank you for your attention to this. Please let me know if you have any questions or comments.

/s/ **Alex A. Tsiatsos**
Alex A. Tsiatsos

cc.: The Honorable David M. Hammer
Jefferson County Circuit Clerk
Central Office of the Business Court Division
Peter L. Chakmakian, Esq.
F. Samuel Byrer, Esq.
Richard G. Gay, Esq.

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

LINDA PROPT,
Individually and on behalf of
Propt Plumbing and Heating, Inc.,

Plaintiff,

Jefferson County

v.

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

Defendants.

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

Plaintiff Linda Propt, by counsel:

/s/ Alex A. Tsatsos
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/s/ David B. Fawcett
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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,

Civil action no: 21-C-141

Judge Hammer (Jefferson County)

v.

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

Defendants.

TO: THE HONORABLE CHIEF JUSTICE

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

Plaintiff Linda Propst ("Plaintiff"), by and through her undersigned attorneys, hereby states as follows:

1. With respect to the above referenced Jefferson County litigation, the Defendants filed a motion to refer this matter to the Business Court Division on or about April 5, 2022.
2. The Plaintiff filed a reply in opposition on or about April 12, 2022.
3. Under Trial Court Rule 29.06(a), that should have been it. The Rule contemplates only those two filings: a motion and a response to that motion (which is called a "reply" under the rule). There is no provision for a rebuttal by the moving party. Therefore, the non-moving party is supposed to get the last word.
4. Nevertheless, on April 26, 2022 the Defendants filed a motion for leave to file a response to the Plaintiff's reply.

5. The Plaintiff opposes the transfer of this case to the Business Court Division for the reasons already stated: this is not a Business Court case. While a defunct business is nominally involved, the main allegations are by individuals against individuals. Moreover, the familiar fraud and breach of fiduciary duty allegations which lie at the heart of this case are nothing like the complex business disputes for which Business Court was created.

6. However, to the extent that this Honorable Court wishes to review further briefing on this subject, the Plaintiff does not object to the Defendants' request for leave to file a response.

7. But if the Court does permit the additional response brief requested by the Defendants, the Plaintiffs respectfully ask for the chance to file a short reply brief, if they believe it is necessary, within five (5) business days of receipt of Defendants' filing. This would allow the Defendants to have their say while still complying with the spirit of the applicable rule which entitles the non-moving party to have the final reply.

Plaintiff Linda Propst,
by counsel:

/s/ Alex A. Tsiatsos

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IN THE CIRCUIT COURT OF JEFFERSON COUNTY, WEST VIRGINIA

LINDA PROPST,
Individually and on behalf of
Propst Plumbing and Heating, Inc.,

Plaintiff,

v.

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

Defendants.

Civil action no: 21-C-141

Judge Hammer

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I certify that on the 6th day of May, 2022, I served the foregoing ***PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION FOR LEAVE TO FILE A RESPONSE TO PLAINTIFF'S REPLY IN OPPOSITION TO MOTION TO REFER CASE TO THE BUSINESS COURT DIVISION*** by United States Mail, first class, postage prepaid to the following:

Peter L. Chakmakian, Esq. Peter L. Chakmakian LC PO Box 547 118 North George Street Charles Town, WV 25414	F. Samuel Byrer, Esq. Law Offices of F. Samuel Byrer PLLC 202 West Liberty Street Charles Town, West Virginia 25414	Richard G. Gay, Esq. Law Office of Richard G. Gay, L.C. 11 N. Washington St., 2nd Fl. Berkeley Springs, WV 25411
Hon. David M. Hammer, Judge Jefferson County Courthouse 100 E. Washington Street Charles Town, WV 25414	Hon. Laura Storm, Clerk Jefferson County Courthouse P.O. Box 1234 119 North George Street Charles Town, WV 25414	Berkeley County Judicial Center Business Court Division 380 W. South Street, Suite 2100 Martinsburg, WV 25401

/s/ Alex A. Tsiatsos
Alex A. Tsiatsos, Esq.