

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

SHONK LAND COMPANY LLC,

Plaintiff,

v.

CABOT OIL & GAS CORPORATION, and
CARBON WEST VIRGINIA COMPANY LLC,

Defendants.

TO: THE HONORABLE CHIEF JUSTICE

JOINT MOTION TO REFER CASE TO THE BUSINESS COURT DIVISION

Pursuant to Rule 29.06 of the West Virginia Trial Court Rules, Plaintiff Shonk Land Company LLC ("Shonk"), Defendant Cabot Oil & Gas Corporation ("Cabot"), and Defendant Carbon West Virginia ("Carbon West Virginia") (together, the "Parties"), by counsel, and the Circuit Court of Kanawha County and ("the Court"), jointly request that the above-styled case be referred to the Business Court Division. In support of their motion, the Parties and the Court state as follows:

1. This case involves a dispute between Plaintiff Shonk and Defendants Cabot and Carbon West Virginia arising under an Agreement of Lease dated May 20, 1930, as subsequently amended and ratified, commonly known as the "Larner Lease." The Larner Lease governs natural gas extraction on sixteen thousand acres of property owned by Shonk in Kanawha and Boone Counties.

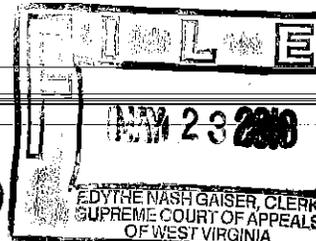
2. Among other claims, the Complaint raises the fundamental issues of whether Cabot validly assigned the Larner Lease to Carbon West Virginia and whether Shonk was justified in withholding its consent to the assignment. Resolution of these issues involves the financial position and ownership structure of all three parties, each of which has a different

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KANAWHA COUNTY CIRCUIT COURT

Kanawha County Circuit Court
Civil Action No. 18-C-193
Hon. Tod J. Kaufman



capital structure. Market conditions and industry customs related to lease assignments are also relevant to the issues presented. The specialized knowledge and experience of the judges assigned to the Business Court Division are likely to improve the likelihood of a fair and reasonable resolution of these issues.

3. This case will also require a determination as to whether royalty payments made pursuant the Larner Lease have been correctly calculated. The Parties and the Court agree that the subject matter expertise offered by the Business Court is likely to improve the expectation of a fair and reasonable resolution of this issue.

4. In further support of this motion, please find attached hereto copies of the Complaint, Answers, Motion for Preliminary Injunction, and the Docket Sheet.

5. While there are no related actions currently pending, the Larner Lease has been the subject of a prior action in Boone County Circuit Court Civil Action No. 07-C-174.

6. In order to obtain a referral to the Business Court Division, the proceedings must involve "Business Litigation," a term defined by Trial Court Rule 29.04(a) as one or more pending actions in which:

(1) the principal claim or claims involve matters of significance to the transactions, operations, or governance between business entities; and

(2) the dispute presents commercial and/or technology issues in which specialized treatment is likely to improve the expectation of a fair and reasonable resolution of the controversy because of the need for specialized knowledge or expertise in the subject matter or familiarity with some specific law or legal principles that may be applicable; and

(3) the principal claim or claims do not involve: consumer litigation, such as products liability, personal injury, wrongful death, consumer class actions, actions arising under the West Virginia Consumer Credit Act and consumer insurance coverage disputes; non-commercial insurance disputes relating to bad faith, or disputes in which an individual may be covered under a commercial policy, but is involved in the dispute in an individual capacity; employee suits; consumer environmental actions; consumer malpractice actions; consumer and residential real estate, such as landlord-tenant disputes; domestic relations; criminal cases;

eminent domain or condemnation; and administrative disputes with government organizations and regulatory agencies, provided, however, that complex tax appeals are eligible to be referred to the Business Court Division.

7. Rule 29 of the West Virginia Trial Court Rules permits referral to the Business Court Division of any dispute which presents commercial and/or technology issues “in which specialized treatment is likely to improve the expectation of a fair and reasonable resolution . . . because of the need for specialized knowledge or expertise in the subject matter . . .” W. Va. T.C.R. 29.04(a)(2).

8. In light of the specialized knowledge and subject matter expertise that would aid in resolving the issues raised by this dispute, the Parties and the Court agree that this case would immensely benefit from the specialized treatment offered by the Business Court Division, and that this case meets the criteria for referral under Rule 29.04(a) of the West Virginia Trial Court Rules.

9. Since the Court and all Parties are joining in this Motion, no reply memoranda will be filed pursuant to T.C.R. 29.06(a)(4). Thus, the Chief Justice can act on this Motion without awaiting replies from the Court or any Party.

Accordingly, the undersigned hereby move, pursuant to W. Va. Trial Court Rule 29, the Chief Justice of the West Virginia Supreme Court of Appeals to refer this case to the Business Court Division.

SHONK LAND COMPANY LLC,

By Counsel



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CABOT OIL & GAS CORPORATION

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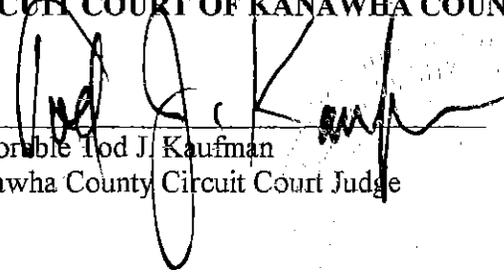
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CIRCUIT COURT OF KANAWHA COUNTY



Honorable Tod J. Kaufman
Kanawha County Circuit Court Judge

STATE OF WEST VIRGINIA
COUNTY OF KANAWHA, SS
I, CATHY S. GATSON, CLERK OF THE 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 18
DAY OF MAY 2018
CATHY S. GATSON CLERK
CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

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**Kanawha County Circuit Court
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Hon. Tod J. Kaufman**

CERTIFICATE OF SERVICE

I, Nicholas S. Johnson, do hereby certify that on the 23rd day of May, 2018, true copies of the foregoing *Joint Motion to Refer Case to the Business Court Division* was served upon counsel of record as indicate below:

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Honorable Tod J. Kaufman *(Via Hand Delivery)*
Kanawha County Circuit Court Judge
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