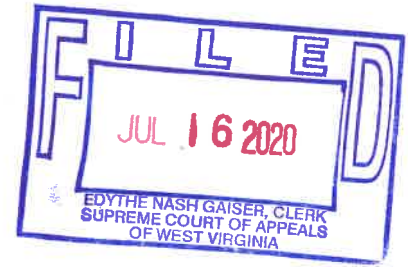


Tod J. Kaufman, Judge
Kanawha County Circuit Court
Charleston, WV 25301

July 16, 2020



Via Facsimile and U.S. Mail (and U.S. Mail to all lawyers)

Honorable Tim Armstead
Chief Justice
West Virginia Supreme Court of Appeals
1900 Kanawha Blvd. East
Charleston, WV 25305

**RE: Supreme Court No. 20-BCD06
In the Supreme Court of Appeals of West Virginia
Jefferson County Foundation, Inc.**

v.

West Virginia Economic Development Authority, et al.

Dear Chief Justice Armstead:

Because of the pandemic (and Kanawha County Circuit Clerk closure in this circuit recently), copies of papers in the above-captioned cause were delayed. For this reason, I hereby request leave of our High Court to respond to "*Defendants Joint Motion to Refer Case to the Business Court Division*".¹

With your Honors permission, I hereby respond in opposition to *Defendants Joint Motion to Refer Case to the Business Court Division*. First of all, the *Plaintiff's Reply to Defendants' Joint Motion to Refer Case to the Business Court Division* is consistent with the undersigned judges position on *Business Court* reference. Additionally, I wish to quote directly from the Plaintiff's reply adopting their reply as my own, to-wit:

"This matter does not even involve litigation between business entities on commercial questions, let alone complex commercial litigation between them.

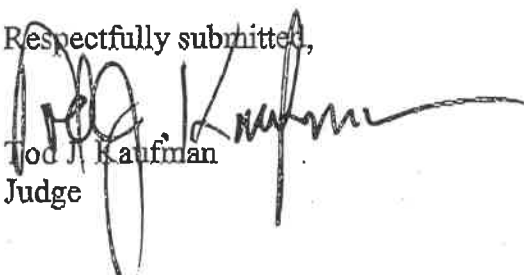
"Defendants suggest that this matter may be referred to the Business Court Division as it presents a "complex tax appeal." However, Plaintiff is not

¹ The Supreme Court Clerk's office informed me that the *Defendant's Joint Motion to Refer Case to the Business Court Division* was filed on June 16, 2020 and *Plaintiff's Reply to Defendants' Joint Motion to Refer Case to the Business Court Division* was filed July 6, 2020.

appealing a tax assessed against its business or any other business entity. Plaintiff is challenging the purported tax exemption scheme as being unconstitutional. Deciding the constitutional challenge does not require specialized knowledge of the type contemplated by the law and rules forming the Business Court Division. It is apparent that the Defendants are simply forum / judge shopping. The Business Court Division was not created to permit such improper judicial tampering."

This case should be heard in Kanawha County for all of the right and legitimate judicial reasons that bring credit and confidence in our elected courts. Moreover the statute creating the business court does not permit or envision cases like this case that circumvent our daily elected Circuit Judges and their circuits to which cases are appropriately filed. For this reason above all else, I respectfully request that you deny this request which could compromise confidence in our courts if granted, in my opinion and with all due respect.

Respectfully submitted,


Tod J. Kaufman
Judge

Cc: Circuit Court file

Honorable Edythe Nash Gaiser
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