



VIEW*S* & VISIONS

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The Business Court Division

The Honorable Christopher C. Wilkes
Chief Judge, Twenty-Third Judicial Circuit of West Virginia
Chair, West Virginia Business Court Division

The Honorable Christopher C. Wilkes serves as Chief Judge of the Twenty-Third Judicial Circuit (Berkeley, Jefferson and Morgan Counties). He was elected to the bench in 1992 and re-elected in 2000, 2008 and 2016.

He holds a bachelor's degree in political science from West Virginia University and a law degree from the Ohio Northern University Pettit College of Law. He has successfully completed numerous courses at the National Judicial College, including handling of complex commercial litigation and the Law and Economics Program at George Mason University College of Law. He also has received specialized training in the use of alternate dispute resolution techniques in complex commercial litigation.

Judge Wilkes is the chairman of the Business Court Division and serves as both presiding and resolution judge in numerous business court cases. He is a past member of the Judges Initiative Committee of the Business Law Section of the American Bar Association. He is vice president and president-elect of the West Virginia Judicial Association, and is a member of the American College of Business Court Judges.

He has been a guest lecturer, panelist and presenter at various trainings and conferences and has been appointed numerous times to sit as a temporary Justice on the Supreme Court of Appeals of West Virginia.

In the heart of downtown Martinsburg, on the first floor of the Berkeley County Judicial Center, lies the headquarters of the West Virginia Business Court Division, which oversees the statewide docket of complex commercial litigation. Founded in 2012, the Division comprises seven judges from throughout the state, who by way of experience and specialized training, are well-suited to manage complex commercial litigation.

Appropriate complex cases are referred to the Division by the Chief Justice of the Supreme Court of Appeals, and a presiding judge and a resolution judge are then assigned to the case. The presiding judge undertakes the traditional role of case management and ruling on legal issues while the resolution judge engages the parties in mediation or some other form of alternate dispute resolution. This process helps businesses resolve suits efficiently and minimizes litigation expenses.

West Virginia's Business Court Division being based in Martinsburg highlights not only the

dynamic growth of the Eastern Panhandle and its business climate, but also displays the recognition by the judiciary and our state leaders of the importance of attracting and retaining business.

I have served as Circuit Judge for the Twenty-Third Judicial Circuit of West Virginia (Jefferson, Berkeley and Morgan Counties) for 24 years, and in that time, the population of the three counties has skyrocketed, growing from 107,307 to 185,907¹ and going from two judges covering all three counties to six, as of January 1, 2017. This is especially significant considering the state's overall population decline. The Eastern Panhandle also boasts a higher educational attainment, with some Eastern Panhandle counties having more than twice the state average for residents with a college degree.²

This type of growth has helped turn the region into a hotbed of business development. The Business Court Division being headquartered in the Eastern Panhandle just makes sense, as it not only increases the strength and efficiency



Berkeley County Judicial Center, Martinsburg, West Virginia

of our judiciary statewide, but continues to support the growth of business development in the Eastern Panhandle and the State of West Virginia as a whole. Other states that have implemented specialized business courts have concluded that a specialized business court draws big businesses to the area, as businesses are attracted to areas where courts understand the complexity of business litigation.³

The Eastern Panhandle's proximity to Washington, D.C., can also be of benefit to the users of our Business Court Division. In cases involving lawyers and experts from around the country, business court judges may offer to transfer the case to the Eastern Panhandle if the parties involved desire. This may be more efficient – flying into Washington Dulles International Airport instead of traveling to the central part of our state. In addition to flexibility, users of the Division enjoy cost savings. The Division utilizes videoconferencing and telephonic hearings in a further effort to reduce travel time and cost for the court, attorneys and litigants. It is important to note the Business Court Division is not a court of original jurisdiction; therefore, unless the parties request a change in venue, the case remains in the county in which it is filed. The business court judge travels to the county to try the case. By not requiring the witnesses and parties to travel, the Division offers another attempt to minimize the expense to the litigants.

Is it working? Since its inception, the Division has been well-received and continues to efficiently manage the complex commercial litigation in the state. To date, 93 motions to refer cases have been filed, 58 were granted and referred to the business court, and of those, 40 cases have been resolved. While the phrase, “time is money,” applies in all litigation, it generally manifests to a greater degree in complex commercial litigation. Therefore, the Division actively manages the cases in an attempt to have them resolved within 10 months. Currently, the average time to resolution is 342 days, which is significantly less than the average general civil case. In comparison, the average complex commercial contract case handled



The Business Court Division is located at the Berkeley County Judicial Center

by the Fulton County [Georgia] Business Court, which serves the greater Atlanta area, is administered in 608 days.⁴

In addition, the Division's success may be evidenced by the continued increase in the number of applications for referral. I concur with West Virginia Supreme Court of Appeal Chief Justice Menis Ketchum who recently stated, “The concept of having a Business Court Division has worked wonderfully well in resolving complex business disputes.”⁵ ▽

¹See *U.S. Census, 1990 and U.S. Census Estimate 2015*.

²See *The Parthenon*, <http://uwire.com/2010/10/04/report-shows-west-virginia-residents-have-lowest-percentage-of-college-graduates-in-the-nation/>

³See *Complex Business Litigation Court, Ninth Judicial Circuit Court of Florida*, <http://www.ninthcircuit.org/about/divisions/civil-circuit-courts/complex-business-litigation-court>

⁴See *Fulton County Business Court Annual Report*, https://www.fultoncourt.org/business/Business_Court_2014_Annual_Report.pdf.

⁵See *Legal News Line*, <http://legalnewline.com/stories/510628026-businesses-making-increased-use-of-west-virginia-s-specialized-court>.