

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

APPEAL NO. 32751

JEREMIAH "BART" MORRIS,

Appellant,

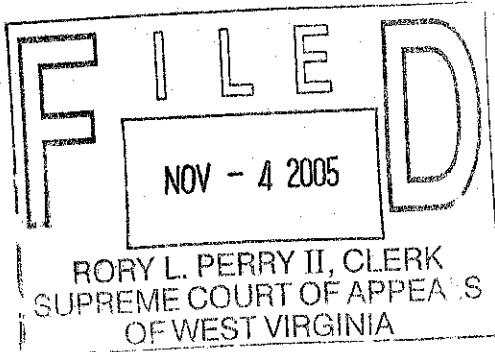
v.

On Appeal From:
Circuit Court of Kanawha County
Civil Action No. 04-C-1174
Honorable Tod J. Kaufman

CROWN EQUIPMENT CORPORATION,
a foreign corporation, and JEFFERDS
CORPORATION d/b/a HOMESTEAD
MATERIALS HANDLING COMPANY,
a West Virginia corporation,

Appellees.

BRIEF OF APPELLEE JEFFERDS CORPORATION



RESPECTFULLY SUBMITTED,

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B. The Circuit Court was correct as matter of law in denying Petitioner’s motion to amend the Complaint.

C. The Circuit Court correctly found as a matter of law that Petitioner did not comply with the requirements of West Virginia Code § 56-1-1(c) by simply *alleging* that Jefferds had engaged in substantial acts or omissions in West Virginia.

D. The Circuit Court correctly held as a matter of law that West Virginia Code § 56-1-1(c) requires Petitioner to separately establish venue as to each individual defendant.

E. As a matter of law, the Circuit Court correctly granted Jefferd’s motion to dismiss.

F. The Circuit Court was correct as a matter of law in not permitting Petitioner to conduct discovery in opposition to Jefferd’s motion to dismiss.

G. The Circuit Court correctly held as a matter of law that West Virginia Code § 56-1-1(c) requires the filing of an affidavit of inability to obtain jurisdiction over the defendant(s) in cases where a nonresident plaintiff has alleged that a defendant engaged in substantial acts or omissions in the State of West Virginia.

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I. KIND OF PROCEEDING AND NATURE OF RULING IN THE LOWER TRIBUNAL

Jeremiah "Bart" Morris appeals the 24 November 2004 Order of Kanawha County Circuit Judge Tod J. Kaufman that granted Jefferds Corporation's Rule 12(b)(3) motion to dismiss based upon lack of venue as set forth in West Virginia Code § 56-1-1(c). Judge Kaufman correctly ruled among other things that Mr. Morris failed to produce any fact to establish that "all or a substantial part of (any) acts or omissions giving rise to (plaintiff's) claim" (emphasis in original) occurred within the State of West Virginia as mandated by West Virginia Code § 56-1-1(c). Jefferds Corporation asserts that Judge Kaufman correctly dismissed Mr. Morris' claims according to West Virginia law because Mr. Morris resides in and was injured in Virginia. Judge Kaufman's ruling adheres both to the letter and spirit of West Virginia Code § 56-1-1(c). According to our Legislature, the purpose of West Virginia Code § 56-1-1(c) "is to preserve West Virginia Courts for West Virginians and for nonresidents who are injured in this state." 2003 Session, S.B. 213, Committee Substitute. As Mr. Morris sets forth in his original and amended complaints, he is a resident of Virginia and received his injury in Virginia.

II. STATEMENT OF FACTS OF THE CASE

Mr. Morris injured his leg while operating a stand-up forklift for his employer RMC Grottoes in Grottoes, Virginia. Complaint ¶ 4. Mr. Morris is a resident of Virginia. Complaint ¶ 1. The forklift Mr. Morris operated was manufactured by Crown Equipment Corp. Complaint ¶ 5. Mr. Morris' employer, RMC Grottoes, purchased the forklift from Jefferds Corporation

d/b/a Homestead Materials Handling in Verona, Virginia. Complaint ¶ 6,
Affidavit of J. David Sorrells.

Even though Jefferds Corporation is a West Virginia corporation, Jefferds does not have any facilities in Kanawha County, and did not service, maintain, provide warnings, provide training in the use of, test, inspect, market, distribute, install, and/or sell the forklift in Kanawha County. Affidavit of J. David Sorrells. Jefferds Corporation did not make the arrangements or any other agreements related to the delivery of the forklift to RMC Grottoes through any office in Kanawha County. *Id.* Any arrangement or agreement was made through the Homestead Materials facility located in Verona, Virginia. *Id.* No instructions, manuals, warnings, service records, installation records, or other information about the forklift were provided by Jefferds Corporation out of Kanawha County, but instead, to the extent provided, any such material came from the Homestead Materials facility located in Verona, Virginia. *Id.* The forklift was serviced by an employee from and who was trained at the Homestead Materials facility located in Verona, Virginia, and not in Kanawha County. *Id.* Jefferds Corporation never performed any evaluation or investigation of the design of Crown's stand-up forklifts or their accident history in Kanawha County. *Id.*

III. RESPONSE TO PETITIONER'S ASSIGNMENTS OF ERROR

- A. The Circuit Court was correct as a matter of law in not holding that West Virginia Code § 56-1-1(c) is unconstitutional pursuant to the Privileges and Immunities Clause of the United States Constitution and the Open Courts Clause of the West Virginia Constitution.
- B. The Circuit Court was correct as matter of law in denying Petitioner's motion to amend the Complaint.

- C. The Circuit Court correctly found as a matter of law that Petitioner did not comply with the requirements of West Virginia Code § 56-1-1(c) by simply *alleging* that Jefferds had engaged in substantial acts or omissions in West Virginia.
- D. The Circuit Court correctly held as a matter of law that West Virginia Code § 56-1-1(c) requires Petitioner to separately establish venue as to each individual defendant.
- E. As a matter of law, the Circuit Court correctly granted Jefferd's motion to dismiss.
- F. The Circuit Court was correct as a matter of law in not permitting Petitioner to conduct discovery in opposition to Jefferd's motion to dismiss.
- G. The Circuit Court correctly held as a matter of law that West Virginia Code § 56-1-1(c) requires the filing of an affidavit of inability to obtain jurisdiction over the defendant(s) in cases where a nonresident plaintiff has alleged that a defendant engaged in substantial acts or omissions in the State of West Virginia.

IV. POINTS AND AUTHORITIES RELIED UPON

A. "In considering the constitutionality of a legislative enactment, courts must exercise due restraint, in recognition of the principle of the separation of powers in government among the judicial, legislative and executive branches. Every reasonable construction must be resorted to by the courts in order to sustain constitutionality, and any reasonable doubt must be resolved in favor of the constitutionality of the legislative enactment in question. Courts are not concerned with questions relating to legislative policy. The general powers of the legislature, within constitutional limits, are almost plenary. In considering the constitutionality of an act of the legislature, the negation of legislative power must appear beyond reasonable doubt." Syl. Pt. 1, *State ex rel. Appalachian Power Co. v. Gainer*, 149 W.Va. 740, 143 S.E.2d 351 (1965).

B. "Where the issue on an appeal from the circuit court is clearly a question of law or involving an interpretation of a statute, we apply a de novo standard of review." Syl. Pt. 1, *Chrystal R.M. v. Charlie A.L.*, 194 W.Va. 138, 459 S.E.2d 415 (1995).

C. Acts of the Legislature are always presumed to be constitutional, and this Court will interpret legislation in any reasonable way which will sustain its constitutionality." *State ex rel. City of Charleston v. Coghill*, 156 W. Va. 877, 883, 207 S.E.2d 113, 118 (W.Va. 1973).

D. "When the constitutionality of a statute is questioned every reasonable construction of the statute must be resorted to by a court in order to sustain constitutionality, and any doubt must be resolved in favor of the constitutionality of the legislative enactment." Syl. Pt. 3, *Willis v. O'Brien*, 151 W. Va. 628, 153 S.E.2d 178 (1967).

E. "A statute should be so read and applied as to make it accord with the spirit, purposes, and objects of the general system of law of which it is intended to form a part; it being presumed that the legislators who drafted and passed it were familiar with all existing law applicable to the subject-matter, whether constitutional, statutory, or common, and intended the statute to harmonize completely with the same and aid in the effectuation of the general purpose and design thereof, if its terms are consistent therewith." *Board of Trustees of Firemen's Pension and Relief Fund of the City of Fairmont v. The City of Fairmont*, 215 W.Va. 366, 599 S.E.2d 789 (2004); Syl. Pt. 5, *State v. Snyder*, 64 W.Va. 659, 63 S.E. 385 (1908).

F. West Virginia Code § 56-1-1(c), effective June 4, 2003:

(c) Effective for actions filed after the effective date of this section, a nonresident of the state may not bring an action in a court of this state unless all or a substantial part of the acts or omissions giving rise to the claim asserted occurred in this state: *Provided*, That unless barred by the statute of limitations or otherwise time barred in the state where the action arose, a nonresident of this state may file an action in state court in this state if the nonresident cannot obtain jurisdiction in either federal or state court against the defendant in the state where the action arose. A nonresident bringing such an action in this state shall be required to establish, by filing an affidavit with the complaint for consideration by the court, that such action cannot be maintained in the state where the action arose due to lack of any legal basis to obtain personal jurisdiction over the defendant.

In a civil action where more than one plaintiff is joined, each plaintiff must independently establish proper venue. A person may not intervene or join in a pending civil action as a plaintiff unless the person independently establishes proper venue. If venue is not proper as to any such nonresident plaintiff in any court of this state, the court shall dismiss the claims of the plaintiff without prejudice to refiling in a court in any other state or jurisdiction.

G. Constitutional challenges to a statute are reviewed pursuant to a *de novo* standard of review. *West Virginia ex rel. Citizens Action Group v. West Virginia Economic Development Grant Committee*, 213 W.Va. 255, 261-262, 580 S.E.2d 869, 875-876 (2003).

H. A circuit court's order granting a motion to dismiss is reviewed *de novo*. *King v. Heffernan*, 214 W.Va. 835, 839, 591 S.E.2d 761, 765 (2003).

I. The West Virginia common law doctrine of *forum non conveniens* allowed a court, in its sound discretion, to decline to exercise jurisdiction to promote the convenience of witnesses and the ends of justice. *See* Syl. Pt. 1, *Norfolk & Western Railway Co. v. Tsapis*, 184 W.Va. 231, 400 S.E.2d 239 (1990).

J. To be clear, the West Virginia Legislature is the paramount authority for deciding and resolving policy issues pertaining to venue matters. Once the Legislature indicates its preference by the enactment of a statute, the Court's role

is limited. Our duty is to interpret the statute, not to expand or enlarge upon it. More significantly, any subsequent policy changes must come from the Legislature itself and, in the absence of constitutional or statutory authority to the contrary, this Court has no blanket power to recast the statute to meet its fancy. *State ex rel. Riffle v. Ranson*, 195 W.Va. 121, 126, 464 S.E.2d 763, 768 (1995) (citations omitted).

K. [W]e find our conclusion that the Legislature intended to exclude and abolish all other intra-State applications of the doctrine of forum non conveniens not expressly codified is compelled by both reason and common sense. To conclude otherwise would mean the Legislature did a useless act. Prior to the 1986 revisions, our common law doctrine of forum non conveniens permitted a circuit court to do exactly what the Legislature provided in the revisions. To suggest that the Legislature only wanted to continue to give circuit courts explicit discretion in this specific area, when that authority already existed under common law, would undermine the wisdom of the Legislature in determining policy matters. The 1986 revisions limited as well as authorized judicial discretion in this area. *To be clear, the argument that the doctrine of forum non conveniens is helpful in the administration of justice in this State has force, but it is properly addressed to the West Virginia Legislature and not to this Court. See State v. Evans*, 170 W.Va. 3, 5, 287 S.E.2d 922, 924 (1982) ("[s]hould 'reason and experience' dictate a change in that statute, it is up to our legislature to draft and pass appropriate modifications"). If we have erred in our construction of this statute, the Legislature may and should reassert its will. To recapitulate, we hold that W.Va.Code, 56-1-1(b), is the exclusive authority for a discretionary transfer or change of venue and any other transfer or change of venue from one county to

another within West Virginia that is not explicitly permitted by the statute is impermissible and forbidden. *State ex rel. Riffle v. Ranson*, 195 W.Va. 121, 128-129, 464 S.E.2d 763, 770-771 (1995) (citations omitted).

L. If a state chooses to prefer residents having access to its courts and to deny such access to all nonresidents, whether its own citizens or those of other states, it is a choice within its own control. *State of Mo. ex rel. Southern Ry. Co. v. Mayfield*, 340 U.S. 1, 71 S. Ct. 1, 95 L. Ed. 3 (1950).

V. DISCUSSION OF LAW

A. The Circuit Court correctly applied West Virginia Code § 56-1-1(c) and dismissed the complaint because Mr. Morris is a Virginia resident and none of the acts or omissions giving rise to his claim occurred in West Virginia.

Judge Kaufman correctly applied West Virginia Code § 56-1-1(c) to the facts set forth in Mr. Morris' complaint and the affidavit presented by Jefferds Corporation. Judge Kaufman determined that Mr. Morris, a Virginia resident employed in Virginia, had attempted to forum shop and bring a claim in West Virginia that arose in Virginia. Mr. Morris' actions run afoul of West Virginia Code § 56-1-1(c), which the Legislature enacted to stop the flow of nonresident plaintiffs into West Virginia to forum shop and to "preserve West Virginia courts for West Virginians and for nonresidents who are injured in this state." 2003 Session, S.B. 213, Committee Substitute.

The standard of review for a circuit court's grant of a motion to dismiss is *de novo*. *King v. Heffernan*, 214 W.Va. 835, 839, 591 S.E.2d 761, 765 (2003). Judge Kaufman's order is also subject to a *de novo* standard of review because the ruling stems from a question of law involving the interpretation of a statute. Syl. Pt. 1, *Chrystal R.M. v. Charlie A.L.*, 194 W.Va. 138, 459 S.E.2d 415

(1995). Under the *de novo* standard, Judge Kaufman's ruling is correct and should be upheld by this Court as a proper application of West Virginia Code § 56-1-1(c).

Mr. Morris is Virginia resident who was injured while driving a forklift while on the job in Virginia. The forklift was manufactured by Crown Equipment Corporation and sold and serviced by Jefferds Corporation from its Homestead Materials Handling facility in Verona, Virginia. Without question, Mr. Morris could have pursued his claims against Jefferds in his home state of Virginia. Mr. Morris chose, however, to forum shop in an effort to skirt Virginia's contributory negligence law by filing his claim in West Virginia to take advantage of West Virginia's comparative negligence law.

It is just this sort of blatant forum shopping that the West Virginia Legislature sought to end by enacting West Virginia Code § 56-1-1(c) in the 2003 legislative session. Effective June 4, 2003, West Virginia Code § 56-1-1(c) provides:

(c) Effective for actions filed after the effective date of this section, a nonresident of the state may not bring an action in a court of this state unless all or a substantial part of the acts or omissions giving rise to the claim asserted occurred in this state: *Provided*, That unless barred by the statute of limitations or otherwise time barred in the state where the action arose, a nonresident of this state may file an action in state court in this state if the nonresident cannot obtain jurisdiction in either federal or state court against the defendant in the state where the action arose. A nonresident bringing such an action in this state shall be required to establish, by filing an affidavit with the complaint for consideration by the court, that such action cannot be maintained in the state where the action arose due to lack of any legal basis to obtain personal jurisdiction over the defendant.

In a civil action where more than one plaintiff is joined, each plaintiff must independently establish proper venue. A person may not intervene or join in a pending civil action as a plaintiff unless the person independently establishes proper venue.

If venue is not proper as to any such nonresident plaintiff in any court of this state, the court shall dismiss the claims of the plaintiff without prejudice to refile in a court in any other state or jurisdiction.

(emphasis added).

The 2003 Legislature also provided the rationale for section (c) in the legislative history in Committee Substitute to S.B. 213: "The purpose of this bill is to preserve West Virginia courts for West Virginians and for **nonresidents who are injured in this state.**" (emphasis added). Mr. Morris has not and cannot argue that he sustained an injury in West Virginia. Mr. Morris lives in Virginia, is employed in Virginia, and sustained his injuries in Virginia. Judicial economy, logic, and fairness dictate that Virginia is the proper forum for Mr. Morris' claims. Furthermore, Mr. Morris has not and cannot claim that a Virginia could not exercise jurisdiction over Jefferds Corporation. Simply put, Mr. Morris filed his claim in West Virginia to take advantage of a comparative negligence forum rather than prosecute his claim in Virginia where he lives, works, and presumably pays taxes.

The Legislature enacted West Virginia Code § 56-1-1(c) to close the door on the type of claim presented by Mr. Morris. The Legislature did not preclude Mr. Morris' claim, it simply attempted to put an end to nonresident plaintiffs utilizing West Virginia judicial resources for claims that should rightfully be brought in the plaintiffs' home states.

B. West Virginia § 56-1-1(c) is Constitutional because it is simply a *forum non conveniens* statute.

Constitutional challenges to a statute are reviewed pursuant to a *de novo* standard of review. *West Virginia ex rel. Citizens Action Group v. West Virginia Economic Development Grant Committee*, 213 W.Va. 255, 261-262, 580 S.E.2d 869, 875-876 (2003). This Court has long held that "Acts of the Legislature are always presumed to be constitutional, and this Court will interpret legislation in any reasonable way which will sustain its constitutionality." *State ex rel. City of Charleston v. Coghill*, 156 W. Va. 877, 883, 207 S.E.2d 113, 118 (W.Va. 1973). This Court also resorts to every reasonable construction of a statute to sustain constitutionality, and resolves all doubt in favor of the constitutionality of the legislative enactment. Syl. pt. 3, *Willis v. O'Brien*, 151 W. Va. 628, 153 S.E.2d 178 (1967). This Court has recently reiterated its policy to look to the spirit, purposes, and objectives of the Legislature:

A statute should be so read and applied as to make it accord with the spirit, purposes, and objects of the general system of law of which it is intended to form a part; it being presumed that the legislators who drafted and passed it were familiar with all existing law applicable to the subject-matter, whether constitutional, statutory, or common, and intended the statute to harmonize completely with the same and aid in the effectuation of the general purpose and design thereof, if its terms are consistent therewith.

Board of Trustees of Firemen's Pension and Relief Fund of the City of Fairmont v. The City of Fairmont, 215 W.Va. 366, 599 S.E.2d 789 (2004); Syl. Pt. 5, *State v. Snyder*, 64 W.Va. 659, 63 S.E. 385 (1908).

This appeal represents Mr. Morris' attempt to twist the constitutional presumption of the venue statute into a knot of "what ifs." This Court should recognize the spirit of the legislation and the true nature of the venue statute. The statute simply sets forth the Legislature's policy that West

Virginia judicial resources should be reserved for claims that arise in this state, and should be utilized by nonresidents with claims arising outside West Virginia only when the nonresident cannot obtain jurisdiction where the claim arose. In this regard, West Virginia Code § 56-1-1(c) is simply the doctrine of *forum non conveniens* codified by the West Virginia Legislature.

Prior to 1995, the West Virginia common law doctrine of *forum non conveniens* allowed a court, in its sound discretion, to decline to exercise jurisdiction to promote the convenience of witnesses and the ends of justice. See Syl. Pt. 1, *Norfolk & Western Railway Co. v. Tsapis*, 184 W.Va. 231, 400 S.E.2d 239 (1990). In 1995, however, the West Virginia Supreme Court of Appeals ruled in *State ex rel. Riffle v. Ranson*, 195 W.Va. 121, 464 S.E.2d 763 (1995) that the West Virginia Legislature had in fact abrogated the common law doctrine of *forum non conveniens* in the 1986 Amendments to the West Virginia Code and that the doctrine was now purely statutory. *Id.* at Syl. Pt. 1. *Riffle* clearly indicates that the Legislature took this Court's advice and expanded the statutory doctrine of *forum non conveniens* by enacting West Virginia Code § 56-1-1(c).

In *Riffle*, this Court explicitly laid the groundwork for the Legislature's enactment of the current West Virginia Code § 56-1-1(c):

To be clear, the West Virginia Legislature is the paramount authority for deciding and resolving policy issues pertaining to venue matters. Once the Legislature indicates its preference by the enactment of a statute, the Court's role is limited. Our duty is to interpret the statute, not to expand or enlarge upon it. *State ex rel. Frazier v. Meadows*, 193 W.Va. 20, 23-24, 454 S.E.2d 65, 68-69 (1994). More significantly, any subsequent policy changes must come from the Legislature itself and, in the absence of constitutional or statutory authority to the contrary, this Court has no blanket power to recast the statute to meet its fancy. *State ex rel. McGraw v. Scott Runyan Pontiac-Buick, Inc.*, 194 W.Va. 770, 461 S.E.2d 516 (1995).

Id. at 126, 768.

The *Riffle* Court reasoned that the enactment of the statute reduced the common law body of *forum non conveniens* to one specific statute, and left Circuit Courts powerless to invoke *forum non conveniens* unless presented with the factual basis set forth in the statute. In short, the Legislature had reduced the doctrine of *forum non conveniens* to one statutory provision regardless of the benefits the common law doctrine provided for the convenience of litigants. Therefore, as the rationale of the *Riffle* Court indicates, in order to expand the doctrine, the Legislature had to act as it did in enacting West Virginia Code § 56-1-1(c). The *Riffle* Court's analysis and directives are critical to the issue at bar:

[W]e find our conclusion that the Legislature intended to exclude and abolish all other intra-State applications of the doctrine of *forum non conveniens* not expressly codified is compelled by both reason and common sense. To conclude otherwise would mean the Legislature did a useless act. Prior to the 1986 revisions, our common law doctrine of *forum non conveniens* permitted a circuit court to do exactly what the Legislature provided in the revisions. To suggest that the Legislature only wanted to continue to give circuit courts explicit discretion in this specific area, when that authority already existed under common law, would undermine the wisdom of the Legislature in determining policy matters. The 1986 revisions limited as well as authorized judicial discretion in this area. *To be clear, the argument that the doctrine of forum non conveniens is helpful in the administration of justice in this State has force, but it is properly addressed to the West Virginia Legislature and not to this Court. See State v. Evans, 170 W.Va. 3, 5, 287 S.E.2d 922, 924 (1982) ("[s]hould 'reason and experience' dictate a change in that statute, it is up to our legislature to draft and pass appropriate modifications").* If we have erred in our construction of this statute, the Legislature may and should reassert its will. To recapitulate, we hold that W.Va.Code, 56-1-1(b), is the exclusive authority for a discretionary transfer or change of venue and any other transfer or change of venue from one county to another within West Virginia that is not explicitly permitted by the statute is impermissible and forbidden.

Id. at 128-129, 770-771 (emphasis added).

Under the holding in *Riffle*, the Legislature's policy for preferring actions that arise in West Virginia can only be limited by Constitutional or statutory prohibitions. As West Virginia Code § 56-1-1(c) is the statutory authority for West Virginia's *forum non conveniens*, only the Constitutional consideration is left, and Petitioner wrongly asserts that the statute violates the Privileges and Immunities Clause of the United States Constitution and the Open Courts Clause of the West Virginia Constitution.

West Virginia Code § 56-1-1(c) does not distinguish between West Virginia citizens and West Virginia residents. In short, if a person does not reside in West Virginia and their claim did not arise in West Virginia, the statute simply imposes a preference that the claim be prosecuted where the claim arose if jurisdiction can be obtained where the claim arose. This preference does not violate the Privileges and Immunities Clause.

In *State of Mo. ex rel. Southern Ry. Co. v. Mayfield*, 340 U.S. 1, 71 S. Ct. 1, 95 L. Ed. 3 (1950), the Court held that if a state chooses to prefer residents having access to its courts and to deny such access to all nonresidents, whether its own citizens or those of other states, it is a choice within its own control. This is precisely the policy West Virginia Code § 56-1-1(c) enunciates.

In addition, West Virginia Code § 56-1-1(c) does not violate the Open Courts Clause because it *opens* West Virginia courts to plaintiffs like Mr. Morris if the tortfeasors they seek to prosecute are not subject to the jurisdiction of the state where the cause of action arose. Rather than prohibiting nonresident suits, West Virginia provides an additional jurisdiction to a nonresident plaintiff

who cannot subject a tortfeasor to the jurisdiction of his or her own state.

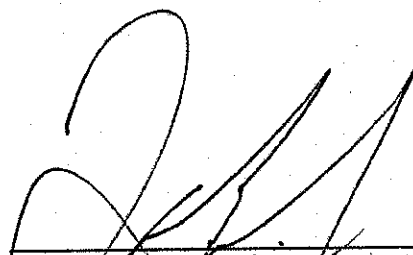
In the case at bar, if Mr. Morris had alleged and had his attorney certify that Jefferds Corporation was not subject to the jurisdiction of Virginia state and Virginia federal courts, Mr. Morris could have obtained venue in West Virginia pursuant to West Virginia Code § 56-1-1(c). West Virginia Code § 56-1-1(c) is simply a venue statute that expresses the Legislature's policy that nonresidents should first pursue their out-of-state claims in the state in which the claim arose before utilizing West Virginia judicial time and resources.

VI. PRAYER

Based upon the foregoing, Jefferds Corporation prays that this Court uphold the rulings of the Circuit Court of Kanawha County.

JEFFERDS CORPORATION,

By Counsel.



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CERTIFICATE OF SERVICE

I, LAWRENCE E. MORHOUS, attorney for defendant Jefferds Corporation, hereby certify that on the 3rd day of November, 2005, I served the preceding BRIEF OF APPELLEE JEFFERDS CORPORATION on the attorneys for plaintiff/appellant, John W. Cooper and Thomas W. Pettit, and on the attorneys for defendant/appellee Crown Equipment Corp., Robert L. Hogan and Thomas J. Cullen Jr., by depositing true copies thereof into the United States mail, postage prepaid, in envelopes addressed to them as follows:

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