



IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

IN RE: YEAGER AIRPORT LITIGATION

Civil Action No. 16-C-7000

THIS DOCUMENT APPLIES TO THE CASE OF:

**CENTRAL WEST VIRGINIA REGIONAL
AIRPORT AUTHORITY, INC.,
A West Virginia corporation,**

Plaintiff,

v.

CIVIL ACTION NO. 15-C-1022

TRIAD ENGINEERING, INC., *et al.*

Defendants.

**ORDER REGARDING MOTIONS FILED BY AIRPORT AND TRIAD AND
EXTENDING DEFENDANTS' EXPERT WITNESS DISCLOSURE DEADLINE**

At a hearing on April 27, 2018, by the Presiding Judges regarding certain motions which had been previously set, counsel for Plaintiff Central West Virginia Regional Airport Authority, Inc., ("Airport") and Defendant Triad Engineering, Inc. ("Triad") advised the Court that they had reached an agreement, subject to the Court's approval, concerning certain pending motions which have not yet been set for hearing, and other matters.

Counsel for Triad advised the Court that the Airport had filed "Plaintiff's Motion to Amend Second Amended Complaint" (Transaction ID 61952433) on April 24, 2018, to add an additional Count XIV, solely against Triad, in its proposed Third Amended Complaint. Counsel for Triad further advised the Court Triad and the Airport had reached an agreement that Triad would not object to the filing and service of the proposed Third Amended Complaint by the Airport upon the following conditions:

1. That the Airport would fully respond by May 18, 2018, to Triad's discovery and requests as set forth in "Defendant Triad Engineering, Inc.'s Motion for Show Cause Order and to Compel," (Transaction ID 61956450) filed April 25, 2018;

2. That the Airport would fully respond by May 18, 2018 to "Triad's Third Set of Interrogatories and Requests for Production of Documents to Plaintiff," (Transaction ID 61921491) filed April 15, 2018 and "Triad Engineering, Inc.'s Fourth Set of Requests for Production of Documents to Plaintiff," (Transaction ID 61936928) filed April 19, 2018; and

3. That the deadline for service of expert disclosures by all Defendants in this matter would be extended, if approved by the Presiding Judges, from June 1, 2018 until June 22, 2018 due to various scheduling difficulties encountered by the parties in attempting to schedule discovery depositions and delays in receiving responses to discovery.

Counsel for the Airport confirmed to the Court that the agreement recited by counsel for Triad was acceptable to the Airport in all respects.

Following the hearing, further discussions occurred between counsel for the Airport and counsel for Triad related to these outstanding discovery responses. On May 25, 2018, the "Central West Virginia Regional Airport Authority Inc.'s Response to Triad Engineering Inc.'s Second Set of Interrogatories and Request for Production of Documents to Plaintiff" (Transaction ID 62070312) was filed. More discussions ensued which resulted in a new agreement between counsel for the Airport and counsel for Triad as follows:

1. Counsel for the Airport will produce complete responses to "Triad Engineering's Third Set of Interrogatories and Request for Production of Documents to Plaintiff" (Transaction ID 61921491) by no later than June 1, 2018.

2. Counsel for the Airport confirmed that the Airport does not have possession of or access to documents responsive to “Triad Engineering, Inc.’s Fourth Set of Requests for Production of Documents to Plaintiff” (Transaction ID 61936928) and that the requested documents are maintained by Schnabel Engineering, Inc. As a result, counsel for Triad will serve a subpoena *duces tecum* to Schnabel Engineering, Inc., to obtain the requested documents.

3. Counsel for the Airport agreed to a further extension of the Defendants’ Expert Witness Disclosure Deadline to July 6, 2018 for all Defendants, upon approval by the Presiding Judges.

WHEREFORE, having heard the statements of counsel for Triad and the Airport, considering the new facts and agreements that have been reached between these parties following the hearing on April 27, 2018, and hearing no objection by counsel for any other party, the Court approves the agreement proposed by counsel and, accordingly, ORDERS as follows:

A. “Plaintiff’s Motion to Amend Second Amended Complaint” (Transaction No. 61952433 is granted and the Airport shall file and serve its Third Amended Complaint.

B. No defendant will be required to file an Answer to the Third Amended Complaint. All Answers, Cross-Claims and Counterclaims previously asserted in response to the Second Amended Complaint, and in response to the Cross-Claims and Counterclaims, are preserved.

C. The material allegations of Count XIV of the Third Amended Complaint shall be deemed denied by Triad.

D. The Airport shall fully respond to “Triad’s Third Set of Interrogatories and Requests for Production of Documents to Plaintiff” (Transaction ID 61921491) on June 1, 2018.

E. The Airport shall respond to “Triad Engineering’s Fourth Set of Requests for Production to Plaintiff” (Transaction ID 61936928) on June 1, 2018, but based upon

representation by counsel for the Airport, it is understood that the Airport will not be producing the requested documents. Triad will serve a subpoena *duces tecum* to Schnabel Engineering, Inc., to obtain the documents requested by this fourth set of discovery and share the documents received with all counsel.

F. “Defendant Triad Engineering, Inc.’s Motion for Show Cause Order and to Compel” (Transaction ID 61956450) is withdrawn.

G. The “Amended Scheduling Order,” (Transaction ID 61739854) shall be amended to extend the Defendants’ Expert Disclosure Deadline from June 1, 2018 to the new deadline of July 6, 2018.

It is so ORDERED.

ENTER: June 8, 2018.

/s/ John A. Hutchison
Lead Presiding Judge
Yeager Airport Litigation

Jointly Presented by:

/s/ Anthony J. Majestro
Anthony J. Majestro, Esq.
James C. Powell, Esq.
Powell & Majestro, PLLC
405 Capitol Street, Suite P 1200
Charleston, WV 25301

Timothy C. Bailey, Esq.
Bailey, Javins & Carter, LC
213 Hale Street
P.O. Box 3712
Charleston, WV 25337

Scott S. Segal, Esq.
The Segal Law Firm
810 Kanawha Blvd., East
Charleston, WV 25301
**Counsel for Central West Virginia Regional
Airport Authority**

/s/ Teresa J. Dumire
Teresa J. Dumire, Esq.
John D. Hoblitzell, III Esq.
Kay Casto & Chaney PLLC
1085 Van Voorhis Rd., Suite 100
Morgantown, WV 26505

Kevin A. Nelson, Esq.
Dinsmore & Shohl LLP
707 Virginia Street, East, Suite 1300
Charleston, WV 25339-1887

John C. Palmer, Esq.
Robinson & McElwee, PLLC
P.O. Box 1791
Charleston, WV 25326
Counsel for Triad Engineering, Inc.