

**IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA  
BUSINESS COURT DIVISION**

MOUNTAIN STATE PIPELINE & EXCAVATING, LLC,  
Plaintiff/Counterclaim Defendant/Crossclaimant,

v.

SMITH/PACKETT MED-COM, LLC,  
a Virginia Limited Liability Company, and  
Sole Manager-Member of Defendants SP WV, LLC,  
Defendant/Counterclaimant; and

SP WV, LLC,  
a Virginia Manager-Managed Limited Liability Company and  
“Pass Through Entity” acting as the Sole Member of  
Defendant WV IL-AL Investors, LLC  
Defendant/Counterclaimant; and

WV IL-AL INVESTORS, LLC,  
a Virginia Member-Managed Limited Liability Company,  
Defendant/Counterclaimant; and

JARRETT CONSTRUCTION SERVICES, INC.,  
a West Virginia Limited Liability Company,  
as Construction Manager at Risk,  
Defendants/Counterclaimant; and

CARTER BANK & TRUST,  
Defendant; and

JARRETT CONSTRUCTION SERVICES, INC.,  
Third-Party Plaintiff,

v.

ECS MID-ATLANTIC, LLC,  
Third-Party Defendant/Crossclaim Defendant.

Civil Case No.: 20-C-350  
Presiding: Judge Young  
Resolution: Judge Farrell

FILED  
2021 APR 21 AM 8:41  
CATHY S. GARNER, CLERK  
KANAWHA COUNTY CIRCUIT COURT

469-  
470

ORDER GRANTING DEFENDANT SMITH/PACKETT MED-COM, LLC, SP WV, LLC AND WV IL-AL INVESTORS, LLC's MOTION FOR A PROTECTIVE ORDER

On April 5, 2021, this matter came before the Court pursuant to Rule 26(c) of the *West Virginia Rules of Civil Procedure* and Defendant Smith/Packett Med-Com, LLC, SP WV, LLC and WV IL-AL Investors, LLC's Motion for a Protective Order from Mountain State Pipeline & Excavating, LLC's Requests for Admission. The Court has reviewed the Motion and Finds and Orders as follows:

1. On November 6, 2020, MSPE filed a First (1<sup>st</sup>) Set of Requests for Admission to Smith/Packett Defendants, containing 84 requests.
2. Per the Certificate of Service, Smith/Packett Defendants responded to the First (1<sup>st</sup>) Set of Requests for Admission, on December 9, 2020.
3. On November 13, 2020, MSPE filed a Second (2<sup>nd</sup>) Set of Requests for Admission, containing 34 requests.
4. Smith/Packett Defendants responded to the Second (2<sup>nd</sup>) Set of Requests for Admission on December 16, 2020.
5. On December 7, 2020, MSPE filed a Third (3<sup>rd</sup>) Set of Requests for Admission, containing 20 requests.
6. Smith/Packett Defendants responded to the Third (3<sup>rd</sup>) Set of Requests for Admission on January 6, 2021.
7. On December 15, 2020, MSPE filed a Fourth (4<sup>th</sup>) Set of Requests for Admissions, containing 19 requests.
8. Smith/Packett Defendants responded to the Fourth (4<sup>th</sup>) Set of Requests for Admission on January 14, 2021.

9. On February 23, 2021, MSPE filed a Fifth (5<sup>th</sup>) Set of Requests for Admission, containing 81 requests.
10. MSPE has filed a total of 238 requests for admission to Smith/Packett Defendants. Smith/Packett Defendants have responded to all but the last set, leaving 81 requests unanswered and subject to the requested Protective Order.
11. The Court finds that pursuant to Rule 26(b)(1) and Rule 26(c), MSPE's requests for admission to Smith/Packett Defendants are excessive, duplicative and some can be found in referenced documents.

It is, therefore, **ADJUDGED** and **ORDERED**:

1. That Smith/Packett Defendants' Motion for a Protective Order from Mountain State Pipeline & Excavating, LLC's Fifth (5<sup>th</sup>) Set of Requests for Admission is hereby GRANTED.
2. That Smith/Packett Defendants are relieved of the burden to respond to MSPE's Requests for Admissions, Set 5.
3. That the Court will allow MSPE to resubmit to Smith/Packett Defendants no more than 30 Requests for Admissions, in addition to the previously answered requests by Smith/Packett Defendants.

All accordingly which is ORDERED and DECREED.

4/22/2021

Order: Bus Ct  
 Certified copies sent to:  
☒ Counsel of record  
☒ Parties  
☐ Other (please indicate)  
 By: ☒ certified/first class mail  
☐ fax  
☐ hand delivery  
☐ interdepartmental  
 Other directives accomplished  
C. Concone  
 Deputy Circuit Clerk

C. Kinney  
J. Flanagan  
R. Sweet  
R. Lockhart

Enter this 19 day of April, 2021.

C. Concone  
 ORDER  
 ENTER:

James H. Young, Jr.  
 HONORABLE JAMES H. YOUNG, JR.