

**FILED**

**CIRCUIT COURT OF KANAWHA COUNTY  
BUSINESS COURT DIVISION**

2021 JUN 10 PM 1:46

**JULIUS WOLFORD,**

**Plaintiff,**

CATHY S. GATSON, CLERK  
KANAWHA COUNTY CIRCUIT COURT

**v.**

**Civil Action No. 20-C-660**

**Presiding Judge: Paul T. Farrell**

**Resolution Judge: Shawn D. Nines**

**FORM TECH CONCRETE FORMS, INC.,  
a Michigan corporation,**

**Defendant**

**PROTECTIVE ORDER**

Upon agreement of the Plaintiff, Julius Wolford, and the Defendant, FormTech Concrete Forms, Inc., and by their respective counsel, it is hereby **ORDERED** that certain documentation submitted by parties hereto in response to discovery requests served in this matter is deemed to be confidential and shall be subject to the instant Protective Order.

1. Any such documentation or other information which a party asserts in good faith contains confidential information or is entitled to other legally recognizable confidential treatment and subject to protection under Rule 26 of the West Virginia Rules of Civil Procedure and/or common law, is to be marked "Confidential" in a conspicuous location.

2. Any documentation marked "Confidential" shall be used only for the purposes of this civil litigation and shall only be disclosed to counsel of record for each party and to persons selected by them necessary to assist in the development of the case, including their client, office staff, experts assisting in the case, and their client's insurance carrier(s), where applicable. Any of these individuals receiving any documentation marked "Confidential" shall be made aware of this Protective Order and agree to be bound by it prior to review of said Confidential documents.

3. Any documentation marked "Confidential" shall only be used for purposes of this case and shall not be disseminated or disclosed to any person other than those described herein.

4. Any documents produced by a party and marked "Confidential" may be marked as exhibits in depositions, but such depositions will not be filed with the Clerk and will remain subject to this Protective Order unless and until such documents are admitted into evidence at the trial of this case. If any such documents are used in any court proceeding or attached to any motion, they shall not be filed with the Clerk as public documents but shall only be served upon counsel and supplied to the Court under seal. However, nothing in this order is intended to affect what is or is not admissible at the trial of this matter.

5. If, at any time, any party believes that any documents marked "Confidential" by another party have been inappropriately claimed as containing confidential information or proprietary information and/or "trade secrets," or otherwise marked as "Confidential" not in good faith, then the party opposing such claim shall notify, in writing, the disclosing party's counsel of its disagreement with regard to any such document. If the parties cannot reach a resolution of the discovery dispute, nothing herein shall be construed to prohibit the party receiving such documents from seeking adequate relief from the Court. Such documentation shall remain protected under this Protective Order until the Court has ruled on such issue.

6. This Protective Order is not intended to restrict the parties, in any way, from asserting any objection to a discovery request based upon an assertion that a document is confidential or is privileged or based upon any other grounds.

7. All parties to this action are hereby bound by the terms of this Protective Order with respect to all documents or tangible items marked "Confidential."

8. Within 30 days of the final resolution of this case, all documents containing "Confidential" information protected by this Protective Order, including all copies thereof, shall either

be returned to counsel representing the producing party or be destroyed with a letter certifying the destruction from counsel receiving such documents in discovery. Nonetheless, the parties recognize that documents containing "Confidential" information in the possession of the parties' insurance carrier(s), where applicable, if laws or regulations require such insurance carrier(s) to maintain files for specific periods of time, those insurance carrier(s) shall maintain the documents containing "Confidential" information protected by this Order as part of the files in question for the periods of time required by such laws or regulations. Upon the expiration of the longest such required retention period to which a specific insurance carrier is subject, that insurance carrier shall then comply with the provisions of this paragraph. The parties' insurance carrier(s) shall continue to honor the confidentiality of the documents containing "Confidential" information protected by this Order during the pendency of such record retention as required by laws or regulations.

9. As an alternative procedure, the parties' counsel and/or parties' insurance carrier(s) may retain a copy of the documents containing "Confidential" information protected by this Order subject to the following conditions, to-wit, that a continuing duty shall exist to maintain the confidentiality of the documents containing "Confidential" information; that the documents containing "Confidential" information be stored in a sealed or restricted manner that only allows access to the documents containing "Confidential" information to the attorneys, staff and/or claims personnel responsible for this lawsuit (or their successors); and that the documents containing "Confidential" information will not be used for any other purpose or in any other proceeding unless prior written approval is obtained from the party from whence the document originated, or as otherwise permitted by this Order, or by further Order of Court.

10. This Protective Order does not prohibit the parties' counsel and/or parties' insurance carrier(s) from using the documents containing "Confidential" information protected by this Order to the extent necessary to defend against litigation directly brought against either the parties' counsel and/or

parties' insurance carrier(s) regarding their activities regarding this lawsuit or the events giving rise to this lawsuit including any Office of West Virginia Insurance Commissioner administrative proceeding.

11. This Protective Order does not preclude inspection of such documents containing "Confidential" information by the parties' insurance carrier's internal audit review or by any governmental regulatory review of such insurance carrier(s), nor does it prohibit production of documents containing "Confidential" information in response to either requests or subpoenas issued by any law enforcement or governmental regulatory body, including the West Virginia Insurance Commissioner.

12. This Protective Order does not prohibit the parties' insurance carrier(s) from transmitting statistical claim data to the Insurance Services Office in a manner consistent with its regular business practices.

The Clerk is directed to send attested copies of this Order to all counsel of record.

**IT IS SO ORDERED:**


ENTERED this 7 day of June, 2021.



Judge Paul T. Farrell

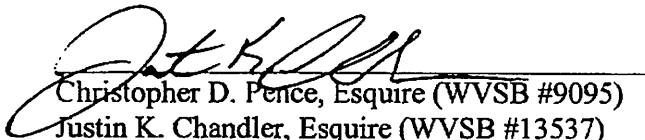
STATE OF WEST VIRGINIA  
COUNTY OF KANAWHA, SS  
I, CATHY S. GATSON, CLERK OF CIRCUIT COURT OF SAID COUNTY  
AND IN SAID STATE, DO HEREBY CERTIFY THAT THE FOREGOING  
IS A TRUE COPY FROM THE RECORDS OF SAID COURT.  
GIVEN UNDER MY HAND AND SEAL OF SAID COURT THIS 14  
DAY OF June 2021  
Cathy S. Gatson CLERK  
CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

Prepared by:



Roberta F. Green, Esquire (WVSB #6598) Christopher  
D. Negley, Esquire (WVSB #6086) **SHUMAN  
MCCUSKEY SLICER PLLC**  
1411 Virginia Street, East, Suite 200  
Post Office Box 3953  
Charleston, WV 25301-3953  
(304) 345-1400  
(304) 343-1826 facsimile  
[rfgreen@shumanlaw.com](mailto:rfgreen@shumanlaw.com)  
[cnegley@shumanlaw.com](mailto:cnegley@shumanlaw.com)  
*Counsel for Defendant Form Tech Concrete Forms, Inc.*

Reviewed and approved by:



Christopher D. Pence, Esquire (WVSB #9095)  
Justin K. Chandler, Esquire (WVSB #13537)

**HARDY PENCE PLLC**  
10 Hale Street, 4<sup>th</sup> Floor  
Post Office Box 2548  
Charleston, West Virginia 25329  
*Counsel for Plaintiff Julius Wolford*

Date: 6/14/2021  
Certified copies sent to:  
☒ counsel of record  
☐ parties  
☐ other  
(please indicate)  
By ☒ certified/tat class mail  
☐ fax  
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Other clerical accomplished:  
R. Green  
Deputy Circuit Clerk

*Bus Ct*  
*C. Pence*  
*R. Green*