

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

FILED  
2021 DEC -2 AM 9:01  
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CATHY S. FISHER, CLERK  
KANAWHA COUNTY CLERK'S OFFICE

**MOUNTAIN STATE PIPELINE & EXCAVATING, LLC**  
Plaintiff/Counter-Claim Defendant/Cross-Claimant,

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

v.

**SMITH/PACKETT MED-COM, LLC,**  
Defendant/Counterclaimant; and

**SP WV, LLC,**  
Defendant/Counterclaimant; and

**WV IL AL INVESTORS, LLC,**  
Defendant/Counterclaimant; and

**CARTER BANK & Trust,**  
Defendant, and

**JARRETT CONSTRUCTION SERVICES, Inc.,**  
Defendant/Counterclaimant/Third-Party Plaintiff,

v.

**ECS MID-ATLANTIC, LLC,**  
Third-Party Defendant/Cross-Claim Defendant.

**ORDER ON INTERVENOR TRAVELERS CASUALTY AND SURETY  
COMPANY'S MOTION FOR PROTECTIVE ORDER**


On the 18<sup>th</sup> day of October, 2021, this Court held a monthly status conference. At that time, this Court heard Travelers Casualty and Surety Company of American's [hereinafter Travelers] Motion for Protective Order pursuant to Rule 26(c) of the West Virginia Rules of Civil Procedure. For the following reasons, this Court granted said Motion:

1. Travelers is a non-party to the instant suit.
2. Both Plaintiff and Defendant Jarrett Construction Services, Inc. filed notices to take the Deposition of a Travelers Corporate Representative pursuant to Rule 31 and 30(b)(7) of the West Virginia Rules of Civil Procedure, a Deposition on Written Questions.
3. Only Defendant Jarrett Construction Services, Inc. filed topics on which the deponent would be expected to testify.
4. Plaintiff's counsel, prior to the deposition, notified the parties that he intended to be present for the deposition and intended to ask questions pursuant to Rule 30.
5. Travelers did not object to producing a witness, however, Travelers sought to clarify whether the deposition is under Rule 31 (on written questions) or Rule 30 (oral examination).
6. West Virginia Rule of Civil Procedure 31 (a)(2) does not permit both an oral deposition and one on written questions without leave of Court.

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7. Allowing an oral deposition and one on written questions would be confusing to the parties.
8. Plaintiff desires to take an Oral Deposition.

WHEREUPON, this Court does ADJUDGE, ORDER, and DECREE that the Motion for Protective Order is GRANTED. The Defendant, Jarrett Construction Services, Inc., has already filed a Rule 30(b)(7) notice including topics about which it will inquire. The Plaintiff, Mountain State Pipeline, and any other party, have five (5) days from the date of this ORDER to file cross topics. The parties shall thereafter agree to a mutually agreeable date for the deposition.

  
Hon. Judge Young

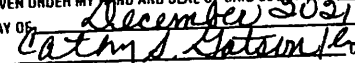
Prepared by:


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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 2nd  
DAY OF December 2021  
  
CATHY S. GATSON, CLERK  
CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

Date: 12/2/2021  
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☐ parties  
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Other description accomplished:  
  
Deputy Circuit Clerk

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*J. Blaragen*  
*R. Sweeney*