

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

**TRITON CONSTRUCTION, INC.,
a West Virginia corporation,**

Plaintiff,

vs.

**Civil Action No. 21-C-7
Presiding Judge: David M. Hammer
Resolution Judges: Michael D. Lorensen**

**GANNETT FLEMING, INC.,
a Delaware corporation, and**

**MONONGAHELA CONSERVATION DISTRICT,
a West Virginia Conservation District,**

Defendants.

**ORDER GRANTING IN PART AND DENYING IN PART PLAINTIFF'S MOTION TO
STRIKE**

This matter came before the Court this 30th day of March 2023 upon Plaintiff Triton Construction, Inc.'s Motion to Strike Defendant Gannett Fleming, Inc.'s Motion for Summary Judgment.

In the instant motion, Plaintiff seeks various relief based on Defendant Gannett Fleming's violation of page limitations. Specifically, Plaintiff seeks the following relief: to strike the underlying motion for summary judgment, or, in the alternative, to allow Plaintiff extra time in filing its Response, to allow Plaintiff to use the same number of pages utilized by Gannett Fleming (32), and to allow Plaintiff to use the same number of pages of exhibits utilized by Gannett Fleming (1,234). *See* Pl's Mot., p. 1-2.

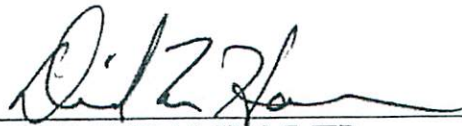
Upon consideration of Defendant's violation of page limitations, and the motion filed within, the Court finds and ORDERS the following:

1. Plaintiff's motion to strike/quash Gannett's Motion for Summary Judgment is hereby DENIED. Defendant Gannett Fleming is hereby admonished to be familiar with the trial court rules that limit memoranda to twenty pages. *See* Tr. Ct. R. 22.01.
2. Plaintiff's request for leave to file a Response to Gannett's motion that is limited to thirty-two (32) pages is hereby GRANTED.
3. Plaintiff's request for leave to file exhibits to its Response limited to 1,234 pages is neither granted nor denied, as there is no limitation in the trial court rules surrounding regarding the number of pages exhibits to a motion or response may contain, and Plaintiff has offered no reason or specific exhibits that are voluminous that it needs to attach to its Response that would cause it estimate the page number would total 1,234. Plaintiff is directed to utilize the amount of exhibits as it reasonably needs to support its Response to the instant motion.
4. Finally, Plaintiff's request for four weeks to respond to the motion for summary judgment is hereby DENIED. Good cause has not been shown as to why Plaintiff requests four weeks to respond to a motion that is twelve (12) pages over the twenty-page page limit. If Defendant had followed proper procedure and sought leave to exceed the page limit, this Court's normal practice does not include changing the briefing schedule upon the granting of a motion for leave to exceed page limit. For these reasons, the request is denied and the Court prefers to keep to the original briefing schedule.

The Clerk shall enter the foregoing and forward attested copies hereof to all counsel, and to the Business Court Central Office at Business Court Division, 380 West South Street, Suite 2100, Martinsburg, West Virginia, 25401.

4 copies
N. Daniels
H. Bright
M. Nelson
Business C
SLD
4/17/23

ENTERED this 30th day of March 2023



JUDGE DAVID M. HAMMER
West Virginia Business Court Division

Entered: April 7, 2023
Lisa Leishman, clerk
by: Sheria Turner,
deputy

A TRUE COPY:

ATTEST: S/LISA LEISHMAN
CLERK OF THE CIRCUIT COURT
By:  Deputy