

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

**HORIZON VENTURES OF WEST
VIRGINIA, INC.,**

Plaintiff,

VS.

**CASE NO. 13-C-196
PRESIDING JUDGE JAMES H. YOUNG, JR.**

**AMERICAN BITUMINOUS POWER
PARTNERS, L.P., et al.,**

Defendants.

PROTECTIVE ORDER

This matter comes on pursuant to American Bituminous Power Partners, L. P. Motion for Leave and/or Motion for Protective Order and Certification of Good Faith Effort to Confer and the written response of the Plaintiff, Horizon Ventures of West Virginia, Inc.

American Bituminous Power Partners, L. P. ("AMBIT") moves the Court for a protective order pursuant to Rule 26(c), (d) of the West Virginia Rules of Civil Procedure. On or about August 1, 2016, Horizon Ventures of West Virginia, Inc. ("Horizon") filed a Notice of Deposition setting a Rule 30(b)(7) deposition for AMBIT's representative(s) and identified sixteen subject areas to be covered at the deposition. Given subjects of inquiry listed in Horizon's deposition notice, AMBIT designated Richard Halloran as one deponent.

Unfortunately, Richard Halloran sustained injuries that limit his ability to travel until mid-November. AMBIT represents that Mr. Halloran has knowledge unavailable elsewhere. The parties have conferred, without success, concerning the taking of Mr. Halloran's deposition. Therefore, AMBIT files this motion seeking a protective order.

AMBIT's position is that Mr. Halloran has information unavailable elsewhere and to

provide the information requested in Horizon's notice of deposition, Mr. Halloran is the only person to provide the requested information. AMBIT offered to provide Mr. Halloran after mid-November, or to provide Mr. Halloran an earlier date at his place of residence in New York.

Horizon's position is that another designee by AMBIT may prepare to give knowledgeable answers on behalf of the defendant, and Horizon views that a protective order is unnecessary because Horizon could merely designate another person.

The purpose of Rule 30(b)(7) is to avoid difficulties encountered by litigants when the examining party is unable to determine who within the corporation would be best able to provide the information requested. State ex rel. United Hospital Center vs. Bedell, 119 W. Va. 316, 484 S. E. 2d 199 (1997). Given the areas of inquiry contained in Plaintiff's notice of deposition, AMBIT represents Mr. Halloran has information unavailable elsewhere. The Court finds that educating another designee would fall short in providing the information required by Plaintiff, thus requiring Mr. Halloran's deposition anyway.

Therefore, the Court **GRANTS** AMBIT's request for a protective order and would require Mr. Halloran be provided for deposition as soon as possible after November 15, 2016.

Therefore, it is **ORDERED** that the Defendant, American Bituminous Power Partners, L. P., shall provide Richard Halloran as a designee pursuant to Rule 30(b)(7) of the West Virginia Rules of Civil Procedure as soon as possible after November 15, 2016.

All, accordingly, which is **ORDERED** and **DECREED**.

Enter this 20 day of September, 2016.

ORDER
ENTER:

James H. Young, Jr.
Judge James H. Young, Jr.

A copy, Teste:

Brenda L. Miller
Circuit Clerk

***Horizon Ventures of West Virginia, Inc. vs. American Bituminous Power Partners, L.P.,
Pleasant Valley Energy Company, American Hydro Power Partners, L.P., Business Court
Case, Civil Action No. 13-C-196, Ohio County***

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