



TWENTY-FOURTH JUDICIAL CIRCUIT

WAYNE COUNTY, WEST VIRGINIA

POST OFFICE BOX 68

WAYNE, WEST VIRGINIA 25570

JAMES H. YOUNG, JR.

Judge

Telephone

304-272-6332

Fax

304-272-6335

October 23, 2018

Francine Spencer
McDowell County Courthouse
90 Wyoming Street, Suite 201
Welch, WV 24801

Re: Stollings Trucking Company, Inc. vs. Continuum Coal, LLC, Civil Action No.
17-C-055

Dear Ms. Spencer:

Please find enclosed an original Order in the above-referenced matter, along with a self-addressed envelope in order that a **time-stamped copy can be returned to me. Also, please mail copies to the Business Court Division and all attorneys of record in this matter.** For your convenience, I have also enclosed a list of the attorneys of record.

If you need anything further, please contact me.

Sincerely,

A handwritten signature in cursive script that reads "Diana Fields".

Diana Fields
Secretary

Enclosures

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

STOLLINGS TRUCKING COMPANY, INC.

Plaintiff,

vs.

**CIVIL ACTION NO.: 17-C-55MCD
Presiding Judge: Farrell
Resolution Judge: Matish
Temporary Presiding Judge: Young**

**CONTINUUM COAL, LLC, a West Virginia
Limited Liability Corporation, GS ENERGY, LLC,
a West Virginia Limited Liability Corporation,
IAN GANZER, Individually and in his capacity
as a member of Continuum Coal, LLC, and
GARY GANZER, Individually and in his capacity
as a member of Continuum Coal, LLC,**

Defendants.

**ORDER: GRANTING DEFENDANTS' MOTION TO DISMISS AND MOTION TO
STRIKE ALLEGATIONS OF FRAUD**

On October 4, 2018, came Plaintiff, Stollings Trucking, Inc., by and through counsel, Scott H. Kaminski, Kaminski Law, PLLC, and Defendants, Continuum Coal, LLC, GS Energy, LLC, Ian Ganzer, and Gary Ganzer, by and through counsel, Hunter B. Mullens, Mullens & Mullens, PLLC, all for a hearing on "Defendants' Motion to Dismiss and Motion to Strike Allegations of Fraud."

The Court, after considering the pleadings filed herein, the arguments of counsel, and all matters of record, hereby GRANTS "Defendants' Motion to Dismiss and Motion to Strike Allegations of Fraud," and further FINDS as follows:

The allegations contained in Plaintiff's *Amended Complaint* do not meet the particularity required to plead a cause of action for fraud, and Plaintiff alleges no other causes of actions against Defendants Ian Ganzer and Gary Ganzer.

WHEREFORE, this Court hereby ORDERS the following:

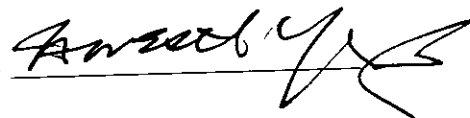
1. *Count 2: Fraud* of Plaintiff's *Complaint*, and of Plaintiff's *Amended Complaint*, is dismissed;
2. Paragraphs seventeen (17) through twenty-seven (27) and twenty-nine (29) through thirty-eight (38) of Plaintiff's *Amended Complaint* are stricken; and
3. Defendants Ian Ganzer and Gary Ganzer are dismissed from this civil action.

The objections and exceptions by the Plaintiff to this Order are preserved for the record.

The Clerk of this Court is directed to mail a certified copy of this Order to: Scott H. Kaminski, Esq., P.O. Box 3548, Charleston, WV 25335-3548; Kristofer J. Cormany, Esq., P.O. Box 11827, Charleston, WV 25339; Thomas H. Fluharty, Esq., 408 Lee Avenue Clarksburg, WV 26301; and, Hunter B. Mullens, Mullens & Mullens, PLLC, P.O. Box 95, Philippi, WV 26416;

All until further Order of the Court.

Entered this 22 day of Oct, 2018.

ENTER: 

Judge James H. Young, Jr.

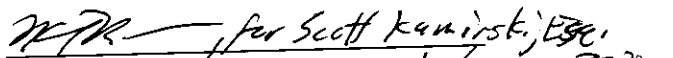
Prepared by:



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Co-counsel for Defendants

Agreed, as to form, by:

 *for Scott Kaminski, Esq.*
w/perm. SS. 20

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***Stollings Trucking Company, Inc. vs. Continuum Coal, LLC, et al., Business Court Case, Civil
Action No. 17-C-55, McDowell County***

Counsel for Plaintiff:

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Resolution Judge:

***The Honorable James A. Matish
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***Business Court Division
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