

FILED

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

2019 FEB 12 AM 8:33

CATHY S. GATSON, CLERK
KANAWHA COUNTY CIRCUIT COURT

STATE OF WEST VIRGINIA, *ex rel.*
PATRICK MORRISEY, ATTORNEY
GENERAL, *et al.*,

Plaintiffs,

v.

Civil Action No.: 17-C-41
James H. Young, Presiding Judge

CRH, plc, *et al.*,

Defendants.

**ORDER REGARDING THE WVP DEFENDANTS' MOTION TO AMEND THE
SCHEDULING ORDER; THE WVP DEFENDANTS' MOTION FOR SANCTIONS FOR
SPOILIATION OF EVIDENCE; WVP'S FIRST, SECOND, AND THIRD MOTIONS TO
COMPEL DISCOVERY RESPONSES FROM THE STATE OF WEST VIRGINIA; AND
THE PLAINTIFFS' MOTION TO COMPEL DISCOVERY**

On February 4, 2019, the Court held a status conference in this action and heard oral argument on the WVP Defendants¹ Motion to Amend the Scheduling Order; Motion for Sanctions for Spoliation of Evidence; WVP's First, Second, and Third Motions to Compel Discovery Responses from the State of West Virginia; and the Plaintiffs' Motion to Compel Discovery. For the reasons set forth in the parties' briefs and stated on the record, the Court hereby FINDS, CONCLUDES, and ORDERS as follows:

1. The Court will hold another status conference at 12:00 p.m. on March 4, 2019, at the Kanawha County Judicial Annex in Charleston, West Virginia.
2. The WVP Defendant's Motion to Amend the Scheduling Order is hereby granted.

As a result, the "Fact Discovery Completion Date" in the Scheduling Order is continued generally at this time. A new "Fact Discovery Completion Date" will

¹ CRH, plc; Oldcastle, Inc.; Oldcastle Materials, Inc.; West Virginia Paving, Inc.; Southern West Virginia Paving, Inc.; Southern West Virginia Asphalt, Inc.; and Camden Materials, LLC.

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be discussed and set if possible during the Court's March 4, 2019, status conference.

3. As agreed to by the Plaintiffs, the Court orders that the Plaintiffs produce all discoverable evidence responsive to WVP's discovery requests by February 18, 2019. Any electronically stored information produced by the Plaintiffs, including e-mails and Department of Transportation electronic bid letting and internal estimate data, shall be produced in litigation support format. The Plaintiffs are to produce privilege logs for all evidence for which it asserts privilege by February 25, 2019.
4. The July 31, 2018, Scheduling Order is hereby amended to extend the date by which expert witnesses must be disclosed. By February 14, 2019, the Plaintiffs shall disclose to opposing counsel the specialty of any expert witness the Plaintiffs desire to use, along with any reports submitted by such witness or a summary of the witness's contemplated testimony. The Defendants, including the WVP Defendants; Kelly Paving, Inc.; American Asphalt and Aggregates, Inc.; Blacktop Industries and Equipment Company; and American Asphalt of West Virginia, LLC., shall do the same by April 15, 2019.
5. All remaining Motions presented at the February 4, 2019, hearing, including the WVP Defendants' Motion for Sanctions for Spoliation of Evidence; WVP's First, Second, and Third Motions to Compel Discovery Responses from the State of West Virginia; and the Plaintiffs' Motion to Compel Discovery are hereby HELD IN ABEYANCE. The parties are directed to continue to meet and confer with each other in good faith regarding any alleged deficiencies or other issues. Any

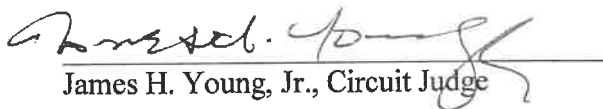
issues that cannot be resolved by counsel through a good-faith meet-and-confer process shall be addressed at the March 4, 2019, status conference.

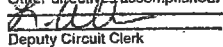
The parties' objections and exceptions to this Order are noted and preserved.

The Clerk shall serve a certified copy of this Order to all parties of record.

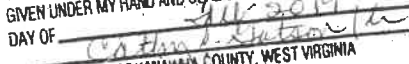
IT IS SO ORDERED.

Enter: 2/11/19


James H. Young, Jr., Circuit Judge


Date: 2/13/19
Certified copies sent to:
☒ counsel of record
☒ parties
☐ other (please indicate)
By: ☒ certified/1st class mail
☐ fax
☐ hand delivery
☐ interdepartmental
Other directives accomplished:

Deputy Circuit Clerk

Judge Wilkes
Sub Ct
R. Goodwin
B. Bailey
M. Hissam
J. Travis
J. Dunn
A. Davis
M. Farrell
C. Johnstone

STATE OF WEST VIRGINIA
COUNTY OF KANAWHA, SS
I, CATHY S. BATSON, 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 13
DAY OF April 2019
 CLERK
CLERK OF KANAWHA COUNTY, WEST VIRGINIA

Prepared and agreed to by:

By counsel,



R. Booth Goodwin II (W. Va. Bar No. 7165)
Carrie Goodwin Fenwick (W. Va. Bar No. 7164)
Richard D. Owen (W. Va. Bar No. 2794)
W. Jeffrey Vollmer (W. Va. Bar No. 10277)
Lucas R. White (W. Va. Bar No. 12501)
GOODWIN & GOODWIN LLP
300 Summers Street, Suite 1500
Charleston, West Virginia 24328
T: (304) 356-7000
F: (304) 344-9692
rbg@goodwingoodwin.com
cgf@goodwingoodwin.com
rdo@goodwingoodwin.com
wjv@goodwingoodwin.com
lrw@goodwingoodwin.com

Read and agreed to by:

Michael Hissam by URW w/permission

Benjamin L. Bailey
Eric B. Snyder
Ora N. Nwabueze
Holly J. Wilson
Special Assistant Attorneys General
Bailey & Glasser LLP
209 Capital Street
Charleston, WV 25301
bbailey@baileyglasser.com
esnyder@baileyglasser.com
onwabueze@baileyglasser.com
hwilson@baileyglasser.com

Michael B. Hissam
Isaac R. Forman
J. Zak Ritchie
Hissam Forman Donovan Ritchie PLLC
P.O. Box 3983
Charleston, WV 25339
mhissam@hfdrlaw.com
iforman@hfdrlaw.com
zritchie@hfdrlaw.com

Steven A. Travis
Deputy General Counsel
State Capitol Bldg. 1, Room E-26
1900 Kanawha Blvd., East
Charleston, WV 25305
steven.a.travis@wvago.gov

Jill C. Dunn
West Virginia Department of
Transportation/Division of Highways
Legal Division
Bldg. 5, Room 5-517
1900 Kanawha Blvd., East
Charleston, WV 25305
jill.c.dunn@wv.gov

Douglas L. Davis
Assistant Attorney General
Consumer Protection/Antitrust Division
P.O. Box 1789
Charleston, WV 25326
douglas.l.davis@wvago.gov
Counsel for Plaintiffs

Michael J. Farrell by URW w/permission

Michael J. Farrell
Megan Farrell Woodyard
J. Ben Shepard
Farrell, White, & Legg PLLC
P.O. Box 6457
Huntington, WV 25772
mjf@farrell3.com
mef@farrell3.com
jbs@farrell3.com
Counsel for Defendant Kelly Paving, Inc.

Charles M. Johnstone II by URW w/permission

Charles M. Johnstone II
Johnson W. Gabhart
Johnstone & Gabhart
1125 Virginia Street East
Charleston, WV 25301
sjohnstone@wvlaw.net
ddobson@wvlaw.net
*Counsel for Defendants American Asphalt
and Aggregates, Inc.; Blacktop
Industries and Equipment Company;
and American Asphalt of West Virginia, LLC.*

State of WV, ex rel. Patrick Morrissey, Attorney General, et al vs. Oldcastle, Inc., et al. and City of Charleston, et al. vs. West Virginia Paving, Inc., et al., Business Court Case, Civil Action No. 17-C-41; 16-C-1552, Kanawha County

***Beverly Selby, Kanawha Co. Administrator
Phone: 304-357-0369***

Counsel for Plaintiffs (Special Assistant AGs):

Benjamin L. Bailey, Esq.
Michael B. Hissam, Esq.
Isaac R. Forman, Esq.
J. Zak Ritchie, Esq.
Bailey & Glasser, LLP
209 Capitol Street
Charleston, WV 25301
Phone: 304-345-6555
Email: bbailey@baileyglasser.com
MHissam@baileyglasser.com
iforman@baileyglasser.com
zritchie@baileyglasser.com

Resolution Judge:

***Honorable Christopher C. Wilkes
Berkeley County Judicial Center
380 W. South Street, Suite 4400
Martinsburg, West Virginia 25401***

Steven A. Travis, Esq.
Deputy General Counsel
State Capitol, Bldg. 1, Room E-206
1900 Kanawha Blvd., East
Charleston, WV 25305
Phone: 304-558-2021
Email: stravis@baileyglasser.com

Jonathan T. Storage, Esq.
General Counsel
WV DOT/DOH Legal Division
1900 Kanawha Blvd., East
Bldg. Five, Room A-517
Charleston, WV 25305
Phone: 304-558-2823
Email: jstorage@baileyglasser.com

Douglas L. Davis, Esq.
Assistant Attorney General
Consumer Protection / Antitrust Division
Post Office Box 1789
Charleston, WV 25326-1789
Phone: 304-558-8986
Email: ddavis@baileyglasser.com

**Counsel for Oldcastle, Inc., Materials, Inc.
West Virginia Paving, Inc., Southern West
Virginia Paving, Inc., Southern West Virginia
Asphalt, Inc. and Camden Materials, LLC:
R. Booth Goodwin, Esq.**

Carrie Goodwin Fenwick, Esq.
Richard D. Owen, Esq.
Lucas R. White, Esq.
Goodwin & Goodwin, LLP
Post Office Box 2107
Charleston, WV 25328-2107
Phone: 304-346-7000
Email: rbg@goodwingoodwin.com
cgf@goodwingoodwin.com
rdo@goodwingoodwin.com
lrw@goodwingoodwin.com

Counsel for Kelly Paving, Inc.:

Michael J. Farrell, Esq.
Megan Farrell Woodyard, Esq.
Farrell, White & Legg, PLLC
Post Office Box 6457
Huntington, WV 25772-6457
Phone:
Email: mjf@farrell3.com
mef@farrell3.com

**Counsel for American Asphalt and Aggregate,
Inc., American Asphalt of West Virginia, LLC,
And Blacktop Industries and Equipment Company:**

Charles M. Johnstone, II, Esq.
David A. Dobson, Esq.
Johnstone & Gabhart, LLP
1125 Virginia Street, East
Charleston, WV 25321
Phone:
Email: sjohnstone@wvlaw.net
ddobson@wvlaw.net

***Business Court Division
West Virginia Supreme Court of Appeals
Berkeley County Judicial Center
380 W. South Street, Suite 2100
Martinsburg, WV 25401***