

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

FILED  
2019 APR 2 AM 8:35  
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 APRIL 2, 2019, STATUS CONFERENCE**

On April 2, 2019, the Court held a status conference in this action. For the reasons set forth in the parties' briefs and as stated on the record, the Court hereby FINDS, CONCLUDES, and ORDERS as follows:

1. The Court will hold another status conference on May 8, 2019, at 9:30 am at the Wayne County Courthouse.
2. The Defendants, including the West Virginia Paving Defendants,<sup>1</sup> Kelly Paving, Inc., American Asphalt & Aggregates, Inc., Blacktop Industries and Equipment Company, and American Asphalt of West Virginia, LLC, will endeavor to take a preliminary deposition of Dr. James T. McClave before the Court holds its next status conference on May 8, 2019. Counsel for the State will obtain dates on which Dr. McClave is available to be deposed and will make that information available to the Defendants.

---

<sup>1</sup> The West Virginia Paving Defendants include: 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.

SCANNED  
1123-  
104

3. The parties will endeavor to complete the Rule 30(b)(7) deposition of the State noticed by Kelly Paving, Inc. before the Court holds its next status conference on May 8, 2019. Counsel for the State will obtain dates on which the State's Rule 30(b) witness is available to be deposed and will make that information available to the Defendants.
4. The West Virginia Paving Defendants will endeavor to designate additional search terms and custodians for the State to collect and produce documents and electronically stored information related to the State's study into the economic feasibility of entering into the hot mix asphalt market ("HMA Study"). The State will produce evidence responsive to the search terms and custodians provided by the West Virginia Paving Defendants before the Court holds its next status conference on May 8, 2019.

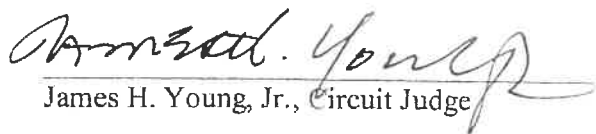
The parties' objections and exceptions to this Order are noted and preserved.

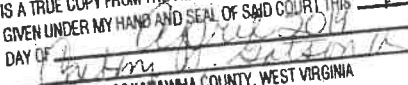
The Clerk shall serve a certified copy of this Order to all parties of record.

**IT IS SO ORDERED.**

Enter:

Apr 16 '19

  
James H. Young, Jr., Circuit Judge

STATE OF WEST VIRGINIA  
COUNTY OF KANAWHA, SS  
I, GATHY 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 12  
DAY OF April 2019  
  
GATHY S. GATSON, CLERK OF SAID COURT  
COUNTY OF KANAWHA, WEST VIRGINIA

Prepared and agreed to by:



---

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  
*Counsel for the West Virginia Paving Defendants*

Read and agreed to by:

*Ben Ba*

by RSP w/ permission

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

*Min Fan*

by RSP w/ permission

*Ch*

by RSP 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  
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.*

Date: 4/12/19  
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*  
*Bus Ct*  
*C. Johnstone*  
*M. Farrell*  
*R. Goodwin*  
*D. Davis*  
*J. Storage*

*S. Travis*  
*B. Bailey*