

FILED

**IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA
BUSINESS COURT DIVISION 2020 DEC 16 AM 8:42**

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

CATHY S. GATSON, CLERK
KANAWHA COUNTY CIRCUIT COURT

PLAINTIFFS,

v.

**Civil Action No.: 17-C-41
Presiding Judge: James H. Young, Jr.
Resolution Judge: Christopher C. Wilkes**

CRH, PLC, *et al.*,

17-C-2-41

DEFENDANTS.

AND

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

**CITY OF CHARLESTON,
and all others similarly situated, *et al.*,**

Plaintiffs,

v.

**WEST VIRGINIA PAVING, INC.,
et al.,**

**CIVIL ACTION NO. 16-C-1552 (lead)
(Consolidated with 16-C-661-B – Raleigh;
16-C-337-DS – Mercer; 16-C-425 – Wood;
16-C-1598 – Kanawha; 16-C-666 – Cabell)
Presiding Judge: James H. Young, Jr.
Resolution Judge: Christopher C. Wilkes**

Defendants.

AGREED ORDER OF DISMISSAL

The State of West Virginia *ex rel.* Patrick Morrissey, Attorney General, Byrd E. White, in his official capacity as Secretary of Transportation and Commissioner of Highways, West Virginia Department of Transportation and the Cities of Charleston, Beckley, Bluefield, Huntington, Parkersburg, and the Kanawha County Commission (the "Settling Plaintiffs") and Defendants, Blacktop Industries and Equipment Company, American Asphalt of West Virginia,

158-160

LLC, and American Asphalt & Aggregate, Inc. (collectively "American Defendants") have advised the Court that a settlement has been reached resolving the above-captioned litigation against American Defendants. The Settling Plaintiffs and American Defendants thus jointly move to dismiss, with prejudice, American Defendants from the above-captioned litigation in accordance with the terms and conditions of such settlement.

For good cause shown, it is **HEREBY ORDERED** that defendants, Blacktop Industries and Equipment Company, American Asphalt of West Virginia, LLC, and American Asphalt & Aggregate, Inc., are **DISMISSED** from the above-captioned litigation **WITH PREJUDICE**. American Defendants' settlement payment has been delivered to the trust account of Bailey & Glasser LLP pursuant to the terms of the settlement. After deduction of costs and fees, the previously agreed allocations shall be disbursed by Bailey & Glasser directly to the Settling Plaintiffs. The State's cash settlement shall be paid directly to the Division of Highways and deposited directly into the State Road Fund. Each party will bear its own attorney fees and costs. In addition, and pursuant to the Parties' Settlement Agreement, the American Defendants are hereby enjoined (without the necessity of a bond) as follows:

- a. The American Defendants shall refrain from entering into any contract, combination or conspiracy to restrain trade in West Virginia in violation of the West Virginia Antitrust Act, W. Va. Code § 47-18-3, and shall not monopolize or attempt to monopolize Asphalt manufacturing or Asphalt Paving Services in West Virginia, by unlawful means, in violation of the West Virginia Antitrust Act, W. Va. Code § 47-18-4.

- b. The American Defendants shall refrain from assisting or helping any other party to obtain or maintain a monopoly in the Asphalt manufacturing or Asphalt Paving Services in West Virginia.
- c. The American Defendants shall not sell or attempt to sell their interests in American Asphalt of West Virginia, LLC to the other defendants in this matter or any third-party affiliated with those other defendants.
- d. The American Defendants shall make the structural changes set forth in the Parties' Settlement Agreement.

The Clerk of the Court is **DIRECTED** to send a certified copy of this Order to the following counsel of record upon entry:

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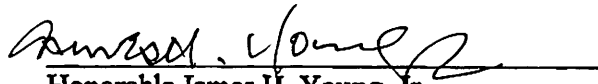
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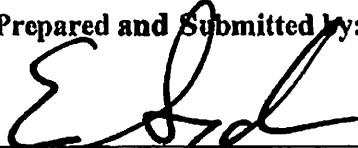
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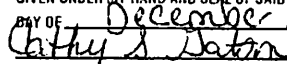

ENTERED this 14 day of December, 2020.

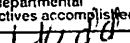

Honorable James H. Young, Jr.

Prepared and Submitted by:



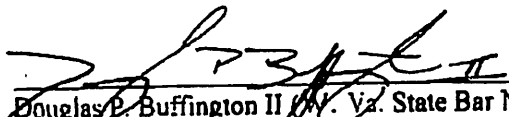
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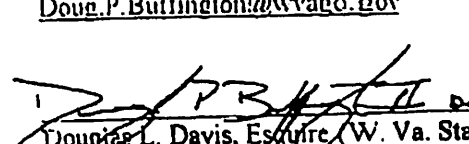
STATE OF WEST VIRGINIA
COUNTY OF KANAWHA, SS
I, CATHY S. GATSON, CLERK OF CIRCUIT COURT OF SAID COUNTY
AND IN SAID STATE, DO HEREBY CERTIFY THAT THE FOREGOING
IS A TRUE COPY FROM THE RECORDS OF SAID COURT.
GIVEN UNDER MY HAND AND SEAL OF SAID COURT THIS 16th
DAY OF December 2020
 CLERK
CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA


Date: 12/16/20
Certified copies sent to:
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☐ parties
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Other directives accomplished:

Deputy Circuit Clerk


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m. Hoxam
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