

In the Circuit Court of Raleigh County, West Virginia

**GLADE SPRINGS VILLAGE
PROPERTY OWNERS,**
Plaintiff,

v.

Case No. CC-41-2019-C-357
Judge Joseph Reeder

**EMCO GLADE SPRINGS
HOSPITALITY,
ELMER COPPOOLSE,
ELAINE B. BUTLER,
GSR, LLC,
JAMES TERRY MILLER ET AL,**
Defendants

Order Denying "Glade Springs Village Property Owners Association, Inc.'s Motion to Compel Depositions of Defendants' Retained Experts" as Moot

This matter came before the Court upon *Glade Springs Village Property Owners Association, Inc.'s Motion to Compel Depositions of Defendants' Retained Experts* filed May 8, 2024 (the "GSVPOA's Motion to Compel"). The Court dispenses with oral argument because the facts and legal contentions are adequately presented in the materials before the Court and argument would not aid the decisional process.

GSVPOA's Motion to Compel seeks an order from this Court compelling Defendants to make Steve Robey and Ken Tackett available for deposition prior to the June 14, 2024 discovery deadline. Defendants previously disclosed Steve Robey and Ken Tackett as their joint expert witnesses. However, on May 16, 2024, Defendants filed *Defendants' Joint Motion to Modify Scheduling Order* requesting, in part, that this Court amend the current *Scheduling Order* to allow Defendants additional time to find replacement experts for Steve Roby and Ken Tacket. Defendants represented that neither Mr. Robey nor Mr. Tackett remain available to serve as expert witnesses to Defendants because Mr. Robey retired and Mr. Tackett secured a management position

with the PGA and that employment prohibits Mr. Tackett from golf-related employment engagements outside the PGA. The Court notes Plaintiff did not file a Reply. Because Defendants will not call either Steve Robey or Ken Tackett to give expert testimony at trial, Defendants contend that GSVPOA's Motion to Compel is moot. The Court agrees with Defendants.

Rule 26(b)(4)(A)(ii) of the West Virginia Rules of Civil Procedure provides that "a party may depose any person who has been identified as an expert whose opinion may be presented at trial." See W. Va. R. Civ. P. 26(b)(4)(A)(ii). Because Defendants have represented that neither Steve Robey nor Ken Tackett will be called to give expert opinion testimony at trial, GSVPOA's Motion to Compel is moot.

THEREFORE, upon full consideration of the issues, the record, and pertinent legal authorities, the Court DENIES GSVPOA's Motion to Compel as Moot. The Court notes the objections and exceptions of the parties to any adverse ruling herein. The Court directs the Circuit Clerk to distribute attested copies of this order to all counsel of record, and to the Business Court Central Office at West Virginia Business Court Division, 380 West South Street, Suite 2100, Martinsburg, West Virginia 25401.

/s/ Joseph K. Reeder
Circuit Court Judge
10th Judicial Circuit

Note: The electronic signature on this order can be verified using the reference code that appears in the upper-left corner of the first page. Visit www.courtswv.gov/e-file/ for more details.