

In the Circuit Court of Kanawha County, West Virginia

WW CONSULTANTS, INC.,
Plaintiff,

v.

Case No. CC-20-2018-C-115
Judge Christopher C. Wilkes

**POCAHONTAS COUNTY PUBLIC
SERVICE DISTRICT,**
Defendant

**ORDER GRANTING WW CONSULTANTS, INC.'S MOTION FOR PROTECTIVE
ORDER AND TO AMEND DEADLINES**

This matter came before the Court this 25th day of February, 2025. The Defendant and Third-Party Plaintiff, WW Consultants, Inc., (hereinafter "WWC" or "Defendant"), by counsel, has filed WW Consultants, Inc.'s Motion for Protective Order and to Amend Deadlines. The Third-Party Defendant, Orders Construction Company, Inc. (hereinafter "Orders"), by counsel, has filed a Response. The Plaintiff, the Pocahontas County Public Service District (hereinafter "Plaintiff" or "the PSD"), has not filed a Response.

This motion surrounds the depositions of Nick Josties and David Rigby. On or about February 17, 2025 and February 18, 2025, the depositions of the aforementioned individuals were scheduled to take place. The parties do not dispute that the depositions were continued as the parties were engaged in settlement negotiations at that time. Said depositions were rescheduled for February 27, 2025.

In the instant motion, counsel for WWC avers he has a scheduling conflict with the February 27, 2025 date. The requested relief is that the Court prohibit the depositions of Rigby and Josties from proceeding prior to March 12, 2025, and that the Court amend the deadline to complete the depositions to a date after March 12, 2025 and the deadline for filing dispositive motions to 14 days after the deadline for the completion of

depositions. See Mot., p. 2.

In its Response, Orders opposed such a request and stated that it would be prejudiced by further delay. On February 25, 2025, counsel for Orders contacted the Court and explained that its Response was withdrawn as a tentative resolution has been reached with respect to the third party claims against Orders.

West Virginia Rule of Civil Procedure 26(c) governs protective orders. Rule 26(c) provides, in pertinent part:

A party or any person from whom discovery is sought may move for a protective order in the court where the action is pending. The motion shall include a certification that the movant has in good faith conferred or attempted to confer with other affected parties in an effort to resolve the dispute without court action. The court may, for good cause, issue an order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense...

W. Va. R. Civ. P. 26(c).

The Court, considering the procedural posture of this case, the withdrawal of objection by Orders, and finding good cause shown, does grant the relief requested. A trial date is not set, and there will be no prejudice to a brief extension of the time allotted for the last remaining depositions and the dispositive motion deadline. Counsel for WWC has detailed his scheduling conflict to this Court in the motion, and the Court notes it involves commitments out of state in a federal case and an approaching discovery deadline in that case. The Court finds that when weighed with the procedural posture of this case, wherein a trial date has not been set but has not been requested until August 2025, good cause has been shown to issue an order to protect WWC from undue burden under Rule 26. The parties shall have until April 15, 2025 to complete any remaining depositions, and the dispositive motion deadline shall be fourteen (14) days after that.

For these reasons, this Court finds the instant motion shall be granted.

CONCLUSION

Accordingly, it is hereby ADJUDGED and ORDERED that WW Consultants, Inc.'s Motion for Protective Order and to Amend Deadlines is hereby GRANTED. 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, electronically.

Enter: February 25, 2025

/s/ Christopher C. Wilkes
Circuit Court Judge
8th 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.