

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

**HIGHMARK WEST VIRGINIA, INC.,**

**Plaintiff,**

**vs.**

**Civil Action No.: 18-C-271  
Presiding Judge: Shawn D. Nines  
Resolution Judge: Christopher C. Wilkes**

**MEDTEST LABORATORIES, LLC, et al.,**

**Defendants.**

**MEDTEST LABORATORIES LLC,**

**Counterclaim and Third-Party  
Plaintiff,**

**vs.**

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

**Counterclaim and Third-Party  
Defendants.**

ENTERED  
O.B. No. \_\_\_\_\_  
Page \_\_\_\_\_

**OCT 18 2019**

CAROLE JONES  
CLERK CIRCUIT COURT

**ORDER VACATING BRIEFING ORDERS**

This matter came before the Court this 18<sup>th</sup> day of October 2019. Whereas, on a prior day, the Court entered the following briefing orders regarding recently-filed motions in this civil action: (1) Briefing Order regarding Third-Party Defendants' Motion to Dismiss Medtest's Third-Party Complaint for Failure to State a Claim filed September 16, 2019; (2) Briefing Order regarding Third-Party Defendant's Motion to Dismiss for Lack of Personal Jurisdiction filed September 16, 2019; and (3) Briefing Order regarding Third-Party Defendants' Motion to

Dismiss Medtest's Third-Party Complaint for Lack of Personal Jurisdiction filed September 16, 2019.

The Court considers the Modified Scheduling Order entered by the undersigned after agreement of the parties during the telephonic scheduling conference in this civil action, including allowing of Third-Party Plaintiff to file an Amended Third-Party Complaint and allowing Third-Party Defendants to renew and/or refile pending motions to dismiss.

Additionally, as permitted by the Court, Third-Party Plaintiff filed an Amended Third-Party Complaint. Therefore, the Court finds the Briefing Orders entered surrounding then-pending motions to dismiss the *original* Third-Party Complaint are now moot, and must be vacated.

The Court notes Third-Party Defendants filed a Joint Notice of Withdrawal of Their Motions to Dismiss Original Third-Party Complaint as Moot and Motion to Vacate Briefing Orders as Moot, and in it requested an Order vacating the subject briefing orders. For these reasons, the Court finds the Motion to Vacate Briefing Orders as Moot shall be granted.

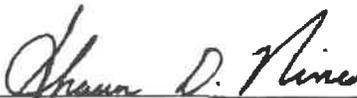
**WHEREFORE**, it is hereby **ORDERED** and **ADJUDGED** that the following briefing orders shall be vacated: (1) Briefing Order regarding Third-Party Defendants' Motion to Dismiss Medtest's Third-Party Complaint for Failure to State a Claim filed September 16, 2019; (2) Briefing Order regarding Third-Party Defendant's Motion to Dismiss for Lack of Personal Jurisdiction filed September 16, 2019; and (3) Briefing Order regarding Third-Party Defendants' Motion to Dismiss Medtest's Third-Party Complaint for Lack of Personal Jurisdiction filed September 16, 2019.

It is further hereby **ORDERED** and **ADJUDGED** that the Modified Scheduling Order remains in full force and effect.

The Court notes the objections of the parties to any adverse ruling herein.

The Clerk is directed to enter this Order as of the date first hereinabove appearing, and send attested copies to all counsel of record, as well as to the Business Court Central Office at Business Court Division, 380 West South Street, Suite 2100, Martinsburg, West Virginia, 25401.

ENTERED this 18<sup>th</sup> day of October 2019.

  
\_\_\_\_\_  
JUDGE SHAWN D. NINES  
West Virginia Business Court Division

STATE OF WEST VIRGINIA  
COUNTY OF WOOD, TO-WIT:

I, CAROLE JONES, Clerk of the Circuit Court of Wood County, West Virginia, hereby certify that the foregoing is a true and complete copy of an order entered in said Court on the 18 day of October 2019, as fully as the same appears to me of record.

Given under my hand and seal of said Circuit Court, this the 18 day of October 2019

Carole Jones  
Clerk of the Circuit Court of  
Wood County West Virginia  
By:  Deputy