UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BECKLEY

M.T. BORES, LLC,

Plaintiff,

v. CIVIL ACTION NO. 5:20-cv-00602

MOUNTAIN VALLEY PIPELINE, LLC,
and US TRINITY ENERGY SERVICES, LLC,

Defendants.

MEMORANDUM OPINION AND ORDER

Pending is Defendant US Trinity Energy Services, LLC's ("Trinity") Motion to Compel Arbitration, Motion to Stay, and (alternative) Motion to Dismiss Counts III and IV of the Amended Complaint [Doc. 8], filed October 9, 2020. M.T. Bores, LLC ("MT Bores") responded on November 2, 2020, [Doc. 14], to which Mountain Valley Pipeline, LLC ("MVP") and Trinity replied. [Docs. 16, 17]. Also pending is Plaintiff MT Bores' Motion to Compel Mountain Valley Pipeline, LLC to Participate in Arbitration Between MT Bores, LLC and U.S. Trinity Energy Services, LLC [Doc. 21], filed November 17, 2020. After several extensions, MVP and Trinity responded respectively on January 8, 2021, and January 22, 2021. [Docs. 29, 31]. MT Bores did not reply.

I.

MVP contracted with Trinity relating to the construction and installation of the Mountain Valley Pipeline across property located in Greenbrier County. MVP is the owner of the pipeline, and Trinity is the general contractor for Spread "F" of the pipeline, running through

Greenbrier, Summers, and Monroe counties. In May 2019, Trinity subcontracted with MT Bores, with MT Bores agreeing to furnish equipment to excavate a tunnel under U.S. Route 64 in connection with the installation of the pipeline ("Subcontract"). MT Bores alleges it fully performed. The equipment furnished was valued at $671,525, including interest. MT Bores was paid $120,000. Before the installation of the pipeline was completed, however, MVP terminated the project. MT Bores alleges it was not paid the $515,125 balance for the equipment. MT Bores thus placed a mechanic's lien against the property for the balance due.

MT Bores instituted this action in the Circuit Court of Greenbrier County seeking enforcement of the mechanic's lien against MVP's real property in Greenbrier County. Trinity removed on September 11, 2020. Count I of MT Bores' Amended Complaint asserts a claim against MVP seeking foreclosure of the mechanic's lien. Count II asserts a claim against Trinity for breach of contract. Count III asserts *quantum meruit* and *quantum valebant* claims against both MVP and Trinity. Count IV likewise asserts a claim against both MVP and Trinity for unjust enrichment.

On October 9, 2020, Trinity filed a Motion to Compel Arbitration, Motion to Stay and – in the alternative – Motion to Dismiss Counts III and IV of the Amended Complaint. Trinity moves to compel MT Bores to arbitrate Counts II, III, and IV pursuant to the arbitration clause contained in Section 9.01 of the Subcontract. Trinity further seeks a stay on the remaining claims against MVP pending arbitration. MT Bores does not dispute that its claims against Trinity are subject to an arbitration clause in the Subcontract; nor does MT Bores challenge the arbitration clause's enforceability or validity. MT Bores contends, however, MVP should be compelled to arbitrate in the forthcoming arbitration.

MT Bores seeks that very relief in its November 11, 2020, Motion to Compel. MT Bores contends that despite MVP not being a party to the Subcontract, the Court should require MVP to participate in the arbitration for four reasons, namely, that MVP is bound by (1) the doctrine of equitable estoppel, (2) third-party beneficiary status under the Subcontract; (3) interests of judicial efficiency, and (4) essential party status. MVP asserts these contractual and extracontractual theories offer no basis to compel its participation. Trinity agrees, asserting additionally that it must first consent to MVP's participation. Trinity contends the Subcontract vests it as sole arbiter on that matter.

II.

Our Court of Appeals has generally required proof of four elements from a party moving to compel arbitration:

> (1) the existence of a dispute between the parties, (2) a written agreement that includes an arbitration provision which purports to cover the dispute, (3) the relationship of the transaction, which is evidenced by the agreement, to interstate or foreign commerce, and (4) the failure, neglect or refusal of the defendant to arbitrate the dispute.

Galloway v. Santander Consumer USA, Inc., 819 F.3d 79, 84 (4th Cir. 2016) (citing *Rota-McLarty v. Santander Consumer USA, Inc.*, 700 F.3d 690, 696 n. 6 (4th Cir. 2012)); *see also Adkins v. Labor Ready, Inc.*, 303 F.3d 496, 500-01 (4th Cir. 2002).

As noted, there is no dispute Trinity has established these prerequisites against MT Bores. Accordingly, the Court need only consider (1) whether it is proper to compel MVP to arbitrate, and, if not (2) whether a stay is appropriate respecting MT Bores' remaining claims against MVP pending arbitration.

A. Compelling MVP to Arbitrate

"It must be remembered that mandatory arbitration is not the default form of dispute resolution but rather is permitted only when the parties agree to it." *Rowland v. Sandy Morris Fin. & Est. Plan. Servs., LLC*, 933 F.3d 253, 258 (4th Cir. 2021). This is so inasmuch as "arbitration is a matter of contract and a party cannot be required to submit to arbitration any dispute which [it] has not agreed' to arbitrate." *R.J. Griffin & Co. v. Beach Club II Homeowners Ass'n*, 384 F.3d 157, 160 (4th Cir. 2004) (quoting *Int'l Paper Co. v. Schwabedissen Maschinen & Anlagen GMBH*, 206 F.3d 411, 416 (4th Cir. 2000)). Nonetheless, a party can "agree to submit to arbitration by means other than personally signing a contract containing an arbitration clause." *Id.* Indeed, there are five instances obviating the need for a signed arbitration agreement: "(1) incorporation by references; (2) assumption; (3) agency; (4) veil piercing/alter ego; and (5) estoppel." *Int'l Paper*, 206 F.3d at 417 (internal citations omitted).

1. Estoppel

MT Bores first asserts that MVP should be estopped from refusing to arbitrate. It contends MVP directly benefited from the Subcontract inasmuch as the subject equipment contributed to MVP's pipeline.

Our Court of Appeals has recognized that "[i]n deciding whether a party may be compelled to arbitrate a dispute, we 'apply ordinary state law principles that govern the formation of contracts,' . . . and 'the federal substantive law of arbitrability.'" *R.J. Griffin*, 384 F.3d at 160 n.1. (internal citations omitted); *see also Int'l Paper*, 206 F.3d at 417 n.4. Specifically, "state law determines questions concerning the validity, revocability, or enforceability of contracts generally," whereas, "the Federal Arbitration Act . . . create[s] a body of federal substantive law

of arbitrability, applicable to any arbitration agreement within the coverage of the Act." *Id.* (quoting *Int'l Paper*, 206 F. 3d at n.4). So, when applying the doctrine of equitable estoppel in the context of arbitration, our Court of Appeals has stated given that "the determination of whether . . . a nonsignatory, is bound by [an arbitration clause] presents no state law question of contract formation or validity, we look to the federal substantive law of arbitrability to resolve this question." *Id.*; *see also Jackson v. Iris.com*, 524 F.Supp.2d 742, 748 (E.D. Va. 2007) (concluding the Fourth Circuit has determined "that courts should apply the federal substantive law of arbitrability incorporated into the FAA when determining whether a non-signatory is bound to an arbitration agreement by the doctrine of equitable estoppel.")).

It may be that the analysis has changed following *Arthur Andersen LLP v. Carlisle*, 556 U.S. 624 (2009). The Supreme Court in *Carlisle* reiterated that "traditional principles of state law allow a contract to be enforced by or against nonparties to the contract[.]" *Carlisle*, 556 U.S. at 631 (internal quotations omitted). The Supreme Court went on to conclude that appellate courts have jurisdiction to review a district court's denial of a stay under the Federal Arbitration Act, "if the relevant *state contract law* allows [a non-party litigant to the contract] to enforce the agreement." *Id.* at 632 (emphasis added). One could conclude that "this reference to 'the relevant state contract law' could be read as requiring courts to consult a particular state's substantive law, not federal common law, to determine whether a nonsignatory may enforce [or be bound by] an arbitration clause." *Meridian Imaging Solutions, Inc. v. OMNI Business Solutions LLC*, 250 F. Supp. 3d 13, 22 (E.D. Va. 2017) (quoting *Carlisle*, 556 U.S. at 632).

The Court need not ponder the change for at least two reasons. First, our Court of Appeals is generally the arbiter respecting the impact, if any, upon its own precedent from intervening Supreme Court jurisprudence. As noted by the Court of Appeals, "'[i]t is axiomatic

that in our judicial hierarchy, the decisions of the circuit courts of appeals bind the district courts[.]' Such a decision is binding, not only upon the district court, but also upon another panel of this court—unless and until it is reconsidered en banc." *Doe v. Charleston Area Med. Ctr., Inc.*, 529 F.2d 638, 642 (4th Cir. 1975) (quoting *Doe v. Chao*, 511 F.3d 461, 465 (4th Cir. 2007)). Second, as was the case in *Meridian Imaging Solutions*, the perceived "puzzle is strictly academic;" both West Virginia and controlling federal precedent render the same result.[1] 250 F. Supp. 3d at 22.

The doctrine of estoppel "precludes a party from asserting rights [it] otherwise would have had against another when [its] own conduct renders assertion of those rights contrary to equity." *R.J. Griffin & Co.*, 384 F.3d at 160 (internal citations omitted). "In the context of arbitration, the doctrine applies when one party attempts 'to hold [another party] to the terms of [an] agreement' while simultaneously trying to avoid the agreement's arbitration clause." *Id.* at 160-61 (quoting *Hughes Masonry Co., Inc., v. Greater Clark County Sch. Bldg. Corp.*, 659 F.2d 836, 838 (7th Cir. 1981); *see also Bayles v. Evans*, 243 W. Va. 31, 842 S.E.2d 235, 245 (2020) ("[T]he doctrine of equitable estoppel allows a court to prevent a nonsignatory from embracing a contract, but then turning . . . its back on the portions of the contract . . . that the nonsignatory finds 'distasteful'"). Simply put, "[a] nonsignatory is estopped from refusing to comply with an arbitration clause when it receives a direct benefit from a contract containing an arbitration clause." *Int'l Paper*, 206 F.3d at 418; *see also Bayles*, 842 S.E.2d at 245. This "direct benefit test . . . recognizes that a nonsignatory should be estopped from denying that it is bound by an arbitration

[1] MVP and Trinity contend that West Virginia law applies inasmuch as courts sitting in diversity should apply the substantive law of the state in which it sits. MT Bores contends – without elaboration – that Texas law applies in accord with the MT Bores-Trinity Subcontract's choice of law provision. As noted, however, MVP is not a party to the Subcontract, and MT Bores has provided no legal support for binding MVP to the Subcontract's election of Texas law. Thus, the Court concludes West Virginia law governs the dispute between MT Bores and Trinity. *See Erie R.R. v. Tompkins*, 304 U.S. 64 (1938).

clause when its claims against the signatory 'arise[ ] from' the contract containing the arbitration clause." *Am. Bankers Ins. Grp., Inc. v. Long*, 453 F.3d 623, 628 (4th Cir. 2006) (quoting *R.J. Griffin*, 384 F.3d at 162); *see also Bayles*, 842 S.E. 2d at 245 ("In the arbitration context, the doctrine recognizes that a party may be estopped from asserting that the lack of his signature on a written contract precludes enforcement of the contract's arbitration clause when he has consistently maintained that other provisions of the same contract should be enforced to benefit him."). Importantly, "courts asked to apply [equitable] theories should be wary of imposing a contractual obligation to arbitrate on a non-contracting party." *Bayles*, 842 S.E.2d at 244 (internal quotations omitted).

The doctrine of equitable estoppel is inapplicable here. MVP has not asserted any claim against MT Bores arising from the Subcontract. To the contrary, MVP is defending claims brought against it by MT Bores. MT Bores misinterprets the doctrine of equitable estoppel, which "operates *to prevent one party from holding another to the terms of an agreement* while simultaneously avoiding the same agreement's arbitration clause." *R.J. Griffin*, 384 F.3d at 165 (4th Cir. 2004) (emphasis added); *see also Bayles*, 842 S.E.2d at 245 (explaining "that '[a] nonsigatory may not cherry-pick beneficial contract terms while ignoring other provisions that do not benefit it or that it would prefer not to be governed by.'"). MVP is not attempting to hold MT Bores to any term of the MT Bores-Trinity Subcontract, nor cherry-picking any of its beneficial terms while simultaneously ignoring the arbitration clause. As such, MVP is not seeking a direct benefit from the Subcontract between MT Bores and Trinity.

The Court recognizes that other jurisdictions are somewhat in tension with the foregoing precedent. Some "have held that the 'direct benefit' test also recognizes that a nonsignatory to an arbitration clause may benefit from the contract containing the arbitration

clause – and should therefore be estopped from arguing that it is not a party thereto – in ways other than the assertion of claims based on the contract." *Long*, 453 F.3d at 628 n.5 (citing *Am. Bureau of Shipping v. Tenecara Shipyard S.P.A.*, 170 F.3d 349, 353 (2d Cir. 1999) ("applying the 'direct benefit' test to estop a nonsignatory from denying that an arbitration clause applied to it when the nonsignatory received substantial benefits from the contract clause containing the arbitration clause, including lowered insurance rates."). Assuming the corollary has force here, it is of no moment. *Tenecara Shipyard* involved a non-signatory defendant compelled through equitable estoppel to arbitrate *its claims* against the signatory plaintiff. 170 F.3d at 353 (emphasis added). MT Bores, the signatory plaintiff here, seeks to compel the non-signatory MVP to arbitrate *its defenses*. (emphasis added). MVP has provided no authority compelling a non-signatory defendant to arbitrate its defenses on estoppel grounds absent the non-signatory's consent. The doctrine has no application here.

2. Third-Party Beneficiary

MT Bores next asserts that MVP should be compelled as a third-party beneficiary to the Subcontract. MT Bores asserts (1) MVP and Equitrans Midstream, LP, the "Owner" identified in the Subcontract, are affiliated companies; (2) MVP is the owner of the property that is the site of MT Bores' performance under the Subcontract; (3) the Subcontract identifies "contract documents" as not only the Subcontract itself, but also documents reflecting the agreement between the Owner and Trinity for the project's construction; and (4) MVP has authority to approve and is responsible for paying for the work performed under the Subcontract.

Under limited circumstances, a contract may be enforced against a non-signatory under a third-party beneficiary theory. *See Bayles*, 842 S.E.2d at 244 (noting that third-party

beneficiary theories permit the enforcement of a contract against non-parties) (citing Richard A. Lord, 21 Williston on Contracts § 57:19 (4th ed. 2019)). Specifically, West Virginia Code § 55-8-12 states:

> If a covenant or promise be made for the sole benefit of a person with whom it is not made, or with whom it is made jointly with others, such person may maintain, in his own name, any action thereon which he might maintain in case it had been made with him only, and the consideration had moved from him to the party making such covenant or promise.

"The foregoing statute expressly allows a person who is not a party to a contract to maintain a cause of action arising from the contract only if it was made for his or her 'sole benefit.'" *E. Steel Constructors, Inc. v. City of Salem*, 209 W. Va. 392, 403, 549 S.E.2d 266, 277 (2001). Just as a third-party beneficiary of a contract may enforce provisions of that contract, it follows that a third-party beneficiary may also be bound by the same. *See Int'l Paper*, 206 F.3d at 416-17 (stating "well-established common law principles dictate that in an appropriate case a nonsignatory can enforce, or *be bound by*, an arbitration provision within a contract executed by other parties.") (emphasis added). There is, however, an important limit on the doctrine:

> In the absence of a provision in a contract specifically stating that such contract shall inure to the benefit of a third person, there is a presumption that the contracting parties did not so intend and in order to overcome such presumption the implication from the contract as a whole and the surrounding circumstances must be so strong as to be tantamount to an express declaration.

E. Steel Constructors, 209 W. Va. 392 at 404, 549 S.E.2d at 278 (citing Syl. Pt. 2, *Ison v. Daniel Crisp Corp.*, 146 W. Va. 786, 786-87, 122 S.E.2d 553, 533-54 (1961)).

MT Bores points to no provision in the Subcontract stating the accord was created for MVP's sole benefit. Neither is there any persuasive contention that the Subcontract and the surrounding circumstances indicate an express declaration thereof. A project owner will doubtless receive incidental benefits from its contractor's subcontracts; but those benefits alone will not

render the owner a third-party beneficiary. Additionally, MT Bores cites no precedent using a third-party beneficiary theory to compel a non-signatory to arbitrate its defenses in an action instituted by a signatory plaintiff. Accordingly, a third-party beneficiary theory has no application here.

3. Inextricably Intertwined Claims

MT Bores next contends that MVP should be compelled to arbitrate "in the interest of judicial efficiency." It asserts the claims against MVP and Trinity are "inexorably [sic] intertwined." MT Bores relies upon two unpublished decisions from the United States District Court for the Northern District of West Virginia: *Holmes v. Chesapeake Appalachia*, LLC, No. 5:11-cv-123, 2012 WL 3647674, *12-13 (N.D. W. Va. Aug. 23, 2012) and *Blevins v. Flagstar Bank, F.S.B.*, No. 3:12-cv-134, 2013 WL 3365252, *14 (N.D. W. Va. July 3, 2013). [2]

Neither *Holmes* nor *Blevins* support MT Bores' position. First, the presiding district judge in *Holmes* granted three of the six defendants' motions to compel arbitration of the signatory plaintiff's claims. The remaining three defendants chose instead "to solely move to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6)." *Holmes*, No. 5:11-cv-123, 2012 WL 3647674, at *11. The decision in *Holmes*, however, *sua sponte* compelled those three remaining non-signatory defendants to arbitrate, given that the claims against them were inextricably

[2] MT Bores also cites to *Janvey v. Alguire*, 847 F.3d 231 (5th Cir. 2011). MT Bores is correct that the *Janvey* court stated that "[t]he intertwined claims' theory governs motions to compel arbitration when a signatory-plaintiff brings an action against a non-signatory defendant asserting claims dependent on a contract that includes an arbitration agreement that the defendant did not sign." 847 F.3d at 242 (citing *Grigson v. Creative Artists Agency, L.L.C.*, 210 F.3d 524, 527-28 (5th Cir. 2000). MT Bores fails to acknowledge, however, that the intertwined claims test is an extension of the doctrine of equitable estoppel permitting "*a defendant non-signatory* to an arbitration agreement *to compel arbitration with a plaintiff-signatory*." *Grigson*, 210 F.3d at 528 (emphasis added). Here, MT Bores is a signatory plaintiff seeking to compel arbitration with MVP, a non-signatory defendant. The circumstances are thus entirely different.

"intertwined with and dependent upon the claims brought against the defendants who [had] moved to compel." *Id.* at 13.

Accordingly, the *Holmes* court concluded that "the interests of [(1)] efficiency, [(2)] avoidance of possible conflicting judgments and obligations, and [(3)] the high possibility of the inability to reach a full and complete result in arbitration" warranted the compelled arbitration by all six defendants. *Id.* The circumstances here are quite different.

Second, in *Blevins*, the court compelled arbitration where the plaintiffs and the movant, signatory defendant were parties to the contract. *Blevins*, No. 3:12-cv-134, 2013 WL 3365252, at *18. The three remaining non-signatory defendants consented to arbitration of their claims, but the plaintiffs resisted the arbitration as to one of the non-signatories. *Id.* at 14. The non-signatory defendant asserted that it should be included in the arbitration given that two of the other defendants had asserted cross-claims for contribution and indemnification against it. *Id.* at 16. The *Blevins* court found – relying on *Holmes* – that that the "interdependent and intertwined nature" of plaintiffs' claims with all of the defendants mandated that all claims be arbitrated. *Id.* at 17.

Thus, neither *Holmes* nor *Blevins* involved a signatory plaintiff seeking to compel a non-signatory defendant to arbitrate over the non-signatory's objection. The cases are thus inapposite. It is true that MT Bores' claims against MVP and Trinity involve to some extent overlapping factual and legal issues; but they are not so inextricably "intertwined" to justify requiring MVP to participate in an arbitration absent its consent. Moreover, while our Court of Appeals "has granted *the requests of nonsignatory defendants* to arbitrate claims that would not otherwise be arbitrable when those claims were sufficiently intertwined with arbitrable claims against signatory co-defendants[,]" the same is not true for the requests of signatory plaintiffs. *Williamsport Realty, LLC v. LKQ Penn-Mar, Inc.*, No. 3:14-cv-118, 2015 WL 2354598, *6 (N.D.

W. Va. May 15, 2015) (emphasis added) (citing *J.J. Ryan & Sons, Inc. v. Rhone Poulenc Textile, S.A.*, 863 F.2d 315 (4th Cir. 1988); *Long v. Silver*, 248 F.3d 309 (4th Cir. 2001)). Accordingly, this ground fares no better than its predecessors.[3]

4. Essential Party

MT Bores next contends that MVP is an essential party both here and in arbitration. Specifically, MT Bores asserts that Trinity's Subcontract payment obligations to MT Bores are linked to, and may be contingent upon, MVP's payment to Trinity. Thus, inasmuch as MVP may control Trinity's obligation to pay MT Bores under the Subcontract, MT Bores contends "it is essential that MVP engage in the arbitration to establish the amount to which MT Bores is entitled." [Doc. 22 at 7].

The argument is unsupported by precedent. Moreover, MT Bores' contentions are insufficient to render MVP an essential party. Indeed, if MT Bores' payment is contingent upon MVP's payment to Trinity, evidence of the same may be offered in arbitration without MVP's participation. Accordingly, the essential party contention is meritless.

B. MT Bores' Authority to Compel Arbitration

Apart from the rejection of its contentions heretofore, MT Bores would yet lack authority to compel MVP to arbitrate unless Trinity consented under the Subcontract. Section 9.01 of the Subcontract provides pertinently as follows:

> [A]ll claims, disputes, and controversies arising out of or relating to this Agreement, including claims for extra work or changed conditions to or related to the Construction Work, shall be decided, *at the sole option* of [Trinity], by arbitration

[3] To the extent MT Bores contends that failure to compel MVP to arbitrate may result in conflicting judgments as to its claims against Trinity and MVP, this concern may be remedied by other means, such as staying the action pending resolution of the arbitration with Trinity.

> in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association ("AAA").

[Doc. 8-1 at 17] (emphasis added). Trinity thus enjoys unfettered discretion to resort to an arbitral forum. *See U.S. ex rel. TBI Investments, Inc., v. BrooAlexa, LLC*, 119 F.Supp.3d 512, 536 (S.D. W. Va. 2015) (noting "'[a]rbitration clauses that provide for arbitration at the unilateral election of one party are common in construction contracts and courts often enforce these provisions.'") (quoting *Chapman-Martin Excavating & Grading, Inc. v. Hinkle Contracting Co.*, No. 2:11-cv-00563, 2011 WL 5999868, at *5 (S.D. W. Va. Nov. 30, 2011); *In re Lyon Financial Servs., Inc.*, 257 S.W.3d 228, 233 (Tex. 2008) (stating "arbitration clauses generally do not require mutuality of obligation so long as adequate consideration supports the underlying contract.") (citing *In re FirstMerit Bank, N.A.*, 52 S.W.3d 749, 757 (Tex. 2001)). MT Bores thus, absent Trinity's consent, lacks the ability to compel MVP to arbitrate.

C. Disposition of the Case

Pursuant to 9 U.S.C. § 4, MT Bores' claims against Trinity are referred to arbitration. As noted, Trinity also moves that the instant matter be stayed pending completion of the arbitration. Section 3 of the Federal Arbitration Act provides:

> If any suit or proceeding be brought in any of the courts of the United States upon any issue referable to arbitration under an agreement in writing for such arbitration, the court in which such suit is pending, upon being satisfied that the issue involved in such suit or proceeding is referable to arbitration under such an agreement, shall on application of one of the parties stay the trial of the action until such arbitration has been had in accordance with the terms of the agreement, providing the applicant for the stay is not in default in proceeding with such arbitration.

9 U.S.C. § 3. Inasmuch as MT Bores does not dispute that its claims against Trinity are "issues referable to arbitration under an agreement in writing for such arbitration," the Court will stay that portion of this matter pending arbitration. Respecting MT Bores' non-arbitrable claims against

MVP, our Court of Appeals has held that "[t]he decision to stay the litigation of non-arbitrable claims or issues is a matter largely within the district court's discretion to control its docket." *Am. Recovery Corp. v. Computerized Thermal Imaging, Inc.*, 96 F.3d 88 (4th Cir. 1996) (citing *Moses H. Cone Memorial Hospital v. Mercury Constr. Corp*, 460 U.S. 1, 20 n.23 (1983); *Summer Rain v. Donning Company/Publishers, Inc.*, 964 F.3d 1455, 1461 (4th Cir. 1992)). It seems well-nigh certain that the simultaneous litigation of MT Bores' claims against Trinity in arbitration on the one hand, and against MVP here on the other, will result in an undesirable and expensive piecemeal resolution. That result runs counter to settled principles of judicial economy. Accordingly, this entire matter is stayed pending arbitration.

III.

Based upon the foregoing discussion, and having considered the entirety of the record, the Court **ORDERS** as follows:

1. Trinity's Motion [**Doc. 8**] is **GRANTED** insofar as it requests the Court to compel arbitration of MT Bores' claims against Trinity and stay all remaining claims pending completion of the arbitration;
2. Trinity's Motion [**Doc. 8**] is **DENIED AS MOOT** insofar as it alternatively requests the Court to dismiss Counts III and IV of the Amended Complaint;
3. MT Bores' Motion to Compel Mountain Valley Pipeline, LLC, to Participate in Arbitration Between MT Bores, LLC, and US Trinity Energy Services, LLC, [**Doc. 21**] is **DENIED**;
4. This action is **STAYED** pending resolution of arbitration and **RETIRED** to the inactive docket; and

5. The parties are **DIRECTED** to file quarterly status reports commencing November 1, 2021, and thereafter notify the Court forthwith upon the conclusion of arbitration.

The Clerk is directed to send a copy of this written opinion and order to counsel of record and to any unrepresented party.

ENTERED: August 2, 2021

Frank W. Volk
United States District Judge