

NOTED CIVIL DOCKET  
JUN 13 2013  
JULIE BALL  
CLERK CIRCUIT COURT  
MERCER COUNTY

IN THE CIRCUIT COURT OF MERCER COUNTY, WEST VIRGINIA  
BUSINESS COURT DIVISION

ERIE INSURANCE PROPERTY  
AND CASUALTY COMPANY,

Plaintiff,

vs.

Civil Action No. 12-C-687

ALEX LAMBERT, LAMBERTS  
CONSTRUCTION COMPANY,  
and CROWN POINT PROPERTIES, LLC,

Defendants.

**SCHEDULING ORDER**

On the 10th day of June, 2013, came the plaintiff, Erie Insurance Property and Casualty Company, by counsel, Lauren M. Palmer of the Steptoe & Johnson PLLC, law firm; the defendants, Alex Lambert and Lamberts Construction Company, by counsel, Michael F. Gibson of the Gibson, Lefler & Associates law firm; and came the defendant, Crown Point Properties, LLC, by counsel, Harold B. Wolfe, III, respectively, for a scheduling conference with regard to further proceedings herein. Having met with the Court and pursuant to Rule 16b of the West Virginia Rules of Civil Procedure, the following schedule and procedures were adopted and **ORDERED** by the Court:

1. The plaintiff shall disclose to the defendants the names and addresses of all fact witnesses the plaintiff may call to testify in Plaintiff's case in chief on or before the 15th day of July, 2013.

2. The defendants shall disclose to the plaintiff the names and addresses of all fact witnesses the defendants may call to testify in the defendants' case in chief on or before the 15th day of July, 2013.

3. The plaintiff shall serve all demands for production of documents and requests for admissions on or before the 15th day of October, 2013.

4. The defendants shall serve all demands for production of documents and requests for admissions on or before the 15th day of October, 2013.

5. The plaintiff shall disclose the names of all the plaintiff's expert trial witnesses on or before the 15th day of August, 2013. The defendants shall disclose the names of all the defendants' expert trial witnesses on or before the 16th day of September, 2013. At the time of identifying such expert witness, the party shall disclose the specialty of such expert and furnish the opposing party with copies of all reports with regard to this case which have been submitted by such expert witness, or, if no such reports have been submitted, a summary of the substance of the contemplated testimony of such expert witness.

6. An objection to any interrogatory, notice of deposition, request for admission, or production of documents and/or reports shall be filed within thirty (30) days after service of the same. Any such objection not filed within thirty (30) days shall be waived. Any such objection shall not extend the time in which the objecting party must otherwise appear or respond to any discovery matters to which no objection was filed. The party objecting to the requested information shall schedule a hearing with the Court on the appropriateness of the objection at the time of the filing of the objection. An objection for which a hearing is not scheduled with the Court shall be deemed waived.

If a party fails to answer an interrogatory or a request for an admission, or fails to produce a document or disclose anything required herein and does not file an objection thereto, then the person seeking such information shall timely file a motion to compel and shall schedule a hearing thereon with the Court. If the party seeking such information fails to file and schedule a hearing on a motion to compel, the request for such information from the other party shall be deemed waived.

7. In any event, all discovery shall be completed on or before the 15th day of November, 2013.

8. All pre-trial motions including, but not limited to, motions to dismiss, motions for summary judgment or motions in limine shall be filed on or before the 16th day of December, 2013. Hearing on all such motions shall be set with the Court with notice of hearing thereon served on opposing counsel at the time of filing of the motion. WVRE 103(c) contemplates that all motions in limine should be determined prior to trial. Accordingly, unless a matter could not have been reasonably anticipated by a party, the Court will not as a general rule consider motions in limine at or during the time of trial. All dispositive motions shall be scheduled so that they can be heard and resolved well in advance of the pre-trial conference.

9. All parties and counsel shall consider whether this case is appropriate for mediation pursuant to the "Rules of Procedure for Court-Annexed Mediation in the Circuit Courts of West Virginia" and, if agreed upon, notify the Court for a Mediation Referral Order herein. Arbitration pursuant to Article 10, Chapter 55 of the West Virginia Code and other applicable law shall also be considered.

10. A pre-trial conference shall be held with the Court on the 6th day of January, 2014, at 3:00 p.m. at the Greenbrier County Courthouse in Lewisburg, West Virginia, at which time lead trial counsel shall appear fully prepared to discuss all aspects of the case. At least two (2) days prior to the pre-trial hearing the parties shall prepare and provide the Court and opposing counsel with a pre-trial memoranda to include at least the following:

- (1) Statement of the case including a brief summary of the material facts and theory of liability or defense;
- (2) Itemized statement of damages;
- (3) Stipulation of uncontested facts;
- (4) General statement of contested issues of law and in particular, those contested issues of law requiring court ruling before commencement of Trial;
- (5) List of the names and addresses of all witnesses, and, if any expert witness, the purpose of the testimony and whether the qualifications of the expert are to be stipulated;
- (6) Legal authorities to be relied upon;
- (7) For each party, a list of depositions and exhibits to be offered as evidence at Trial, indicating as to each whether there are objections to either authenticity or relevancy (if there are objections,

the lines and pages of depositions being objected to must be identified), and a statement that copies of exhibits have been exchanged by counsel or that opposing counsel have examined the exhibits;

(8) Settlement possibilities.

11. A non-jury trial of the within matter shall be held on the 14th day of January, 2014, at 9:15 a.m. at the Mercer County Courthouse in Princeton, West Virginia. Pursuant to representation of the parties, one (1) day is allotted for trial of this case.

The Clerk is directed to forward a copy of this order to counsel of record.

Entered this 10th day of June, 2013.

  
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James J. Rowe, Judge