

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

**POB, LLC and ASSOCIATED SPECIALISTS, INC.,
PLAINTIFFS,**

VS.

**CASE NO.: 12-C-475-2
BCD NO.:**

**GRANT ARCHITECTS, P.C., INC.,
and CENTURY ENGINEERING, INC.,
DEFENDANTS.**

SCHEDULING ORDER

The following schedule is ORDERED by the Court in the above-styled civil action; and shall not be modified except by leave of Court.¹

1. **TRIAL DATE: September 8, 2014**

Jury Trial Requested Bench Trial Requested

Continuance motions must be heard prior to the pre-trial conference or they will not be considered.

2. **PRE-TRIAL CONFERENCE DATE: September 2, 2014 at 10:30 a.m. in
the CIRCUIT COURTROOM,
CALHOUN COUNTY COURTHOUSE,
378 MAIN ST., GRANTSVILLE, WV**

At which time lead counsel must appear. All parties are **ORDERED** to exchange and deliver their respective **PRE-TRIAL CONFERENCE MEMORANDA** to the Judge's Chambers **NO LATER THAN TEN (10) BUSINESS DAYS BEFORE** the conference. **FAILURE TO COMPLY MAY RESULT IN CONTINUANCE OF TRIAL OR MONETARY SANCTIONS BEING IMPOSED.** Said memoranda are to contain at a minimum, the following:

- | | |
|--------------------------|---|
| 1. Statement of the Case | 7. Pending Motions |
| 2. Issues of Fact | 8. Motions <i>in Limine</i> |
| 3. Issues of Law | 9. All Proposed Instructions of Law
(Disk as well as hard copy shall be
provided to the Court.) |
| 4. Proposed Stipulations | 10. Proposed Voir Dire |
| 5. Schedule of Exhibits | |
| 6. List of Witnesses | |

¹ The dates in this scheduling order were previously set by Judge Bedell. Counsel for the parties has agreed to the dates and did not wish them changed.

Parties are to confer and provide a joint Instruction Charge to the Court.

SCHEDULE OF EXHIBITS

The parties shall exchange a list of all proposed exhibits (including demonstrative) and shall make the exhibits available for viewing by counsel at least 5 work days prior to the pre-trial conference. By the time of the pre-trial conference counsel shall have stipulated as to which exhibits shall be admitted without objection and provide a list to the Court and Clerk. The parties shall mark all exhibits by use of standard exhibit stickers and provide a list to the Court and counsel.

VIDEO DEPOSITION TO BE USED AT TRIAL

If a video deposition is to be used, all parties must be prepared to argue objections at the pre-trial conference. Thereafter, the proponent of the video deposition shall have the video edited to reflect the court's rulings. In addition, the proponent of the video deposition must have a videographer at trial.

JURY INSTRUCTIONS

The Court desires that all counsel read all parties' proposed jury instructions prior to the conference and be prepared to discuss them at the conference. The Court will not be inclined to receive instructions after the pre-trial conference.

3. EXPERTS DISCLOSED: Plaintiffs: September 30, 2013 Defendants: November 25, 2013

- A. Any party desiring to use an expert witness must furnish opposing counsel with the specialty of such expert and copies of all reports submitted by such witness, or, if no reports have been submitted, a summary of the substance of such expert's contemplated testimony, on the date of Expert Disclosure per WVRCP 26(b)(4).
- B. The admissibility of expert testimony, is subject to Rule 104(a) of the Rules of Evidence.
Objection to the admissibility of expert testimony will be deemed waived if not objected to by a motion *in limine* filed at least 10 days prior to the pre-trial and a hearing thereon set with the Court prior to first day of trial.
- C. Co-designation or co-reliance upon experts must also specifically be made in writing on date of Expert Disclosure.

4. MEDICAL EXAMINATIONS AND EXPERT EVIDENTIARY INSPECTIONS: May 16, 2014

All medical examinations by expert physicians must be completed by this date. Medical examinations in accordance with WVRCP 35 are granted, but subject to court control. Any modification to the standard medical examination of the plaintiff

must be made by plaintiff's counsel in writing and noticed for hearing prior to the examination. Any continuing medical treatment to be admissible at trial must be disclosed prior to the discovery completion date.

5. **DISPOSITIVE MOTIONS:** WVRCP 12(b) and 56 motions shall be filed at least 60 days prior to the pre-trial conference.

6. **AMENDMENTS, THIRD PARTY PLEADINGS, AND OTHER MATTERS, NO LATER THAN:** **November 1, 2013**

7. **FINAL WITNESS LIST EXCHANGED:** **August 19, 2014**
including joinder of parties+claims

This is to be a *bona fide* list of intended trial witnesses.

8. **DISCOVERY COMPLETION DATE:** **July 18, 2014**

All requests must be filed at least 35 days in advance of this date so that all responses may be completed by this date. All trial depositions must be completed at least 5 days before the pre-trial.

9. **MOTIONS IN LIMINE MUST BE FILED AT LEAST 10 DAYS BEFORE PRE-TRIAL AND WILL BE RULED UPON AT THE PRE-TRIAL CONFERENCE.**

10. **MEDIATION COMPLETION DATE:** **July 1, 2014**

11. **SANCTIONS:** In accordance with WVRCP 16(f), the Court may impose the full spectrum of sanctions authorized by the WVRCP if a party or party's counsel fails to obey this order or other orders of this Court including exclusion of evidence and granting of default for failure to comply.

12. **UNLESS AUTHORIZED BY COURT ORDER, THE ABOVE DATES ARE FINAL.** No additional evidence developed as a result of deviations from the above schedule will be admissible at trial unless justice requires.

13. **OBJECTIONS** to the above schedule must be made to the undersigned Judge within **15 days** of the date of this Order or will be deemed waived.

14. It will be the responsibility of plaintiff or their counsel to notify opposing counsel and *pro se* parties of the existence of this scheduling order, if and when such counsel or *pro se* party appears of record.

15. The dates set out above do not relieve counsel or parties from timely compliance with discovery requests propounded pursuant to the West

Virginia Rules of Civil Procedure.

The Clerk shall transmit certified copies to counsel of record and *pro se* parties.

ENTER: July 11, 2013

Thomas C. Evans III
Judge Thomas C. Evans, III
Presiding Judge
Business Court Division

A True Copy

Attest: *Donald L. Kopp*
Clerk