

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

MOUNTAIN STATE CARBON, LLC,

Plaintiff,

vs.

**Civil Case No.: 08-C-360
BCD: 08-C-3600HI**

**BLUESTONE COAL CORPORATION, and
BLUESTONE COAL SALES CORPORATION,**

Defendants and Third Party Plaintiffs,

vs.

**WHEELING PITTSBURGH STEEL, INC., and/or
SEVERSTAL WHEELING STEEL GROUP, INC.**

Third Party 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. TRIAL DATE: April 8, 2014 at 9:00 A.M.

The parties have waived a jury and the Court will conduct a Bench Trial. Trial is anticipated to last approximately 10 days.

2. PRETRIAL MEMORANDA

All parties are ORDERED to exchange and deliver their respective pretrial memoranda to the Judge's Chambers no later than ten (10) business days before the Trial. Said memoranda are to contain at a minimum, the following:

- | | |
|--------------------------|-----------------------------|
| 1. Statement of the Case | 5. Schedule of Exhibits |
| 2. Issues of Fact | 6. List of Witnesses |
| 3. Issues of Law | 7. Pending Motions |
| 4. Proposed Stipulations | 8. Motions <i>in Limine</i> |

2013 JUL 29 11 11 AM
CIRCUIT COURT
WEST VIRGINIA

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 trial. By the time of the trial 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.

3. **EXPERTS DISCLOSED: Plaintiff: October 1, 2013**
Defendant: November 1, 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. **EXPERT EVIDENTIARY INSPECTIONS: October 15, 2013**
5. **DISPOSITIVE MOTIONS: WVRCP 12(b) and 56 motions shall be filed at least 60 days prior to the trial.**
6. **AMENDMENTS, THIRD PARTY PLEADINGS, AND OTHER MATTERS NO LATER THAN: August 30, 2013**
7. **FINAL WITNESS LIST EXCHANGED: March 10, 2014**
This is to be a *bona fide* list of intended trial witnesses.
8. **DISCOVERY COMPLETION DATE: February 21, 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 trial.
9. **MOTIONS *IN LIMINE* MUST BE FILED AT LEAST 10 DAYS BEFORE TRIAL.**
10. **MEDIATION COMPLETION DATE: February 21, 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.

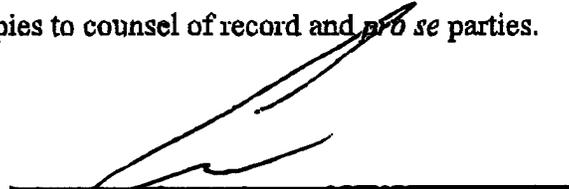
13. OBJECTIONS to the above schedule must be made to the undersigned Judge within **15 days** of the date of this Order or will be deemed waived.

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 29, 2013



CHRISTOPHER C. WILKES, JUDGE
BUSINESS COURT DIVISION
OHIO COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA
TWENTY-THIRD JUDICIAL CIRCUIT
BERKELEY, JEFFERSON AND MORGAN COUNTIES
BERKELEY COUNTY JUDICIAL CENTER
380 WEST SOUTH STREET, SUITE 4400
MARTINSBURG, WEST VIRGINIA 25401

CHRISTOPHER C. WILKES, JUDGE

TELEPHONE (304) 264-1992
FACSIMILE (304) 264-2163

FAX COVER SHEET

2013 JUL 29 PM 12:04
CHRISTOPHER C. WILKES
JUDGE

To: Brenda Miller, Clerk 304-232-0550(Fax)
From: Carol A. Miller, Executive Director
WV Business Court Division
Date: May 23, 2013
Re: Mountain State Carbon, LLC vs. Bluestone Coal Corp., et al.
Civil Action No. 08-C-360
Ohio County, West Virginia

No. of Pages including cover sheet: 4

Please find attached a Scheduling Order in the above-referenced case signed by Judge Wilkes for processing and filing.

Thank you.