

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

BLUESTONE COAL Corporation,  
Plaintiff,

v.

Civil Action No.: 14-C-45  
Presiding Judge: James J. Rowe  
Resolution Judge: James H. Young

CHESTNUT LAND HOLDINGS, LLC,  
Defendant.

**SCHEDULING ORDER**

On the 11th day of June, 2014, came the plaintiff, Bluestone Coal Corporation, by counsel Michael B. Hissam, Bailey and Glasser LLP, and came the defendant, Chestnut Land Holdings, LLC, by counsel Roger D. Hunter, 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 defendant the names and addresses of all fact witnesses the plaintiff may call to testify in Plaintiff's case in chief on or before the **22nd day of July, 2014**.
2. The defendant shall disclose to the plaintiff the names and addresses of all fact witnesses the defendant may call to testify in Defendant's case in chief on or before the **22nd day of July, 2014**.
3. The plaintiff shall serve all demands for production of documents and requests for admissions on or before the **15th day of August, 2014**.
4. The defendant shall serve all demands for production of documents and requests for

admissions on or before the **15th day of August, 2014**.

5. The plaintiff shall disclose the names of all the plaintiff's expert trial witnesses on or before the **30th day of September, 2014**. The defendant shall disclose the names of all the defendant's expert trial witnesses on or before the **30th day of September, 2014**. 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 **17th day of November, 2014**.
8. All pre-trial motions, including but not limited to motions for summary judgment or motions in limine, shall be filed on or before the **1st day of December, 2014**. 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. Pursuant to Rule 25 of the West Virginia Trial Court Rules, this case is referred to mediation. Mediation or other form of alternative dispute resolution shall be conducted by the Honorable James H. Young, Jr., Resolution Judge, and shall be scheduled and concluded on or before the **5th day of January, 2015**, unless such deadline is otherwise extended by the Presiding Judge for good cause shown. The Resolution Judge shall contact the parties for the purpose of scheduling mediation or alternative dispute resolution. **All counsel or pro se parties shall provide their email address to the Business Court Division Director at [carol.miller@courtswv.gov](mailto:carol.miller@courtswv.gov).**
10. No later than the **7th day of January, 2015**, the parties shall exchange a list of all proposed exhibits (including demonstrative) and shall make the exhibits available for viewing by counsel. By the time of the pre-trial conference, counsel shall have stipulated as to which exhibits shall be admitted without objection. Prior to trial, the parties shall

preliminarily mark all exhibits by use of standard exhibit stickers, and provide a list to the Court, the Court Reporter, and the Circuit Clerk.

11. No later than the **7th day of January, 2015**, the parties shall prepare and provide the Court and opposing counsel with a pre-trial memorandum, to include at least the following:
  - a. Statement of the case including a brief summary of the material facts and theory of liability or defense;
  - b. Itemized statement of damages;
  - c. Stipulation of uncontested facts;
  - d. General statement of contested issues of law and, in particular, those contested issues of law requiring court ruling before commencement of trial;
  - e. 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;
  - f. Legal authorities to be relied upon;
  - g. 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; and
  - h. Settlement possibilities.
12. The parties shall exchange proposed jury instructions no later than the **7th day of January, 2015**, and shall be prepared to discuss the same at the pre-trial conference.
13. A pre-trial conference shall be held with the Court on the **12th day of January, 2015, at 2:00 PM, 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.
14. Trial by jury of the within matter shall be held on the **27th day of January, 2015, at 9:00 AM, at a location to be determined**. Pursuant to the representations of the parties, four (4) days are allotted for trial of this case.

The Clerk shall forward a copy of this Order to counsel of record; to the Resolution Judge, James H. Young, Jr., Wayne County Courthouse, P.O. Box 38, 700 Hendricks Street, Wayne, West Virginia; and to the Business Court Division Central Office, Berkeley County Judicial Center, 380 W. South Street, Martinsburg, West Virginia 25401.

IT IS SO ORDERED this 18th day of June, 2014.

James J. Rowe / *Imp.*  
James J. Rowe, Presiding Judge  
Business Court Division

A TRUE COPY TESTE  
FRANCINE SPENCER CLERK  
BY Elaine Bocchetti