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.

AMENDED SCHEDULING ORDER

On the 10th day of November, 2014, came Bluestone Coal Corporation ("Plaintiff"), by counsel Michael B. Hissam, Bailey and Glasser LLP, and came Chestnut Land Holdings, LLC ("Defendant"), by counsel Roger D. Hunter, advising the Court that they had reached an agreement to extend the scheduling order previously issued herein. Upon the representations of counsel and pursuant to Rule 16(b) of the West Virginia Rules of Civil Procedure, the following schedule and procedures are hereby adopted and ORDERED by the Court:

1. Plaintiff shall disclose to Defendant the names and addresses of all fact witnesses who may be called to testify in Plaintiff's case in chief on or before July 22, 2014.
2. Defendant shall disclose to Plaintiff the names and addresses of all fact witnesses who may be called to testify in Defendant's case in chief on or before July 22, 2014.
3. Plaintiff shall serve all demands for production of documents and requests for admissions on or before August 15, 2014.
4. Defendant shall serve all demands for production of documents and requests for admissions on or before August 15, 2014.

5. The parties shall disclose, each to the other, the names of all expert trial witnesses on or before **December 1, 2014**. Expert witness disclosures shall include the specialty of each expert and copies of any reports submitted by the expert with regard to this case. If no reports have been submitted, the parties shall provide a summary of the substance of the contemplated testimony of the expert. Any objection to the admissibility of expert testimony must be raised in a timely filed motion *in limine* for hearing at the pre-trial conference. The parties shall timely disclose co-designation of any expert.
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 deemed waived. The party objecting to the request shall schedule a hearing with the Court and notice the same simultaneously with service of the objection. An objection for which a hearing is not scheduled with the Court shall be deemed waived. Pending discovery disputes shall not extend the time in which the objecting party must otherwise appear or respond to discovery as to which no objection has been filed.
7. If a party fails to answer an interrogatory or request for an admission, or fails to produce a document or make required disclosures, and does not file an objection thereto, the requesting party shall timely file a motion to compel. The movant shall schedule a hearing with the Court and notice the same simultaneously with service of the motion to compel. If the requesting party fails to file a motion to compel or schedule a hearing thereon, the request shall be deemed waived.
8. In any event, all discovery shall be completed on or before **January 16, 2015.**
9. All pre-trial motions, including motions *in limine*, shall be filed on or before **January 30,**

2015, for hearing at the pre-trial conference. Unless a matter could not have been reasonably anticipated by a party, the Court will not consider motions *in limine* at the time of trial.

10. 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 **March 5, 2015**, unless such deadline is otherwise extended for good cause shown.

11. No later than **March 4, 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.

12. No later than **March 4, 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.

13. The parties shall exchange proposed jury instructions no later than **March 4, 2015**, and shall be prepared to discuss the same at the pre-trial conference.

14. A pre-trial conference shall be held with the Court on **March 9, 2015, at 2:00 PM**, at the Greenbrier County Courthouse in Lewisburg, at which time lead trial counsel shall appear fully prepared to discuss all aspects of the case.

15. Trial by jury of the within matter shall be held on **March 31, 2015, at 9:00 AM**, at the McDowell County Courthouse in Welch. 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 all 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 10th day of November, 2014.

James J. Rowe, Presiding Judge
Business Court Division

TRUE COPY TESTE
RANDINE SPENCER CLERK
BY