

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

Joseph DOBKIN and  
Laurie Dobkin McDermott,  
Plaintiffs,

v.

David B. SHRIVER,  
Defendant.

Civil Action No.: 14-C-91  
Presiding Judge: James J. Rowe  
Resolution Judge: Christopher C. Wilkins

SCHEDULING ORDER

On the 25th day of August, 2014, came the plaintiffs, by counsel Clayton J. Fitzsimmons, Fitzsimmons Law Firm PLLC, and came the defendant, by counsel Avrum Levicoff, Levicoff, Silko & Deemer, P.C., 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 parties shall disclose the names and addresses of all fact witnesses who may be called to testify in their respective cases in chief on or before February 1, 2015.
2. The parties shall serve all demands for production of documents and requests for admissions on or before May 30, 2015.
3. The plaintiffs shall disclose the names of all expert trial witnesses on or before June 1, 2015. The defendant shall disclose the names of all the defendant's expert trial witnesses on or before July 1, 2015. 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. 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.

4. 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.

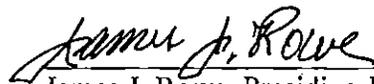
5. In any event, all fact discovery shall be completed on or before June 30, 2015. Experts may be deposed through July 31, 2015.
6. All pre-trial motions, including motions in limine, shall be filed on or before July 31, 2015. Argument on such motions shall be heard at the pre-trial conference. Unless a matter could not have been reasonably anticipated by a party, the Court will not consider motions in limine at the time of trial.

7. 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 Christopher C. Wilkes, Resolution Judge, and shall be scheduled and concluded on or before July 31, 2015, unless such deadline is extended for good cause shown. The Resolution Judge will contact the parties for the purpose of scheduling mediation or alternative dispute resolution.
8. No later than August 6, 2015, the parties shall exchange a list of all proposed exhibits (including demonstrative) and shall make the exhibits available for viewing by counsel. At 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.
9. No later than August 13, 2015, the parties shall each 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.

10. The parties shall exchange proposed jury instructions and provide the same to the Court no later than August 13, 2015, and shall be prepared to discuss the same at the pre-trial conference.
11. A pre-trial conference shall be held with the Court on August 18, 2015, at 2:00 PM, at the Marshall County Courthouse in Moundsville, West Virginia, at which time lead trial counsel shall appear fully prepared to discuss all aspects of the case.
12. Trial by jury of the within matter shall be held on September 22, 2015, at 9:00 AM, at the Marshall County Courthouse in Moundsville, West Virginia. 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 Resolutor Judge, Christopher C. Wilkes, Berkeley County Judicial Center, 380 W. South Street, Ste. 4100, Martinsburg, WV 25401; and to the Business Court Division Central Office, Berkeley County Judicial Center, 380 W. South Street, Ste. 2100, Martinsburg, West Virginia 25401.

IT IS SO ORDERED this 25th day of August, 2014.

  
James J. Rowe, Presiding Judge  
Business Court Division