

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

FILED

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CATHY S. GAYSON, CLERK  
KANAWHA COUNTY CIRCUIT COURT

UNITED BANK, Inc., a West Virginia  
Banking Corporation,  
Plaintiff,

v.

Clarence E. WHITE, et al.,  
Defendants.

Civil Action No.: 14-C-571  
Presiding Judge: James J. Rowe  
Resolution Judge: Paul T. Farrell

SCHEDULING ORDER

On the 27th day of October, 2014, came United Bank, Inc. ("Plaintiff"), by counsel Stuart A. McMillan, Bowles Rice LLP, and came Clarence E. White, et al. ("Defendants"), by counsel Mark A. Ferguson, Sprouse & Ferguson PLLC, for a scheduling conference with regard to further proceedings herein. 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 Defendants the names and addresses of all fact witnesses that may be called to testify in the Plaintiff's case in chief on or before December 1, 2014.
2. Defendants shall disclose to Plaintiff the names and addresses of all fact witnesses that may be called to testify in the Defendants' case in chief on or before December 15, 2014.
3. Plaintiff shall serve all demands for production of documents and requests for admissions on or before March 2, 2015.
4. Defendants shall serve all demands for production of documents and requests for admissions on or before April 1, 2015.

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5. Plaintiff shall disclose the names of all expert trial witnesses on or before February 2, 2015. Defendants shall disclose the names of all expert trial witnesses on or before March 2, 2015. 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. Any objection to an interrogatory or request for admission, notice of deposition, or request for production of documents 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 May 15, 2015.
9. All pre-trial motions, including motions *in limine*, shall be filed on or before June 1, 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 Paul T. Farrell, Resolution Judge, and shall be concluded on or before July 1, 2015. The Resolution Judge will contact the parties for the purpose of scheduling mediation or alternative dispute resolution.
11. No later than July 10, 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.
12. No later than July 10, 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.

13. The parties shall exchange proposed jury instructions and provide the same to the Court no later than July 10, 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 Wednesday, July 15, 2015, at 1:30 PM, at the Kanawha County Judicial Building, Fifth Floor Visiting Courtroom, in Charleston, West Virginia, 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 commence on August 11, 2015, at 9:00 AM, at the Kanawha County Judicial Building, Fifth Floor Visiting Courtroom, in Charleston, West Virginia. Three (3) days are allotted for trial of this case.

The Circuit Clerk shall forward a copy of this Order to counsel at their respective addresses of record; to the Honorable Paul T. Farrell, Resolution Judge, Cabell County Courthouse, 750 Fifth Avenue, Huntington, WV 25701; 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 24<sup>th</sup> day of October, 2014.

Date: 11/3/14  
Certified copies sent to:  
 counsel of record SM, MR  
 parties PE, Bus. Ct  
 other (please indicate)  
By [Signature]  
 certified/1st class mail  
 fax  
 hand delivery  
 interdepartmental  
Other directives accomplished:  
[Signature]  
Deputy Circuit Clerk

[Signature]  
James J. Rowe, Presiding Judge  
Business Court Division

STATE OF WEST VIRGINIA  
COUNTY OF KANAWHA, SS  
I, CATHY S. GATSON, CLERK OF CIRCUIT COURT OF SAID COUNTY  
AND IN SAID STATE, DO HEREBY CERTIFY THAT THE FOREGOING  
IS A TRUE COPY FROM THE RECORDS OF SAID COURT  
GIVEN UNDER MY HAND AND SEAL OF SAID COURT THIS  
DAY OF October 3rd  
CATHY S. GATSON, CLERK  
CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA