



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

**IN RE: MARCELLUS SHALE LITIGATION  
WELL PAD CASES**

**CIVIL ACTION NO. 14-C-3000**

**THIS DOCUMENT APPLIES TO:**

**HALLS RUN ROAD TRIAL GROUP  
(Harrison County)**

**LOST CREEK TRIAL GROUP  
(Harrison County)**

**CANTON NORTH TRIAL GROUP  
(Doddridge County)**

**NEW MILTON/ERWIN TRIAL GROUP  
(Doddridge County)**

**CENTRAL STATION TRIAL GROUP  
(Doddridge County)**

**MILETUS TRIAL GROUP  
(Harrison and Doddridge Counties)**

**ORDER DENYING DEFENDANTS' MOTION TO PRECLUDE  
PLAINTIFFS FROM PRESENTING FACT WITNESS TESTIMONY**

Pending before the Court is *Defendants' Motion to Preclude Plaintiffs from Presenting Fact Witness Testimony* filed on March 31, 2021 (Transaction ID 66472893) ("Motion"). The Court has reviewed the Motion, Plaintiffs' *Response* filed on April 30, 2021 (Transaction IDs 66563106, 66563217, 66563269, 66563304, 66563343 and 66563403); and Defendants' *Reply* filed on May 7, 2021 (Transaction ID 66576135).

The Court has also reviewed the Case Management Orders for the Halls Run Road, Lost Creek, Canton North, New Milton/Erwin, Central Station and Miletus Trial Groups; Plaintiffs' Fact Witness Disclosures filed in the Halls Run Road Trial Group on July 6, 2020 (Transaction ID 65747479), the Lost Creek Trial Group on September 3, 2020 (Transaction 65902133) and

the Canton North Trial Group on November 6, 2020 (Transaction ID 66089776); and *Plaintiffs' Disclosure of Fact Witnesses* filed in the Halls Run Road, Lost Creek, Canton North, New Milton/Erwin, Central Station and Miletus Trial Groups on March 19, 2021 (Transaction ID 66440067).

Plaintiffs' March 19, 2021, *Disclosure of Fact Witnesses* refines and reduces the number of fact witnesses "to include all named plaintiffs, all defendants, any and all persons named in the defendants' Fact Witness Disclosures, and any and all persons deposed or who will be deposed in this litigation." Furthermore, Plaintiffs admit in their Response "that all previously disclosed Fact Witnesses listed by Plaintiffs have already been withdrawn with the only trial witnesses remaining on behalf of Plaintiffs being the following:

- 1) All named Plaintiffs in the six trial groups above;
  - 2) Plaintiffs sole expert witness, Dr. Anthony Ingraffea, who has already been deposed by Defendants in the Halls Run and Lost Creek Trial Groups, and who is set for deposition in the Canton North Trial Group on May 24, 2021; and who will be listed as Plaintiffs' sole expert in all remaining trial groups;
- and
- 3) All Defendant representatives who may appear at trial as well as any other witnesses that defendants call at trial."

Resp. p. 2. Plaintiffs "do not object to Defendants' Motion to preclude Plaintiffs from presenting *any additional fact witness testimony* except for the various witnesses set forth above." *Id.* (Emphasis added.)

The Court **DENIES** *Defendants' Motion to Preclude Plaintiffs from Presenting Fact Witness Testimony* (Transaction ID 66472893) to the extent the Motion seeks to preclude

Plaintiffs from presenting any fact witnesses at trial in the Halls Run Road, Lost Creek, Canton North, New Milton/Erwin, Central Station and Miletus Trial Groups. The Court **ORDERS** Plaintiffs' trial witnesses limited to: 1) all named Plaintiffs in the Halls Run Road, Lost Creek, Canton North, New Milton/Erwin, Central Station and Miletus Trial Groups; 2) Plaintiffs' sole expert witness, Dr. Anthony Ingraffea; 3) all Defendant representatives who may appear trial; and 4) any other witnesses that Defendants call at trial.

It is so **ORDERED**.

**ENTERED:** May 13, 2021.

/s/ Jack Alsop  
Lead Presiding Judge  
Marcellus Shale Litigation  
Well Pad Cases