



IN THE CIRCUIT COURT OF OHIO COUNTY, WEST VIRGINIA

**IN RE: MARCELLUS SHALE LITIGATION
MIDSTREAM CASES**

CIVIL ACTION NO. 14-C-3001

**THIS DOCUMENT APPLIES TO THE
LUMBERPORT BOOSTER STATION TRIAL GROUP**

Lawrence Curry and Linda Curry
v.
DTE Appalachia Gathering, LLC
f/k/a M3 Appalachia Gathering, LLC

Civil Action No. 16-C-434 HRR

William R. Hurst and Brenda Hurst
v.
DTE Appalachia Gathering, LLC
f/k/a M3 Appalachia Gathering, LLC

Civil Action No. 17-C-155 HRR

AMENDED CASE MANAGEMENT ORDER

FACT DISCOVERY

FACT WITNESS DISCLOSURE DEADLINE: February 21, 2020

FACT DISCOVERY COMPLETION DEADLINE: April 17, 2020

All responses and objections to discovery shall be completed and all motions to compel discovery shall be filed by the fact discovery completion deadline. The fact discovery completion deadline established in this scheduling order does not excuse failure to comply with the provisions of Rule 26(e) requiring supplementation of responses to discovery.

EXPERT DISCOVERY

Any party desiring to use an expert witness shall furnish opposing counsel with the specialty of such expert and copies of all reports submitted by such witness, or, if no reports have been submitted, a summary of the substance of such expert's contemplated testimony, in accordance with WVRCP 26(b)(4). If the name, reports or 26(b)(4) material are not timely

provided, a motion to continue, motion to exclude, or other sanction motion on this basis will not be considered unless opposing counsel has filed such motion prior to the pretrial conference.

PLAINTIFFS' EXPERT WITNESS REPORTS ARE DUE: March 20, 2020

DEFENDANTS' EXPERT WITNESS REPORTS ARE DUE: April 27, 2020

EXPERT DISCOVERY COMPLETION DEADLINE: May 29, 2020

ALL DISCOVERY IS CLOSED: June 1, 2020

MEDIATION: Mediation will be conducted in **early to mid-July 2020**. A separate Order scheduling mediation will be entered by the Resolution Judges.

DISPOSITIVE MOTIONS

DEADLINE FOR DISPOSITIVE MOTIONS: September 4, 2020

DEADLINE FOR RESPONSES TO DISPOSITIVE MOTIONS: September 18, 2020

DEADLINE FOR REPLIES TO DISPOSITIVE MOTIONS: September 25, 2020

If a discovery deposition is scheduled within 30 days of the close of discovery, counsel shall request an expedited copy of the transcript of such deposition. The Court will not permit supplementation of dispositive motions or responses to dispositive motions with deposition testimony received after the briefing deadlines set forth above.

MOTIONS IN LIMINE

Pursuant to West Virginia Rule of Evidence 103(c), all motions in limine should be determined prior to trial, where practicable. The Presiding Judges will not consider motions in limine on the day of trial without good cause shown.

DEADLINE FOR FILING MOTIONS IN LIMINE: September 4, 2020

DEADLINE FOR RESPONSES TO MOTIONS IN LIMINE: September 18, 2020

DEADLINE FOR REPLIES TO MOTIONS IN LIMINE: September 25, 2020

HEARING ON DISPOSITIVE MOTIONS AND MOTIONS IN LIMINE: during the pretrial conference at **10:00 a.m. on October 16, 2020**, in the Courtroom on the Second Floor of the Harrison County Courthouse, 301 West Main Street, Clarksburg, West Virginia 26301-2967.

JOINT PROPOSED VOIR DIRE, JOINT PROPOSED JURY INSTRUCTIONS, AND JOINT PROPOSED VERDICT FORM:

The Parties shall electronically file and serve their joint proposed voir dire, joint proposed jury instructions, and joint proposed verdict form on the Presiding Judges and the Mass Litigation Manager **on October 2, 2020**. Parties shall provide the Mass Litigation Manager with their joint proposed voir dire, joint proposed jury instructions, and joint proposed verdict form in Microsoft WORD format via electronic mail **on October 2, 2020**. The Mass Litigation Manager's electronic mail address is kim.fields@courtswv.gov

EXHIBITS, WITNESS LISTS, AND DEPOSITION DESIGNATIONS EXCHANGED:
September 18, 2020

Parties shall exchange full and complete copies of all exhibits intended to be introduced into evidence at trial and all deposition designations. All exhibits shall be pre-marked. Witness lists shall be bona fide lists of intended trial witnesses and any recently discovered fact or condition witnesses. Names of witnesses shall be specified and shall include contact information for each witness and a statement of intended testimony. Unnamed/unlisted witness reservations are not authorized.

OBJECTIONS TO EXHIBITS, WITNESSES AND DEPOSITION DESIGNATIONS EXCHANGED: **September 25, 2020**

All parties shall meet and confer **no later than September 30, 2020**, to resolve objections to witnesses, exhibits and deposition designations.

PRETRIAL CONFERENCE MEMORANDA:

All parties shall exchange their pretrial conference memoranda, and deliver their pretrial conference memoranda to the Presiding Judges and the Mass Litigation Manager **on October 2, 2020**. The pretrial conference memoranda shall contain the following:

- | | |
|----------------------------------|---|
| a. Statement of the Case | f. Specific List of Witnesses |
| b. Issues of Fact | (NO reservations authorized) |
| c. Issues of Law | g. Pending Motions |
| d. Proposed Stipulations | h. Motions in Limine |
| e. Specific Schedule of Exhibits | i. Proposed Verdict Form |
| (NO reservations authorized) | j. Unresolved Objections to Deposition Designations |

PRETRIAL CONFERENCE: 10:00 a.m. on October 16, 2020, in the Courtroom on the Second Floor of the Harrison County Courthouse, 301 West Main Street, Clarksburg, West Virginia 26301-2967. **LEAD COUNSEL TRYING THE CASE SHALL APPEAR.**

TRIAL: 9:00 a.m. on November 16, 2020, in the Courtroom on the Second Floor of the Harrison County Courthouse, 301 West Main Street, Clarksburg, West Virginia 26301-2967. The Court has allotted one week for the trial of this group of cases.

MODIFICATION: The dates and requirements of this Case Management Order are **FINAL**. No additional evidence developed as a result of deviations from this Case Management Order will be admissible at trial. This Case Management Order shall not be modified, except by leave of the Court.

SANCTIONS: In accordance with WVRCP 16(f), the Court will impose the full spectrum of sanctions authorized by the WVRCP if a party or party's counsel fails to obey this order or other orders of this Court.

A copy of this Order has this day been electronically served on all counsel of record via File & Serve*Xpress*.

It is to **ORDERED**.

ENTER: January 29, 2020.

/s/ Derek C. Swope
Lead Presiding Judge
Marcellus Shale Litigation
Midstream Cases