



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 ALL MIDSTREAM CASES

**ORDER MEMORIALIZING RULINGS ISSUED DURING
STATUS AND SCHEDULING CONFERENCE**

On November 8, 2019, Lead Presiding Judge Derek C. Swope and Lead Resolution Judge Jay M. Hoke conducted a status and scheduling conference regarding pretrial development of all pending Midstream cases, during which the following rulings were made:

Additional Midstream Trial Groups or Cases

Counsel reported sixteen similar civil actions have been filed in Wayne County, West Virginia, but no answer is on file, and no motion to join in the existing mass litigation has been filed. Plaintiffs are planning to file a motion seeking leave to amend the complaint filed in Civil Action No. 16-C-42 MSH to add five additional households. This civil action is part of the , part of the Oak Grove Trial Group. The Court **ORDERED** Plaintiffs to file the motion to amend the complaint by December 1, 2019, and Defendants to respond fifteen days after the motion is filed.

Rulings Order Regarding Pinecone Trial Group

The Court directed the parties to review the rulings regarding dispositive motions and motions *in limine* entered on November 7, 2019, in the Pinecone Trial Group cases. *Order Memorializing Rulings Issued during October 4, 2019 Pretrial Conference* (Transaction ID 64402869). Unless the parties are planning to file dispositive motions or motions *in limine* that are substantively different, the Court will not revisit its rulings.

Pretrial structure

The parties will be required to meet and confer to resolve any outstanding issues prior to a scheduled pretrial conference. Going forward, the parties will be required to file a joint set of

proposed juror instructions. Only the set of proposed instructions for the Court shall contain citations to applicable case law and statutory authority. The set of instructions for the jury will not contain citations to case law or statutory authority.

The Corley, Connor-Berger, North Canton Compressor Station, and Lumberport Booster Station Trial Groups are not large enough to justify the added time and expense of using special juror questionnaires. However, the Court will allow the parties to use a special juror questionnaire for the Fort Beeler Trial Group and the Oak Grove Trial Group. The parties will be required to file a joint proposed special juror questionnaire for the Court's review and approval.

The parties will be required to file joint witness and exhibit lists, as well as joint proposed voir dire. The Court will allow a jury view of the properties at issue. The Court will allow juror note taking, subject to the requirements of State v. Triplett, 187 W. Va. 760, 421 S.E. 2d 511 (1992). The record will be vouched at the end of each trial day, outside the presence of the jury.

Pretrial and Trial Schedule for the remaining Midstream Cases Trial Groups

1. Corley Trial Group – Marshall County, West Virginia
Discovery Closes: June 1, 2020
Prospective Mediation: early to mid-July 2020
Pretrial Conference: July 31, 2020
Trial: August 3, 2020 through August 7, 2020 (1 week)
2. Connor-Berger Trial Group – Marshall County, West Virginia
Discovery Closes: June 1, 2020
Prospective Mediation: early to mid-July 2020
Pretrial Conference: August 14, 2020
Trial: August 31, 2020 through September 4, 2020 (1 week)
3. North Canton Compressor Station Trial Group - Doddridge County, West Virginia
Discovery Closes: June 1, 2020
Prospective Mediation: early to mid-July 2020
Pretrial Conference: September 11, 2020
Trial: October 5, 2020 through October 9, 2020 (1 week)

4. Lumberport Booster Station Trial Group – Harrison County, West Virginia
Discovery Closes: June 1, 2020
Prospective Mediation: early to mid-July 2020
Pretrial Conference: October 16, 2020
Trial: November 16, 2020, through November 20, 2020 (1 week)
5. Fort Beeler Trial Group – Marshall County, West Virginia
Discovery Closes: October 1, 2020
Prospective Mediation: first week of November 2020
Pretrial Conference: December 11, 2020
Trial: January 11, 2021 through January 22, 2021 (2 weeks)
6. Oak Grove Trial Group – Marshall County, West Virginia
Discovery Closes: February 1, 2021
Prospective Mediation: second week of March 2021
Pretrial Conference: July 30, 2021
Trial: August 16, 2021 through August 27, 2021 (2 weeks)

The Court will enter separate case management orders for each trial group.

Mediation of Remaining Trial Groups

Lead Resolution Judge Hoke directed the parties to review the prospective mediation dates to determine whether some of the remaining trial groups can be mediated together, and encouraged the parties to follow the directions of the mediation order, particularly the requirement that both sides have decision makers with full authority to settle cases present in person at mediation. If either side has any suggestions for improvements or changes to the mediation process, they must send a memorandum to Judge Hoke within ten days of the November 8, 2019 hearing.

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

It is so **ORDERED**.

ENTER: November 13, 2019.

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