



IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

IN RE: YEAGER AIRPORT LITIGATION

Civil Action No. 16-C-7000

THIS DOCUMENT APPLIES TO ALL CASES

CASE MANAGEMENT ORDER

This matter is now before the Court for a conference in accordance with Rules 16 and 26(f) of the West Virginia Rules of Civil Procedure. It appears to the Court after conferring with counsel for the parties that the Court should enter this Case Management Order to aid in the fair and efficient disposition of this complex action, reduce expenses to all Parties, protect the Parties from unreasonable annoyance and undue burdens, and facilitate the administration of discovery in this matter consistent with the ends of justice within a reasonable time.

THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED that:

1. General Scope of Order

This Order establishes certain procedures to be used and sets deadlines for various matters likely to arise in this complex action before trial. This Order shall remain in effect until rescinded by the Court or superseded by any subsequent Case Management Order. The West Virginia Rules of Civil Procedure and the West Virginia Trial Court Rules shall govern all matters not expressly covered by this Order.

2. Application of Order

Unless specifically ordered to the contrary, this Order and any subsequent Case Management Order shall bind all parties (each a "Party," and collectively the "Parties"). If any additional party is added to the case in the future, Plaintiff shall provide notice of this Order and any subsequent Case Management Order to any such additional party within ten (10) days after the party is added to the case. This Order applies only to pretrial proceedings in this matter. A

separate Case Management Order will be entered addressing trial procedures.

3. Modification of Order

The terms of this Order may be changed, amended, or supplemented by agreement of the Parties or by Order of the Court as deemed appropriate upon motion of any Party or upon the Court's own motion.

4. Liaison Counsel

The Parties shall designate Liaison Counsel to communicate with the Court and each other on administrative and scheduling matters, including depositions, inspections, and hearings.

Liaison Counsel for Plaintiffs are designated as:

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The Court may modify the list of Liaison Counsel from time to time as circumstances warrant. Liaison Counsel shall be responsible for prompt dissemination of information from the Court or the Parties to one another. Communications by and among Liaison Counsel for Defendants and counsel for any defendant shall be subject to a joint defense privilege.

Liaison Counsel will not have authority to bind any party absent express written authority provided by such party. No order shall be entered based upon discussions that the Court may have with Liaison Counsel without notice to all counsel of record who may, where appropriate, present a legal memorandum in support of their respective positions, and who shall have an opportunity to discuss in open court their respective views and opinions.

The appointment of Liaison Count does not alleviate the Parties' obligations under the West Virginia Rules of Civil Procedure pertaining to filing and service of any document or pleading. Liaison Counsel does not have authority to appear at any time for a Party other than his/her own client(s) or to accept service of any document on behalf of any Party other than his/her own client(s).

5. Communication Among the Parties

The Court recognizes that cooperation by and among counsel is essential to the orderly and expeditious resolution of this matter. Accordingly, the Joint Defense Privilege is presumed and by conferring or meeting or exchanging information Construction Defendants have not waived any attorney/client or work product privilege.

6. Depositions in General

a. Rules

All depositions shall be conducted in accordance with the West Virginia Rules of Civil Procedure, except as modified herein.

b. Coordination of Depositions

The Parties shall use their best efforts to promote efficiency and avoid duplicative discovery efforts in this action. Thus, to the extent that multiple Parties seek the deposition testimony of the same witness, or on the same information topics, the Parties shall consolidate

their deposition requests so that the witness need only appear for one deposition. If a Party seeks to depose a previously deposed witness again over the objection of any other Party, the requesting Party may seek leave of Court and show good cause why any additional deposition would be appropriate.

c. Scheduling of Depositions

Before any Party files a notice of deposition, it shall confer with Liaison Counsel and counsel for the Party or any third-party witness to be deposed to negotiate mutually convenient deposition dates. The Parties shall use their best efforts to schedule all requested depositions in a timely and efficient manner. Any deposition notice a Party sends without first conferring to negotiate mutually convenient dates will be considered invalid. Once the Parties have agreed on a date, the Party noticing the deposition will circulate an e-mail to all Parties, through Liaison Counsel, confirming the deposition by witness, date, and location. Depositions must be noticed at least fourteen (14) days in advance of the date the deposition is scheduled to occur. By agreement (confirmed via e-mail), all counsel may waive this requirement.

If, after the Parties agree on the deposition date, a Party needs to reschedule the deposition for good cause, the Party noticing the deposition shall circulate an e-mail to all Parties, through Liaison counsel, as soon as possible after receiving notice of the need to reschedule. Thereafter, the Party noticing the deposition and counsel for the Party or any third-party witness to be deposed shall negotiate a mutually convenient date to reschedule the deposition.

The Parties agree that, once oral discovery commences, the parties shall make reasonable efforts to schedule depositions during the second full week of each month and be available to attend depositions during that week. However, nothing in the preceding precludes the parties

from scheduling depositions at other mutually convenient times.

d. Pre-Deposition Designation of Documents

For convenience, counsel for the Party conducting the deposition of a Party Witness may designate by control number, if any, the documents it may use during a deposition and shall provide by email a list of such control numbers to all counsel on the Master Service List at least five (5) calendar days before the scheduled date of the deposition. Counsel for any other Party may designate in the same manner any additional documents two (2) calendar days thereafter (or, if the day for such designation would fall on a weekend or holiday, on the next business day thereafter) and shall use reasonable efforts to avoid duplicating documents designated by the original designating Party. Any counsel designating such documents shall not have an obligation to provide copies of designated documents at the deposition.

Any Party who does not designate documents as provided herein shall not forfeit the right to use non-designated documents at the deposition, but must provide any copies of non-designated documents that such Party desires to use at the deposition to all counsel as soon as practicable before the deposition or after determining the need to use such documents during the deposition.

Nothing in this provision shall be deemed to create any obligation on any Party to produce any documents to any non-party.

No Party shall have any obligation to designate any documents as set forth above with respect to the deposition of any fact witness who is not a Party Witness.

Any Party's failure to designate a document prior to a deposition shall not be a valid basis for any other Party to object to the use of that document at the deposition.

e. Exhibits

All depositions exhibits shall be sequentially numbered regardless of the Party offering the exhibit. Liaison Counsel for the Airport is responsible for maintaining a Master Deposition Exhibit repository via a cloud directory and will use his best efforts to update the list after each deposition. Liaison Counsel for the Airport will not charge a fee to any of the other parties for his maintenance of this cloud directory of deposition exhibits.

9. Joint Status Conference Agenda

When a status conference is scheduled, Liaison Counsel shall meet and confer at least five (5) business days before the status conference to prepare a Joint Status Conference Agenda listing all matters the Parties would like the Court to consider at the status conference. The Joint Status Conference Agenda shall be circulated to all Parties and the Court three (3) business days before the status conference.

ENTER: March 1, 2017.

/s/ John A. Hutchison

Lead Presiding Judge, Yeager Airport Litigation

Jointly Presented by:

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