



IN THE CIRCUIT COURT OF KANWHA COUNTY, WEST VIRGINIA

IN RE: UNIVERSITY COMMONS LITIGATION

Civil Action No. 13-C-7000

THIS DOCUMENT APPLIES TO ALL CASES

CASE MANAGEMENT ORDER

PRE-TRIAL SCHEDULE

FACT DISCOVERY

PLAINTIFFS TO IDENTIFY FACT WITNESSES: September 27, 2013.

DEFENDANTS TO IDENTIFY FACT WITNESSES: October 11, 2013.

FACT DISCOVERY COMPLETED: February 28, 2013.

All responses and objections to discovery shall be completed and all motions to compel discovery shall be filed by the discovery completion date. All motions in limine and motions to exclude fact witnesses and/or expert witnesses shall be filed by the discovery completion date. The cut-off date established in this scheduling order does not excuse failure to comply with the provisions of Rule 26(e) requiring supplementation of responses to discovery.

MEDIATION: October 28, 2013 – October 30, 2013 at Lakeview Resort and

Conference Center, One Lakeview Drive, Morgantown, West Virginia 26508.

Mediation will begin at 9:00 a.m. on October 28, 2013.

EXPERT DISCOVERY

PLAINTIFFS TO IDENTIFY EXPERT WITNESSES: September 23, 2013.

DEFENDANTS TO IDENTIFY EXPERT WITNESSES: October 21, 2013.

PLAINTIFFS' EXPERT WITNESS REPORTS ARE DUE: November 8, 2013.

DEFENDANTS' EXPERT WITNESS REPORTS ARE DUE: December 9, 2013.

EXPERT WITNESS DISCOVERY COMPLETED BY: April 28, 2013.

Any party desiring to use an expert witness must 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 is not timely provided, a motion to continue, motion to exclude, or other sanction motions on this basis will not be considered unless opposing counsel has filed such motions prior to the pretrial conference.

Co-designation or co-reliance upon experts must specifically be made on the same date as the initial disclosure for either plaintiff's or defendant's experts.

DISCOVERY MOTIONS: April 4, 2014.

RESPONSES TO DISCOVERY MOTIONS: April 18, 2014.

HEARING ON DISCOVERY MOTIONS: Beginning at **9:00 a.m.** on **May 16, 2014**, in the **Circuit Court of Taylor County, West Virginia**, in Judge Alan D. Moats' Courtroom on the Second Floor, located at 214 W. Main Street, Grafton, West Virginia 26354.

MOTIONS IN LIMINE: May 30, 2014.

RESPONSES TO MOTIONS IN LIMINE: June 13, 2014.

DISPOSITIVE MOTIONS: June 6, 2014.

RESPONSES TO DISPOSITIVE MOTIONS: June 20, 2014.

If a discovery deposition is scheduled within 30 days of the close of discovery, counsel must 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.

HEARING ON MOTIONS IN LIMINE AND DISPOSITIVE MOTIONS: Beginning at **9:00 a.m.** on **July 11, 2014**, in the **Circuit Court of Taylor County, West Virginia**, in Judge Alan D. Moats' Courtroom on the Second Floor, located at 214 W. Main Street, Grafton, West Virginia 26354.

WVRE 103(c) requires that all Motions in Limine should, where practicable, be determined prior to trial. Accordingly, this Court will not consider motions in limine on the day of trial without good cause shown.

WITNESS LISTS, EXHIBITS, AND DEPOSITION DESIGNATIONS

EXCHANGED: July 18, 2014.

Parties shall exchange full and complete copies of their witness and exhibit lists, all exhibits intended to be introduced into evidence at trial, and all deposition designations. All exhibits shall be pre-marked.

OBJECTIONS TO WITNESSES, EXHIBITS, AND DEPOSITION

DESIGNATIONS: July 25, 2014.

MEET AND CONFER: July 30, 2014.

All parties shall meet and confer by **no later than July 30, 2014**, to resolve objections to witnesses, exhibits and deposition designations.

PROPOSED JURY QUESTIONNAIRE: July 11, 2014.

Parties shall electronically file and serve their proposed jury questionnaire on one another, the Presiding Judges and the Mass Litigation Manager.

PRETRIAL CONFERENCE MEMORANDA: All parties shall electronically file and serve their pretrial conference memoranda on one another and on the Presiding Judges and the Mass Litigation Manager by **no later than August 1, 2014.** Pretrial conference memoranda shall contain:

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

Parties shall also provide Lead Presiding Derek C. Swope with a disk containing their proposed jury voir dire and jury instructions in Microsoft WORD format **by no later than August 1, 2014.**

The witness list shall be a bona fide list of intended trial witnesses and any recently discovered fact or condition witness. Names of witnesses must be specified and must include contact information for each witness and a statement of intended testimony. Unnamed/unlisted witness reservations are not authorized.

PRETRIAL CONFERENCE: Beginning at **9:00 a.m.** on **August 15, 2014**, the Pre-trial Conference will take place in the **Circuit Court of Taylor County, West Virginia**, in Judge Alan D. Moats' Courtroom on the Second Floor, located at 214 W. Main Street, Grafton, West Virginia 26354.

LEAD COUNSEL TRYING THE CASE MUST APPEAR AT THE PRE-TRIAL CONFERENCE.

TRIAL: Beginning at **9:00 a.m.** on **August 25, 2014.**

MODIFICATION: In accordance with WVRCP 16(b) and 29(b), this scheduling conference 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.

Unless authorized by the Court the above dates and requirements of this Scheduling Conference Order are **FINAL**. Therefore, **NO** additional evidence developed as a result of deviations from the above will be admissible at trial.

It is so **ORDERED**.

ENTER: August 21, 2013

/s/ Derek C. Swope
Lead Presiding Judge
University Commons Litigation