



**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**

**AMENDED SCHEDULING ORDER**

The Presiding Judges conducted a conference call with Liaison Counsel on February 21, 2018, regarding the parties' proposed amendments to the Scheduling Order entered on January 26, 2018 (Transaction ID 61613510). On February 23, 2018, Liaison Counsel submitted to the Court a chart containing jointly suggested revisions to the Scheduling Order approved by all parties. Having reviewed and considered the parties' suggested revisions, the Court amends its Scheduling Order as follows, with the caveat that the Amended Scheduling Order will not be modified, absent good cause shown and leave of Court.

**DISCOVERY**

**Plaintiffs' Expert Disclosure Deadline: .....April 2, 2018**

On or before this date, any Plaintiff desiring to use an expert witness must furnish opposing counsel with the specialty of such expert and copies of all reports submitted by such expert, or, if no reports have been submitted, a summary of the substance of such expert's contemplated testimony in compliance with WVRCP 26(b)(4). If the name, reports or 26(b)(4) materials 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.

**Defendants' Expert Disclosure Deadline: .....June 1, 2018**

On or before this date, any Defendant desiring to use an expert witness must furnish opposing counsel with the specialty of such expert and copies of all reports submitted by such

expert, or, if no reports have been submitted, a summary of the substance of such expert's contemplated testimony in compliance with WVRCP 26(b)(4). If the name, reports or 26(b)(4) materials 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.

Rebuttal Expert Disclosure Deadline.....**July 2, 2018**

On or before this date, all parties shall provide the disclosures required by WVRCP 26(b)(4) if the evidence is intended solely to contradict or rebut evidence on the same issue identified by another party in its expert witness disclosure.

Preliminary Fact Witness Disclosure Deadline: .....**February 15, 2018**

Deadline for discovery related solely to insurance coverage issues: **September 7, 2018**

Discovery deadline for all other matters: .....**November 30, 2018**

### **MOTIONS**

Deadline for Declaratory Judgment Motions: .....**October 5, 2018**

Deadline for Responses: .....**October 19, 2018**

Deadline for Replies: .....**October 26, 2018**

Deadline for parties to file and serve proposed orders in Rich Text Format, including findings of fact and conclusions of law: ..... **November 2, 2018**

Deadline for Dispositive Motions: .....**December 31, 2018**

Deadline for Responses: .....**January 14, 2019**

Deadline for Replies: .....**January 22, 2019**

Deadline for parties to file and serve proposed orders in Rich Text Format, including findings of fact and conclusions of law: ..... **January 29, 2019**

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 taken after the briefing deadlines set forth above.

### **MEDIATION**

The parties shall be prepared to conduct mediation with the Resolution Judges by December 3, 2018. The Resolution Judges will schedule mediation with the parties by separate order.

### **PRE-TRIAL MOTIONS AND FILINGS**

Final Fact Witness and Exhibit Lists and  
Designation of discovery/depositions  
to be used at trial: ..... **January 4, 2019**

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.

Parties shall exchange full and complete copies of all exhibits (or identification of same by Bates Number designation) to be introduced into evidence at trial and all deposition designations. All exhibits shall be pre-marked.

Objections/Responses: ..... **January 18, 2019**

All parties are to meet and confer by no later than 30 days prior to the Final Pre-Trial Hearing to resolve objections to witnesses, exhibits and deposition designations.

Motions in Limine:.....**December 31, 2018**

Responses:.....**January 14, 2019**

Replies:.....**January 22, 2019**

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

### **JURY INSTRUCTIONS/VERDICT FORMS**

Parties to submit joint proposed jury questionnaire: .....**January 18, 2019**

Plaintiffs' deadline to submit proposed jury instructions, verdict form, and voir dire to Defendants' counsel: ..... **December 21, 2018**

Defendants' deadline to respond to Plaintiffs regarding Plaintiffs' proposed jury instructions, verdict form, and voir dire: .....**January 10, 2019**

Deadline for counsel conference to discuss jury instructions, verdict form and voir dire: ..... **January 15, 2019**

Joint submission of agreed upon jury instructions, verdict forms, voir dire, and separate submissions of items not agreed upon: .....**January 18, 2019**

Parties shall electronically file and serve their witness and exhibit lists, proposed jury questionnaire, proposed voir dire, and proposed jury instructions on one another, the Presiding Judges and the Mass Litigation Manager.

Parties shall also provide the Mass Litigation Manager with their proposed voir dire and proposed jury instructions in Microsoft WORD format via e-mail to [kim.fields@courtswv.gov](mailto:kim.fields@courtswv.gov) **no later than January 18, 2019.**

Stipulations: .....**January 18, 2019**

## **PRE-TRIAL CONFERENCE**

Pre-Trial Conference Memoranda: ..... **January 18, 2019**

All parties are directed to exchange their pretrial conference memoranda, and to deliver their pretrial memoranda to the Presiding Judges and the Mass Litigation Manager, which memoranda shall contain the following:

- |                          |  |
|--------------------------|--|
| a. Statement of the case | h. Motions in Limine                         |
| b. Issues of Fact        | i. Proposed Verdict Form                     |
| c. Issues of Law         | j. Deposition Designation Objections         |
| d. Proposed Stipulations | k. A <u>realistic</u> estimate of the number |
| e. Schedule of Exhibits  | of trial days needed                         |
| f. Final Witness List    |  |
| g. Pending Motions       |  |

Pre-Trial Conference.....**February 8, 2019**

**LEAD TRIAL COUNSEL MUST APPEAR AT THE PRE-TRIAL CONFERENCE.**

## **TRIALS**

Damages only trials and schedules associated therewith shall be entered under a separate order

Liability Trial (all cases):.....**March 4, 2019**

Damages Trial (Airport): .....**March 4, 2019**

It is so **ORDERED**.

**ENTER:** February 28, 2018.

/s/ John A. Hutchison  
Lead Presiding Judge  
Yeager Airport Litigation