



**IN THE CIRCUIT COURT OF RALEIGH COUNTY, WEST VIRGINIA**

**IN RE: FLOAT-SINK LITIGATION      CIVIL ACTION NO. 11-C-5000000**

**THIS DOCUMENT APPLIES TO:**

**Allyson Townsend**

**v.**

**Commercial Coal Testing, Inc., et al.**

**Civil Action No. 11-C-5200015**

**CASE MANAGEMENT ORDER**

**PRE-TRIAL SCHEDULE:**

**ALL CROSS-CLAIMS, COUNTERCLAIMS AND THIRD-PARTY CLAIMS**

**FILED BY: September 1, 2013**

**FACT DISCOVERY**

**MEDICAL RECORDS RELEASES:** On or before **August 12, 2013**, Plaintiff Allyson Townsend shall provide a medical records release to Defendants, along with a list of all her health care providers. On or before **August 12, 2013**, Ruthann Townsend, mother of Plaintiff Allyson Townsend, shall provide Defendants with a medical records release, along with a list of all her health care providers during the time she was pregnant with Plaintiff Allyson Townsend.

**PLAINTIFF TO IDENTIFY FACT WITNESSES: August 26, 2013**

**DEFENDANTS TO IDENTIFY FACT WITNESSES: September 10, 2013**

**FACT DISCOVERY COMPLETED: January 31, 2014**

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:** The parties shall meet and confer in an effort to resolve this case through negotiation or mediation **before the end of January, 2014.**

**EXPERT DISCOVERY**

**PLAINTIFF TO IDENTIFY EXPERT WITNESSES:** August 26, 2013

**DEFENDANTS TO IDENTIFY EXPERT WITNESSES:** September 24, 2013

**PLAINTIFF'S EXPERT WITNESS REPORTS ARE DUE:** October 10, 2013

**DEFENDANTS' EXPERT WITNESS REPORTS ARE DUE:** November 8, 2013

**EXPERT WITNESS DISCOVERY COMPLETED BY:** March 30, 2014

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:** March 1, 2014.

**RESPONSES TO DISCOVERY MOTIONS:** March 15, 2014.

**HEARING ON DISCOVERY MOTIONS:** April 18, 2014.

**MOTIONS IN LIMINE: May 1, 2014.**

**RESPONSES TO MOTIONS IN LIMINE: May 18, 2014**

**DISPOSITIVE MOTIONS: April 30, 2014**

**RESPONSES TO DISPOSITIVE MOTIONS: May 15, 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: May 30, 2014.**

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 AND EXHIBIT LISTS, PROPOSED JURY QUESTIONNAIRE, PROPOSED VOIR DIRE, AND PROPOSED JURY INSTRUCTIONS TO BE SUBMITTED TO THE COURT:** 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 by **June 2, 2014**. Parties shall also provide Lead Presiding Judge John A. Hutchison with a disk containing their proposed voir dire and proposed jury instructions in Microsoft WORD format by no later than **June 2, 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.

**EXHIBITS AND DEPOSITION DESIGNATIONS EXCHANGED:** Parties shall exchange full and complete copies of all exhibits intended to be introduced into evidence at trial and all deposition designations by **May 16, 2014**. All exhibits shall be pre-marked.

**OBJECTIONS TO EXHIBITS, WITNESSES AND DEPOSITION**

**DESIGNATIONS:** May 26, 2014

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

**PRETRIAL CONFERENCE MEMORANDA:** All parties are directed to exchange and deliver their pretrial conference memoranda to the Presiding Judges and the Mass Litigation Manager by **no later than June 2, 2014**, which 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. All Proposed Jury Voir Dire       |
| (NO reservations authorized)     | j. Proposed Verdict Form             |
|                                  | k. Deposition Designation Objections |

**PRETRIAL CONFERENCE:** Beginning at **9:00 a.m. on June 16, 2014**. The Pre-trial Conference will take place in the Courtroom of the Honorable John A. Hutchison Raleigh County Judicial Center, 222 Main Street, Beckley, West Virginia.

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

**TRIAL:** Trial will commence at **9:00 a.m. on July 14, 2014**, in the Courtroom of the Honorable John A. Hutchison Raleigh County Judicial Center, 222 Main Street, Beckley, West Virginia.

**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 2, 2013

/s/ John A. Hutchison  
Lead Presiding Judge,  
Float-Sink Litigation