

**IN THE CIRCUIT COURT OF UPSHUR COUNTY, WEST VIRGINIA
BUSINESS COURT DIVISION**

**THE VELOTTA COMPANY, an
Ohio corporation,
Plaintiff,**

VS.

**Civil Action No.: 13-C-122
Presiding Judge: Wilkes
Resolution Judge: Rowe**

**STANTEC CONSULTING SERVICES, INC.,
a New York corporation,
Defendant.**

SCHEDULING ORDER

Upon prior continuance, the following schedule is ORDERED by the Court in the above-styled civil action; and shall not be modified except by leave of Court.

1. TRIAL DATE: February 9, 2016 at 9:00 a.m. at the Upshur County Courthouse.

 X Jury Trial Requested Bench Trial Requested

Continuance motions must be heard prior to the pre-trial conference or they will not be considered. Trial is anticipated to last 10 days.

**2. PRE-TRIAL CONFERENCE DATE: February 8, 2016 at 9:00 a.m. at the
Upshur County Courthouse.**

At which time lead counsel must appear. All parties are ORDERED to exchange and deliver their respective **PRE-TRIAL CONFERENCE MEMORANDA** to the Judge's Chambers **NO LATER THAN TEN (10) BUSINESS DAYS BEFORE** the conference. **FAILURE TO COMPLY MAY RESULT IN CONTINUANCE OF TRIAL OR MONETARY SANCTIONS BEING IMPOSED.** Said memoranda are to contain at a minimum, the following:

- | | |
|--------------------------|---|
| 1. Statement of the Case | 7. Pending Motions |
| 2. Issues of Fact | 8. Motions <i>in Limine</i> |
| 3. Issues of Law | 9. All Proposed Instructions of Law
(Disk as well as hard copy shall be
provided to the Court.) |
| 4. Proposed Stipulations | 10. Proposed Voir Dire |
| 5. Schedule of Exhibits | |
| 6. List of Witnesses | |

Parties are to confer and provide a joint instruction charge to the Court.

SCHEDULE OF EXHIBITS

The parties shall exchange a list of all proposed exhibits (including demonstrative) and shall make the exhibits available for viewing by counsel at least 5 work days prior to the pre-trial conference. By the time of the pre-trial conference counsel shall have stipulated as to which exhibits shall be admitted without objection and provide a list to the Court and Clerk. The parties shall mark all exhibits by use of standard exhibit stickers and provide a list to the Court and counsel.

VIDEO DEPOSITION TO BE USED AT TRIAL

If a video deposition is to be used, all parties must be prepared to argue objections at the pre-trial conference. Thereafter, the proponent of the video deposition shall have the video edited to reflect the court's rulings. In addition, the proponent of the video deposition must have a videographer at trial.

JURY INSTRUCTIONS

The Court desires that all counsel read all parties' proposed jury instructions prior to the conference and are prepared to discuss them at the conference. The Court will not be inclined to receive instructions after the pre-trial conference.

3. **SANCTIONS:** In accordance with WVRCP 16(f), the Court may 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 including exclusion of evidence and granting of default for failure to comply.
4. **UNLESS AUTHORIZED BY COURT ORDER, THE ABOVE DATES ARE FINAL.** No additional evidence developed as a result of deviations from the above schedule will be admissible at trial unless justice requires.
5. It will be the responsibility of plaintiff or their counsel to notify opposing counsel and *pro se* parties of the existence of this scheduling order, if and when such counsel or *pro se* party appears of record.
6. The dates set out above do not relieve counsel or parties from timely compliance with discovery requests propounded pursuant to the West Virginia Rules of Civil Procedure.

The Clerk shall transmit certified copies to counsel of record, the Business Court Division Central Office, Berkeley County Judicial Center, 380 W. South Street, Suite 2100, Martinsburg, West Virginia 25401, and any *pro se* parties.

cc 8/28/15

Bus Ct.

J Gabhart

A Cantanzarite

A Smith

ENTER: 8/28/15

ATTEST: A true copy from the records located in the office of the Clerk of the Circuit Court of Upshur County, West Virginia.

Given under my hand

8/28/15
BRIAN P. GAUDET, CLERK

By

Melina D. Givens
Deputy Clerk

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JUDGE

BRIAN GAUDET
CIRCUIT CLERK

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UPSHUR COUNTY, W.V.
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