

IN THE CIRCUIT COURT OF HARRISON COUNTY, WEST VIRGINIA  
BUSINESS COURT DIVISION

ALAN ENTERPRIZES, LLC,  
Plaintiff

v.

Civil Action No. 14-C-503

MAC'S CONVENIENCE STORES, LLC,  
Joyce Sammon, and Louis Diab,  
Defendants

CASE MANAGEMENT AND SCHEDULING ORDER

On the 15th day of December, 2015, came the parties to the above-captioned matter for a case management and scheduling conference with regard to further proceedings herein. Alan Enterprizes, LLC ("Plaintiff") appeared by counsel, John C. Palmer IV, Keith J. George, Stephen D. Annand and Devan K. Flahive of Robinson & McElwee PLLC, and Mac's Convenience Stores, LLC, d/b/a Circle K, Joyce Sammon and Louis Diab ("Defendants") appeared by counsel, Michael Bonasso of Flaherty Sensabaugh Bonasso, and by Zach Chaffee-McClure of Shook, Hardy & Bacon LLP. Claire Watson, Business Court Law Clerk, also appeared.

Pursuant to Rule 16(b) of the West Virginia Rules of Civil Procedure and Rule 29.08 of the West Virginia Trial Court Rules, the following schedule and procedures are hereby adopted and ORDERED by the Court:

1. Plaintiff shall serve Defendants with final requests for admissions, interrogatories, and/or production of documents by April 30, 2016. Defendants shall serve Plaintiff with final requests for admissions, interrogatories and/or production of documents by April 30, 2016.
2. Plaintiff shall disclose rebuttal expert witnesses by January 15, 2016, and the defendants shall disclose rebuttal expert witnesses by January 15, 2016.

3. Any objection to an interrogatory or request for admission, notice of deposition, or request for production of documents shall be filed within thirty (30) days after service of the same. Any such objection not filed within thirty (30) days shall be deemed waived. The party objecting to the request shall schedule a hearing with the Court, if desired, and notice the same simultaneously with service of the objection. Pending discovery disputes shall not extend the time in which the objecting party must otherwise appear or respond to any request as to which no objection has been filed.
4. If a party fails to answer an interrogatory or request for admissions, or fails to produce a document or make required disclosures, and does not file an objection thereto, the requesting party shall timely file a motion to compel. The movant shall schedule a hearing with the Court, if desired, and notice the same simultaneously with service of the motion to compel. If the requesting party fails to file a motion to compel, the request shall be deemed waived.
5. In any event, all discovery shall be completed on or before June 1, 2016.
6. Dispositive motions shall be filed no later than June 30, 2016, and may be scheduled for hearing, if desired. Any dispositive motions for which a hearing is not scheduled with the Court shall be the subject of a briefing schedule pursuant to Rule 22 of the West Virginia Trial Court Rules, providing the non-movant the opportunity to respond in writing and request a hearing.
7. Mediation or other form of alternative dispute resolution shall be conducted by the Honorable H. Charles Carl III, and shall be concluded on or before August 19, 2016. The Resolution Judge will contact the parties for the purpose of scheduling mediation or alternative dispute resolution.

8. All pre-trial motions, including motions *in limine*, shall be filed on or before September 23, 2016, for hearing at the pre-trial conference. Unless a matter could not have been reasonably anticipated by a party, the Court will not consider motions *in limine* at the time of trial.
9. No later than September 23, 2016, the parties shall exchange a list of all proposed exhibits (including demonstrative) and shall make the exhibits available for viewing by counsel. At the pre-trial conference, counsel shall have stipulated as to which exhibits shall be admitted without objection. Prior to trial, the parties shall preliminarily mark all exhibits by use of standard exhibit stickers, and provide a list to the Court, the Court Reporter, and the Circuit Clerk.
10. No later than September 23, 2016, the parties shall each prepare and provide the Court and opposing counsel with a pre-trial memorandum, to include at least the following:
  - a. Statement of the case including a brief summary of the material facts and theory of liability or defense;
  - b. Itemized statement of damages;
  - c. Stipulation of uncontested facts;
  - d. General statement of contested issues of law and, in particular, those contested issues of law requiring court ruling before commencement of trial;
  - e. The names and addresses of all witnesses, and, if any expert witness, the purpose of the testimony and whether the qualifications of the expert are to be stipulated;
  - f. Legal authorities to be relied upon;
  - g. For each party, a list of depositions and exhibits to be offered as evidence at trial, indicating as to each whether there are objections to either authenticity or relevancy (if there are objections, the lines and pages of depositions being objected to must be identified), and a statement that copies of exhibits have been exchanged by counsel or that opposing counsel have examined the exhibits; and
  - h. Settlement possibilities.
11. The parties shall provide proposed jury instructions to the Court and opposing counsel no later than September 23, 2016, and shall be prepared to discuss the same at the pre-trial



conference.


12. Telephonic status conferences shall be held with the Court on Friday, April 8, 2016, at 2:00 PM, and Friday, July 15, 2016, at 2:00 PM. The parties are directed at said time to call the designated conference call number (1-877-278-2734) and enter the participant PIN 851247.

13. A pre-trial conference shall be held with the Court on Tuesday, October 4, 2016, at 2:00 PM, at the Harrison County Courthouse, at which time lead trial counsel shall appear fully prepared to discuss all aspects of the case.

14. A jury trial of the within matter shall commence on Wednesday, October 5, 2016, at 9:00 AM, at the Harrison County Courthouse. Eight (8) consecutive days are allotted for the trial of this case.

The Circuit Clerk shall forward a copy of this Order to all counsel of record; to the Honorable H. Charles Carl III, Harrison County Judicial Center, 50 South High Street, Suite 6, Romney, WV 26757, and to the Business Court Division Central Office, Berkeley County Judicial Center, 380 W. South Street, Ste. 2100, Martinsburg, West Virginia 25401.

IT IS SO ORDERED this 28<sup>th</sup> day of December, 2015.

  
James J. Rowe, Presiding Judge  
Business Court Division

STATE OF WEST VIRGINIA  
COUNTY OF HARRISON, TO-WIT

I, Donald L. Kopp II, Clerk of the Fifteenth Judicial Circuit and the 18<sup>th</sup>  
Family Court Circuit of Harrison County, West Virginia, hereby certify the  
foregoing to be a true copy of the ORDER entered in the above styled action  
on the 28 day of December, 2015.

IN TESTIMONY WHEREOF, I hereunto set my hand and affix  
the Seal of the Court this 30 day of December, 2015.

Donald L. Kopp II  
Fifteenth Judicial Circuit & 18<sup>th</sup> Family Court  
Circuit Clerk DLM  
Harrison County, West Virginia