

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

SOUTHERN AMUSEMENT CO., Inc.,
Plaintiff,

v.

B&J BUSINESS ENTERPRISES, Inc.,
Defendant.

Civil Action No.: 14-C-231
Presiding Judge: James J. Rowe
Resolution Judge: Paul T. Farrell

SECOND AMENDED SCHEDULING ORDER

On the 25th day of November, 2015, this matter came before the Court upon a Motion to Vacate Amended Scheduling Order, which was filed jointly by the remaining parties in the above-styled matter. Southern Amusement Co, Inc. ("Plaintiff") appeared by counsel, Robert B. Kuenzel; B&J Enterprises, Inc. ("Defendant") appeared by counsel, J. Mark Adkins, Bowles Rice LLP.

Whereupon, the following schedule and procedures are hereby adopted and ORDERED by the Court:

1. The parties shall serve all final requests for admissions and demands for production of documents on or before March 11, 2016.
2. Plaintiff shall disclose the names of all expert trial witnesses on or before January 18, 2016. Defendants shall disclose the names of all expert trial witnesses on or before February 19, 2016. Expert witness disclosures shall include the specialty of each expert and copies of any reports submitted by the expert with regard to this case. If no reports have been submitted, the parties shall provide a summary of the substance of the contemplated testimony of the expert. Any objection to the admissibility of expert testimony must be raised in a timely filed motion *in limine* for hearing at the pre-trial

conference. The parties shall timely disclose co-designation of any expert.

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 and notice the same simultaneously with service of the objection. An objection for which a hearing is not scheduled with the Court shall be deemed waived. Pending discovery disputes shall not extend the time in which the objecting party must otherwise appear or respond to discovery as to which no objection has been filed.
4. If a party fails to answer an interrogatory or request for an admission, 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 and notice the same simultaneously with service of the motion to compel. If the requesting party fails to file a motion to compel or schedule a hearing thereon, the request shall be deemed waived.
5. In any event, all discovery shall be completed on or before April 15, 2016.
6. Any dispositive motions shall be filed well in advance of the pre-trial conference, with copies of the same provided to the Presiding Judge at 200 North Court Street, PO Drawer 751, Lewisburg, WV 24901, and to the Business Court Division at business.court@courtswv.gov. Should the movant desire to schedule a hearing on any dispositive motion, it shall be scheduled in advance and noticed simultaneously with filing of the motion. In the event a dispositive motion is filed and provided to the Court without a notice of hearing, a briefing schedule shall be issued pursuant to T.C.R. 22,

giving the non-movant an opportunity to file a response and request a hearing, and permitting the movant to file a reply to the said response.


7. All pre-trial motions, including motions *in limine*, shall be filed on or before May 6, 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.
8. Mediation or other form of alternative dispute resolution shall be conducted by the Honorable Paul T. Farrell, Resolution Judge. Should the parties desire further mediation, it shall be concluded on or before May 6, 2016.
9. No later than May 20, 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 May 20, 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

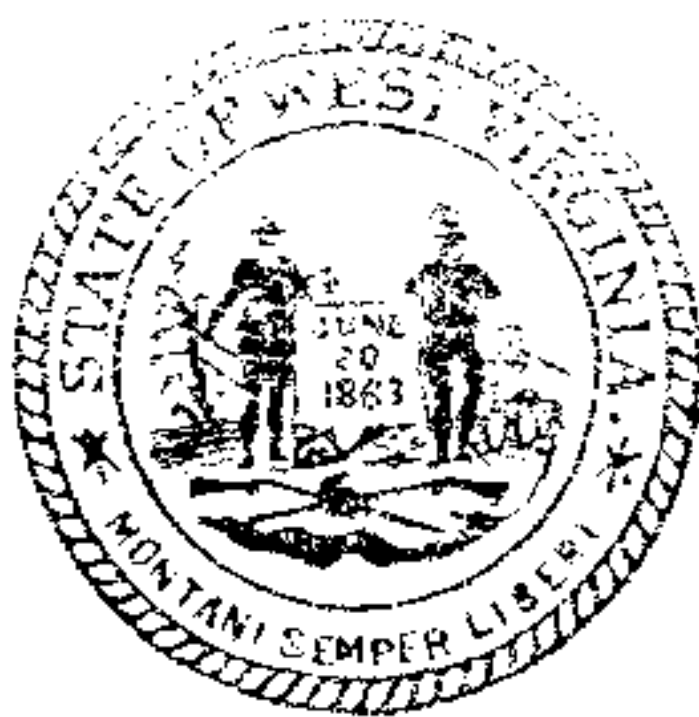
relevancy (if there are objections, the lines and pages of depositions being objected to must be identified), and a statement that copies of exhibits have been exchanged by counsel or that opposing counsel have examined the exhibits; and
h. Settlement possibilities.

11. The parties shall exchange and provide the Court with proposed jury instructions no later than May 20, 2016, and shall be prepared to discuss the same at the pre-trial conference.
12. A pre-trial conference shall be held with the Court on Tuesday, May 31, 2016, at 1:30 PM, the Logan County Courthouse in Logan, at which time lead trial counsel shall appear fully prepared to discuss all aspects of the case.
13. Trial of the within matter shall commence on Wednesday, June 1, 2016, at 9:00 AM, at the Logan County Courthouse in Logan. Three (3) days are allotted for trial of this case.

The Circuit Clerk shall forward a copy of this Order to all counsel of record; to the Honorable Paul T. Farrell, Resolution Judge, Cabell County Courthouse, 750 Fifth Avenue, Huntington, WV 25701; 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 28th day of December, 2015.


James J. Rowe, Presiding Judge
Business Court Division



ELEVENTH JUDICIAL CIRCUIT
GREENBRIER AND POCAHONTAS COUNTIES

JAMES J. ROWE, CHIEF JUDGE
TELEPHONE (304) 647-6619
TELECOPIER (304) 647-6696

GREENBRIER COUNTY COURTHOUSE
200 N. COURT STREET
P. O. DRAWER 751
LEWISBURG, WEST VIRGINIA 24901

December 28, 2015

Hon. Vickie Vance Kolota, Circuit Clerk
Logan County Courthouse
300 Stratton Street
Logan, WV 25601

Re: Southern Amusement Co. v. B&J Business
Enterprises, et al. Civil Action No. 14-C-231

Dear Mrs. Kolota:

Please find enclosed an order for entry in the above-referenced matter, which was transferred to the Business Court Division on a prior date. The same is to be forwarded to all counsel of record, the Resolution Judge, and the Business Court Central Office, pursuant to the last paragraph in the order. Thanking you for your assistance, I remain,

Yours very truly,

James J. Rowe, Presiding Judge
Business Court Division

JJR/lmf
Encl.