

FILED

2019 MAR 18 PM 2:47

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

JOSEPH M. RUCKI

KRP MARCELLUS I, LLC,
RIVERCREST ROYALTIES II, LLC,
DIVERSIFIED ROX MINERALS, LLC,
BRD ROYALTY HOLDINGS, LLC and
AMON G. CARTER FOUNDATION,
collectively known as KIMBELL GROUP,

Plaintiffs,

vs.

CIVIL ACTION NO.: 18-C-215

Presiding: Judge Michael D. Lorensen

Resolution: Judge Christopher C. Wilkes

CHEVRON U.S.A. INC.,
a Pennsylvania corporation,
TH EXPLORATION, LLC,
a Texas limited liability company, and
DOE CORPORATION 1-20,

Defendants.

JURY TRIAL SCHEDULING ORDER

On the 14th day of March, 2019, upon the appearance of the Plaintiffs by counsel Joseph Nogay, Maximillian Nogay and Drew Neal, upon the appearance of TH Exploration LLC by counsel Katherine Gafner, and upon the appearance of Chevron U.S.A. by counsel Matthew Burger and Sharon Potter, the court did convene a scheduling conference. The following schedule is ORDERED by the court in the above-styled civil action; and shall not be modified except by leave of court for good cause shown.

1. This matter will be tried to a jury on: April 14, 2020 at 9:00 a.m. The trial is expected to take two weeks. Continuance motions must be filed and heard prior to the pre-trial conference.

2. A first pretrial conference shall be held on: March 20, 2020 at the hour of 10:00 a.m. At this first pretrial conference all pending motions, including dispositive motions, shall be resolved. A second pretrial conference shall be conducted on April 9, 2020 at 10:00 a.m. All self-represented parties and any lawyer who will participate in the trial must appear at the pretrial conferences. All parties are directed to file with the clerk, exchange and

deliver a pretrial memorandum no later than seven (7) days before the second pretrial conference. These memoranda must set forth the following:

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

Schedule of Exhibits: The parties shall file and exchange a list of all proposed exhibits (including demonstrative) and shall make the exhibits available for viewing by counsel no later than 14 days prior to the second pretrial. Exhibits shall be individually identified and given a unique identifying number. General designations such as "Records from Doctor Jones" are not sufficient. The parties shall mark all exhibits by use of standard exhibit stickers and provide a list to the Court and counsel. Failure to properly identify, mark or provide an exhibit is grounds for exclusion of the exhibit at trial.

Video Depositions to be used at trial: If a video deposition is to be used, all parties must be prepared to argue objections at the second pretrial 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: Counsel should be prepared to discuss jury instructions at the second pretrial conference. Late instructions will be considered only if justified by good cause.

3. Expert disclosures: Plaintiff: June 21, 2019.

Defendant: July 26, 2019.

Rebuttal Experts: August 26, 2019.

- a) Any party desiring to use an expert witness must furnish opposing counsel with a disclosure meeting the requirements of Rule 26(b)(4), Rules of Civil Procedure.
- b) The admissibility of expert testimony is subject to Rule 104(a) of the Rules of Evidence. Objection to the admissibility of expert testimony will be deemed waived if not objected to by a motion *in limine* filed at on or before 30 days and a hearing thereon set with the Court prior to first day of trial.
- c) Co-designation or co-reliance upon experts must also specifically be made in writing on date of Expert Disclosure.

4. Medical Examinations and Expert Evidentiary Inspections shall be completed by: July 26, 2019. All medical examinations by expert physicians must be completed by this date. Medical examinations in accordance with Rule 35, Rules of Civil

Procedure are granted, but subject to court control. Counsel or self-represented parties are expected to confer regarding the scope of any examination and file any necessary motions in advance of this date. Any continuing medical treatment to be admissible at trial must be disclosed prior to the discovery completion date.

5. Dispositive Motions: Any motion filed under Rules 12 or 56 of the West Virginia Rules of Civil Procedure must be filed no later than 60 days prior to the first pretrial conference.

6. Amendments and Third Party Pleadings must be filed no later than **May 17, 2019**.

7. Final witness list filed and exchanged: September 20, 2019. The witness list will contain the name of each person who will be called to testify at trial. By listing a witness, the lawyer or party identifying the witness certifies to the court that he or she has spoken in person or by telephone with the witness and has confirmed his or her availability for trial. Parties must identify their witnesses by name and business or home address. Any witness not identified by name (such as "representative of the ABC Corporation"), fails to meet the requirements of this order and will be treated as a failure to list the witness. Any witness listed may be called by any party, except retained experts. The unavailability of a witness will not be considered good cause for a continuance unless compliance with this order is shown.

8. Discovery completion date: November 15, 2019. All requests must be served and evidence of service filed with the clerk at least 35 days in advance of this date so that all responses may be completed by this date. All trial depositions must be completed at least 30 days before the pretrial.

9. Motions *in limine*. Any motion in limine must be filed at least 14 days before the pretrial and will be ruled on at the pretrial conference.

10. Mediation. This matter is referred for mediation. The Plaintiff is to schedule mediation in accordance with Rule 25.01 *et seq.*, West Virginia Trial Court Rules. Mediation must be complete by **February 14, 2020**. The Plaintiff shall confer with all parties regarding an agreeable mediator no less than 30 days from the entry of this order and shall file with the clerk a writing identifying the mediator selected or that no such agreement could be made. Any party may nominate a mediator if an agreement is not made. The court will appoint a mediator if no nominations or agreement are made in writing to the clerk within 45 days of the entry of this order. Objections must be made in accordance with Rule 25.03, West Virginia Trial Court Rules.

11. Finality of dates set forth in the order. The dates set by the court are final and may be modified only upon written motion, a statement as to whether the modification is agreed to or not and by order of the court. Any party requesting a hearing must furnish the court with three dates for which all counsel and self-represented parties are available or set forth what efforts were exercised to obtain such dates.

12. Dates may be changed only by order of the court. While agreements among counsel or self-represented parties regarding any matter pertaining to the case are encouraged, these agreements are not binding on the court unless confirmed by order. No additional evidence developed as a result of deviations from the above schedule will be admissible at trial unless justice requires. Any party seeking a continuance must do so in writing. Calling the court's chambers will not excuse any requirement of this order.

13. Plaintiff's duty to notify new parties of existence of order. It will be the responsibility of Plaintiff to notify opposing counsel or self-represented parties of the existence of this scheduling order. The Plaintiff shall certify in writing compliance with this paragraph by filing a certificate of service with the clerk. Failure to promptly notify opposing counsel or self-represented parties may result in that party's deadlines being extended, but not the deadlines of parties who have received prompt notice of the order.

14. 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.


15. Sanctions: In accordance with Rule 16(f), West Virginia Rules of Civil Procedure, the Court may impose the full spectrum of sanctions authorized by the Rule if a party or party's counsel fails to obey this order or other orders of this Court including taxation of costs, including attorney fees, exclusion of evidence, dismissal of claims or defenses and judgment default.

16. Motions practice. If your motion requires urgent attention, consult with other counsel and self-represented parties and state on the motion whether the relief sought is agreed, contested or what efforts were made to consult with the opposing parties.

17. Service by e-mail. The parties agreed that in lieu of paper service by mail of documents required to be served by Rule 5, Rules of Civil Procedure, it shall be sufficient to send a .pdf version by e-mail to parties entitled to service of those motions, notices and other writings filed with the clerk and any discovery required to be served.

The Clerk shall transmit true and correct copies to counsel of record and self-represented parties.

Enter this 18 day of March, 2019.



Michael D. Lorensen
Business Court Division

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STATE OF WEST VIRGINIA
TWENTY-THIRD JUDICIAL CIRCUIT
BERKELEY, JEFFERSON AND MORGAN COUNTIES
380 W. SOUTH STREET
ROOM 4402
MARTINSBURG, WV 25401

Michael D. Lorensen, Judge

TELEPHONE (304) 267-1340
FACSIMILE (304) 267-1341

FAX COVER SHEET

To: Mr. Joseph M. Rucki (304-845-3948)
Circuit Clerk of Marshall County, West Virginia

From: Deborah J. Grissinger, Judicial Assistant

Date: March 18, 2019

Re: 18-C-215 KRP Marcellus I, LLC, et al. vs. Chevron U.S.A., Inc. et al.

No. of Pages including cover sheet: 5

Transmitted herewith for filing in the above-referenced matter is a Jury Trial Scheduling Order signed by Judge Lorensen.

If you have any questions, please contact me.

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