

FILED  
2020 MAY 28 AM 9:01  
CATHY S. GATSON, CLERK  
KANAWHA COUNTY CIRCUIT COURT

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

**STATE OF WEST VIRGINIA, ex rel.  
PATRICK MORRISEY,  
ATTORNEY GENERAL, *et al.*,**

**Plaintiffs,**

**v.**

**Civil Action No.: 17-C-41  
James H. Young, Presiding Judge**

**CRH, plc, *et al.***

**Defendants.**

**AMENDED SCHEDULING ORDER**

This matter came before the Court for status conferences on March 20, 2020, April 14, 2020, and May 11, 2020. The Court is of the opinion that in light of the March 22, 2020, Administrative Order issued by the West Virginia Supreme Court of Appeals and the COVID-19 pandemic that the Amended Scheduling Order entered October 21, 2019, needs to be amended to protect the interests of all parties.

Accordingly, it is hereby ORDERED that the deadlines set forth in the Amended Scheduling Order entered October 21, 2019, are hereby vacated and that the schedule set forth herein shall govern proceedings in this matter.

The parties are currently precluded from safely or legally conducting in-person proceedings because of the COVID-19 pandemic; Stay-at-Home Orders (both in West Virginia and elsewhere), and various administrative orders by the Supreme Court of Appeals of West Virginia have been entered. However, it is anticipated that restrictions on travel and in-person gatherings related to the COVID 19 pandemic will eventually end. Accordingly, the Court finds it expedient to set forth a new schedule in hopeful anticipation that normal (or near normal) court operations can resume

by June 22, 2020, or at least six weeks before the amended trial date. The Court recognizes that this might not occur and will set periodic status conferences to discuss any necessary amendments with counsel for the parties. If any party faces difficulties preventing pretrial preparations—such as a limitation on a critical witness’s travel—that party may make an appropriate motion as soon as is practicable under the circumstances.

Accordingly, it is hereby ORDERED that the following schedule is established, contingent upon the return to normal or near normal court operations by June 22, 2020:

**Operations resume on or before** June 22, 2020

**Schedule of Exhibits** July 2, 2020

The schedule of exhibits shall include demonstrative exhibits, and the parties shall make exhibits available for viewing by counsel on July 2, 2020, or such other time as the parties may mutually agree. 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

**State’s Disclosure of Alternative Injury Analysis** May 15, 2020

**Defendants’ Response to Alternative Injury Analysis** June 3, 2020

**Motions in Limine (concerning experts)** June 17, 2020

**Responses to Motions in Limine (concerning experts)** July 7, 2020

**Replies to Motions in Limine (concerning experts)** July 10, 2020

**Video Depositions to be used at Trial** July 10, 2020

All parties must be prepared to argue objections at a time designated by the Court prior to the trial. Thereafter, the proponent of the video deposition shall have the video edited to reflect the Court’s rulings.

**All Other Motions in Limine** July 10, 2020

**Hearing on Motions in Limine (concerning experts)** July 15, 2020 @ 10:00 am

**Responses in Opposition to All Other Motions in Limine** July 17, 2020

**Replies to All Other Motions in Limine**

July 21, 2020

**Mediation Deadline (with the Resolution Judge)**

July 17, 2020

**Pre-Trial Conference Memoranda**

July 17, 2020

The pretrial memoranda are to contain, at a minimum, the following:

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

**Jury Instructions**

July 14, 2020

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

**Pre-Trial Conference**

July 24, 2020

**Trial**

August 3, 2020

**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 default for failure to comply.

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.

The Clerk shall serve a certified copy of this Order to all parties of record.



IT IS SO ORDERED.

Enter: May 22 '20

James H. Young, Jr.  
James H. Young, Jr., Circuit Judge

Prepared and agreed to by:

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