

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

FILED

2021 AUG 19 AM 11:51

AXIALL CORPORATION and
WESTLAKE CHEMICAL CORPORATION,

Plaintiffs,

vs.

NATIONAL UNION FIRE INSURANCE
COMPANY OF PITTSBURGH, PA.; ALLIANZ
GLOBAL RISKS US INSURANCE COMPANY;
ACE AMERICAN INSURANCE COMPANY;
ZURICH AMERICAN INSURANCE COMPANY;
GREAT LAKES INSURANCE SE; XL
INSURANCE AMERICA, INC.; GENERAL
SECURITY INDEMNITY COMPANY OF
ARIZONA; ASPEN INSURANCE UK LIMITED;
NAVIGATORS MANAGEMENT
COMPANY, INC.; IRONSHORE SPECIALTY
INSURANCE COMPANY; VALIDUS
SPECIALTY UNDERWRITING SERVICES,
INC.; and HDI-GERLING AMERICA
INSURANCE COMPANY,

Defendants.

Civil Action No. 19-C-59

Judge Christopher C. Wilkes

**Discovery Commissioner:
Russell M. Clawges, Jr.**

AGREED ORDER EXTENDING CERTAIN DEADLINES

On a previous day to wit, came Defendants National Union Fire Insurance Company of Pittsburgh, Pa.; Allianz Global Risks US Insurance Company; ACE American Insurance Company; Zurich American Insurance Company; Great Lakes Insurance SE; XL Insurance America, Inc.; General Security Indemnity Company of Arizona; Aspen Insurance UK Limited; Navigators Management Company, Inc.; Ironshore Specialty Insurance Company; Validus Specialty Underwriting Services, Inc.; and HDI-Gerling America Insurance Company (collectively "Defendants"), and Plaintiffs Axiall Corporation and Westlake Chemical Corporation, by and through their respective counsel, and presented the Court with this Agreed Order to Extend Certain Deadlines. In light of recent events, the parties have conferred and have agreed to extend certain deadlines, without the necessity of continuing the trial date. The Court, having fully considered the Agreed Order, hereby finds as follows:

1. On August 9, 2021, James L. Warren, III, one of Defendants' Counsel, passed away unexpectedly. Mr. Warren was active in the litigation, including the taking and defending of numerous depositions and was scheduled to continue in that process. Attorney Warren also participated in conferences with the Court.

2. As a result of Mr. Warren's passing, all depositions scheduled for the week of August 9, 2021, were postponed. The parties, along with counsel for third-party deponents, are in the process of rescheduling many of the depositions.

3. The parties have been diligently working to abide by all Court imposed deadlines, including double tracking of depositions on multiple days.

4. The Defendants have consulted with the Plaintiffs and the parties agree to the modification of certain deadlines identified herein. The modification of these deadlines will not impact the trial date.

5. As set forth above, good cause exists for the extension of certain deadlines.

Accordingly, the deadlines identified below are hereby modified:

EXPERTS DISCLOSED:

Initial:	September 27, 2021
Rebuttal:	October 25, 2021
Expert Discovery Completion Date:	November 22, 2021

EXPERT EVIDENTIARY INSPECTIONS: September 27, 2021

DISPOSITIVE MOTIONS: WVRC 12(b) and 56 motions, on or before November 23, 2021; responses in opposition, on or before December 21, 2021; and replies, on or before January 18, 2022.

DISPOSITIVE MOTIONS ON THE ISSUE OF COVERAGE: Filed by **September 16, 2021**; responses in opposition to said motions shall be filed **within 21 days thereafter**, and replies, if the movant wishes, shall be filed **within 14 days thereafter**, along with proposed orders.

DISCOVERY COMPLETION DATE: September 15, 2021¹

¹ The extension of the discovery completion date is to complete fact discovery, including depositions, that have already been requested, as well as to address outstanding discovery disputes.

6. The Discovery Conference previously scheduled for August 10, 2021 will be rescheduled. The parties have proposed August 23, 2021. Counsel will reach out to Judge Clawges regarding his availability for the conference.

IT IS HEREBY ORDERED.

The Clerk of this Court is directed to forward a copy of this Order to all counsel of record.

ENTER: August 18, 2021

[Signature]
Honorable Christopher C. Wilkes

PREPARED AND SUBMITTED BY:

[Signature]
James A. Varner, Sr. (WV State Bar #3853)
Debra Tedeschi Varner (WV State Bar #6501)
Varner & Van Volkenburg PLLC
360 Washington Avenue
Clarksburg, WV 26301
Tel: (304) 918-2840 / Fax: (304) 566-1161
Co-Counsel for Defendants

[Signature]
Myles A. Parker (admitted pro hac vice)
Alexandra F. Markov (admitted pro hac vice)
Justin M. Sumrall (admitted pro hac vice)
Erin D. Guyton (admitted pro hac vice)
Benjamin C. Lewis (admitted pro hac vice)
Jay M. Patterson (admitted pro hac vice)
Jacob T.E. Stutzman (admitted pro hac vice)
Ally H. Doran (admitted pro hac vice)
Lisa A. Reppeto (admitted pro hac vice)
Paul Thomas Lee, Jr. (admitted pro hac vice)
Carroll Warren & Parker PLLC
188 East Capitol Street, Suite 1200
P. O. Box 1005
Jackson, MS 39215-1005
Tel: (601) 592-1010 / Fax: (601) 592-6060
Co-Counsel for Defendants

APPROVED BY:

[Signature] * signed w/
permission by DV
Jeffrey V. Kessler (WV State Bar # 2026)
Berry Kessler, Crutchfield, Taylor & Gordon
514 Seventh Street
Moundsville, WV 26041
Tel: (304) 845-2580 / Fax: (304) 845-9055
Co-Counsel for Plaintiffs

[Signature] * signed w/
permission by DV
Travis L. Brannon (WV State Bar #12504)
Sarah M. Czypinski (admitted pro hac vice)
Paul C. Fuener (admitted pro hac vice)
David R. Osipovich (admitted pro hac vice)
Thomas C. Ryan (WV State Bar #9883)
John M. Sylvester (admitted pro hac vice)
Jessica L.G. Moran (admitted pro hac vice)
Elizabeth A. Hoadley (admitted pro hac vice)
K&L Gates LLP
210 Sixth Avenue
Pittsburgh, PA 15222
Tel: (412) 355-6500 / Fax: (412) 355-6501
Co-Counsel for Plaintiffs

Certified by me this 19th day

August, 2021
[Signature] Deputy