

In the Circuit Court of Marion County, West Virginia

**American Bituminous Power
Partners, LP,**
Plaintiff,

v.

**Horizon Ventures of West Virginia,
Inc.,**
Defendant

Case No. CC-24-2018-C-130
Judge Michael Lorensen

**DAY ORDER FROM FEBRUARY 17, 2023 PRETRIAL CONFERENCE AND ORDER
OF CONTINUANCE**

CAME the parties, in a Pre-Trial Conference on February 17, 2023, commencing at 10:00 a.m. Roberta F. Green, Esq. appeared for Plaintiff, American Bituminous Partners, L.P., and Mark A. Kepple, Esq. and Joseph G. Nogay, Esq. appeared for Defendant, Horizon Ventures of West Virginia, Inc.

1. Conference was held regarding the issues for the jury at the trial and what the contents of the verdict form will be.
2. Conference was then held on the West Virginia Supreme Court of Appeals Order issued February 15, 2023 in *State of West Virginia ex rel. Horizon Ventures of West Virginia, Inc. v. The Honorable Michael D. Lorensen, Judge of the Circuit Court of Berkeley County, and American Bituminous Power Partners, L.P.*, No. 23-56. Said Order set a Scheduling Order on Horizon's pending writ of prohibition, directing a response to be filed with the Supreme Court by February 27, 2023, which is the date that the trial is set to begin in this civil action.
3. The Court notes that counsel for Plaintiff opposes a stay or a continuance of the trial in this civil action. The Court, considering the Supreme Court's

- Order, finds that although a complete stay of this civil action is unnecessary at this time, a brief continuance of the trial in this matter would be appropriate.
4. The Court, in respect to its superior court, and not to undermine its authority, finds it shall CONTINUE this civil action until such time that the West Virginia Supreme Court of Appeals makes a decision on the pending writ of prohibition. After notification of the Supreme Court's decision, the Court will convene a telephonic scheduling conference within ten (10) days in order to re-set the trial in this matter.
 5. Conference was then had regarding mediating this matter before the Resolution Judge. The Resolution Judge in this civil action was Judge Matish prior to the remand from the West Virginia Supreme Court of Appeals. His term on the Business Court Division has now ended. The undersigned, as Chief of the Business Court Division, will enter an Order Assigning Resolution Judge to this civil action.
 6. Counsel proffered they had no other matters to take up today.
 7. The hearing was then adjourned.

The Court directs the Circuit Clerk to distribute attested copies of this order to all counsel of record, and to the Business Court Central Office at West Virginia Business Court Division, 380 West South Street, Suite 2100, Martinsburg, West Virginia, 25401.

ENTER: February 17, 2023

/s/ Michael Lorensen
Circuit Court Judge
16th Judicial Circuit

Note: The electronic signature on this order can be verified using the reference code that appears in the upper-left corner of the first page. Visit www.courtswv.gov/e-file/ for more details.