

In the Circuit Court of Marion County, West Virginia

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

v.

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

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

**Day Order From May 12, 2023 Status Conference And Order Setting Trial And
Pretrial Conference**

CAME the parties, in a Status Conference on May 12, 2023, commencing at 9:30 a.m. via Microsoft Teams. Roberta F. Green, Esq. and John F. McCuskey, 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 dates setting the trial and pretrial conference in this matter. This matter will be tried to a jury on: October 10, 2023 at 9:00 a.m. in Courtroom B, 4th Floor, Berkeley County Judicial Center, Martinsburg, West Virginia. The Court anticipates having a decision from the West Virginia Supreme Court of Appeals 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, by that date.
2. The pretrial conference shall be held on July 28, 2023 at 10:00 a.m. in Courtroom B, 4th Floor, Berkeley County Judicial Center, Martinsburg, West Virginia.
3. Conference was held regarding the issues for the jury at the trial and what the contents of the verdict form will be. Plaintiff and Defendant will each submit a proposed verdict

form, or proposed special interrogatories, to the Court by June 9, 2023.

4. All other directives and instructions from this Court's prior Scheduling Order entered December 2, 2022 remain in full force and effect.
5. Conference was had regarding the pending motion, Horizon's Motion to Prohibit AMBIT From Engaging in Self-Help and to Require AMBIT to Pay Agreed-Upon Amounts. The Court heard oral argument regarding the parties' positions. The Court, noting that the threshold question presented is a question of law, promised due consideration of the briefing and oral argument in the near future.
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: May 12, 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.