

In the Circuit Court of Jackson County, West Virginia

**Southern Jackson County Public
Service District,**
Plaintiff,

v.

Case No. CC-18-2022-C-91
Judge Michael Lorensen

**C.J. Hughes Construction Company,
Inc.,
Tri-State Pipeline, Inc.,
Ferguson Enterprises, LLC,
Master Meter, Inc.,**
Defendants

AMENDED JURY TRIAL SCHEDULING ORDER

On the 29th day of July, 2024, upon the appearance of the Plaintiff Southern Jackson County Public Service District, by counsel Marvin W. Masters, Esq., upon the appearance of Defendant Master Meter, Inc., by counsel David K. Hendrickson, Esq., upon the appearance of Defendant Ferguson Enterprises, LLC, by counsel, William R. Slicer, Esq., upon the appearance of Defendant C.J. Hughes Construction Company, Inc., by counsel Daniel J. Konrad, Esq., and upon the appearance of Defendant Tri-State Pipeline, Inc., by counsel, Jennifer N. Taylor, Esq., the court did convene a status conference/scheduling conference. It appearing that any further stay of proceedings is no longer necessary for the agreed resolution track the parties were pursuing in this matter, it is ORDERED that the prior stay is hereby LIFTED. It was ORDERED that all outstanding discovery is due August 30, 2024. It appearing there exists a pending Request for Attorneys' Fees, is hereby ORDERED: that a proposed order be provided, if not already done so; that non-moving parties file a written response and proposed order within 21 days of the entry of this order; that reply memoranda, if desired, be submitted within 7 days thereafter; and that after these time periods pass, the Court will regard the matter as submitted and will rule or set for hearing as the Court deems appropriate. The undersigned set this matter for status conference on September 13, 2024 at 10:30 a.m. via Microsoft Teams, at which time the parties will report as to their follow up to their recent mediation and the Court will report to the parties regarding courtroom accommodations for the 2025 Pretrial Conference and Trial.

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: A date to be determined in Fall/Winter 2025, at 9:00 a.m. in the Jackson County Courthouse, 100 Court Street, Ripley, WV 25271. Conference will be had regarding this date at the September 13, 2024 status conference. The trial is expected to take two weeks or less. Continuance motions must be filed and heard prior to the pre-trial conference.

2. A first pretrial conference may be scheduled at a later date if needed after discovery and dispositive motions have been filed. The final pretrial conference shall be

conducted on October 28, 2025 at 10:00 a.m. in the Jackson County Courthouse, 100 Court Street, Ripley, WV 25271. 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:

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|--------------------------|---|
| 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 final 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 final pretrial conference. Late instructions will be considered only if justified by good cause.

- 3. Expert disclosures: Plaintiff: May 28, 2025.**
Defendant: June 27, 2025.

- 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. Expert Evidentiary Inspections shall be completed by: June 27, 2025. 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 pretrial conference. Responses shall be filed and served fifteen days after said motion is filed. Any reply must be filed 10 days after that.

6. Amendments and Third Party Pleadings: A deadline for amendments was represented by counsel to be non applicable to this case's current procedural posture.

7. Final witness list filed and exchanged: August 15, 2025. 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: March 28, 2025. 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 or other form of dispute resolution agreed to by the parties pursuant to Rule 25.01 *et seq.*, West Virginia Trial Court Rules. Mediation must be complete by **August 15, 2025**. By order of this Court, mediation or other form of dispute resolution shall be conducted by the Honorable Joseph K. Reeder as Resolution Judge in this matter and shall be scheduled and concluded on or before August 15, 2025, unless such deadline is otherwise extended by the undersigned Presiding Judge for good cause shown. Counsel shall contact the office of the Resolution Judge for the purpose of scheduling mediation/alternative dispute resolution.

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.

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

Enter this 30th day of July, 2024.

/s/ Michael Lorensen
Circuit Court Judge
5th 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.