

In the Circuit Court of Pleasants County, West Virginia

**BB LAND, LLC AND JB
EXPLORATION 1, LLC,**
Plaintiff,

v.

Case No. CC-37-2018-C-2
Judge Michael Lorensen

**BLACKROCK ENTERPRISES, LLC,
MICHAEL L. BENEDUM,**
Defendants

DAY ORDER FROM FEBRUARY 18, 2025 HEARING

CAME the parties, in a status conference on February 18, 2025, commencing at 1:00 p.m.

Geoffrey Bracken, Esq., Vi T. Tran, Esq., Charles R. Bailey, Esq., and Joseph G. Nogay, Esq., appeared for Plaintiffs BB Land, LLC and JB Exploration 1, LLC, and Brian R. Swiger, Esq., Christopher D. Smith, Esq., and John A. Budig, Esq. appeared for Defendants, Blackrock Enterprises, LLC and Michael L. Benedum. Conference was had as to the status of this case upon the parties' agreed mediation.

1. As mediation was not successful, the Court first took up status and scheduling. Counsel for Plaintiff requested that as an initial matter, the Court set a briefing schedule on a motion for summary judgment on the question of law regarding whether a mining partnership exists. Counsel for Defendant averred this should not be done prior to trial. Counsel for Defendant averred the parties should instead submit a Pretrial Brief outlining what issues they believe remain. To that end, counsel for Defendant averred it may wish to file its own motion for summary judgment as well.
2. Taking all of the foregoing into consideration, the undersigned ordered a briefing schedule for any motions for the Court's consideration, including motions for summary

judgment. Such briefs and proposed orders shall be filed and served within sixty (60) days of the February 18, 2025 hearing. Non-moving parties, shall thereafter have thirty (30) days to file and serve written responses and proposed orders. The moving party shall thereafter have fifteen (15) days to file a rebuttal memorandum, if desired.

Courtesy copies and Word versions of proposed orders should be emailed to Tessa.Bowers@courtsww.gov.

3. Conference was had regarding discovery. The undersigned directed that the discovery period in this matter has been finished for quite some time. Issues related to scheduling and any re-opening of discovery, for example, for reasons like updating projected well production with actual well production after the passage of time since the trial and appeal, shall be taken up after the Court has ruled upon any pending motions filed in response to the aforementioned briefing schedule.
4. Counsel proffered they had no other matters to take up today.
5. 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 19, 2025

/s/ Michael Lorensen
Circuit Court Judge
3rd 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.courtsww.gov/e-file/ for more details.