



IN THE CIRCUIT COURT OF RALEIGH COUNTY, WEST VIRGINIA

IN RE: FLOAT-SINK LITIGATION CIVIL ACTION NO. 11-C-5000000

THIS DOCUMENT APPLIES TO ALL CASES

CASE MANAGEMENT AND SCHEDULING ORDER

The following schedule is hereby adopted and **ORDERED** by the Court:

TRIAL DATE: NOVEMBER 5, 2012 at 9:00 a.m.

SELECTION OF CASES AND TRIAL PLAN: The Presiding Judges will address the selection of cases for trial and the trial plan by separate Order.

PLAINTIFFS' EXPERT WITNESS DISCLOSURES: DECEMBER 15, 2011

DEFENDANTS' EXPERT WITNESS DISCLOSURES: JANUARY 16, 2012

REBUTTAL EXPERT WITNESS DISCLOSURES: JANUARY 26, 2012

A. Any party desiring to use an expert witness must furnish opposing counsel with the specialty of such expert and copies of all reports submitted by such witness, or, if no reports have been submitted, a summary of the substance of such expert's contemplated testimony, on the date of Expert Disclosure in accordance with WVRCP 26(b)(4).

B. If the name, reports or 26(b)(4) material is not timely provided, a motion to continue, motion to exclude, or other sanction motions on this basis will not be considered unless opposing counsel has filed such motions prior to the pretrial conference.

C. Co-designation or co-reliance upon experts must specifically be made on the same date as the initial disclosure for either plaintiff or defendant experts.

D. Anticipated destructive tests of tangible evidence or tests of simulated conditions must be disclosed prior to such tests, but in any case no later than **DECEMBER 15, 2011.**

EXPERT WITNESS DISCOVERY COMPLETION DATE: JULY 2, 2012

MOTIONS TO EXCLUDE EXPERT WITNESSES: JULY 16, 2012

RESPONSES TO MOTIONS TO EXCLUDE EXPERT WITNESSES: JULY 30, 2012

MEDIATION: JANUARY 26, 2012 and JANUARY 27, 2012. The location of the mediation will be to be addressed in a separate order.

FACT WITNESS DISCLOSURES: APRIL 2, 2012

FACT DISCOVERY COMPLETION DATE: JUNE 1, 2012

All responses and objections to discovery shall be completed and all motions to compel discovery shall be filed by this date.

ALL LAWYERS ARE REMINDED OF THE MANDATORY LANGUAGE IN RULE 26(e) REQUIRING THE SUPPLEMENTATION OF RESPONSES TO INTERROGATORIES. THE CUT-OFF DATE ESTABLISHED IN THIS SCHEDULING ORDER DOES NOT EXCUSE FAILURE TO COMPLY WITH THE PROVISIONS OF RULE 26(e).

DISPOSITIVE MOTIONS AND MOTIONS IN LIMINE: JULY 2, 2012

RESPONSES TO DISPOSITIVE MOTIONS AND RESPONSES TO MOTIONS IN LIMINE: JULY 16, 2012

REPLIES IN FURTHER SUPPORT OF DISPOSITIVE MOTIONS AND MOTIONS IN LIMINE: JULY 23, 2012

If a discovery deposition is scheduled within 30 days of the close of discovery, counsel must request an expedited copy of the transcript of such deposition. The Court will not permit supplementation of dispositive motions or responses to dispositive motions with deposition testimony received after the briefing deadlines set forth above.

HEARING ON MOTIONS TO EXCLUDE EXPERT WITNESSES DISPOSITIVE MOTIONS AND MOTIONS IN LIMINE:

Beginning on **AUGUST 16, 2012, at 9:00 a.m.** and continuing through **AUGUST 17, 2012**, until concluded.

WVRE 103(c) requires that all Motions in Limine should, where practicable, be determined prior to trial. Accordingly, this Court will not consider motions in limine on the day of trial without good cause shown.

DEADLINE FOR PROPOSED JURY QUESTIONNAIRE TO BE SUBMITTED TO THE COURT: SEPTEMBER 5, 2012

WITNESS AND EXHIBIT LISTS, PROPOSED VOIR DIRE AND PROPOSED JURY INSTRUCTIONS: OCTOBER 1, 2012

Parties shall electronically serve their witness and exhibit lists, proposed voir dire and proposed jury instructions on one another, the Presiding Judges and the Mass Litigation Manager by **OCTOBER 1, 2012**. Parties shall provide Lead Presiding Judge John A. Hutchison with a disk containing their proposed voir dire and jury instructions in Microsoft WORD format by no later than **OCTOBER 1, 2012**.

The witness list is to be a bona fide list of intended trial witnesses as well as any recently discovered fact or condition witness. Names of witnesses must be specified and must include contact information for each witness and a statement of intended testimony. Unnamed/unlisted witness reservations are not authorized.

EXHIBITS AND DEPOSITION DESIGNATIONS EXCHANGED: OCTOBER 1, 2012.

Parties are to exchange full and complete copies of all exhibits intended to be introduced into evidence at trial and all deposition designations. All exhibits shall be pre-marked.

OBJECTIONS TO EXHIBITS, WITNESSES AND DEPOSITION DESIGNATIONS: OCTOBER 15, 2012.

PRETRIAL CONFERENCE MEMORANDA:

All parties are directed to exchange and deliver their respective pretrial conference memoranda to the Presiding Judges and the Mass Litigation Manager by **no later than OCTOBER 5, 2012**.

Pretrial memoranda are to contain as a minimum, the following ten (10) items:

- | | |
|--|-----------------------------------|
| a. Statement of the Case | g. Pending Motions |
| b. Issues of Fact | h. Motions in Limine |
| c. Issues of Law | i. All Proposed Jury
Voir Dire |
| d. Proposed Stipulations | j. Proposed Verdict Form |
| e. Specific Schedule of Exhibits
(NO reservations authorized) | |
| f. Specific List of Witnesses
(NO reservations authorized) | |

PRETRIAL CONFERENCE:

Beginning on **OCTOBER 25, 2012, at 9:00 a.m.** and continuing through **OCTOBER 26, 2012**, until concluded.

LEAD COUNSEL TRYING THE CASE MUST APPEAR AT THE PRE-TRIAL CONFERENCE.

MODIFICATION: In accordance with WVRCP 16(b) and 29(b), this scheduling conference order shall not be modified except by leave of the Court.

SANCTIONS: In accordance with WVRCP, failure of any party to comply with the terms and conditions of this Case Management Order may result in the imposition of sanctions, including possible dismissal or pleadings being stricken and judgment being entered in this action against the offending party. The parties may not, by agreement, modify any of the time frames as set forth, without approval of the Court. The Court will impose the full spectrum of sanctions authorized by the WVRCP if a party or party's counsel fails to obey this order or other Orders of this Court.

Unless authorized by the Court the above dates and requirements of this Scheduling Conference Order are **FINAL**. Therefore, **NO** additional evidence developed as a result of deviations from the above will be admissible at trial.

It is so **ORDERED**.

ENTER: October 18, 2011

/s/ John A. Hutchison
Lead Presiding Judge, Float-Sink Litigation