



IN THE CIRCUIT COURT OF RALEIGH COUNTY, WEST VIRGINIA

IN RE: GAVIN LANDFILL LITIGATION

Civil Action No. 16-C-8000

THIS DOCUMENT APPLIES TO ALL CASES

CASE MANAGEMENT ORDER

The Court hereby appoints the following attorneys to serve as Liaison and Lead Counsel in the Gavin Landfill Litigation:

LIAISON COUNSEL

Plaintiffs: J. Zachary Zatezalo

Defendants: Ancil G. Ramey

LEAD COUNSEL

Plaintiffs: Christopher J. Regan

Defendants: Lori Elliot Jarvis

This case management order shall govern all pre-trial and trial activities for Phase I of the Gavin Landfill Litigation, which shall include the issues of liability, including liability for medical monitoring, and whether punitive damages are appropriate.

DISCOVERY CONFERENCE: June 17, 2016

Plaintiffs and Defendants shall meet, confer and resolve all discovery disputes.

PARTIES TO EXCHANGE PROPOSED JURY INSTRUCTIONS: July 8, 2016

CONFERENCE REGARDING JURY INSTRUCTIONS AND PROPOSED PLAINTIFF

FACT SHEET: July 15, 2016.

Plaintiffs and Defendants shall meet and confer regarding the proposed Jury Instructions and Plaintiff Fact Sheet, and shall e-file and serve the proposed Jury Instructions and Plaintiff Fact Sheet in rich text format **no later than August 25, 2016.**

All Plaintiff Fact Sheets shall be completed, e-filed and served no later than 30 days after the Court has approved the parties' proposed Plaintiff Fact Sheet.

HEARING ON PROPOSED JURY INSTRUCTIONS: The Court will hear oral argument regarding the parties' proposed jury instructions at **10:00 a.m. on August 29, 2016**, in Courtroom Four, also known as the Ceremonial Courtroom, on the Second Floor of the Kanawha County Courthouse, at 407 Virginia Street, East, Charleston, West Virginia.

DEADLINE FOR FILING ANY DECLARATORY JUDGMENT ACTION REGARDING INSURANCE COVERAGE: August 1, 2016

DEADLINE FOR AMENDING COMPLAINT TO ADD COUNTS OR PARTIES, INCLUDING THIRD-PARTIES: August 1, 2016

DEADLINE TO PROVIDE A COMPLETE LIST OF ALL PLAINTIFFS, ALONG WITH CIVIL ACTION NUMBERS: No later than **June 30, 2016**.

FACT DISCOVERY

FACT WITNESS DISCLOSURE DEADLINE: July 15, 2016

FACT DISCOVERY COMPLETION DEADLINE: September 12, 2016

All responses and objections to discovery shall be completed and all motions to compel discovery shall be filed by the fact discovery completion deadline. The fact discovery completion deadline established in this scheduling order does not excuse failure to comply with the provisions of Rule 26(e) requiring supplementation of responses to discovery.

EXPERT DISCOVERY

PLAINTIFFS' EXPERT WITNESS DISCLOSURE DEADLINE: August 1, 2016

DEFENDANTS' EXPERT WITNESS DISCLOSURE DEADLINE: September 1, 2016

EXPERT DISCOVERY COMPLETION DEADLINE: November 14, 2016

Any party desiring to use an expert witness shall 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, in accordance with WVRCP 26(b)(4). If the name, reports or 26(b)(4) material are not timely provided, a motion to continue, motion to exclude, or other sanction motion on this basis will not be considered unless opposing counsel has filed such motion prior to the pretrial conference.

ALL DISCOVERY IS CLOSED: November 28, 2016

MEDIATION: To be determined.

DEADLINE FOR FILING MOTIONS IN LIMINE: March 31, 2017

DEADLINE FOR RESPONSES TO MOTIONS IN LIMINE: April 14, 2017

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

DEADLINE FOR REPLIES TO MOTIONS IN LIMINE: April 21, 2017

DEADLINE FOR DISPOSITIVE MOTIONS: December 16, 2016

DEADLINE FOR RESPONSES TO DISPOSITIVE MOTIONS: January 16, 2017

DEADLINE FOR REPLIES TO DISPOSITIVE MOTIONS: January 23, 2017

If a discovery deposition is scheduled within 30 days of the close of discovery, counsel shall 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 DISPOSITIVE MOTIONS: at 10:00 a.m. on February 17, 2017, in Courtroom Four, also known as the Ceremonial Courtroom, on the Second Floor of the Kanawha County Courthouse, at 407 Virginia Street, East, Charleston, West Virginia.

WITNESS AND EXHIBIT LISTS, PROPOSED JURY QUESTIONNAIRE, PROPOSED VOIR DIRE, AND PROPOSED JURY INSTRUCTIONS: April 10, 2017

Parties shall electronically file and serve their witness and exhibit lists, proposed jury questionnaire, proposed voir dire, and proposed jury instructions on one another, the Presiding Judges and the Mass Litigation Manager. Parties shall also provide the Mass Litigation Manager with their proposed voir dire and proposed jury instructions in Microsoft WORD format via electronic mail **on April 10, 2017**. The Mass Litigation Manager's electronic mail address is kim.fields@courtsww.gov

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

EXHIBITS AND DEPOSITION DESIGNATIONS EXCHANGED: March 1, 2017

Parties shall 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:

March 15, 2017. All parties shall meet and confer **no later than March 27, 2017**, to resolve objections to witnesses, exhibits and deposition designations.

PRETRIAL CONFERENCE MEMORANDA: April 10, 2017

All parties shall exchange their pretrial conference memoranda, and deliver their pretrial conference memoranda to the Presiding Judges and the Mass Litigation Manager.

The pretrial conference memoranda shall contain the following:

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

PRETRIAL CONFERENCE: 10:00 a.m. on May 1, 2017, in Courtroom Four, also known as the Ceremonial Courtroom, on the Second Floor of the Kanawha County Courthouse, at 407 Virginia Street, East, Charleston, West Virginia.

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

TRIAL: 9:00 a.m. on June 5, 2017 at a location to be determined.

The Court has allotted three weeks for the Phase I Trial of liability, including liability for medical monitoring, and whether punitive damages are appropriate. If Plaintiffs prevail in Phase I, the Court will schedule pre-trial and trial deadlines and conduct a Phase 2 Trial of proximate cause and damages on dates and times to be determined.

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

SANCTIONS: In accordance with WVRCP 16(f), 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

Case Management Order are **FINAL**. **NO** additional evidence developed as a result of deviations from this Case Management Order will be admissible at trial.

It is to **ORDERED**.

ENTER: June 16, 2016.

/s/ Derek C. Swope
Lead Presiding Judge
Gavin Landfill Litigation