

FROM: 10.13044551069 04/03/2020 07:51 #296 P 002/006

IN THE CIRCUIT COURT OF WETZEL COUNTY, WEST VIRGINIA
BUSINESS COURT DIVISION

MARKWEST LIBERTY MIDSTREAM
& RESOURCES, L.L.C.,

Plaintiff,

v.

Civil Action No.: 16-C-82
Hon. H Charles Carl, III

J.F. ALLEN COMPANY, AMEC
FOSTER WHEELER ENVIRONMENT
& INFRASTRUCTURE, INC.;
REDSTONE INTERNATIONAL INC;
CIVIL & ENVIRONMENTAL CONSULTANTS, INC.
and COSTAL DRILLING EAST, LLC

Defendants,

THE LANE CONSTRUCTION
CORPORATION,

Additional Defendant.

ORDER

On March 27, 2020, this matter came before the Court for a telephonic hearing for purposes of a status conference, all of which is of record. The following appeared telephonically: Joseph M. Ward, Kevin Colosimo, and William Crichton, counsel for Plaintiff Mark West Liberty Midstream & Resources, LLC ("MarkWest"); Douglas C. LaSota, counsel for J.F. Allen Company ("J.F. Allen"); Vic L. McConnell, counsel for Amec Foster Wheeler Environment & Infrastructure, Inc. ("Amec"); Bruce E. Stanley and Michael A. Jacks, counsel for Redstone International, Inc. ("Redstone"); Stephen F. Gandee, counsel for Coastal Drilling East, LLC ("Coastal"); Damon R. Thomas, counsel for Civil & Environmental Consultants, Inc. ("CEC"); and Traci L. Wiley, counsel for Lane Construction Corporation ("Lane").

The Court proceeded to note the report of counsel for MarkWest that the parties had stipulated and agreed to resolve this matter with a bench trial. The Court inquired as to whether the parties had reached any other agreements regarding evidentiary or procedural issues. Counsel for Redstone advised the Court that the parties had had preliminary conversations about permitting expert witnesses to give their direct testimony in the form of presentations to the Court, rather than direct testimony led by counsel. The Court encouraged the parties to continue that discussion, as well discuss other ways the trial could be streamlined.

The Court next inquired of counsel whether they believed the June 8, 2020 trial date was still viable in light of the current Covid-19 public health crisis and if the parties believed they still needed the full three weeks to try the case given the progress being made on stipulations. Counsel all agreed that, for the time being, they believed they would be ready for trial beginning June 8, 2020, and that they would need the full three weeks, but that they would advise the Court immediately if either of those changed. The Court also confirmed with counsel that all believed the dates for the submission of pre-trial motions and responses thereto of April 10, 2020, and April 24, 2020, respectively, were still viable.

Next, citing the choice of a bench trial and the more modern facilities, the Court asked the parties to consider holding the trial at the Hampshire County Courthouse in Romney rather than at the Wetzel County Courthouse in New Martinsville. No counsel objected to holding the trial in Romney; however, counsel for Redstone reminded the Court that there had been previous discussion about possibly holding the trial in Judge Gaujot's courtroom in Morgantown. The Court indicated it would look into the availability Judge Gaujot's courtroom to see if that was a viable option, but that, in the interim, counsel should confer with their clients and the parties should attempt to reach a consensus as to the trial and pre-trial location being Romney, WV.

Finally, the Court inquired with counsel as to whether they believed it was still necessary to hold the status conference currently scheduled to take place on April 10, 2020. With no counsel indicating that it was necessary, the Court announced the conference would be cancelled. Should the parties' needs so require, the Court will schedule a telephone status conference upon request.

Based thereon, the Court ORDERS and ADJUDGES that, the parties having stipulated and agreed, this matter shall be resolved by a trial before the Court and without a jury. The status conference previously scheduled for April 10, 2020, is hereby CANCELLED. Furthermore, all dates in the Scheduling Order of July 6, 2019, as amended by the Agreed Order Setting/Extending Certain Deadlines in the Current Scheduling Order of June 11, 2019, including the trial date of June 8, 2020, pre-trial conference date of May 8, 2020, pre-trial motion deadline of April 10, 2020, pre-trial motion response deadline of April 24, 2020, shall remain unchanged for the time being. Counsel for the parties shall immediately notify the Court if for any reason they believe their ability to comply with those dates may be impacted by the current public health crisis caused by the Covid-19 pandemic. Finally, the Court DIRECTS counsel for the parties to notify it if a consensus is reached as to the location of the trial and further ADVISES the parties that it will notify the parties of the location of the pre-trial conference and trial after having heard from counsel for the parties.

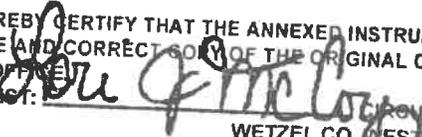
The Clerk is hereby directed to forward copies of this entered Order to counsel of record.

ENTERED this 2 day of April, 2020.

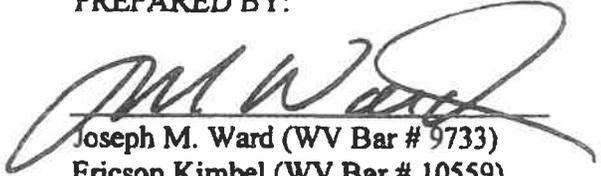




Judge H. Charles Carl, III

I HEREBY CERTIFY THAT THE ANNEXED INSTRUMENT IS A TRUE AND CORRECT COPY OF THE ORIGINAL ON FILE IN MY OFFICE.
ATTEST: 
BY: _____
DEPUTY CLERK
WETZEL CO. WEST VIRGINIA

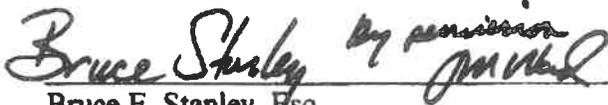
PREPARED BY:



Joseph M. Ward (WV Bar # 9733)
Ericson Kimbel (WV Bar # 10559)
Kevin P. Colosimo (*admitted pro hac vice*)
Frost Brown Todd LLC
500 Virginia Street East, Suite 1100
Charleston, WV 25301
Phone: (304)348-2423
Fax: (304)345-0115
Email: jward@fbtlaw.com
ekimbel@fbtlaw.com
kcolosimo@fbtlaw.com

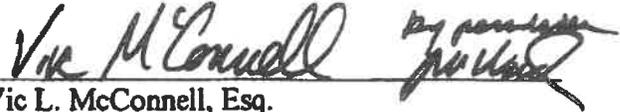
Counsel for Plaintiff

AGREED TO BY:



Bruce E. Stanley, Esq.
Alicia M. Schmitt, Esq.
STANLEY & SCHMITT PC
2424 Craftmont Avenue
Pittsburgh, PA 15205
Michael A. Jacks, Esq.
Jacks Legal Group, P.L.L.C.
United Federal Credit Union Building
3467 University Ave, Suite 200
Morgantown, WV 26505

Counsel for Defendant Redstone International, Inc.



Vic L. McConnell, Esq.
Smith, Cashion & Orr, PLC
Once American Center
3100 West End Avenue, Suite 800
Nashville, TN 37203

Donald J. Tennant, Jr., Esq.
Tennant Law Offices
38 Fifteenth Street, Suite 100
Wheeling, WV 26003

Counsel for Defendant Amec Foster Wheeler Environment & Infrastructure, Inc



Douglas C. LaSota, Esq.
Benjamin R. Wright, Esq.
Marshall Dennehey Warner Coleman & Goggin
501 Grant Street, Suite 700



Rose A. Georgianni, Esq.
Damon R. Thomas, Esq.
Haig M. Sakoian, Esq.
Blumling & Gusky, LLP

Pittsburgh, PA 15219

David L. Wyant, Esq.
Bailey & Wyant PLLC
1210 Chapline Street
Wheeling, WV 26003

*Counsel for Defendant and Third-Party
Plaintiff J. F. Allen Company*



Stephen F. Gandee, Esq.
Robinson & McElwee PLLC
Post Office Box 128
140 West Main Street, Suite 300
Clarksburg, WV 26302

Counsel for Coastal Drilling East, LLC

1200 Koppers Building
436 7th Avenue
Pittsburgh, PA 15219

*Counsel for Defendant Civil & Environmental
Consultants, Inc.*



Traci L. Wiley, Esq.
McCorkle Lavender PLLC
300 Summers Street, Suite 800
Charleston, WV 25332

*Counsel for Third-Party Defendant The Lane
Construction Corporation*