

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

RANDALL CLAY FORD,

Plaintiff,

v.

Civil Action No.: 1:19-cv-192  
Judge: Thomas S. Kleeh

THE COUNTY COMMISSION OF MARION COUNTY;  
JOHN BILLIE, in his official and individual capacity; and  
JOHN DOE, in his official and individual capacity.

Defendants.

**REPORT OF PARTIES' INITIAL PLANNING MEETING**

Pursuant to Fed. R. Civ. P. 26(f), and the Order and Notice entered by the Court on December 6, 2019, the parties provide the following report regarding the required planning meeting:

1. A telephonic meeting was held on December 31, 2019. Tiffany R. Durst, Esq., appeared on behalf of the Defendants, County Commission of Marion County ("Commission") and John Billie. J. Bryan Edwards, Esq. appeared on behalf of the Plaintiff, Randall Clay Ford.

2. This case is pending before the Court upon federal question jurisdiction, as this matter was filed pursuant to 28 U.S.C. §§1331, 1343, and 1367.

**3. Pre-Discovery Disclosures:**

The parties will make initial disclosures and exchange information required by Fed. R. Civ. P. 26(a)(1) by February 5, 2020, as set forth in the Court's First Order and Notice entered on December 6, 2019.

**4. Parties' Proposals and Responses Relating to Discovery Plan:**

*a. Discovery Plan:*

(i) The parties agree that discovery will be needed on all issues related to liability and damages.

(ii) *Disclosure of Electronically Stored Information.*

The parties have agreed to exchange electronically-stored information by providing a CD with the electronically-stored documents. Additionally, the parties reserve the right to obtain specific documents in native format.

(iii) The parties have agreed to an order regarding claims of privilege or of protection as trial-preparation materials asserted after production, as follows:

In the event a party learns or discovers that a document subject to immunity from discovery on the basis of attorney-client privilege, work product, or other valid basis has been produced inadvertently, counsel shall notify the receiving party within 30 days after such inadvertent production is discovered. Thereafter, such inadvertently-disclosed documents and all copies thereof shall be returned to the producing party and the receiving party shall not, without good cause shown, seek an order compelling production of the inadvertently-disclosed documents on the ground that the producing party has waived or is otherwise estopped from asserting the applicable privilege or immunity on the basis of the inadvertent production. Such inadvertent disclosure shall not result in the waiver of any associated privilege, provided that the producing party has given timely notice as provided in this paragraph. Counsel shall cooperate, to the extent reasonably feasible, to restore the confidentiality of any such inadvertently produced information. The parties agree that the Court may enforce the terms of this stipulation consistent with the protections afforded under Federal Rule of Evidence 502(d).

- (iv) The parties adopt the discovery limits set forth in the Federal Rules of Civil Procedure for each discovery period discussed herein, other than the depositions by oral examination, where the parties have agreed that each party may take **15 depositions** by oral examination. Each party reserves the right, by stipulation or by leave of Court, to exceed any other discovery limitation should the need arise.
- (v) Supplementations of disclosures or discovery responses must be made consistent with Fed. R. Civ. P. 26(e).
- (vi) The parties agree on the following discovery schedule and other items for this matter:
  - A. Discovery completed by August 31, 2020;
  - B. Reports of retained experts under Fed. R. Civ. P. 26(a)(2) will be due:
    - I. from the Plaintiff by May 1, 2020;
    - II. from the Defendants by June 15, 2020;
  - C. Any independent site inspections must be completed by April 5, 2020.
  - D. Plaintiff and Defendants shall all be permitted until March 16, 2020, to join additional parties and to amend their respective pleadings;
  - E. Mediation, if agreed by the parties, by September 14, 2020;
  - F. All potential dispositive motions should be filed on or before September 30, 2020;
  - G. A final pretrial conference in November 2020;
  - H. A joint pre-trial order, Rule 26(a)(3) Disclosures, and Motions in Limine must be submitted to the Court on or before October 16, 2020;
  - I. Trial to be set in November or December 2020;

J. The parties do not request that this matter be tried by a Magistrate Judge.

**Agreed By Counsel,**

/s/ J. Bryan Edwards

J. Bryan Edwards (W.Va. Bar No. 6886)

Ryan J. Umina (W.Va. Bar No. 13056)

**CRANSTON & EDWARDS, PLLC**

1200 Dorsey Avenue, Suite II

Morgantown, WV 26501

Phone: (304) 296-3500

Fax: (304) 296-3600

*Counsel for Plaintiff*

-and-

/s/ Tiffany R. Durst

Tiffany R. Durst (W.Va. Bar No. 7441)

Nathan A. Carroll, (W.Va. Bar No. 12526)

**Pullin, Fowler, Flanagan, Brown & Poe, PLLC**

2414 Cranberry Square

Morgantown, WV 26508

Phone: (304) 225-2200

Fax: (304) 225-2214

*Counsel for Defendants*