



**IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA**

**IN RE: TOBACCO LITIGATION**

**CIVIL ACTION NO. 00-C-5000**

**(INDIVIDUAL PERSONAL INJURY CASES)**

**(ARTHUR M. RECHT, JUDGE)**

**ORDER DETERMINING ISSUES RAISED AT AUGUST 13, 2013 HEARING**

On August 13, 2013 pursuant to notice to all parties, came counsel herein for a hearing on the following motions, properly filed, together with the oppositions to each accompanied by memoranda of the law:

- Plaintiffs' Renewed Motions for Judgment as a Matter of Law and Motions for a New Trial.
- Defendants' Motion for Judgment Notwithstanding the Verdict or, in the Alternative, for Individual New Trials.

The Court heard the argument of counsel on the motions and rendered a decision on each, all of which was recorded and transcribed, a copy of which has been filed herein.

Accordingly, it is hereby ORDERED as follows:

- (1) Plaintiffs' Renewed Motion for Judgment as a Matter of Law and Motions for a New Trial is **DENIED**.
- (2) Defendants' Motion for Judgment Notwithstanding the Verdict or, in the Alternative, for Individual New Trials is **DENIED**.
- (3) The requisite findings for both denials herein are reflected in the record as set out in the filed transcript above pursuant to R.Civ.P 52(a).
- (4) Various Plaintiffs were dismissed with prejudice prior to trial due to Court's

findings that they failed to comply with the Case Management Order. As to those Plaintiffs, whose civil action numbers and names are reflected in the dismissal orders previously filed in the record, final judgment shall be, and hereby is, now entered in favor of Defendants and against Plaintiffs in those civil actions. Defendants contend that all prior dismissal orders constituted final judgments at the time they were entered and were appealable at that time. The objection is noted, overruled, and preserved for appeal.

- (5) By the entry of this order, the Court FINDS upon EXPRESS DETERMINATION that all such orders as described hereinabove, are now final and available for the proper application of the appellate process as per R.Civ.P. 54(b) and the Rules of Appellate Procedure.
- (6) Pursuant to R. C. P. 46 the exceptions of respective parties to all rulings of the Court adverse to their position are here noted and preserved to the extent that at the time of the ruling it was made known to the Court the action such party desired the court to take or the objection to the actions of the Court and the grounds therefore.

**ENTER:** October 28, 2013.

/s/ Arthur M. Recht  
Senior Status Judge  
In Re: Tobacco Litigation