



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

On March 15, 2013 at 10:00 A. M. the parties, by counsel, participated in a telephonic hearing pursuant to notice by the court.

Scheduled by the court was the refinement of current issues concerning the jury selection process for the trial of phase one of this action set for April 15, 2013 in Kanawha County.

The respective parties and the court stated concerns, suggestions and agreements on the pending issues of jury selection. Upon consideration of those presentations, arguments and various submissions, the court determined a methodology for the final jury selection process which is hereby ORDERED:

1. The entire summonsed jury pool which have received agreed jury questionnaires are to be separated by four categories:
 - (a) Questionnaires from the prospective panel members continue to be received by the clerk requiring some adjustments to any of the outlined procedures; however, sufficient responses have been returned to enable a scheduling of appearances. By a previous administrative order, the Circuit Clerk of Kanawha County (the "clerk") was granted authority to review returned jury questionnaires and determine which prospective panel members are

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clearly barred from service as per W. Va. Code 52-1-8. In addition to the statutory dictates, the clerk was and is directed to add to the disqualification proscriptions a response stating a shareholder interest in any of the corporate parties. A listing of those prospective panel members who the clerk has identified as disqualified and the reasons for disqualification has been provided to liaison counsel incrementally to date.

- (b) Counsel have submitted objections to various prospective panel members. Of those two subcategories appear:

- (i) **Reserve Group # 1**

- Those potential jurors which counsel for defendants or plaintiffs conceive as disqualified from the responses, but whom the opposite counsel conceive otherwise. Upon a submission of a list of those prospects, the court notified each by letter dated March 4, 2013 that in the event their service was required a notice would be forwarded by April 29, 2013 a copy of which correspondence is attached.

- (ii) **Reserve Group #2**

- Of the same panel of prospective panel members as (i) above, a listing has been submitted of candidates who both parties agree that dismissal as jurors is warranted. In identical terms as the letter attached (i) above, those jurors were notified by the court on February 28, 2013.

(c) Upon random selection by the clerk the balance of the respondents to the jury questionnaires are to be notified by the clerk to appear at the successive dates beginning April 15, 2013 in increments of fifteen (15) days in the morning – 8:30 A.M. and fifteen (15) in the afternoon – 1:30 P.M. Each juror will be notified of the date and time of his/her appearance at the identified courtroom. The list of the morning and afternoon prospects for each date are to be drawn by the clerk on March 20, 2013. The notice and a listing of each increment will be provided liaison counsel on or before March 25, 2013. The notice to those prospective jurors will include a directive that any objections to their service are to be directed to the court’s representative, Debra Brogan at (304) 340-3440.

2. In as much as the response of jury questionnaires and the prospects of additional issues may ensue, any actions by any agency including the court, counsel, Ms. Brogan, and the clerk, will be the subject of a revision of any aforementioned scheduling or proceeding.

3. Liaison counsel for plaintiffs requested a method for resolution of the pending matter concerning the dismissal of any frivolous claims or defenses as set out in previous hearings and orders. The court instructed said counsel to submit any such matter in advance of the scheduled hearing herein on April 2, 2013.

All of which is ORDERED nunc pro tunc as of March 15, 2013.

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:

PRESENTED BY:

DATE

/s/Timothy N. Barber
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Liaison Counsel for Plaintiffs

ARTHUR M. RECHT, JUDGE

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