



IN THE CIRCUIT COURT OF OHIO COUNTY, WEST VIRGINIA

**IN RE: TOBACCO LITIGATION
(Individual Personal Injury Cases)**

CIVIL ACTION NO. 00-C-5000

**ORDER MODIFYING JANUARY 10, 2017
CASE MANAGEMENT ORDER/TRIAL PLAN – REVISION NO. 2**

Upon consideration of the agreement of the parties, it is hereby ordered that the January 10, 2017 case management order/trial plan (“CMO/TP”) is modified so that the remaining deadlines are revised as set forth below:

d. December 28, 2017, to May 25, 2018 - Expert and lay witness depositions shall be conducted during this period; all reliance materials shall be disclosed to the other party 10 business days before a deposition is scheduled. Plaintiffs’ expert witnesses shall be deposed before Liggett’s expert witnesses.

DEPOSITIONS – All sworn deposition or trial testimony from any previous or contemporary tobacco litigation cases in which Liggett was a party at the time the deposition or trial testimony was elicited, or where otherwise permitted by law, may be used in pretrial motion and at trial;

a. December 28, 2017 – Plaintiffs’ counsel shall notify the Court regarding their selection of Plaintiffs’ Liaison Counsel;

b. December 28, 2017 – Plaintiffs’ counsel and counsel for Liggett shall file a proposed agreed Plaintiff Fact Sheet in rich text format for review and approval by the Court;

c. January 3, 2018 – *pro hac vice* counsel shall have certified they paid all renewal fees due and owing to the West Virginia State Bar.

- d. January 16, 2018 – Plaintiffs’ counsel shall file and serve a list of all currently pending cases against Liggett, including the case name and civil action number of each such pending case;
- e. January 16, 2018 – Plaintiffs’ counsel shall file and serve proposed dismissal orders in rich text format for any cases that have been resolved against Liggett.
- f. February 12, 2018 – Plaintiffs shall file a fact sheet for each individual plaintiff asserting a claim, which fact sheet form is approved by the Court;
- g. March 14, 2018 – Liggett shall file its response to Plaintiffs’ fact sheets;
- h. May 7, 2018 - Plaintiffs shall disclose trial exhibits, and provide electronic copies of all exhibits to counsel for Liggett;
- i. Beginning May 15, 2018, Plaintiffs and Liggett shall be ready to conduct mediation with the Resolution Judges;
- j. May 25, 2018 - Discovery deadline;
- k. June 4, 2018 – Liggett shall disclose trial exhibits, and provide electronic copies of all exhibits to counsel for Plaintiffs;
- l. June 25, 2018 - Objections to Plaintiffs’ exhibits and demonstrative materials must be filed;
- m. July 12, 2018 – Deadline for Plaintiffs and Liggett to file Deposition Designations for all Depositions they intend to use at trial;
- n. July 25, 2018 - Objections to Liggett’s exhibits and demonstrative materials must be filed;
- o. August 16, 2018 – Deadlines for Plaintiffs and Liggett to file Objections and Counter-Designations to the opposing party’s Deposition Designations;

p. September 26, 2018 – Deadlines for Plaintiffs and Liggett to file Objections to Counter-Designations and Counter-Counter Designations;

q. October 25, 2018 - All pretrial motions, dispositive motions and motions in limine must be filed;

r. November 28, 2018 - All written oppositions to pretrial, dispositive motions, and motions in limine must be filed;

s. December 20, 2018 - All written replies to pretrial, dispositive motions and motions in limine must be filed;

t. On or after January 14, 2019 - Hearing on all pretrial motions, dispositive motions, motions in limine, and any unresolved objections to exhibits, Deposition Designations, or demonstrative materials;

u. On or after January 14, 2019 - Pretrial, settlement, and document conferences;

Trial – TBD.

v. Parties to provide 48 hours’ notice of fact and expert witnesses to be called at trial;

w. Parties to provide 24 hours’ notice of exhibits they intend to use at trial, and exhibits in categorical publication packets to be used at trial, but excluding potential cross-examination exhibits/materials they intend to use at trial;

x. Parties to provide 24 hours’ notice of use of demonstrative exhibits to be used at trial, excluding potential cross-examination exhibits;

y. By agreeing to specific dates included with the final scheduling order entered by the Court, Liggett does not waive any objection it may have to these

proceedings. The objections and exceptions of all parties are noted, incorporated by reference, submitted for reconsideration, and preserved.

2. Discovery relevant to Phase II issues shall begin, if necessary, after the Phase I Liggett Trial.

3. Should any plaintiff-specific discovery become necessary to the Phase I consolidated trial in order to preserve the testimony of a plaintiff, reasonable and necessary discovery should be commenced immediately following compliance with the following provisions:

a. Once a specific plaintiff is designated as needing to have his or her testimony preserved, plaintiffs' counsel shall have five (5) days to turn over copies of all medical records concerning that plaintiff in their possession along with an executed authorization and answers to Liggett's first set of interrogatories;

b. The deposition of the designated plaintiff can be noticed any time after thirty (30) business days from the turning over of the indicated materials;

c. The deposition of the designated plaintiff shall be limited to eight (8) hours or whatever time period the plaintiff's treating physician feels that plaintiff can bear, including a reasonable period of time for breaks and meals.

It is so **ORDERED**.

ENTER: February 1, 2018.

/s/ Jack Alsop
Lead Presiding Judge
Tobacco Litigation

SUBMITTED BY:

/s/ Kevin D. Stanley
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