



IN THE CIRCUIT COURT OF OHIO COUNTY, WEST VIRGINIA

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

CIVIL ACTION NO. 00-C-5000

ORDER REGARDING FINAL SETTLEMENT HEARING

The Court has scheduled a final hearing regarding the Plaintiffs' settlement with the Liggett Defendants at **10:00 a.m. on December 12, 2019**, in Courtroom Four, also known as the Ceremonial Courtroom, on the Second Floor of the Kanawha County Courthouse, at 409 Virginia Street, East, in Charleston, West Virginia. See Order Scheduling December 12, 2019 Hearing (Transaction ID 64264171) entered on October 2, 2019.

The purpose of the hearing will be to: (1) review the terms of the proposed settlement; (2) discuss the proposed method for allocation and distribution of settlement proceeds; (3) discuss notice to individual Plaintiffs regarding allocation and distribution of settlement proceeds; (4) consider any application for an award of attorneys' fees and expenses; and (5) hear verified petitions for Court approval of wrongful death claim settlements and proposed distribution of wrongful death proceeds pursuant to West Virginia Code §§ 55-7-6 and 55-7-7.

The Court is advised the terms of the settlement agreement are confidential. **Any filings regarding the settlement shall be electronically filed under seal and served "only private" via File & ServeXpress** pursuant to the procedure set forth in Section 16 of the Court's *First Amended Electronic Filing and Service Case Management Order* (Transaction ID 59297295) entered on July 19, 2016.

Counsel for Plaintiffs is **ORDERED** to provide the following to each individual Plaintiff affected by the proposed settlement: (1) A copy of the proposed settlement agreement; and (2) a disclosure of the manner and distribution the individual Plaintiffs will receive under the proposed

settlement and distribution plan, including an accounting of the individual Plaintiff's settlement allocation and distribution, including any costs, expenses and attorney fees.

The motion to approve the settlement and any exhibits to the motion shall be filed under seal and served "only private" on counsel for Plaintiffs, Counsel for the Liggett Defendants Lead Presiding Judge Jack Alsop, Presiding Judge Alan D. Moats, and the Mass Litigation Manager **no later than 12:00 p.m. on December 2, 2019.** Any response to the motion to approve the settlement, including any objection to the settlement, shall be filed under seal and served "only private" **no later than 12:00 p.m. on December 9, 2019.**

The motion to approve the settlement shall provide:

1. A proposed method of allocating and distributing gross settlement proceeds to individual Plaintiffs. The proposed method of allocation and distribution should address the impact of divorce, death, incompetence, claims by minors, and dissolution of business entities or other organizations on allocation and distribution of settlement proceeds; investment of settlement proceeds; and interim distributions and partial payments of fees and expenses.
2. A procedure for handling lost or returned settlement checks, and a proposed method of accounting for and disposition of all undistributed or unclaimed settlement proceeds, including whether the unclaimed settlement proceeds will be returned to the settling Defendant, paid to other Plaintiffs, distributed to a charitable or nonprofit institution, left to the discretion of the Panel for making *cy pres awards*, or any other reasonable distribution proposed by counsel.
3. A proposed report to the Court in spread sheet format regarding allocation and distribution of settlement proceeds to individual Plaintiffs. The proposed report should include the name of the settling Defendant or Defendants; gross fee percentage; any fee sharing information; allocated gross proceeds; allocated expenses; Plaintiff last name; Plaintiff first name; Plaintiff middle name; claimed damages used for allocation; allocated proceeds; gross fees; allocated expenses; total to the Plaintiff's law firm; and net to the Plaintiff.
4. A detailed accounting of costs, expenses and attorney's fees incurred by Counsel for the Plaintiffs.
5. The name and address of the financial institution where settlement proceeds will be deposited, including the name of the account, the account number and the name of any Trustee or Account manager.

6. Documentation showing each Plaintiff: a) is informed of and agrees to the method of allocation and distribution of settlement proceeds; b) has received an accounting of the individual Plaintiff's settlement allocation and distribution, including any costs, expenses and attorney fees; and c) consents to the proposed settlement allocation and distribution.
7. A proposed order approving the settlement, the method of allocation and distribution, and dismissing the appropriate parties.

The verified petitions for Court approval of wrongful death settlements and proposed distribution of wrongful death proceeds pursuant to West Virginia Code §§ 55-7-6 and 55-7-7 shall be filed under seal and served "only private" on counsel for Plaintiffs, Counsel for the Liggett Defendants, Lead Presiding Judge Jack Alsop, Presiding Judge Alan D. Moats, and the Mass Litigation Manager **no later than 12:00 p.m. on December 2, 2019**. The verified petitions for Court approval of wrongful death settlements and proposed distribution of wrongful death proceeds shall also be served on all potential beneficiaries pursuant to Rule 4 of the West Virginia Rules of Civil Procedure, **no later than December 2, 2019**.

Counsel representing the Plaintiffs, counsel representing the settling Defendants, and all Plaintiffs are **ORDERED** to appear, unless excused for good cause shown.

A copy of this Order has been electronically served on all counsel of record via File & Serve*Xpress* this day. Counsel for Plaintiffs shall serve a copy of this Order on each individual Plaintiff and all potential beneficiaries under any wrongful death petition pursuant to Rule 4 of the West Virginia Rules of Civil Procedure.

It is so **ORDERED**.

ENTERED: November 18, 2019.

/s/ Jack Alsop
Lead Presiding Judge,
Tobacco Litigation