



IN THE CIRCUIT COURT OF OHIO COUNTY, WEST VIRGINIA

IN RE: TOBACCO LITIGATION
(Individual Personal Injury Cases)

CIVIL ACTION NO. 00-C-5000
(Judge Arthur M. Recht)

**AGREED CASE MANAGEMENT ORDER CONCERNING CLAIMS
BASED ON THE USE OF SMOKELESS TOBACCO PRODUCTS**

Civil Action No. 5000 was initiated by various individual cigarette smokers all of whom claimed to have been injured by smoking cigarettes and some of whom also claimed to have been injured by their use of smokeless tobacco. On December 3, 2001, this Court severed from the cigarette claims any claims based on the use of smokeless tobacco. Thus, the Court severed all claims against Conwood Company L.P., National Tobacco Company L.P., The Pinkerton Tobacco Company, Swisher International, Inc and U.S. Smokeless Tobacco Company and all claims against the cigarette company defendants based on the use of smokeless tobacco. Following the conclusion of the Phase I trial on cigarette claims on May 15, 2013, counsel for plaintiffs sought to activate the severed claims that were based on the use of smokeless tobacco. In 2016, the Court directed plaintiffs' counsel to submit the names of those plaintiffs who allegedly asserted claims based on the use of smokeless tobacco.

1. On June 27, 2016 and July 6, 2016, counsel for Plaintiffs submitted two lists containing the names of 41 Plaintiffs that they allege have claims relating to the use of smokeless tobacco products. Defendants contend that one or more of the plaintiffs listed were previously dismissed with prejudice. The parties will confer to determine if they can agree on this subject and, barring an agreement, defendants are free to file motions as to any plaintiff that defendants claim was previously dismissed.

2. By August 1, 2017, each of the 41 named plaintiffs shall submit a Preliminary Fact Sheet in the form attached hereto. At the same time, Plaintiffs shall supply defendants with current medical authorizations and the names and locations of treating physicians and facilities for these plaintiffs so that medical records can be collected. Each plaintiff who fails to timely comply with these requirements shall be subject to dismissal with prejudice.

3. The parties shall have until August 31, 2018, to complete fact discovery, including written discovery.

4. After fact discovery has been completed, the parties shall follow the following schedule:

- a. Plaintiffs' Disclosure of Expert Witnesses: No later than September 15, 2018 with depositions of Plaintiffs' experts to be completed by March 15, 2019;
- b. Defendants' Disclosure of Expert Witnesses: No later than October 15, 2018, with depositions of Defendants' experts to be completed by June 15, 2019.

5. Within 90 days following the completion of discovery, the parties shall file any and all dispositive motions, including motions for summary judgment.

6. Within 30 days of the resolution of all dispositive motions, the Court will set a status conference to develop a pre-trial schedule for in limine motions and a trial schedule to decide each of the individual claims remaining at that time.

ENTER: March 24, 2017.

/s/ Arthur M. Recht
Senior Status Judge
Tobacco Litigation

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Plaintiff's Preliminary Fact Sheet

Name: _____

Current address: _____

Current marital status:

Married____ Divorced____ Separated____ Widowed____ Never married____

Name of current spouse: _____

Disease(s) at issue

Please identify each disease that you listed in your 5(b) response that you claim was caused by your smokeless tobacco use

Dated: _____

Plaintiff's signature: _____