



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

**IN RE: TOBACCO LITIGATION**

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

**(Judge Arthur M. Recht)**

**(INDIVIDUAL PERSONAL INJURY CASES)**

**THIS DOCUMENT APPLIES TO ALL CASES**

**ORDER MODIFYING JANUARY 11, 2000  
CASE MANAGEMENT ORDER PLAN – REVISION NO. 32**

It is hereby ORDERED that the January 11, 2000 Case Management Order/Trial Plan, as well as any subsequent revisions reflecting outstanding deadlines concerning the schedule set forth herein, is modified as to the schedule for Phase I of the trial of this matter as follows:

**Fact and Expert Discovery**

- |                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|--------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>October 12, 2012</b>  | Plaintiffs to provide dates for supplemental depositions of the six expert witnesses designated by Plaintiffs to testify regarding Plaintiffs' use-defect / failure-to-provide-adequate-instructions claim.                                                                                                                                                                                                                                                      |
| <b>October 12, 2012</b>  | Plaintiffs to disclose any opinions their experts will offer at trial that were not disclosed at the time of their previous depositions in this case (other than those relating to Plaintiffs' use-defect / failure-to-provide-adequate-instructions claim), who they continue to expect will be called to testify at trial.                                                                                                                                     |
| <b>November 30, 2012</b> | Completion of supplemental depositions of the six expert witnesses designated by Plaintiffs to testify regarding Plaintiffs' use-defect / failure-to-provide-adequate-instructions claim.                                                                                                                                                                                                                                                                        |
| <b>November 30, 2012</b> | Completion of supplemental depositions of expert witnesses designated by Plaintiffs to testify regarding any other new issues disclosed by Plaintiffs on October 12.                                                                                                                                                                                                                                                                                             |
| <b>December 21, 2012</b> | Defendants to identify any new experts that will testify at trial regarding Plaintiffs' use-defect / failure-to-provide-adequate-instructions claim or any other new issues disclosed by Plaintiffs' expert witnesses who have been designated by Plaintiffs to testify regarding Plaintiffs' use-defect / failure-to-provide-adequate-instructions claim. Defendants currently contemplate potentially identifying Richard Jupe, Peter English and Nancy Haley. |

**January 25, 2013**

Completion of depositions of any new experts Defendants identified on December 7, 2012.

**72-hour rule:** For any new expert identified by a party, that party will provide a CV and reliance materials for such expert no later than 72 hours in advance of deposition.

**Trial Exhibits, Publication Packets and Deposition Designations**

**December 21, 2012**

Defendants to serve a supplemental exhibit list identifying and providing hard copies of all new exhibits Defendants may offer on the issue of Plaintiffs' use-defect / failure-to-provide-adequate-instructions claim.

Defendants to serve a supplemental list identifying all new publication packet exhibits Defendants may offer on the issue of Plaintiffs' use-defect / failure-to-provide-adequate-instructions claim.

Defendants to serve a supplemental list identifying all new deposition designations Defendants may offer on the issue of Plaintiffs' use-defect / failure-to-provide-adequate-instructions claim.

Defendants to serve a list identifying all counter-designations to any new publication packet exhibits and deposition designations Plaintiffs may have identified on the issue of Plaintiffs' use-defect / failure-to-provide-adequate-instructions claim.

Defendants to serve their objections to any new trial exhibits, publication packet exhibits, and deposition designations identified by Plaintiffs.

**January 25, 2013**

Plaintiffs to serve a list identifying all new publication packet exhibits Plaintiffs may offer on the issue of Plaintiffs' use-defect / failure-to-provide-adequate-instructions claim..

**February 15, 2013**

Plaintiffs to serve a list identifying all counter-designations to any new publication packet exhibits and deposition designations Defendants may have identified on the issue of Plaintiffs' use-defect / failure-to-provide-adequate-instructions claim.

Plaintiffs to serve their objections to any new trial exhibits, publication packet exhibits, and deposition designations identified by Defendants on the issue of Plaintiffs' use-defect / failure-to-provide-adequate-instructions claim.

**February 22, 2013**

Defendants to serve a list identifying all counter-designations to any new publication packet exhibits and deposition designations Plaintiffs may have identified on the issue of Plaintiffs' use-defect / failure-to-provide-adequate-instructions claim.

Defendants to serve their objections to any new trial exhibits, publication packet exhibits, and deposition designations identified by Plaintiffs on the issue of Plaintiffs' use-defect / failure-to-provide-adequate-instructions claim.

**Pretrial Motions**

**March 1, 2013**

Parties to serve any additional or renewed motions *in limine*, supplements to pending motions *in limine*, and all other pretrial motions (e.g., additional dispositive motions, *Gentry* motions, publication packets, etc.).

**April 1, 2013**

**Hearing** on motions *in limine* and all other pretrial motions.

**Jury Questionnaires and Jury Selection**

**January 2, 2013**

Agreed juror questionnaires to be delivered to the Court.

**January 15, 2013**

Questionnaires mailed to jurors.

**February 22, 2013**

Disqualification notice.

**April 15, 2013**

**Jury selection begins**

15 jurors to report in morning; 15 jurors to report in afternoon

15-min. morning recess; 1-hour lunch; 15-min. afternoon recess

Jurors: 6 Regular + 2 Alternates (strikes: 10 for 6 and 4 for 2)

**TRIAL LOCATION:** Courtroom 4, also known as the Ceremonial Courtroom, on the Second Floor of the Old Kanawha County Courthouse, 409 Virginia Street, East, Charleston, West Virginia.

**Jury Instructions and Verdict Form**

**April 8, 2013**

Parties to serve proposed jury instructions and verdict forms.

**TBD during trial**

**Charge conference** on jury instructions and verdict form.

**Trial Witness & Exhibit Notice**

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

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

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;

By agreeing to dates included within this scheduling order, no party waives any objection it may have to these proceedings or the nature or structure of the trial plan. The objections and defenses of all parties (including the defense of lack of personal jurisdiction) are noted, incorporated by reference, submitted for reconsideration and preserved.

The Clerk is directed to forward certified copies of this Order to Liaison Counsel of record in this civil action.

ENTER: January 11, 2013

/s/ Arthur M. Recht  
Senior Status Judge

PRESENTED BY:

INSPECTED AND APPROVED BY:

/s/ David B. Thomas  
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