

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

CIRCUIT CIVIL DIVISION "AI"

IN RE: DIV "AI" STANDING ORDER ON
PRETRIAL MATTERS IN TOBACCO
LITIGATION

I. SCOPE AND APPLICABILITY OF THIS ORDER

A significant number of cases are currently pending pursuant to the Florida Supreme Court's decision in *Engle v. Liggett Group, Inc.*, 945 So. 2d 1246 (Fla. 2006) ("Engle Progeny Cases"). Pursuant to Administrative Order 3.908-2/16, dated February 1, 2016, most of the Engle Progeny cases pending in this Circuit have been transferred to Circuit Civil Division AI. This Standing Order shall apply to all Engle Progeny cases pending in Circuit Civil Division AI and shall govern only pretrial proceedings, which includes all activity before commencement of voir dire. The fact that the Engle Progeny Cases are coordinated for pretrial purposes does not reflect a determination as to whether any of the Engle Progeny Cases shall be consolidated for trial purposes and does not have the effect of making any entity a party to any action in which it has not been named and served.

II. DISCOVERY

A. Written Discovery

i.) *Authorizations and Letters of Administration*

Unless otherwise ordered by the Court, authorizations to collect records shall be signed by Plaintiff and returned to Defendants within 45 days of Defendants providing authorization forms to Plaintiff's counsel. All other documents needed to collect records, including, but not limited to letters of administration, death certificates, verified answers to initial interrogatories and written responses to the initial requests for production (collectively the "Initial Discovery"), shall be provided by Plaintiff's counsel within 45 days of a request for those items.

Unless otherwise ordered by the Court, within 45 days of receiving a Request for Production requesting documents or information not generated in connection with litigation that bear the name, address, social security number or other personal information of the plaintiff smoker, or in the case of a wrongful death claim, the deceased smoker, and after entry of a Protective Order, Defendants shall produce responsive documents. Defendants will base their searches for such information on the information provided by Plaintiff in verified interrogatory responses.

If any party in good faith is unable to meet the deadline imposed by this paragraph, they shall advise opposing counsel two weeks before the due date that they are unable to meet the deadline. The parties shall confer in good faith over a reasonable extension of the deadline or the need to file a motion for noncompliance. In the event that any party must file a motion to compel compliance with this section and that party's motion is granted, the filing party shall be entitled to fees and costs associated with the motion.

B. Deposition Scheduling and Limitations

i.) *Preliminary Fact Witness Lists*

There shall be a presumptive limit of five (5) individuals on each Plaintiff's preliminary fact witness list. This limit does not include treating physicians or expert witnesses. Additional fact witnesses may be listed upon agreement of the parties, or with leave from the Court.

ii.) *Fact Witness Depositions*

There shall be a presumptive limit of six (6) fact witness depositions. This limit does not include treating physicians or expert witnesses. Additional fact witnesses' depositions may be taken upon agreement of the parties, or with leave from the Court.

iii.) *Length of Depositions*

There shall be a presumptive limit of nine (9) hours for the deposition of any Plaintiff in these cases. There shall be a presumptive limit of seven (7) hours for other fact witness depositions and expert depositions. These limits apply to examination on the record by the noticing party, but do not apply to examination of the witness by the non-noticing party or to any follow-up examination by the noticing party. Depositions may extend beyond these limits upon agreement of the parties, or with leave from the Court.

iv.) *Scheduling of Depositions*

Counsel shall use their best efforts to schedule depositions expeditiously after a request for deposition dates is made. No deposition of a Plaintiff or of any fact witness will be broken into more than three sessions, at least two of which must be on consecutive days, absent agreement of the parties or an order of the Court. Counsel shall work together in a professional manner to accommodate the health needs of all witnesses.

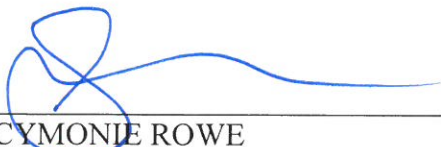
v.) *Commissions to Take Out-of-state Depositions*

Commissions for the taking of out-of-state depositions may be presented to the Court ex-parte at any time before the close of discovery. After receipt of the signed Commission from the Court, the requesting party shall serve all counsel by electronic mail with a copy of the Commission. If no objections are received by the requesting party within (5) business days of the date of the Commission, the requesting party may institute proceedings in the foreign state for the taking of the deposition. If the requesting party is timely notified of an objection by any other party, the Commission may not be utilized, and a Request for Hearing on the issuance of the subject Commission must be submitted before further proceedings are instituted in connection with the deposition.

III. Docketing of Cases for Trial

If a case is set for trial on a particular docket during the year and is not reached, then it shall be rolled over by subsequent order to the first available docket the following year. Rolled over cases shall be placed at the top of the docket in the same order of precedence from the previous year and shall be called up for trial before cases set on that docket for the first time.

DONE and ORDERED in chambers at West Palm Beach, Palm Beach County, Florida, this 7 day of March, 2018.



CYMONIE ROWE
Circuit Judge