

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT  
IN HILLSBOROUGH COUNTY, FLORIDA  
CIVIL DIVISION

IN RE: *ENGLE* PROGENY CASES  
TOBACCO LITIGATION

*Pertains To: All Cases*

CASE NO.: 08-CA-80000  
DIVISION D

FILED  
JUL 15 11 31 AM '08  
HILLSBOROUGH COUNTY, FL

**CASE MANAGEMENT ORDER NO. 3**

**I. SCOPE & APPLICABILITY OF THIS ORDER**

This Court previously entered Case Management Order (“CMO”) No. 1 on March 12, 2008 and CMO No. 2 on June 6, 2008 to govern the *Engle* Progeny Cases pending in this Circuit. CMO No. 3 supplements CMO No. 1, but shall not be construed to modify or alter CMO No. 1 except as expressly set forth below.

**II. MODIFICATIONS TO CMO NO. 1**

Section X of CMO No. 1, SCHEDULING OF CASES FOR DISCOVERY AND TRIAL, is hereby modified and supplemented as follows.

**A. Modified Activation of Cases for Pretrial Fact Discovery**

Given the Court’s and parties’ experience with case activations and discovery to date, twenty (20) cases shall be permitted to be activated (the “Activated Cases”) for each quarter year beginning on January 2, 2009 and quarterly thereafter. Said activations shall occur on the first business day of January, April, July, and October for each calendar year hereafter. At the time of activation, an “Activated Case Scheduling Order,” the form of which is attached hereto as Exhibit 1, shall be entered by the Court for each Activated Case. Other than the discovery deadlines set forth in Exhibit 1, there shall be no further discovery deadlines that apply to

Activated Cases until the case is designated for trial as set forth below.

All Scheduling Orders for cases activated for discovery pursuant to CMO No. 1 prior to entry of CMO No. 3, but not designated for trial either pursuant to Court Order or notice by Plaintiffs as provided for herein remain in force for only those deadlines that are also set forth in the template "Activated Case Scheduling Order" attached hereto. No further deadlines will apply in these cases until a case is designated for trial as set forth below.

**B. Designation of Cases for Trial**

Beginning on January 2, 2009, Plaintiffs may file a notice designating up to nine (9) cases for trial (the "Trial Designated Cases") per quarter year. Such designation shall occur on the first business day of January, April, July, and October for each calendar year hereafter. Upon designation, the Court shall enter an Order directing the Clerk to immediately reassign the Trial Designated Cases to a division in the General Civil Division pursuant to Administrative Order S-2008-166, entered by Chief Judge Manuel Menendez, Jr. on December 4, 2008. At the next available Uniform Motions Calendar (UMC) following reassignment pursuant to Administrative Order S-2008-166, a "Scheduling Order for Trial Designated Cases," the form of which is attached hereto as Exhibit 2, shall be entered for each Trial Designated Case by the judge assigned to the Trial Designated Case.

No case may be designated for trial in the same quarter that it is activated. For any case designated for trial on or after January 2, 2009, no trial shall occur in a Trial Designated Case earlier than nine (9) months from the date of its notice as a Trial Designated Case.

Unless otherwise modified by court order or the agreement of the parties as to all cases or an individual case, all Scheduling Orders for cases designated for trial either pursuant to Court Order or notice by Plaintiffs prior to the entry of CMO No. 3 remain in full force and effect.

DONE AND ORDERED at Tampa, Florida, this 9<sup>th</sup> day of January  
2009.

Maria P. Newman  
Circuit Judge

Copies furnished to:

All counsel of record

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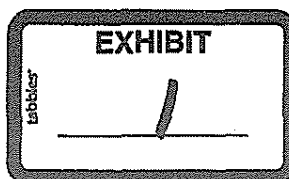
*Pertains To: Cases Listed on Exhibit "A"  
Hereto*

**ACTIVATED CASES SCHEDULING ORDER**

Pursuant to Case Management Orders Nos. 1 and 3, this Activated Cases Scheduling Order shall govern the initiation of fact discovery in each above-styled *Engle* progeny case that was set as an Activated Case by Plaintiff on \_\_\_\_\_ ("Activation Date").

As set forth in CMO No. 3, all other fact discovery, expert discovery and pretrial deadlines for each of the above-styled cases, including deadlines for the close of fact discovery and dispositive motions, shall not be set in a case until such time as Plaintiffs have filed a Notice of Trial Designated Cases for a particular case and the Court enters the Scheduling Order for Trial Designated Cases.

EVENT	DEADLINE
Plaintiff may be deposed (no more than 2 Plaintiffs' depositions may be scheduled on any one day)	Beginning 30 days after Activation Date
Plaintiff to serve preliminary fact witness list, to include name, address, telephone number, and specific subject matter of testimony	60 days after Activation Date



EVENT	DEADLINE
Defendant to serve preliminary fact witness list, to include name, address, telephone number, and specific subject matter of testimony	90 days after Activation Date, or 30 days after Plaintiff serves its preliminary fact witness list, whichever is later

DONE AND ORDERED at Tampa, Florida, this \_\_\_\_\_ day of \_\_\_\_\_,  
 20\_\_\_\_.

\_\_\_\_\_  
 Circuit Judge

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IN RE: *ENGLE* PROGENY CASES  
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**CASE NO.: 08-CA-80000  
DIVISION D**

*Pertains To: Cases Listed on Plaintiffs' Notice of Trial Designated Cases (attached hereto as Exhibit "A")*

**SCHEDULING ORDER FOR TRIAL DESIGNATED CASES**

Pursuant to Case Management Orders Nos. 1 and 3, this Scheduling Order for Trial Designated Cases shall govern the remaining fact and expert discovery and pretrial procedures for cases set forth in Plaintiffs' Notice of Trial Designated Cases filed on \_\_\_\_\_ ("Designation Date"), attached hereto as Exhibit A.

EVENT	DEADLINE
Defendant to serve Plaintiff with notice of potential transfer of venue motion of Trial Designated Case	15 days after Designation Date
Plaintiff to file notice of withdrawal of Trial Designated Case subject to potential transfer motion and designation of a substitute Trial Designated Case	5 days after Defendant gives notice of potential transfer of venue
Plaintiff to serve a list of experts the Plaintiff expects to call at trial, along with expert summaries or reports pursuant to FRCP 1.280(b)(4)	45 days after Designation Date
Defendant to serve a list of experts the Defendant expects to call at trial, along with expert summaries or reports pursuant to FRCP 1.280(b)(4)	45 days after Plaintiff serves its list of experts
Plaintiff to serve a list of any rebuttal experts the Plaintiff intends to call at trial, along with expert summaries or reports pursuant to FRCP 1.280(b)(4)	Up to and including 45 days after the designation of defense experts, or up to and including 7 days after the deposition of the defense expert whose opinions the expert is designated to rebut, whichever is later. In any event, however, Plaintiff shall serve its rebuttal expert designations no later than 45 days prior to the close of discovery.



EVENT	DEADLINE
Defendant to serve a list of any sur-rebuttal experts the Defendant intends to call at trial, along with expert summaries or reports pursuant to FRCP 1.280(b)(4)	Up to and including 30 days after the designation of Plaintiffs' rebuttal experts, or up to and including 5 days after the deposition of the rebuttal expert whose opinions the expert is designated to rebut, whichever is later. In any event, however, Defendant shall serve its sur-rebuttal expert designations no later than 30 days prior to the close of discovery.
All fact and expert discovery to be completed	90 days before the beginning of trial <b>(exact date to be determined)</b>
All pretrial dispositive motions and <i>Frye</i> motions, other than motions in limine, to be filed	60 days before the beginning of trial <b>(exact date to be determined)</b>
Plaintiff shall furnish Defendants a final list of witnesses expected to testify, including rebuttal witnesses. Any witness not disclosed at this time will not be permitted to testify at trial.	45 days before the beginning of trial <b>(exact date to be determined)</b>
Defendant shall furnish Plaintiff a final list of witnesses expected to testify, including rebuttal witnesses. Any witness not disclosed at this time will not be permitted to testify at trial.	35 days before the beginning of trial <b>(exact date to be determined)</b>
Parties to exchange catalog of trial exhibits, and make exhibits available for inspection by opposing counsel	30 days before the beginning of trial <b>(exact date to be determined)</b>
Parties to exchange deposition designations of witnesses whose testimony is expected to be presented by deposition, either by transcript or video	30 days before the beginning of trial (Counter-designations and objections to designations 20 days before the beginning of trial) <b>(exact date to be determined)</b>
All motions in limine must be filed and served, along with memos addressing unusual questions of law	25 days before trial (Responses to motions in limine must be filed and served at least 15 days before the beginning of trial) <b>(exact date to be determined)</b>
All hearings on motions, other than motions in limine, must be scheduled and heard	Not later than 20 days before the beginning of trial <b>(exact date to be determined)</b>
Parties to meet and prepare Joint Pretrial Stipulation	Not later than 20 days before the beginning of trial <b>(exact date to be determined)</b>
Joint Pretrial Stipulation to be filed	5 days before Pretrial Conference <b>(exact date to be determined)</b>

EVENT	DEADLINE
Pretrial Conference	10 to 15 days before the beginning of trial (exact date to be determined by assigned trial judge)
Trial Date	Exact date to be determined by assigned trial judge

DONE AND ORDERED at Tampa, Florida, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Circuit Judge

Copies furnished to:  
All counsel of record