


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

IN RE: *ENGLE* PROGENY CASES  
TOBACCO LITIGATION

Case No.: 08-CA-80000

DIVISION D

*Pertains To: All Cases*

CLERK OF CIRCUIT COURT  
2008 JUN 30 PM 5:11  
HILLSBOROUGH COUNTY, FL  
CIVIL DIVISION  


**ORDER ON PLAINTIFFS' MOTION TO SET CASES  
FOR TRIAL MORE THAN 60 DAYS IN ADVANCE**

This cause came on for the monthly tobacco Case Management Conference (CMC) on June 6, 2008. Plaintiff's counsel requested that they be allowed to identify specific cases for trial and to place them on the jury trial docket now (and presumably on an ongoing monthly basis) rather than doing so at the first CMC after the close of discovery. The existing standard scheduling order, agreed to by both sides, provides that once the discovery deadline is reached, cases are to be set for trial at the next monthly CMC for 60 days away.

**Plaintiff's Position.** The Plaintiffs argue that identifying and scheduling specific cases to be tried 7 or 8 months away does not violate any scheduling order, and the failure to identify specific cases that far away is likely to cause expert witness conflicts (especially if a case cannot be set on a trial docket until 60 days before trial).

**Defendant's Position.** The Defendants argue that the orderly process of discovery and trial were meticulously set forth in the form scheduling order, and those details were the result of compromise and agreement between the opposing sides. To "change the rules in the middle of the game" would be unfair.

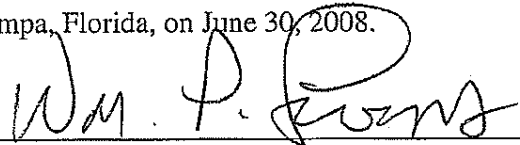
**Court's Analysis.** The first batch of 20 cases which entered the discovery activation phase in April 2008 has a discovery cutoff in November 2008. Those cases should be ready for trial in January 2009. Each month thereafter an additional 15 cases

have entered, and continue to enter, the pipeline toward trial. All Circuit Civil Divisions routinely schedule jury trials several months away so that the parties and their lawyers not only have adequate lead time to prepare for trial, but also have a reasonably certain date for trial. This court sees no inconsistency between the existing scheduling order format, which allows a case to be set for trial 60 days after the first CMC following the discovery cutoff, and specifically identifying the cases that will be tried several months away.

Accordingly, the Plaintiffs will be allowed to pre-select, six months in advance, up to three cases per month for trial in the months they will become eligible for trial under the Scheduling Order. For the trial period beginning in January 2009, the Plaintiffs will identify three cases that will be on the top of the list for trials, the first Monday of July 2008. Three more cases will be identified for trial in February 2009 by the first Monday in August 2008; and so on.

At the first CMC following discovery cutoff, the court will review with counsel the status of the pre-selected cases, as well as any additional cases that may be in line for trial. Cases ready for trial will be assigned and distributed among the Civil Division judges who have trial blocks of at least two weeks in a given month, in accordance with Administrative Order S-2007-155.

DONE AND ORDERED at Tampa, Florida, on June 30, 2008.

  
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William P. Levens  
CIRCUIT JUDGE

Copies furnished to:

Liaison Counsel

**COPIES PROVIDED**

**JUN 30 2008**

By: Linda Williamson