



June 1, 2005

Selma and Meyer Rosen

Plaintiffs

v.

Brown & Williamson Holdings, Inc., f/k/a Brown & Williamson Tobacco Corporation, as successor by merger to The American Tobacco Company

Defendant

Supreme Court of the State of New York, County of Nassau

Index No. 018589\97

BACKGROUND

PURPOSE

This backgrounder has been prepared by R.J. Reynolds Tobacco Company to provide a concise reference document on this individual smoking and health case. It is not a court document.

THE PLAINTIFFS

The Plaintiffs are Selma and Meyer Rosen, husband and wife. The Plaintiffs

filed this action on June 24, 1997, in the Supreme Court of New York for Nassau County, alleging that Mrs. Rosen smoked cigarettes manufactured by The American Tobacco Company from 1955-1959 and that as a result she became addicted to cigarette smoking and developed lung cancer in 1995.

Selma Rosen was born on February 5, 1944, to Arthur and Rose Schwartz in Bronx, N.Y. She attended public schools in the Bronx as a child and graduated from Theodore Roosevelt Public High School in 1961. Mrs. Rosen attended Rockland Community College from 1981-1983, earning an Associate Degree in philosophy in 1983. Mrs. Rosen was employed as assistant vice president by Marine Midland Bank in New York City from 1983-1993. She was employed as assistant vice president by NatWest Bank in Melville, N.Y., from 1993-1995.

Selma Rosen married Alfred Mirman on June 13, 1965, in Queens, N.Y. Prior to their divorce in 1987, Selma Rosen and Alfred Mirman had two children, Andrew and Russell Mirman.

Selma Rosen married her current husband, Plaintiff Meyer Rosen, on October 9, 1995. Selma and Meyer Rosen have resided in East Norwich, N. Y., from 1993-present.

The Plaintiffs are represented by Mark Bower of New York City, and William Gary Holt and Russell Marlin of Gary Eubanks & Associates of Little Rock, Ark.

THE DEFENDANT

Brown & Williamson Tobacco Corporation, now known as Brown & Williamson Holdings, Inc.

Brown & Williamson Holdings, Inc. (B&W), formerly based in Louisville, Ky., manufactured the Kool, Pall Mall, GPC, Carlton, Lucky Strike and Misty cigarette brands.

As of July 31, 2004, B&W's domestic tobacco business merged with R.J. Reynolds Tobacco Company, a New Jersey corporation, to form R.J. Reynolds Tobacco Company, a North Carolina corporation. R.J. Reynolds is a wholly-owned subsidiary of Reynolds American Inc., and is headquartered

in Winston-Salem, North Carolina. It is the nation's second-largest manufacturer of cigarettes. Its brands include those of the former B&W as well as Camel, Winston, Salem and Doral.

B&W is an affiliate of British American Tobacco, p.l.c. and is also successor by merger to The American Tobacco Company ("American").

B&W is represented by Harold Gordon and Daniel Russo of the New York City office of the law firm of Jones Day, and David Wallace of the New York City office of the law firm of Chadbourne & Parke.

TRIAL SITE

The case is being tried in the New York Supreme Court for Nassau County at Mineola.

JUDGE

Justice Ute Wolfe Lally of the New York Supreme Court for Nassau County is the trial judge.

EXPECTED DURATION

Jury selection is scheduled to begin June 1, 2005. The parties expect the trial to last four to six weeks.

JURY AND VERDICT

The jury will consist of six jurors. A verdict is reached when five of the six jurors agree on a decision.

PLAINTIFFS' CASE

Plaintiff Selma Rosen alleges that American failed to warn her of the health risks of smoking and designed an unreasonably dangerous product. Mrs. Rosen claims that she smoked Lucky Strike cigarettes, manufactured by American, for approximately four years in the late 1950s, beginning in 1955 when she was eleven years old. She further claims that at age eleven, as a result of smoking American's cigarettes, she became "addicted" to tobacco. After 1959, Mrs. Rosen never smoked another cigarette manufactured by American; rather, for the next 36 years, with the exception of times when

she quit smoking, including a six-year period from 1983-1989, during which she did not smoke a single cigarette, she smoked cigarettes manufactured by other tobacco companies that are not named as defendants in this action. Mrs. Rosen was diagnosed with lung cancer in October 1995, which she claims was the direct result of her becoming "addicted" to cigarette smoking in 1955. Mrs. Rosen was treated for her lung cancer and has been living cancer-free for the last 10 years.

Plaintiff Meyer Rosen asserts a claim for loss of consortium based on his wife's alleged injuries.

DEFENDANT'S CASE

Under New York law, defendants do not have a duty to warn consumers of risks in their products that are well-known. At trial, defendants will show that the risks associated with smoking, including that it could cause lung cancer and could be difficult to quit, are and have been common knowledge since before Mrs. Rosen started smoking in 1955. Additionally, Mrs. Rosen has not offered, and cannot offer, any evidence that from 1955-1959, the time period during which she alleges she smoked cigarettes manufactured by American, there was any feasible, safer alternative cigarette design that she would have tried, and that would have prevented her lung cancer. Moreover, Plaintiffs will not be able to show that Mrs. Rosen's minimal use of American's cigarettes from 1955-1959 caused her addiction and lung cancer.

In addition, defendant's medical experts will testify that based on the histologic and radiologic appearance of her tumor, its size and location, and certain other factors, such as her treatment and survival, Mrs. Rosen's lung cancer is consistent with a type of cancer called bronchioloalveolar carcinoma, which is not causally linked with smoking.

PROCEDURAL BACKGROUND

Plaintiffs, Selma and Meyer Rosen, filed this action on June 24, 1997, in the Supreme Court of New York, County of Nassau. As originally filed, plaintiffs alleged causes of action for failure to warn, design defect, conspiracy and loss of consortium.

As a result of summary judgment motions, the only claims remaining for trial

are failure to warn, design defect and loss of consortium.