



2005

Feb. 2,

Norma Rose and Leonard Rose

Plaintiffs

v.

**The American Tobacco Company, Philip Morris, Inc.,
R.J. Reynolds Tobacco Company and Brown & Williamson Tobacco
Corporation**

Defendants

**Supreme Court of the State of New York, County of New York at
Manhattan**

Index No. 101996/02

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 Norma and Leonard Rose, husband and wife. The plaintiffs filed this action on Dec. 18, 1996 in the Supreme Court of New York for New York County alleging that Mrs. Rose smoked cigarettes manufactured by defendants R.J. Reynolds Tobacco Company, the American Tobacco Company and Philip Morris, Inc., and that her smoking caused her lung cancer and certain neurological problems.

Norma C. Rose was born on August 19, 1932 in Brooklyn and attended New York City public schools. She dropped out of high school at the age of 15, attended continuation school until age 16, and later attended Blake's Business School. In the 1950s, she worked in the business office of a supermarket and later worked at an accounting firm, where she was responsible for the books and operating their adding machines. From 1965 until 1978, Mrs. Rose worked as a dental assistant and office manager in a dentist's office. From 1980 until 1992, Mrs. Rose owned her own catering and restaurant businesses.

Norma Rose was first married in 1951 to Peter Adamo. She and Mr. Adamo lived in Brooklyn and Queens and had one child, Frank Adamo. She and Mr. Adamo divorced in June 1978.

Norma Rose married her current husband, Leonard Rose, in November 1978. Leonard Rose was born April 16, 1933 in New York City. He attended New York public schools and graduated from high school. For approximately 25 years, Mr. Rose worked as a salesperson and manager in various men's clothing stores. Starting in the 1980s, he managed a warehouse for a textile business, from which he retired in 1998.

Mr. and Mrs. Rose have lived in the Murray Hill neighborhood of Manhattan since 1978. Mrs. Rose is currently 72 years old, and Mr. Rose is 71.

The Plaintiffs are represented by Stuart Finz of the Jericho, New York law firm of Finz & Finz.

THE DEFENDANTS

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

Brown & Williamson Holdings, Inc. (B&W), based in Louisville, Ky., formerly 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. B&W is an affiliate of British American Tobacco, p.l.c. and is also successor by merger to The American Tobacco Company.

Brown & Williamson is represented by Thomas Riley and Allison Alcasabas of the New York law firm of Chadbourne & Parke.

R.J. Reynolds Tobacco Company

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 Winston, Salem, Camel, Doral and those of B&W mentioned above.

R.J. Reynolds is represented by Steve Kaczynski and Liza Kessler of the law firm of Jones Day.

The American Tobacco Company

See Brown & Williamson Tobacco Corporation.

Philip Morris USA

Philip Morris USA (PM USA), the nation's largest cigarette company, is the maker of Marlboro, Virginia Slims, Benson & Hedges, Parliament and Basic. PM USA is headquartered in Richmond, Va.

PM USA is represented by Thomas Quigley and Luke Connelly of the New York law firm of Winston & Strawn.

TRIAL SITE

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

JUDGE

Justice Karen Smith, acting justice for the New York Supreme Court for New York County - Civil Branch, is the trial judge.

EXPECTED DURATION

Jury selection will begin on Feb. 3, 2005. The parties expect the trial to last six to eight 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 Norma Rose alleges that defendants failed to warn her of the health risks of smoking, fraudulently concealed information from her about the health risks of smoking, and designed an unreasonably dangerous product.

Mrs. Rose was diagnosed with small cell lung cancer and Paraneoplastic Cerebellar Degeneration (PCD) in 1995, which she alleges was caused by her cigarette smoking. Mrs. Rose was treated for her lung cancer and has been living cancer-free for the last 10 years. She demands \$5 million for each claim plus punitive damages.

Plaintiff Leonard Rose also asserts a claim for loss of consortium based on his wife's alleged injuries. Mr. Rose demands \$5 million plus punitive damages for his loss of consortium claim.

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 Mrs. Rose was well aware of the risks associated with smoking, which are and have been common knowledge. Fully informed of such risks, Mrs. Rose assumed these risks for the approximately 40 years she continued to

smoke. Additionally, Mrs. Rose has not offered and cannot offer any evidence that, at any time during her smoking history, there was any feasible, safer alternative cigarette design that she would have tried and that would have prevented her lung cancer.

In addition, defendants' medical experts will testify that Mrs. Rose's medical process is not consistent with small cell lung cancer. Based on the histologic appearance and size of her tumor, her presentation, the absence of metastatic disease, and her long-term survival, Mrs. Rose more likely than not had a variant of a neuroendocrine carcinoma called an atypical carcinoid, that is not caused by cigarette smoking. Further, defendants' medical experts will testify that Mrs. Rose's neurological deficits could have been caused by an atypical carcinoid, her diet, alcohol use, and other non-paraneoplastic factors.

PROCEDURAL BACKGROUND

Plaintiffs, Norma and Leonard Rose, filed this action on December 18, 1996 in the Supreme Court of New York, County of New York. As originally filed, plaintiffs alleged multiple claims against multiple defendants.

As a result of motions to dismiss, summary judgment motions and other pre-trial proceedings, the only claim remaining for trial is negligent defective design.

###