



TRACEY A. MASH and ANJANETTA LINGARD

Plaintiffs

v.

BROWN & WILLIAMSON TOBACCO CORPORATION

Defendant

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI (ST. LOUIS)**

Case No. 4:03CV00485TCM

September 20, 2004

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PURPOSE

This backgrounder has been prepared by some the defendant in this case to provide a concise reference document on the case of *Tracey A. Mash and Anjanetta Lingard v. Brown & Williamson Corporation*, No. 4:03CV00485TCM. It is not a court document.

THE PLAINTIFFS:

This lawsuit was filed by Tracey A. Mash and Anjanetta Lingard on March 6, 2003 in state court in Missouri. It was later removed to federal court. The plaintiffs are the daughters of Stella Hale who died on Aug. 16, 2001. Plaintiffs allege Ms. Hale died from lung cancer caused by KOOL cigarettes.

THE DEFENDANTS:

The sole defendant is Brown & Williamson Tobacco Corporation (B&W), formerly headquartered in Louisville, Ky. Its major brands included Pall Mall, KOOL, GPC, Carlton, Lucky Strike and Misty. As of July 31, 2004, Brown & Williamson'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 ("RJRT"). RJRT, a wholly-owned subsidiary of Reynolds American, Inc., is headquartered in Winston-Salem, N.C. It is the nation's second largest manufacturer of cigarettes. Its brands include those of the former B&W as well as Winston, Salem, Camel and Doral.

B&W is represented by Andrew R. McGaan of Kirkland & Ellis, LLP, in Chicago; Fred Erny of Dinsmore & Shohl in Cincinnati, Ohio; and Frank Gundlach of Armstrong Teasdale in St. Louis, Mo.

TRIAL SITE:

The trial is being held in the United States District Court for the Eastern District of Missouri in St. Louis, Mo.

JUDGE:

The Honorable Thomas C. Mummert, III, United States Magistrate Judge, is

presiding.

EXPECTED DURATION:

Jury selection will begin on Sept. 20, 2004. The trial is expected to last two weeks.

JURY AND VERDICT:

A jury of nine will hear the case, and the verdict is required to be unanimous.

THE PLAINTIFFS' CASE:

The plaintiffs allege that Ms. Hale began smoking in the early to mid 1960's, switching to KOOL sometime in the late 1960s. Ms. Hale smoked KOOL cigarettes until she quit smoking in 2001. The plaintiffs seek an unspecified amount of damages for their mother's death from lung cancer. The Court has rejected all of the plaintiffs' claims except for the following: (1) alleged failure to warn Ms. Hale of the risks of smoking for the period of time she smoked KOOL before July 1, 1969; (2) alleged fraudulent concealment of information from Ms. Hale about KOOL cigarettes after March 6, 1988; and (3) alleged breach of an implied warranty of merchantability. The plaintiffs also claim that Ms. Hale was addicted to nicotine.

THE DEFENDANT'S CASE

Brown & Williamson denies the plaintiffs' claims. At trial, Brown & Williamson will show that the plaintiffs cannot prove any of their claims. In particular, there will be insufficient evidence to conclude that Ms. Hale's lung cancer was caused by smoking KOOL cigarettes; that there was any duty to warn her of the risks of smoking prior to July 1, 1969 because the risks were common knowledge; that no warning ever caused Ms. Hale to quit smoking in any event; and that nothing material to her decision to smoke was concealed from her by Brown & Williamson. In addition, the evidence will show that Ms. Hale was able to and did quit when she wanted to quit, despite the claim that she was addicted to nicotine.

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