



P.O. Box 2959  
Winston-Salem, NC 27102

**Contact:** Ellen Matthews Wallace  
(336) 741-6694  
Mobile:  
(336) 829-9189

RJRT 2004-06

### ***Whiteley* case in California reversed, in favor of tobacco companies**

**WINSTON-SALEM, N.C. – April 7, 2004** – The tobacco industry today received a favorable ruling when the California Court of Appeal found that a lower court failed to properly instruct the jury in the *Whiteley* case. The court reversed the verdict, and ordered a new trial on one claim. R.J. Reynolds Tobacco Company and Philip Morris Incorporated and a number of asbestos companies were defendants in the suit.

In 2000, a California jury awarded \$20 million in punitive damages and \$1.7 million in compensatory damages to Leslie J. Whiteley, who developed lung cancer after smoking for more than 25 years. Plaintiffs Whiteley and her husband, Leonard Whiteley, filed the lawsuit alleging that Mrs. Whiteley's lung cancer was caused by smoking, along with bystander asbestos exposure.

The court found that the jury was not properly instructed regarding a 10-year statutory immunity period protecting the tobacco companies from litigation that was passed in California. If a new trial is conducted, no evidence from 1988 to 1998 can be admitted nor considered by a jury in deciding a verdict.

The court directed that judgment be entered in favor of the tobacco companies on the negligent design claim stating: "There is simply no substantial evidence from which the jury could conclude that the negligent design of cigarettes was 'in reasonable medical probability' a 'substantial factor' contributing to Whiteley's risk of developing cancer."

The court found it unnecessary to address the punitive damages awarded by the jury.

"We are confident that we will prevail if this case is retried," said Mark Holton, vice president and assistant general counsel for R.J. Reynolds Tobacco Company. "Juries across the country, including those recently in California, have sided with the industry on individual plaintiff smoking and health personal injury cases, and the *Whiteley* case should follow this trend.

“As in all the other personal injury cases, we intend to show what jurors and everyone plainly know -- that smokers have long been aware of the significant, inherent risks of smoking, and that people who choose to smoke in the face of these known risks should not be financially rewarded,” Holton said.

In fact, Holton said, since January 1998, more than 90 percent of the individual personal injury cases in California against the tobacco industry have been either dismissed by court order or voluntarily.

*R.J. Reynolds Tobacco Company (RJRT) is a wholly owned subsidiary of R.J. Reynolds Tobacco Holdings, Inc. (NYSE: RJR). R.J. Reynolds Tobacco Company is the second-largest tobacco company in the United States, manufacturing about one of every four cigarettes sold in the United States. Reynolds Tobacco's product line includes four of the nation's 10 best-selling cigarette brands: Camel, Winston, Salem and Doral. For more information about RJRT, visit the company's web site at [www.RJRT.com](http://www.RJRT.com).*

###