EFiled: Oct 28 2013 08:16AM EDT
Transaction ID 54451578

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

IN RE: TOBACCO LITIGATION **CIVIL ACTION NO. 00-C-5000**

(INDIVIDUAL PERSONAL INJURY CASES) **(ARTHUR M. RECHT, JUDGE)**

JUDGMENT ON PHASE I

This action came on for trial on April 15, 2013 for a determination of the issues embraced in Phase I of the case management order entered January 11, 2000 before a jury drawn in Kanawha County.

Those issues, common to all defendants, included defective product theory, negligence theory, warranty theory and any other theories supported by pre-trial development. Further, the issue of plaintiffs' entitlement to punitive damages was included in the matters considered.

Those issues, having been duly tried, resulted in a verdict rendered May 15, 2013 on a form reflecting a decision on each numbered question submitted for determination. A copy of the returned verdict is attached and made part of this judgment.

Accordingly, it is ORDERED and ADJUDGED:

(1) That in the identified questions related to the stated issues, the plaintiffs' prevailed in Question 1c, and in the balance of the questions the defendants prevailed.

(2) The ventilated filtered cigarettes manufactured and sold by the defendants between 1964 to July 1, 1969 are found to be defective because of a failure by defendants to instruct the consumers as to their use.

(3) All other cigarettes not identified in paragraph (2) above and sold by the defendants were not found to be defective.

(4) It was also found that the conduct of the defendants would not justify an award of punitive damages in Phase 2 of the trial.

(5) There remains to be decided the claims of the individual plaintiffs consistent with the verdict rendered to date in Phase I.

(6) The award of costs to be allocated among the parties in regard to Phase I will be deferred until the completion of the appellate process of Phase I

(7) Pursuant to R. Civ. P. 54(b), in as much as the verdict in Phase I as defined in the returned form and as recited in this judgment on that verdict does not dispose of all claims of all parties in this action, the Court FINDS with EXPRESS DETERMINATION that there is no just reason for a delay in permitting any appellate rights of the parties to be perfected as to the verdict rendered and this order, therefore, such rights attach to the entry of this order.

(8) Pursuant to R. Civ. P. 46 the exceptions of respective parties to all rulings of the Court adverse to their position are here noted and preserved to the extent that at the time of the ruling it was made known to the Court the action such party desired the Court to take or the objection to the actions of the Court and the grounds therefore.

ENTER:

_____
DATE

/s/ Arthur M. Recht
ARTHUR M. RECHT
Senior Status Judge
In Re: Tobacco Litigation

EFiled: Oct 15 2013 04:43PM EDT
Transaction ID 54386709
Transaction ID 52366887

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

IN RE: TOBACCO LITIGATION
(Individual Personal Injury Cases)

CIVIL ACTION NO. 00-C-5000
(Judge Arthur M. Recht)

PHASE I VERDICT FORM

The Court has instructed the jury on the law. Based on those instructions and the evidence in the case, please answer the following questions.

Question No. 1a. Have plaintiffs proven that all cigarettes manufactured and sold by the Defendants were defectively designed?

_____ Yes X No

Question No. 1b. Have plaintiffs proven that all cigarettes manufactured and sold by the Defendants prior to July 1, 1969 were defective because of a failure to warn?

_____ Yes X No

Question No. 1c. Have plaintiffs proven that all ventilated filter cigarettes manufactured and sold by the Defendants between 1964 and July 1, 1969 were defective because of a failure to instruct?

X Yes _____ No

Question No. 2. Have plaintiffs proven that the Defendants negligently designed, tested or manufactured their cigarettes?

_____ Yes X No

Question No. 3. Have plaintiffs proven that after December 31, 1973, Defendants Philip Morris, R.J. Reynolds, or Brown & Williamson sold Cambridge, Carlton, or NOW cigarettes that failed to conform to the terms of an affirmation or promise, or did not fit a description of those cigarettes, at the time the cigarettes were sold, when used in a normal or reasonable manner?

_____ Yes X No

Question No. 4. Have plaintiffs proven, by clear and convincing evidence, that prior to July 1, 1969, the Defendants intentionally concealed from the public the danger of smoking?

_____ Yes X No

If you answered "Yes" to any of the preceding six questions, please follow the instructions in the next paragraph. If you answered "No" to all six questions, please skip the remaining questions and have your foreperson sign and date this form on the last page.

If your answer to Question No. 3 was "Yes," answer Question No. 5. If your answer to Question No. 3 was "No," skip to the next page.

Question No. 5. If your answer to Question 3 was "Yes," identify which cigarette brand(s) failed to conform to the warranty:

Cambridge	_____ Yes	_____ No
Carlton	_____ Yes	_____ No
NOW	_____ Yes	_____ No

If your answer to Question No. 1a, 1b, 1c, and/or 4 was "Yes," answer Question No. 6. If your answer to Question Nos. 1a, 1b, 1c, and 4 was "No," stop here, have your foreperson sign and date this form on the last page, and return it.

Question No. 6. With respect to the conduct on which you based your answers to Questions No. 1a, 1b, 1c, and/or 4, have plaintiffs proven by clear and convincing evidence that the defendant(s) acted with gross fraud, malice, oppression, or wanton, willful, or reckless indifference to civil obligations affecting the rights of others?

_____ Yes X No

If your answer to Question No. 6 is "No," stop here, have your foreperson sign and date this form, and return it. If your answer to Question No. 6 is "Yes," answer Question No. 7.

Question No. 7. If your answer to Question 6 is "Yes," identify whether the specific conduct was found under Questions No. 1a, 1b, 1c, and/or 4; the defendant(s) that engaged in the specific conduct; and the time period during which that specific conduct occurred.

Defendant(s)	Question 1a	Question 1b	Question 1c	Question 4
R.J. Reynolds Tobacco Company	Yes___ No___ Time Period: _____	Yes___ No___ Time Period: _____	Yes___ No___ Time Period: _____	Yes___ No___ Time Period: _____
Brown & Williamson Tobacco Corporation	Yes___ No___ Time Period: _____	Yes___ No___ Time Period: _____	Yes___ No___ Time Period: _____	Yes___ No___ Time Period: _____
Philip Morris USA Inc.	Yes___ No___ Time Period: _____	Yes___ No___ Time Period: _____	Yes___ No___ Time Period: _____	Yes___ No___ Time Period: _____
Lorillard Tobacco Company	Yes___ No___ Time Period: _____	Yes___ No___ Time Period: _____	Yes___ No___ Time Period: _____	Yes___ No___ Time Period: _____

Please sign and date this form and notify the court that you have completed your deliberations.

May 15, 2013
DATE

FOREPERSON