

IN THE CIRCUIT COURT OF THE  
FOURTEENTH JUDICIAL CIRCUIT IN  
AND FOR JACKSON COUNTY,  
FLORIDA

EMMON SMITH,

CIVIL DIVISION

Plaintiff,

CASE NO: 09-719-CA

v.

R.J. REYNOLDS TOBACCO COMPANY,  
et al,

Defendants.

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**PLAINTIFF'S NOTICE OF SERVICE OF 1<sup>ST</sup> SET OF INTERROGATORIES  
TO DEFENDANT R. J. REYNOLDS TOBACCO COMPANY**

The Plaintiff, EMMON SMITH, through the undersigned attorneys, hereby give notice of serving his First Set of Interrogatories upon Defendant R.J. Reynolds Tobacco Company and requests the same be answered within the time and manner prescribed to in the Florida Rules of Civil Procedure.

**CERTIFICATE OF SERVICE**

WE HEREBY CERTIFY true and correct copies of the foregoing have been provided by

Mail this \_\_\_\_ day of September, 2009, to the attached Service list.

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**SERVICE LIST**

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**PLAINTIFF'S FIRST SET OF INTERROGATORIES  
TO DEFENDANT R. J. REYNOLDS TOBACCO COMPANY**

1. Please describe in detail each and every act or omission on the part of any party to this action (Plaintiff or Defendant) that R. J. Reynolds Tobacco Co., contends constituted negligence that was a contributing legal cause of the injury, illness, and/or death sued upon in this action.

2. **(a)** Does Defendant R.J. Reynolds Tobacco Co., contend that Plaintiff used any product manufactured by Defendant R. J. Reynolds Tobacco Co., in a manner not intended or reasonably foreseeable to Defendant R. J. Reynolds Tobacco Co.,?

**(b)** If so, please describe in detail every such act or omission by Plaintiff and every fact supporting that contention.

3. **(a)** Does Defendant R. J. Reynolds Tobacco Co., contend that Plaintiff used any product manufactured by any other Defendant in a manner not intended or reasonably foreseeable to that Defendant?

**(b)** If so, please describe in detail every such act or omission by Plaintiff and every fact supporting that contention.

4. Does Defendant R. J. Reynolds Tobacco Co., contend any person or entity other than it is or may be liable in whole or in part for the claims asserted against it in this action? If so please state for each: **(a)** their name, **(b)** the legal basis for the contention, and **(c)** the facts and evidence upon which the contention is based.

5. Excluding expert witnesses and current or former employees of R. J. Reynolds Tobacco Co., please list **(a)** the name and address of every person believed or known by Defendant R. J. Reynolds Tobacco Co., to have any knowledge concerning any of the issues in this action, and **(b)** specify the subject matter about which each witness has knowledge.

6. For any person R. J. Reynolds Tobacco Co., intends to call to testify as an expert witness in this action, please: **(a)** state the name, address, and telephone number for each such expert, **(b)** state the subject matter on which the expert is expected to testify, **(c)** state the substance of the facts and opinions to which the expert is expected to testify, and **(d)** provide a summary of the grounds for each of each such expert's opinions.



7. Has Defendant R. J. Reynolds Tobacco Co., (including its employees, agents, and attorneys) heard of or know about any statement or remark made by or on behalf of any party to this action (other than itself), concerning any issue in the action? If so, please state **(a)** the name and address of each person who made the statement, **(b)** the name and address of each person who heard the statement, and **(c)** the general nature of the statement, including its date, time, place, and substance.

8. Please state the name and address of every person known to Defendant R. J. Reynolds Tobacco Co., (including its employees, agents, and attorneys) to have knowledge about or possession, custody, or control of, any model, map, plat, drawing, motion picture, audio recording, video recording, photograph, or pathology material (including human tissue) pertaining to any fact or issue specific to this action (but not to tobacco litigation generally), excepting materials furnished directly by Plaintiff through discovery in this action), and describe as to each **(a)** what item such person has, **(b)** the name and address of the person who took or prepared or received it, and **(c)** the date it was taken or prepared or received.

9. Has Defendant R. J. Reynolds Tobacco Co., made any agreement with anyone that would limit that party's liability to anyone for any of the damages sued upon in this action? If so, please state the terms of the agreement and the parties to it.

10. Please identify **(a)** each cigarette manufacturer or other entity known by Defendant R. J. Reynolds Tobacco Co., to **(b)** have supplied or distributed cigarettes in the rations of, or to have in any manner freely distributed cigarettes to, members of the U.S. Army during the time period June 7, 1954 - February 8, 1958, identifying in the response **(c)** which specific brands each manufacturer or other entity is known or believed to have supplied or distributed, including during what time periods if for any period of time less than the entire specified period, and in what geographic regions if in discrete regions during each or every relevant, specified time period.

11. Please identify every environmental factor intrinsic or endemic to Jackson County, Florida, or any given discrete area therein, that you contend contributed or may have contributed to any illness that Plaintiff has alleged was caused by smoking.

12. Please identify every other factor (environmental or otherwise) that you contend contributed or may have contributed to any illness Plaintiff has alleged was caused by smoking.

13. Please state whether Defendant R. J. Reynolds Tobacco Co., possesses or to its knowledge has ever possessed any document (as defined by Fla. R. Civ. P. 1.350) not generated or obtained in connection with this action, which document bears the name or other identifying information for Plaintiff. If so, please describe each such document or produce each such document in lieu of a description.

14. Excepting documents furnished by Plaintiff in this action, please state whether Defendant R. J. Reynolds Tobacco Co., possesses or has to its knowledge ever possessed any document (as defined by Fla. R. Civ. P. 1.350) indicating that Plaintiff purchased or otherwise obtained or consumed any tobacco product.



15. Excepting documents furnished by Plaintiff in this action and excepting documentation encompassed by the preceding interrogatory, does Defendant R. J. Reynolds Tobacco Co., have any basis to believe that Plaintiff purchased or otherwise obtained or consumed any R. J. Reynolds Tobacco Co., tobacco product? If so, please set forth every fact supporting any such belief.

16. Excepting documents furnished by Plaintiff in this action and excepting documentation encompassed by the preceding interrogatory, does Defendant R. J. Reynolds Tobacco Co., have any basis to believe that Plaintiff purchased or otherwise obtained or consumed any other tobacco product, besides an R. J. Reynolds Tobacco Co., product? If so, please set forth every fact supporting any such belief.

17. Please set forth every fact supporting the entirety of each of the following affirmative defenses:

- (a) your second affirmative defense stating, in essence, that Plaintiff's claims are barred by limitations and repose (limitations);
- (b) your fifth affirmative defense stating, in essence, that the Government Rules Defense bars Plaintiff's claims (Government Rules Defense);
- (c) your sixth affirmative defense stating, in essence, that cigarettes manufactured by Defendant R. J. Reynolds Tobacco Co., conformed with the state of the art of scientific and technical knowledge and other circumstances (Florida state-of-the-art defense);
- (d) your ninth affirmative defense stating, in essence, that Plaintiff's injuries were due to a superseding or intervening cause (intervening cause);
- (e) your tenth affirmative defense stating, in essence, that Plaintiff's claims are barred by the First Amendment, by operation of the *Noerr-Pennington* doctrine (First Amendment/*Noerr-Pennington*);
- (f) your eleventh affirmative defense stating, in essence, that Plaintiff's claims are barred by doctrines of laches, waiver, and/or estoppel (laches);
- (g) your twelfth affirmative defense stating, in essence, that Plaintiff's injuries were caused by an inherent characteristic of cigarettes that cannot be eliminated without substantially compromising the products' usefulness or desirability (product characteristics);
- (h) your thirteenth affirmative defense stating, in essence, that venue is improper under *forum non conveniens* (venue/forum non conveniens);
- (i) your fifteenth affirmative defense stating, in essence, that Plaintiff was comparatively negligent (comparative negligence);
- (j) your sixteenth affirmative defense stating, in essence, that Plaintiff assumed the risk of injury (assumption of risk);
- (k) your seventeenth affirmative defense stating, in essence, that Plaintiff failed to mitigate injuries and damages (failure to mitigate);
- (l) your eighteenth affirmative defense stating, in essence, that Plaintiff was aware of any defect in the products.

18. Please state whether R. J. Reynolds Tobacco Co., has ever conducted research or studied any potential relationship between smoking and squamous cell carcinoma of the lung. If so, please **(a)** generally describe such research or studies and **(b)** identify the living person or persons currently or formerly employed by Defendant R. J. Reynolds Tobacco Co., who individually or collectively possess(es) the most knowledge concerning such research or studies.

19. Please identify every company or corporate entity who manufactured the following brands of cigarettes, including the specific dates that each such company or corporate entity manufactured the brand during the period 1940 to present: **(a) Phillip Morris; (b) Camel; (c) Pall Mall; (d) Lucky Strike; (e) Paul Jones.**

**DECLARATION UNDER OATH**

As an authorized representative for Defendant R. J. REYNOLDS TOBACCO COMPANY,  
I declare that to the best of my knowledge the foregoing answers to **Plaintiff's First Interrogatories to Defendant R. J. Reynolds Tobacco Company**, are true and complete.

R. J. REYNOLDS TOBACCO  
COMPANY

By \_\_\_\_\_  
Authorized and Designated Corporate  
Representative

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_,  
2009, by \_\_\_\_\_ [name and title] of R. J. REYNOLDS  
TOBACCO COMPANY, a \_\_\_\_\_ [state of] corporation, on behalf of the  
corporation, who is personally known to me or has produced \_\_\_\_\_  
as identification, and who took an oath.

\_\_\_\_\_  
Signature of Person Taking  
Acknowledgment

\_\_\_\_\_  
Name of Acknowledger (Typed,  
Printed or Stamped)

Commission # \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

This \_\_\_\_ day of October, 2009.