

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

CIVIL DIVISION

EMMON SMITH,

Plaintiff,

CASE NO: 09-719-CA

v.

R. J. REYNOLDS TOBACCO COMPANY,  
etc., et al.,

Defendants.

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**PLAINTIFFS' FIRST REQUEST TO PRODUCE  
TO DEFENDANT  
R. J. REYNOLDS TOBACCO COMPANY**

The Plaintiff, EMMON SMITH, by and through undersigned counsel, hereby files this First Request to Produce pursuant to Rule 1.350 of the Florida Rules of Civil Procedure upon the Defendant, R.J. REYNOLDS TOBACCO COMPANY, to produce for inspection and/or copying at the offices of Plaintiff's counsel within thirty (30) days after service of this request, the following:

1. A legible/audible copy of each transcript or audio recording of any statement made at any time by Plaintiff.
2. Every document created, generated, or obtained before this action was filed which document bears the name or other personal identifying information for Plaintiff, specifically including but not limited to: customer lists, responses to promotional or other participatory marketing campaigns, correspondence, and phone logs.

3. Every document generated in connection with or otherwise reflecting the decision making process by which R. J. Reynolds Tobacco Company chose to pursue efforts or to comply with requests that resulted in the free supply or distribution of cigarettes to members of the U.S. Army during the time period June 7, 1954 - February 8, 1958, specifically including any documents setting forth or reflecting any perceived effect such supply or distribution would have on subsequent sales of R. J. Reynolds Tobacco Company's brand cigarettes.

4. Every document supporting any contention that any environmental factor intrinsic or endemic to Jackson County, Florida, or any given discrete area therein, contributed or may have contributed to any illness that Plaintiff has alleged was caused by smoking.

5. Every document supporting any contention that any other factor (environmental or otherwise) contributed or may have contributed to any illness that Plaintiff has alleged was caused by smoking.

6. Every document indicating that Plaintiff purchased or otherwise obtained or consumed any tobacco product (other than documents produced by Plaintiff in this action).

7. Every document supporting 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.

8. Every document containing, reflecting, or constituting any research conducted by R. J. Reynolds Tobacco Company or on its behalf into the relationship, if any, between smoking and squamous cell carcinoma of the lung.

**CERTIFICATE OF SERVICE**

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

U.S. Mail to all counsel of record listed on the attached service list this \_\_\_\_ day of  
September, 2009.

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