

The Virgin Islands Consortium

USVI Juries Deliver \$113 Million Verdicts Against R.J. Reynolds To Families Of Deceased Newport Smokers

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The Public Health Advocacy Institute (PHAI) announced on Sunday that two tobacco lawsuits tried this month in St. Thomas have concluded with verdicts totaling \$113.3 million. The cases, Gerald v. R.J. Reynolds Tobacco Co. and Brown v. R.J. Reynolds Tobacco Co., were brought by the children of two deceased smokers who had been hooked on Newport cigarettes as minors, according to the release.

Rare Double Jury Trials

The cases were tried simultaneously, with both 6-person juries together hearing evidence common to both cases, and each separate jury hearing issues such as medical testimony

that was specific to its case. These are the first tobacco cases to be brought in the U.S. Virgin Islands, the first tobacco cases tried together in this way, and among the largest verdicts achieved to date in individual tobacco litigation.

PHAI President (and Northeastern University law professor) Richard Daynard commented: "We are delighted that two juries independently concluded that Newport's original manufacturer, Lorillard, and its successor company R.J. Reynolds, sold an unreasonably and unnecessarily dangerous product, marketed it by use of fraud, fraudulent concealment, and conspiring with the other major cigarette producers, and engaged in outrageous conduct with evil motive or in reckless or callous disregard of the rights or safety of others. The juries saw through the defendant's con game: they addicted these two smokers through deceptive advertising and free samples, made thousands of dollars of profits from their subsequent purchase of Newports, and then tried to blame them for their 'irresponsible' decision to keep using these products. The smokers in these two cases were among the more than 20 million Americans who died of cigarette-caused deaths since the first Surgeon General's Report in 1964."

Background

Patrice Brown at 16 when she left the USVI to attend 10th grade in the States in Florida. She was given her first cigarette by a friend in the school's dorm (Students were allowed to smoke in the school dorms in the 1960s). After having that cigarettes, she decided to buy a pack of cigarettes of her own. She chose Newport due to the advertisements which linked Newport cigarettes to clear, clean and pure water of the Caribbean and the healthy and fun beach and water activities. Of note is the "Hint of Mint" and "Refreshing" language in the ads.

Lucien England, the decedent in the Gerald case, began smoking Newport cigarettes as a child, when, as part of a nationwide marketing campaign, free samples of the cigarettes were hung from the doorknobs of the apartment building where he grew up. His death was caused by bladder cancer from smoking Newports.

The case was brought by St. Thomas attorney Russell Pate, and tried by attorneys Michael Weisman and Gordon Rhea, with the assistance of PHAI attorney Meredith Lever. Mr. Weisman is a counsel with PHAI. With the Brown case, Weisman reprised his 2010 success in the case of the late Marie Evans, in which a Boston jury awarded \$71 million in compensatory damages and \$81 million in punitive damages against the maker of Newport cigarettes for causing Evans' premature death from lung cancer.

"This verdict is historic. It is one of the largest verdicts nation-wide for individual smoker cases," Mr. Rhea told The Consortium via email on Sunday. "I believe it has sent a powerful message to big tobacco and hopefully will help public health organizations in their quest to keep big tobacco honest about the health effects of their products, not only on cigarette smokers, but the dangers of second-hand smoke on the people around them.

"Russell Pate and I are proud to have been part of this monumental effort and express our respect and gratitude to the jurors and to the court. This is indeed an historic verdict that sends a powerful message. As for the potential for more smoking cases in the territory, I believe that our verdict signals that those suffering the ill effects of smoking

and the families of deceased smokers should certainly investigate whether relief in courts is available."

- Brown v. R.J. Reynolds Tobacco Co. = \$70 m compensatory + \$12.3 m in punitive damages
- Gerald v. R.J. Reynolds Tobacco Co. = \$1 m compensatory + \$30 m in punitive damages