

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----x  
EILEEN A. CLINTON, on behalf of herself  
and as Administratrix of the Estate of  
WILLIAM A. CHAMPAGNE, JR.,

Plaintiff,

No. 05-CV-9907 (CS)

- against -

**VERDICT FORM**

BROWN & WILLIAMSON HOLDINGS, INC., as  
successor by merger to AMERICAN TOBACCO  
COMPANY, and PHILIP MORRIS USA INC.,

Defendants.

-----x

*Please indicate your answers with a check mark (✓). The jury must be unanimous as to each answer.*

1. Has Plaintiff proven, by a preponderance of the evidence, that William A. Champagne, Jr.'s lung cancer was caused by cigarette smoking?

Yes  No

*If your answer to Question 1 is YES, please proceed to Question 2. If your answer to Question 1 is NO, please proceed no further except to sign and date this verdict form, and return it to the Court.*

Failure to Warn Claim

2. Has Plaintiff proven, by a preponderance of the evidence, that prior to September 11, 1968, American Tobacco had a duty to warn William A. Champagne, Jr. about the health hazards and/or addictiveness of smoking its cigarettes?

Yes  No

*If your answer to Question 2 is YES, please proceed to Question 3. If your answer to Question 2 is NO, please skip to Question 6.*

3. Has Plaintiff proven, by a preponderance of the evidence, that prior to September 11, 1968, American Tobacco breached its duty to warn William A. Champagne, Jr. about the health hazards and/or addictiveness of smoking its cigarettes?

Yes X No \_\_\_\_\_

*If your answer to Question 3 is YES, please proceed to Question 4. If your answer to Question 3 is NO, please skip to Question 6.*

4. Has Plaintiff proven, by a preponderance of the evidence, that American Tobacco's breach of its duty to warn, prior to September 11, 1968, was a proximate cause of William A. Champagne, Jr.'s injury?

Yes X No \_\_\_\_\_

*If your answer to Question 4 is YES, please proceed to Question 5. If your answer to Question 4 is NO, please skip to Question 6.*

5. Has Plaintiff proven, by a preponderance of the evidence, that William A. Champagne, Jr. suffered loss or damage as a result of his injury?

Yes X No \_\_\_\_\_

*Please proceed to Question 6.*

#### Fraudulent Concealment Claim

6. Has Plaintiff proven, by clear and convincing evidence, that prior to September 11, 1968, American Tobacco had a duty to disclose material information to William A. Champagne, Jr.?

Yes X No \_\_\_\_\_

*If your answer to Question 6 is YES, please proceed to Question 7. If your answer to Question 6 is NO, please skip to Question 12.*

7. Has Plaintiff proven, by clear and convincing evidence, that prior to September 11, 1968, American Tobacco failed to disclose material information to William A. Champagne, Jr.?

Yes X No \_\_\_\_\_

*If your answer to Question 7 is YES, please proceed to Question 8. If your answer to Question 7 is NO, please skip to Question 12.*

8. Has Plaintiff proven, by clear and convincing evidence, that prior to September 11, 1968, American Tobacco intended to defraud consumers when it failed to disclose material information?

Yes  No

*If your answer to Question 8 is YES, please proceed to Question 9. If your answer to Question 8 is NO, please skip to Question 12.*

9. Has Plaintiff proven, by clear and convincing evidence, that William A. Champagne, Jr. actually relied on American Tobacco's failure to disclose material information prior to September 11, 1968?

Yes  No

*If your answer to Question 9 is YES, please proceed to Question 10. If your answer to Question 9 is NO, please skip to Question 12.*

10. Has Plaintiff proven, by clear and convincing evidence, that William A. Champagne, Jr. reasonably relied on American Tobacco's failure to disclose material information prior to September 11, 1968?

Yes  No

*If your answer to Question 10 is YES, please proceed to Question 11. If your answer to Question 10 is NO, please skip to Question 12.*

11. Has Plaintiff proven, by clear and convincing evidence, that William A. Champagne, Jr. suffered loss or damage as a result of his reliance on American Tobacco's concealment prior to September 11, 1968?

Yes  No

*Please proceed to Question 12.*

#### Fraudulent Misrepresentation Claim

12. Has Plaintiff proven, by clear and convincing evidence, that Philip Morris made a misrepresentation of material fact regarding Marlboro Lights cigarettes that was false and either known to be false by Philip Morris or made recklessly without knowledge of or genuine belief in its accuracy?

Yes  No

*If your answer to Question 12 is YES, please proceed to Question 13. If your answer to Question 12 is NO, please skip to Question 17.*

13. Has Plaintiff proven, by clear and convincing evidence, that in making the misrepresentation regarding Marlboro Lights cigarettes, Philip Morris intended to defraud consumers?

Yes  No

*If your answer to Question 13 is YES, please proceed to Question 14. If your answer to Question 13 is NO, please skip to Question 17.*

14. Has Plaintiff proven, by clear and convincing evidence, that William A. Champagne, Jr. actually relied upon Philip Morris's misrepresentation regarding Marlboro Lights cigarettes?

Yes  No

*If your answer to Question 14 is YES, please proceed to Question 15. If your answer to Question 14 is NO, please skip to Question 17.*

15. Has Plaintiff proven, by clear and convincing evidence, that William A. Champagne, Jr. reasonably relied upon Philip Morris's misrepresentation regarding Marlboro Lights cigarettes?

Yes  No

*If your answer to Question 15 is YES, please proceed to Question 16. If your answer to Question 15 is NO, please skip to Question 17.*

16. Has Plaintiff proven, by clear and convincing evidence, that William A. Champagne, Jr. suffered loss or damage as a result of his reliance on Philip Morris's misrepresentation regarding Marlboro Lights cigarettes?

Yes  No

*Please proceed to Question 17.*

#### Damages

17. Did you answer YES on this verdict form to each of Questions 2-5?

Yes  No

*Proceed to Question 18.*

18. Did you answer YES on this verdict form to each of Questions 6-11?

Yes  No

*Proceed to Question 19.*

19. Did you answer YES on this verdict form to each of Questions 12-16?

Yes        No X

*If your answer to Question 17, Question 18, or Question 19 is YES, please proceed to Question 20. If your answer is NO to Question 17, Question 18, and Question 19, proceed no further except to sign and date this verdict form, and return it to the Court.*

20. Please state the total amount of damages sustained by William A. Champagne, Jr. for his pain and suffering.

\$25,000. -

*Please proceed to Question 21.*

21. Please state the total amount of damages sustained by Eileen A. Clinton for the loss of her spouse's services and society prior to his death.

\$20,000. -

*Please proceed to Question 22.*

22. Please state the amount of damages sustained by Eileen A. Clinton, and each of William A. Champagne, Jr.'s children, resulting from William A. Champagne, Jr.'s death.

a)	Eileen A. Clinton	\$ <u>1,300,000. -</u>
b)	Jennifer Champagne	\$ <u>      </u>
c)	William A. Champagne, III	\$ <u>      </u>

*Please proceed to the next section ("Allocation of Fault").*

Allocation of Fault

*If you answered YES to Question 10 and you also answered YES to Question 17 and/or Question 18, please proceed to Question 23. Otherwise, proceed no further except to sign and date this verdict form, and return it to the Court.*

23. What is the percentage of fault of each defendant in causing William A. Champagne, Jr.'s injuries? The total must equal 100%.

American Tobacco \_\_\_\_\_ %

Philip Morris \_\_\_\_\_ %

Signature of Foreperson

12/12/12

Date

Once you have completed this form and answered all applicable questions unanimously, the foreperson must send the Court a note so indicating.