

**IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA
CIVIL DIVISION**

**IN RE: ENGLE PROGENY CASES
TOBACCO LITIGATION**

**CASE NO.: 08-CA-80000
DIVISION: Y**

**Pertains to: All Pending Cases on
Attached Pages**


JURY INSTRUCTIONS

All counsel, through the liaison counsel for plaintiffs and defendants, are hereby notified that the attached jury instructions are adopted in all pending *Engle* progeny cases in the circuit, which case numbers and names are attached hereto and made a part hereof. These orders will be posted on the Thirteenth Judicial Circuit Court website.


Plaintiffs' and Defendants' Liaison counsel are directed to distribute this order to all attorneys of record in pending tobacco litigation cases.

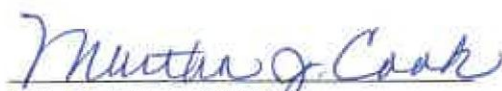
DONE AND ORDERED: At Tampa, Hillsborough County, Florida this 6th day of March, 2019



RONALD FICARROTTA,
Chief Judge



REX M. BARBAS,
Administrative Judge, Division J


E. LAMAR BATTLES,
Circuit Court Judge, Division H



RALPH C. STODDARD,
Circuit Court Judge, Division B



MARTHA J. COOK,
Circuit Court Judge, Division G


EMILY PEACOCK,
Circuit Court Judge, Division D



GREGORY P. HOLDER,
Circuit Court Judge, Division E


PAUL L. HUEY,
Circuit Court Judge, Division I


RICHARD A. NIELSEN,
Circuit Court Judge, Division F


ELIZABETH G. RICE,
Circuit Court Judge, Division C


SCOTT STEPHENS,
Circuit Court Judge, Division Y


CHERYL K. THOMAS,
Circuit Court Judge, Division A

Conformed copies to:

Anna Frederiksen-Cherry, Plaintiffs' Liaison Counsel
Troy A. Furman, Defendants' Liaison Counsel

CaseNumber	Style
02-CA-001836	BECKUM;GLENN VS PHILIP MORRIS INCOPRORA
02-CA-005085	MCBRIDE;GERALDT PERS VS BROWN & WILLIAMSON CORP
03-CA-001589	SHIRAH;DORIS VS BROWN & WILLIAMSON CORP
03-CA-004767	MCDONALD;WILLIAM VS BROWN & WILLIAMSON CORP
04-CA-000426	BUTLER VS BROWN & WILLIAMSON TOBACCO CORP
04-CA-000472	ARNOLD VS BROWN & WILLIAMS CORP
04-CA-002530	WELDON VS BROWN WILLIAMSON
04-CA-005681	TAYLOR VS R J REYNOLDS TOBACCO CO
04-CA-005683	POLCHOWSKI VS R J REYNOLDS TOBACCO CO
05-CA-000790	BROWN VS RJ REYNOLDS TOBACCO COMPANY
06-CA-007837	SWFNDELLS;J VS RJ REYNOLDS TOBACCO CO
07-CA-014417	RILEY;K VS PHILIP MORRIS USA INC
07-CA-014459	MARTIN;J VS PHILIP MORRIS USA
07-CA-014461	ANDERSON;FVS PHILIP MORRIS - USA INC
07-CA-014466	BRECHKA;P VS RJ REYNOLDS TOBACCO CO
07-CA-014468	SHAW;C VS R J REYNOLDS TOBACCO CO
07-CA-014471	BOSS;J VS R J REYNOLDS TOBACCO CO
07-CA-014497	WALDRON;L VS R J REYNOLDS TOBACCO CO
07-CA-014530	ADAIR;M VS PHILIP MORRIS - USA INC
07-CA-014531	DIETZEL;R VS RJ REYNOLDS TOBACCO CO
07-CA-014536	STEVENS;G VS RJ REYNOLDS TOBACCO CO
07-CA-014595	THAU;S VS R J REYNOLDS TOBACCO
07-CA-014605	WHEELER;M VS RJ REYNOLDS TOBACCO CO
07-CA-014609	HARRIS;M VS RJ REYNOLDS TOBACCO CO
07-CA-014611	VS RJ REYNOLDS TOBACCO CO
07-CA-014620	FREEMAN;H VS RJ REYNOLDS TOBACCO CO
07-CA-014643	TROTTER;D VS RJ REYNOLDS TOBACCO CO
07-CA-014644	LEDUC;R VS RJ REYNOLDS TOBACCO CO
07-CA-014648	AUSTIN;G VS RJ REYNOLDS TOBACCO CO
07-CA-014649	VS RJ REYNOLDS TOBACCO CO
07-CA-014655	IMBIMBO;G VSPHILLIP MORRIS USA, INC.
07-CA-014658	BAIRD;W VS R.J. REYNOLDS TOBACCO CO.
07-CA-014660	CHANCEY;J VS R J REYNOLDS TOBACCO
07-CA-014662	BOUDINOT;J VS PHILLIP MORRIS USA, INC.
07-CA-014663	BALL; R VS RJ REYNOLDS TOBOCCAO CO
07-CA-014664	RUSSELL;J VS PHILIP MORRIS USA INC

07-CA-014665	GAUGHAN;A VS RJ REYNOLDS TOBACCO CO
07-CA-014666	STRIEM;H VS R.J. REYNOLDS TOBACCO CO.
07-CA-014667	RUTKOWSKI;J VS RJ REYNOLDS TOBACCO CO
07-CA-014671	CRUMP; I VS RJ REYNOLDS TOBACCO CO
07-CA-014672	ELLIOT;G VS R.J. REYNOLDS TOBACCO CO.
07-CA-014681	CIVELLO;A VS R J REYNOLDS TOBACCO
07-CA-014684	BAITING;R VS R J REYNOLDS TOBACCO
07-CA-014686	HUNTER;C VS R J REYNOLDS TOBACCO
07-CA-014687	KELLEY;E VS R.J. REYNOLDS TOBACCO CO
07-CA-014691	FRANCOISE-GOODFREY;M VS RJ REYNOLDS TOBACCO CO

07-CA-014693	HAMMELL;D VS R J REYNOLDS TOBACCO CO
07-CA-014696	GARRETT;H VS RJ REYNOLDS TOBACCO CO
07-CA-014697	MAYBUSH;F VS R J REYNOLDS TOBACCO
07-CA-014702	VALLEE; M VS RJ REYNOLDS TOBACCO CO
07-CA-014848	SERIO;D VS R J REYNOLDS TOBACCO CO
07-CA-015069	JENKINS;G VS PHILIP MORRIS USA
07-CA-015071	KALWAS;C VS PHILIP MORRIS USA
07-CA-015075	LICKSTEIN;F VS PHILIP MORRIS USA
07-CA-015078	FOGLEM;R VS PHILIP MORRIS USA
07-CA-015084	FOSHAY;G VS PHILIP MORRIS USA
07-CA-016520	CACIAPPO;J VS PHILIP MORRIS USA INC
07-CA-016523	PHILLIPS;P VS R J REYNOLDS TOBACCO CO
07-CA-016527	PHILYAW;G VS PHILIP MORRIS USA INC
07-CA-016533	COLLAZO;M VS PHILIP MORRIS USA INC
07-CA-016889	CARTER;W VS RJ REYNOLDS TOBACCO CO
07-CA-016892	BARBARA C SNELGROVE VS RJ REYNOLDS TOBACCO CO
07-CA-016897	LARA;M VS PHILLIP MORRIS USA INC
07-CA-016899	LOFLEY;L VS PHILIP MORRIS USA INC
07-CA-016908	JOHNS;D VS RJ REYNOLDS TOBACCO CO
07-CA-016942	SCHAEFER;C VS RJ REYNOLDS TOBACCO CO
07-CA-016943	SAMBERG;J VS RJREYNOLDS TOBACCO CO
07-CA-016948	RICHEY;M VS RJ REYNOLDS
07-CA-017099	MCELLIGOTT;D VS RJ REYNOLDS TOBACCO CO
07-CA-017172	WAGER;S VS RJ REYNOLDS TOBACCO CO
07-CA-017204	ISAACS;C VS RJ REYNOLDS TOBACCO CO
07-CA-017205	CUTERI;M VS RJ REYNOLDS TOBACCO CO
07-CA-017206	CEASARE;J VS RJREYNOLDS TOBACCO CO
07-CA-017238	SCHEBEL;R VS RJREYNOLDS

07-CA-017245	FENNELL;W VS RJ REYNOLDS TOBACCO CO
07-CA-017247	VS RJ REYNOLDS TOBACCO CO
07-CA-017401	GETTLE;TVS PHILIP MORRIS-USA INC
07-CA-017402	BELL;R VS R J REYNOLDS TOBACCO CO
07-CA-017403	MOORE;R VS R J REYNOLDS TOBACCO
07-CA-017409	TAYLOR;A VS R.J. REYNOLDS
07-CA-017413	PICARD;B VS R J REYNOLDS TOBACCO CO
07-CA-017420	JONES BARTLETT;C VS PHILIP MORRIS USA INC
07-CA-017424	WOOD;B VS RJ REYNOLDS TOBACCO CO
07-CA-017425	COLE;A VS RJ REYNOLDS TOBACCO CO
07-CA-017433	LEDFORD;C VS R J REYNOLDS TOBACCO CO
07-CA-017437	AIKEN;C VS R J REYNOLDS TOBACCO CO
07-CA-017441	FREEZE;R VS R J REYNOLDS TOBACCO CO
07-CA-017455	METTETAL;H VS R J REYNOLDS TOBACCO CO
07-CA-017461	VS R J REYNOLDS TOBACCO CO
07-CA-017463	REDDEN;M VS R J REYNOLDS TOBACCO CO
07-CA-017515	LEZENBY;R VS R J REYNOLDS TOBACCO CO
07-CA-017521	PICKETT;B VS R J REYNOLDS TOBACCO CO
07-CA-017523	SMITH;S VS R J REYNOLDS TOBACCO CO

07-CA-017526	VS PHILIP MORRIS USA INC
07-CA-017543	ZIMMERMAN;R VS R J REYNOLDS TOBACCO CO
07-CA-017559	BERGERON;L VS RJ REYNOLDS TOBACCE CO
07-CA-017603	HUELSTER;W VS R J REYNOLDS TOBACCO CO
07-CA-017605	BERGAMINI;H VS R J REYNOLDS TOBACCO CO
07-CA-017615	STAPLETON;J VS FJ REYNOLDS TOBACCO CO
07-CA-017619	BUSSY;M VS R J REYNOLDS TOBACCO CO
07-CA-017624	CAINES;B VS R J REYNOLDS TOBACCO CO
07-CA-017632	MCCABE;J VS R J REYNOLDS TOBACCO CO
07-CA-017731	PALMER;J VS PHILIP MORRIS USA INC
07-CA-017738	JACKSON;T VS R J REYNOLDS TOBACCO CO
07-CA-017741	BATES;K VS R J REYNOLDS TOBACCO CO
07-CA-017816	VS PHILIP MORRIS USA INC
07-CA-017819	STRONG;G VS PHILIP MORRIS USA INC
07-CA-017823	Estate of Donald Pearson vs RJ REYNOLDS TOBACCO CO
07-CA-017824	GRAY;R VS PHILIP MORRIS USA INC
07-CA-017924	VS PHILIP MORRIS USA INC
07-CA-017927	DAVIS;E VS PHILIP MORRIS USA INC

07-CA-017931	LYONS;M VS PHILIP MORRIS USA INC
07-CA-017934	SAMMARCO;Z VS PHILIP MORRIS USA INC
07-CA-017937	JONES;J VS PHILIP MORRIS USA INC
07-CA-017938	WOOTEN;S VS PHILIP MORRIS USA INC
07-CA-017939	COLLINS;A VS PHILIP MORRIS USA INC
07-CA-017944	SCOTT;A VS PHILIP MORRIS USA INC
07-CA-017947	RICHARDSON;M VS PHILIP MORRIS USA INC
07-CA-017949	SMITH;R VS PHILIP MORRIS USA INC
07-CA-017968	LECOURT;D VS RJ REYNOLDS TOBACCO CO
07-CA-017972	CUNNINGHAM;D VS R J REYNOLDS TOBACCO CO
07-CA-018023	VUOTTO;G VS R J REYNOLDS TOBACCO CO
07-CA-018026	HOOVER;M VS RJ REYNOLDS TOBACCO CO
07-CA-018027	VAZQUEZ;R VS RJ REYNOLDS TOBACCO CO
07-CA-018029	CLOSE;J VS RJ REYNOLDS TOBACCO CO
07-CA-018030	JOHNSTON;WVS RJ REYNOLDS TOBACCO CO
07-CA-018033	BARNES;R VS RJ REYNOLDS TOBACCO CO
07-CA-018034	BROTZGE;G VS R J REYNOLDS TOBACCO CO
07-CA-018059	MEYERS;E VS R J REYNOLDS TOBACCO CO
07-CA-018068	ANDERSON;J VS RJ REYNOLDS TOBACCO CO
07-CA-018112	THOMPSON;C VS R J REYNOLDS TOBACCO CO
07-CA-018113	LYNCH;M VS R J REYNOLDS TOBACCO CO
07-CA-018114	PIACENZA;E VS RJ REYNOLDS TOBACCO CO
07-CA-018116	WETZEL;F VS R J REYNOLDS TOBACCO CO
07-CA-018117	HUNTER;S VS R J REYNOLDS TOBACCO CO
07-CA-018137	LOURIE, JAMES HARRIS vs RJ REYNOLDS TOBACCO CO
07-CA-018140	GAINES;G VS R J REYNOLDS TOBACCO CO
07-CA-018149	PHILLIPS;J VS PHILIP MORRIS USA INC
07-CA-018154	BALL;R R J REYNOLDS TOBACCO CO
07-CA-018390	HURLESS;O VS R J REYNOLDS TOBACCO CO

07-CA-018392	JROLF;B VS R J REYNOLDS TOBACCO CO
07-CA-018475	WOLFE;W VS R J REYNOLDS TOBACCO CO
07-CA-018478	RICHARD A. HILL;CVS RJ REYNOLDS TOBACCO CO
07-CA-018480	DAVIS;R VS R J REYNOLDS TOBACCO CO
07-CA-018490	PAOLELLA;C VS R J REYNOLDS TOBACCO CO
07-CA-018498	DEVERA;A VS R J REYNOLDS TOBACCO CO

07-CA-018567	FRIEND;J VS PHILIP MORRIS USA
07-CA-018569	SKEENS;M VS R.J. REYNOLDS TOBACCO CO.
07-CA-018571	MICAL;W VS PHILIP MORRIS USA INC
07-CA-018598	ANDERSON;V VS PHILIP MORRIS USA
07-CA-018602	MORGAN;E VS PHILIP MORRIS USA INC
07-CA-018609	TILL'S;C VS PHILIP MORRIS-USA INC.
08-CA-000107	SKEENS;M VS R J REYNOLDS TOBACCO CO
08-CA-000207	JOHNSON;L VS R J REYNOLDS TOBACCO CO
08-CA-000208	MOUNTAIN;P VS R J REYNOLDS TOBACCO CO
08-CA-000209	HAWKINS;J VS R J REYNOLDS TOBACCO CO
08-CA-000213	KAMPFF;G VS R J REYNOLDS TOBACCO CO
08-CA-000214	SMITH;R VS R J REYNOLDS TOBACCO CO
08-CA-000222	ALLISON;S VS RJ REYNOLDS TOBACCO CO
08-CA-000231	VS RJ REYNOLDS TOBACCO CO
08-CA-000234	NICHOLS;S VS R J REYNOLDS TOBACCO CO
08-CA-000472	MAYES;C VS R J REYNOLDS TOBACCO CO
08-CA-000473	STRIPLING;S VS R J REYNOLDS TOBACCO CO
08-CA-000477	BOUTCHER;J VS R J REYNOLDS TOBACCO CO
08-CA-000480	SHORT;P VS RJ REYNOLDS TOBACCO CO
08-CA-000481	KENNEDY;P VS PHILIP MORRIS USA INC
08-CA-000483	RIZZO;L VS PHILIP MORRIS USA INC
08-CA-000490	COURSON;W VS PHILIP MORRIS USA INC
08-CA-000501	TOUNDAS;J VS R J REYNOLDS TOBACCO
08-CA-000534	BRADFORD;R VS RJ REYNOLDS TOBACCO CO
08-CA-000586	NASSO;R VS PHILIP MORRIS USA INC
08-CA-000594	VS R.J. REYNOLDS TOBACCO CO.
08-CA-000686	IRWIN;C VS RJ REYNOLDS TOBACCO CO
08-CA-000687	MOBLEY;N VS RJ REYNOLDS TOBACCO CO
08-CA-000688	ORTIZ;M VS R J REYNOLDS TOBACCO CO
08-CA-000690	COOPER;F VS R J REYNOLDS TOBACCO CO
08-CA-000695	DUFFEY;R VS R J REYNOLDS TOBACCO CO
08-CA-000704	SPAR;C VS R J REYNOLDS TOBACCO CO
08-CA-000706	ROOT;J VS RJ REYNOLDS TOBACCO CO
08-CA-000708	VS R J REYNOLDS TOBACCO CO
08-CA-000710	NEWMAN;M VS R J REYNOLDS TOBACCO CO
08-CA-000712	BISHOP;M VS R J REYNOLDS TOBACCO CO
08-CA-000715	ROWE;C VS R J REYNOLDS TOBACCO CO

08-CA-000717	RAINEY;J VS RJ REYNOLDS TOBACCO CO
08-CA-000721	CASCOE;C VS RJ REYNOLDS TOBACCO CO
08-CA-000722	CLARK;J VS RJ REYNOLDS TOBACCO CO
08-CA-000732	DEMPS;A VS R J REYNOLDS TOBACCO CO

08-CA-000734	LUKER;R VS R J REYNOLDS TOBACCO CO
08-CA-000821	HOLLEY;J VS R J REYNOLDS TOBACCO CO
08-CA-000825	DUNN;J VS PHILIP MORRIS USA INC
08-CA-000852	FOSTER;S VS R J REYNOLDS TOBACCO C
08-CA-000860	WELLS;M VS R J REYNOLDS TOBACCO CO
08-CA-000880	JENKINS;L VS AMERICAN TOBACCO CO.
08-CA-000886	RICARDO;A VS PHILIP MORRIS USA INC
08-CA-000893	CATANESE;R VS PHILIP MORRIS USA INC
08-CA-006836	CHANCY;J VS R J REYNOLDS TOBACCO CO
08-CA-006842	SIMPSON;C VS R J REYNOLDS TOBACCO CO
08-CA-006847	LOFLEY;K VS R J REYNOLDS TOBACCO CO
08-CA-006848	ALLEN;B VS R J REYNOLDS TOBACCO CO
08-CA-006850	WYERICK;M VS RJ REYNOLDS TOBACCO CO
08-CA-006853	PATTERSON;F VS RJ REYNOLEDs TOBACCO CO
08-CA-006861	COMBAST;S VS R J REYNOLDS TOBACCO CO
08-CA-006878	BROWN;WVS RJ REYNOLDS TOBOCCO CO
08-CA-006883	DOMIKIS;A VS R J REYNOLDS TOBACCO CO
08-CA-006956	MCIVOR;T VS PHILIP MORRIS USA INC
08-CA-007098	GRANT;H VS R J REYNOLDS TOBACCO
08-CA-007441	HIGGINS;G VS R J REYNOLDS TOBACCO CO
08-CA-007442	PENNINGTON;A VS R J REYNOLDS;A
08-CA-007474	SNOW;D VS PHILIP MORRIS USA
08-CA-007981	CRAFT: L VS PHILIP MORRIS USA INC
08-CA-008046	BOLES;' VS PHILIP MORRIS USA INC
08-CA-008200	DEAN;A VS PHILLIP MORRIS USA INC
08-CA-008302	KNIGHT;G VS PHILIP MORRIS USA INC
08-CA-008512	STARLING;B VS PHILIP MORRIS USA
08-CA-008526	HILL;N VS PHILIP MORRIS USA INC
08-CA-008529	BEGGS;R VS PHILIP MORRIS USA INC
08-CA-008631	LEWIS;J VS PHILIP MORRIS USA INC
08-CA-008635	TUOMEY;J VS PHILIP MORRIS USA INC

08-CA-008820	ROGERS;R VS R.J. REYNOLDS TOBACCO CO
08-CA-008821	WILSON;A VS R.J. REYNOLDS TOBACCO CO
08-CA-009036	JONES;] VS R J REYNOLDS TOBACCO CO
08-CA-009043	CRAWFORD;B VS R J REYNOLDS TOBACCO
08-CA-009045	HANCOCK;W VS R J REYNOLDS TOBACCO
08-CA-009048	BROWN;P VS R J REYNOLDS TOBACCO
08-CA-009153	RODRIGUEZ;WVS RJ REYNOLDS TOBACCO CO
08-CA-009154	EVERS, CINDY vs RJ REYNOLDS TOBACCO CO
08-CA-009214	MULLAY;J VS R J REYNOLDS TOBACCO CO
08-CA-009215	JOHNSON;D VS R J REYNOLDS TOBACCO CO
08-CA-009262	SPANDAU;M VS R J REYNOLDS TOBACCO CO
08-CA-009885	RAMIREZ;A S VS RJ REYNOLDS TOBACCO CO
08-CA-010056	SMITH;P VS R] REYNOLDS TOBACCO CO
08-CA-010155	VS R J REYNOLDS TOBACCO CO
08-CA-010156	PHILLIPS;H VS R J REYNOLDS TOBACCO CO
08-CA-010159	MASCHERIN;R VS R J REYNOLDS TOBACCO CO

08-CA-010161	PATTERSON;K VS R J REYNOLDS TOBACCO CO
08-CA-010164	POORMAN;D VS R J REYNOLDS TOBACCO CO
08-CA-011215	COLLINGS;W VS R J REYNOLDS TOBACCO CO
08-CA-011216	GREENBACKER;B VS R J REYNOLDS TOBACCO CO
08-CA-011634	PARRISH;S VS R J REYNOLDS TOBACDO CO
08-CA-011636	SAIA;M VS R J REYNOLDS TOBACCO CO
08-CA-011637	LONDBERG;L VS R J REYNOLDS TOBACCO CO
08-CA-011640	RODRIGUEZ;A VS R J REYNOLDS TOBACCO CO
08-CA-011642	BOLDS;] VS R J REYNOLDS TOBACCO CO
08-CA-011644	PARKES;J VS R J REYNOLD TOBACCO CO
08-CA-011647	MCDOWELL;A V RJ REYNOLDS TOBACCO CO
08-CA-011657	RALEY;C VS R J REYNOLDS TOBACCO CO
08-CA-011661	SIMPKINS;B VS R J REYNOLDS TOBACCO CO
08-CA-011884	STAGGS;] VS R J REYNOLDS TOBACCO CO
08-CA-011887	JORDAN;F VS R J REYNOLDS TOBACCO CO
08-CA-011889	WALES;M VS R J REYNOLDS TOBACCO CO
08-CA-011893	MCGOWAN;B VS R J REYNOLDS TOBACCO CO
08-CA-013445	VALENTI;M VS RJ REYNOLDS TOBACCO CO
08-CA-014332	GONZALEZ;J VS R J REYNOLD

08-CA-016789	ROMAN;M VS R J REYNOLDS TOBACCO CO
08-CA-016791	MAYER;C VS R J REYNOLDS TOBACCO CO
08-CA-016800	DIAMOND;M VS R J REYNOLDS TOBACCO CO
08-CA-017041	FORSTENZER;A VS R J REYNOLDS TOBACCO CO
08-CA-017046	LANIER;B VS R J REYNOLDS TOBACCO CO
08-CA-017048	WI-ASIUK;D VS R J REYNOLDS TOBACCO CO
08-CA-018094	NELSON;W VS R J REYNOLDS TOBACCO CO
08-CA-018303	BRIGGS;R VS R J REYNOLDS TOBACCO CO
08-CA-018307	KALINA;M VS R J REYNOLDS TOBACCO CO
08-CA-018797	ALINDA L. GOODWIN, ESTATE OF W. NEIL GOODWIN vs RJ REYNOLDS TOBACCO
08-CA-019711	PEREZ;M VS R J REYNOLDS TOBACCO CO
08-CA-020947	SCHAEFFER;L VS R J REYNOLDS TOBACCO CO
08-CA-021741	SILVER;M VS R J REYNOLDS TOBACCO CO
08-CA-022107	CATANZARO;D VS RJ REYNOLDS TOBACCO CO
08-CA-022110	REYNOLDS;B VS R J REYNOLDS TOBACCO CO
08-CA-025492	HAMIDI;A VS R J REYNOLDS TOBACCO CO
08-CA-025499	BROOKINS;S VS R J REYNOLDS TOBACCO CO
08-CA-025501	O'GRADY;P VS RJ REYNOLDS TOBACCO CO
08-CA-080000	IN RE TOBACCO LITIGATION
09-CA-000628	LAFLANNE;F VS R J REYNOLDS TOBACCO CO
09-CA-000631	ARNOLD;H VS R J REYNOLDS TOBACCO CO
09-CA-000637	CHERNE;P VS R J REYNOLDS TOBACCO CO
09-CA-000885	HENSON;E VS R J REYNOLDS TOBACCO CO
09-CA-001196	OLDS;D VS PHILIP MORRIS USA INC
09-CA-001539	BUNCH;A VS PHILIP MORRIS-USA INC
09-CA-001544	RICHARDSON;S VS PHILIP MORRIS- USA INC
09-CA-002195	MORDUE-GROFF;T VS PHILLIP MORRIS USA INC
09-CA-002209	MORDUE-GROFF;TVS PHILIP MORRIS USA INC

09-CA-006685	SMITH;M VS R J REYNOLDS
09-CA-007698	SAYLOR; C VS PHILIP MORRIS USA INC
09-CA-008080	ADRIAN J. CRUM, vs RJ REYNOLDS TOBACCO CO
09-CA-008220	ROWE;C VS R J REYNOLDS
09-CA-008223	GAUGHAN;T VS RJ REYNOLDS TOBACCO
09-CA-008226	MALLOY;FVS RJ REYNOLDS TOBACCO CO
09-CA-008782	RODRIGUEZ;E VS RJ REYNOLDS TOBACCO CO

09-CA-008788	MELANCON;K VS RJ REYNOLDS TOBACCO CO
09-CA-009725	MARY JOANNE HAUKAAS, VS PHILIP MORRIS USA
09-CA-009727	PITTMAN;A VS PHILIP MORRIS USA
09-CA-016238	ROBLES;E VS RJ REYNOLDS
09-CA-016528	VARNADO;J VS R J REYNOLDS TOBACCO
09-CA-016534	SCHUMACHER;P VS R J REYNOLDS
09-CA-017818	GUILFORD; S VS PHILIP MORRIS USA INC
09-CA-018366	KING;E VS RJ REYNOLDS TOBACCO
09-CA-018387	BARNICKLE;R VS R J REYNOLDS TOBACCO
09-CA-018565	SEMERARO; I VS PHILIP MORRIS USA INC
09-CA-018570	CAMINITE; R VS PHILIP MORRIS USA INC
09-CA-018693	AVERY;R vs R J REYNOLDS TOBACCO
09-CA-018752	HARRIS;E VS RJ REYNOLDS TOBACCO CO
09-CA-018784	SOWELL;G VS R J REYNOLDS TOBACCO
09-CA-018834	IRVINE;W VS PHILLIP MORRIS USA INC
09-CA-018837	TINDALL;D VS PHILLIP MORRIS
09-CA-018854	TOTTON;B VS R J REYNOLDS
09-CA-018856	WHITE;B VS R J REYNOLDS
09-CA-018858	ESTATE OF KNOX;C VS RJ REYNOLDS
09-CA-018859	HANCOCK;J VS R J REYNOLDS TOBACCO
09-CA-018863	RAINEY;K VS RJ REYNOLDS
09-CA-018865	MANN;E VS RJ REYNOLDS
09-CA-018866	KRAMER;L VS R J REYNOLDS TOBACCO
09-CA-018868	MORTENSEN;S VS RJ REYNOLDS
09-CA-023540	COSTELLO;M VS PHILIP MORRIS USA INC
09-CA-025199	CORAZZO;C VS PHILIP MORRIS USA 'NC
09-CA-025369	PACINO;M VS PHILIP MORRIS-USA
10-CA-006526	TOMER;T VS RJ REYNOLDS TOBACCO CO
10-CA-009410	TWYFORD;E VS R J REYNOLDS TOBACCO CO
10-CA-011572	RODGERS, ELI vs LORILLARD TOBACCO CO
10-CA-015051	SIATKOWSKI;M VS R J REYNOLDS TOBACCO CO
10-CA-016308	George Ellis, vs RJ REYNOLDS TOBACCO CO
10-CA-021875	MICHAEL;L VS PHILLIP MORRIS USA
10-CA-023077	DUNCAN;R VS R J REYNOLDS TOBACCO CO
10-CA-023804	HUTCHISON;W VS RJ REYNOLDS TOBACCO
11-CA-000983	UNDERWOOD;B VS R J REYNOLDS TOBACCO CO

II-CA-001176	HANCOCK;J VS R J REYNOLDS
II-CA-001179	RENTZ;W VS R J REYNOLDS
II-CA-001181	HEATH;D VS R J REYNOLDS
II-CA-001182	VS R J REYNOLDS

II-CA-001185	WOOD;B VS R J REYNOLDS TOBACCO
II-CA-001188	REDEEN;M VS R J REYNOLDS TOBACCO
II-CA-001189	RAU;R VS RJ REYNOLDS
II-CA-001190	MURPHY;E VS R J REYNOLDS
II-CA-001191	ISAACS;C VS R J REYNOLDS TOBACCO
II-CA-001192	HARTY;N VS RJ REYNOLDS
II-CA-009783	GRAHAM;D VS R J REYNOLDS TOBACCO
II-CA-012370	MAYBUSH, MARLENE vs R J REYNOLDS TOBACCO CO
II-CA-016670	VANDERWERKEN, MELISSA B vs RJ REYNOLDS TOBACCO COMPANY
12-CA-009027	ESTATE OF MARY E CROOM vs RJ REYNOLDS TOBACCO COMPANY
12-CA-013183	ESTATE OF DANNIE D ANDREWS vs RJ REYNOLDS TOBACCO CO
13-CA-006347	Stalley, Doug vs R.J. Reynolds Tobacco Company
13-CA-006348	ESTATE OF MARTHA L WALES vs R.J. Reynolds Tobacco Company
13-CA-014796	ESTATE OF JACKIE B SHAFFER vs RJ REYNOLDS TOBACCO CO
13-CA-014828	ESTATE OF BRENDA G TAYLOR vs RJ REYNOLDS TOBACCO CO
14-CA-000019	JOHNSON, MILDRED J vs RJ REYNOLDS TOBACCO CO
14-CA-002122	Estate of Willie D Coleman vs R.J. Reynolds Tobacco Company
14-CA-002125	Estate of Syble L Murray vs R.J. Reynolds Tobacco Company
14-CA-002134	ESTATE OF JOHN W HARRELL vs R.J. Reynolds Tobacco Company
14-CA-006049	ESTATE OF HENRY A BERGAMINI vs RJ Reynolds Tobacco Company
14-CA-006061	ESTATE OF JANE FIELD vs RJ Reynolds Tobacco Company
15-CA-005845	ESTATE OF WANDA GRAVELINE vs RJ Reynolds Tobacco Company
15-CA-005985	Estate of Robert L Haskins vs RJ Reynolds Tobacco Company
15-CA-006251	Macon, Judy vs RJ Reynolds Tobacco Company
15-CA-008657	STALLEY, DOUGLAS vs LIGGETT GROUP LIS
15-CA-008814	ESTATE OF MARY P. HAUCK vs LORILLARD TOBACCO CO
15-CA-008815	ESTATE OF CYNTHIA E. MOSLEY vs LORILLARD TOBACCO CO
15-CA-008816	ESTATE OF ROBERT L SMITH vs LORILLARD TOBACCO CO
15-CA-009085	ABBEY, LINDA D vs LORILLARD TOBACCO CO
15-CA-010254	KETTNER, DELORES vs PHILIP MORRIS - USA INC
15-CA-011420	Graveline, Murray vs R J Reynolds Tobacco Company
16-CA-000840	VILLANYI, PETER vs PHILIP MORRIS USA INC

16-CA-003944	ROBERTS, ALICE F vs R.J. REYNOLDS TOBACCO COMPANY
16-CA-007249	MCDONALD, BETTY SUE vs R J REYNOLDS TOBACCO COMPANY
16-CA-008728	Sanchez, Virginia vs R. J. Reynolds Tobacco Company
16-CA-009338	ESTATE OF NAOMI I CRUMP vs R J REYNOLDS
16-CA-009485	Volkman, Lisa vs RJ Reynolds Tobacco Company
17-CA-000242	ESTATE OF BARBARA C SNELGROVE vs R.J. Reynolds Tobacco Company
17-CA-000592	DOW, RICHARD vs R.J. REYNOLDS TOBACCO COMPANY
17-CA-000593	ROBINSON, ELAINE vs R.J. REYNOLDS TOBACCO COMPANY
17-CA-000594	ENGLE, THOMAS vs R.J. REYNOLDS TOBACCO COMPANY
17-CA-000595	COMER, MARJORIE vs R.J. REYNOLDS TOBACCO COMPANY
17-CA-000661	TIDWELL, MARY vs R.J. REYNOLDS TOBACCO COMPANY
17-CA-002593	WARNEY, CYNTHIA vs LIGGETT GROUP LLC
17-CA-002848	Schwab, Bruce vs RJ Reynolds Tobacco Company
17-CA-002905	MICHAEL ANTHONY ZAROOUR vs PHILIP MORRIS USA INC., a foreign corporation
17-CA-003403	Soles, William J. vs R. J. Reynolds Tobacco Company

17-CA-003405	DiMuro, Sandra vs R. J. Reynolds Tobacco Company
17-CA-006500	KATIE KNIGHT, vs R.J. REYNOLDS TOBACCO COMPANY
17-CA-006668	Rose Marie Billings, et.al. vs R.J. Reynolds Tobacco Company, et.al.
17-CA-007972	Stevens-Davis, Heather Leigh vs R. J. Reynolds Tobacco Company
17-CA-008678	Louallen, Linda vs Philip Morris USA, Inc.
17-CA-008827	WILLIAMS, WYNDELL vs R.J. REYNOLDS TOBACCO CO

PHASE I: PRELIMINARY INSTRUCTION
FOR USE OF QUESTIONNAIRES

(USE ONLY WHEN UTILIZING A QUESTIONNAIRE)

Good morning, ladies and gentlemen. I am Judge _____, and this is the circuit court. This is a civil division of the circuit court where we try civil cases only.

As you will see, you have been provided a questionnaire. Please do not start filling them out. You will be able to do that in a few minutes.

The case for which we are selecting a jury is the case of _____

The case is a [personal injury/wrongful death] action brought by the Plaintiff[s] _____ against the Defendant[s] _____.

The claim in this case, very briefly, is that [name of smoker] was addicted to cigarettes containing nicotine and that [his/her] addiction was a legal cause of [his/her] [disease, injury, or death].

[*NOTE If you would like to introduce lawyers and discuss schedule at this time: I am now going to ask the lawyers to introduce themselves and their clients to you. On behalf of the Plaintiff[s] _____, and on behalf of the Defendant[s] _____. Do any of you know any of these lawyers? Do any of you know the Plaintiff[s] or the smoker? The trial of this case is expected to last approximately _____ weeks.]**

Now, on the questionnaires, if everybody would take a look at them right now, the front page, I'm going to read to you, and I'm going to read it to you not because I think you can't read it yourself, but because it is very important that you follow these instructions.

You must answer each question completely and as accurately as you possibly can. Your complete written answer will save a great deal of time for the court, the lawyers, and especially for you.

Your answers will have the same effect as a sworn statement given to the court under oath. Your very best and most honest effort to answer the questions is absolutely required.

This is not a test, and there are no right or wrong answers to any of the questions, only honest answers. Please answer thoroughly, thoughtfully and candidly.

Your completed questionnaire is strictly confidential and will only be provided to me and the lawyers for use during the jury selection process.

If you have a question about any of the questions, please let me know. The lawyers may have some follow-up questions when they look at your answer, so if there is any question that you would rather not discuss publicly, or would only want to discuss further in private, please answer the questions and place an asterisk or star by the question and/or answer. The court will permit any follow up questions to be answered in private.

Do not discuss the questionnaire or you answer to any of the questions with anyone, including other prospective jurors.

Now, is there anyone who thinks they do not understand these instructions? If you don't understand something, please raise your hand.

Before you complete the questionnaire, I do need to give you some rules that you must follow. I will give you more detail on these as we go along but, for now, please do not discuss anything about this case with anyone else—including each other. Please do not attempt to find out anything about this case — so that means there is not to be any Googling or other internet searching about this case, please do not ask anyone about this case or any tobacco case, and please do not discuss this case with anyone including with each other and including your families and friends. As I have previously said, I will give your more instruction on that later but, for now, please be mindful of those rules.

201.1 DESCRIPTION OF THE CASE

(Prior to Voir Dire)

Welcome. The clerk will now administer your oath.

Now that you have been sworn, I'd like to give you an idea about what we are here to do.

This is a civil trial. A civil trial is different from a criminal case, where a defendant is charged by the state prosecutor with committing a crime. The subject of a civil trial is a disagreement between people or companies [or others, as appropriate], where the claims of one or more of these parties have been brought to court to be resolved. It is called "a trial of a lawsuit."

This is a case about (insert brief description of claim(s) and defense(s) brought to trial in this case).*

The incident involved in this case occurred on (date) at (location). (Add any other information relevant to voir dire).

The principal witnesses who will testify in this case are (list witnesses).

PRELIMINARY INSTRUCTION ON *ENGLE* FINDINGS

This case arises out of a class action lawsuit, called the *Engle* case, that was filed on behalf of certain Florida residents back in 1994, and that case was finalized by appellate decisions of the State of Florida, that is a higher court than we have here, early in 2007.

At that time, the Florida Supreme Court decided that each individual plaintiff could present their claims against the tobacco companies and if the plaintiffs proved certain things, then the findings in the earlier class action lawsuit would be binding on the parties in an individual lawsuit. [R.J. Reynolds and Philip Morris USA], along with other tobacco companies, were defendants in the *Engle* case and are called “*Engle* defendants.”

Those findings are:

- 1. Smoking cigarettes causes [insert diseases/medical conditions at issue in case];**
- 2. Nicotine in cigarettes is addictive;**
- 3. Defendant[s] placed cigarettes on the market that were defective and unreasonably dangerous;**
- 4. Defendant[s] [was/were] negligent;**
- 5. Defendant[s] concealed or omitted material information not otherwise known or available knowing that the material was false or misleading, or failed to disclose a material fact concerning the health effects or addictive nature of smoking cigarettes, or both; and**
- 6. Defendant[s] agreed with other tobacco companies and/or industry organizations to conceal or omit information regarding the health effects of cigarettes or their addictive nature with the intention that smokers and the public would rely on this information to their detriment.**

The fact that these findings are binding if you find that [smoker] is a class member does not mean that [Defendant(s)] is/are automatically liable. They do

not establish whether [smoker] is automatically a member of the *Engle* class. These findings establish only what they expressly state, and you are not allowed to speculate or guess on the basis for those findings.

If you are selected to serve on this jury, the first issue for your determination on the claim of [Plaintiff] is whether the decedent [smoker] was a member of the *Engle* class. Class members are cigarette smokers who on or before November 21, 1996, suffered or died from a disease or medical condition legally caused by an addiction to smoking cigarettes containing nicotine. If [smoker] is a class member, Plaintiff [insert name], may bring claims as [surviving spouse] for [smoker's] [insert disease, injury, or death].

An addiction to smoking cigarettes is a legal cause of [smoker's] [disease, injury, or death] if it directly and in a natural and continuous sequence produces or contributes substantially to producing suffering or death from a disease or medical condition, so that it can be reasonably said that, but for an addiction to smoking cigarettes, [smoker's] [disease, injury, or death] would not have been suffered.

In order to be regarded as a legal cause of [smoker's] [disease, injury, or death], an addiction to smoking cigarettes containing nicotine need not be the only cause. An addiction to smoking cigarettes containing nicotine may be a legal cause of [smoker's] [disease, injury, or death] even though it operated in combination with the act of another, some natural cause or some other cause if such an addiction to cigarettes contributed substantially to producing the disease or medical condition at issue.

201.2 INTRODUCTION OF PARTICIPANTS AND THEIR ROLES

Who are the people here and what do they do?

Judge/Court: I am the Judge. You may hear people occasionally refer to me as “The Court.” That is the formal name for my role. My job is to maintain order and decide how to apply the rules of the law to the trial. I will also explain various rules to you that you will need to know in order to do your job as the jury. It is my job to remain neutral on the issues of this lawsuit.

Parties: A party who files a lawsuit is called the plaintiff. A party that is sued is called the defendant.

Attorneys: The attorneys have the job of representing their clients. That means they speak for their client here at the trial. They have taken oaths as attorneys to do their best and to follow the rules for their profession.

Plaintiff’s Counsel: The attorney on this side of the courtroom, (introduce by name), represents (client name) and is the person who filed the lawsuit here at the courthouse. [His] [Her] job is to present [his] [her] client’s side of things to you. [He] [She] and [his] [her] client will be referred to most of the time as “the plaintiff.” (Attorney name), will you please introduce who is sitting at the table with you?

[Plaintiff without Counsel: (Introduce claimant by name), on this side of the courtroom, is the person who filed the lawsuit at the courthouse. (Claimant) is not represented by an attorney and will present [his] [her] side of things to you [himself] [herself].]

Defendant[’s/s’] Counsel: The attorney[s] on this side of the courtroom, (introduce by name), represents (client name), the one who has been sued. [His] [Her] job is to present [his] [her] client’s side of things to you. [He] [She] and [his] [her] client will usually be referred to here as “the defendant.” (Attorney name), will you please introduce who is sitting at the table with you?

Defendant[s] without Counsel: (Introduce Defendant[s] by name), on this side of the courtroom, is the one who has been sued. Defendant[s] is/are not represented by an attorney and will present [his/her/their] side of things to you [himself/herself/themselves].

Court Clerk: This person sitting in front of me, (name), is the court clerk.

[He] [She] is here to assist me with some of the mechanics of the trial process, including the numbering and collection of the exhibits that are introduced in the course of the trial.

Court Reporter: The person sitting at the stenographic machine, (name), is the court reporter. [His] [Her] job is to keep an accurate legal record of everything we say and do during this trial.

Bailiff: The person over there, (name), is the bailiff. [His] [Her] job is to maintain order and security in the courtroom. The bailiff is also my representative to the jury. Anything you need or any problems that come up for you during the course of the trial should be brought to [him] [her]. However, the bailiff cannot answer any of your questions about the case. Only I can do that.

Jury: Last, but not least, is the jury, which we will begin to select in a few moments from among all of you. The jury's job will be to decide what the facts are and what the facts mean. At the end of the trial, the jury will give me a written verdict. The verdict is simply the jury's answers to my questions about the case. Jurors should be as neutral as possible at this point and have no fixed opinion about the lawsuit.

In order to have a fair and lawful trial, there are rules that all jurors must follow. A basic rule is that jurors must decide the case only on the evidence presented in the courtroom. You must not communicate with anyone, including friends and family members, about this case, the people and places involved, or your jury service. You must not disclose your thoughts about this case or ask for advice on how to decide this case.

I want to stress that this rule means you must not use electronic devices or computers to communicate about this case, including tweeting, texting, blogging, e-mailing, posting information on a website or chat room, or any other means at all. Do not send or accept any messages to or from anyone about this case or your jury service.

You must not do any research or look up words, names, [maps,] or anything else that may have anything to do with this case. This includes reading newspapers, watching television or using a computer, cell phone, the Internet, any electronic device, or any other means at all, to get information related to this case or the people and places involved in this case. This applies whether you are in the courthouse, at home, or anywhere else.

Many of you may have cell phones, tablets, laptops, or other electronic devices with you here in the courtroom.**

***The trial judge should select one of the following two alternative instructions explaining the rules governing jurors' use of electronic devices, as explained in Note on Use 1.*

Alternative A: [All cell phones, computers, tablets, or other types of electronic devices must be turned off while you are in the courtroom. Turned off means that the phone or other electronic device is actually off and not in a silent or vibrating mode. You may use these devices during recesses, but even then you may not use your cell phone or electronic device to find out any information about the case or communicate with anyone about the case or the people involved in the case. Do not take photographs, video recordings, or audio recordings of the proceedings or of your fellow jurors. After each recess, please double check to make sure your cell phone or electronic device is turned off. At the end of the case, while you are deliberating, you must not communicate with anyone outside the jury room. You cannot have in the jury room any cell phones, computers, or other electronic devices. If someone needs to contact you in an emergency, the court can receive messages and deliver them to you without delay. A contact phone number will be provided to you.]

Alternative B: [You cannot have any cell phones, tablets, laptops, or other electronic devices in the courtroom. You may use these devices during recesses, but even then you may not use your cell phone or electronic device to find out any information about the case or communicate with anyone about the case or the people involved in the case. Do not take photographs, video recordings, or audio recordings of the proceedings or your fellow jurors. At the end of the case, while you are deliberating, you must not communicate with anyone outside the jury room. If someone needs to contact you in an emergency, the court can receive messages and deliver them to you without delay. A contact phone number will be provided to you.]

What are the reasons for these rules? These rules are imposed because jurors must decide the case without distraction and only on the evidence presented in the courtroom. If you investigate, research, or make inquiries on your own outside of the courtroom, the trial judge has no way to make sure that the information you obtain is proper for the case. The parties likewise have no opportunity to dispute or challenge the accuracy of what you find. That is contrary to our judicial system, which assures every party the right to ask

questions about and challenge the evidence being considered against it and to present argument with respect to that evidence. Any independent investigation by a juror unfairly and improperly prevents the parties from having that opportunity our judicial system promises.

Any juror who violates these restrictions jeopardizes the fairness of these proceedings, and a mistrial could result that would require the entire trial process to start over. A mistrial is a tremendous expense and inconvenience to the parties, the court, and the taxpayers. If you violate these rules, you may be held in contempt of court, and face sanctions, such as serving time in jail, paying a fine or both.

All of your communications with courtroom personnel, or me, will be part of the record of these proceedings. That means those communications shall either be made in open court with the court reporter present or, if they are in writing, the writing will be filed with the court clerk. This means, if you are outside the courtroom, any communication with me must be in writing, unsigned, and handed directly to the bailiff. Do not share the content of the writing with anyone, including other jurors. I have instructed the courtroom personnel that any communications you have with them outside of my presence must be reported to me, and I will tell the parties [and their attorneys] about any communication from you that I believe may be of interest to the parties [and their attorneys].

However, you may communicate directly with courtroom personnel about matters concerning your comfort and safety, such as [juror parking] [location of break areas] [how and when to assemble for duty] [dress] [what personal items can be brought into the courthouse or jury room] [list any other types of routine ex parte communications permitted].

If you become aware of any violation of these instructions or any other instruction I give in this case, you must tell me by giving a note to the bailiff.

201.3 EXPLANATION OF THE VOIR DIRE PROCESS

The last thing I want to do, before we begin to select the jury, is to explain to you how the selection process works.

Questions/Challenges: This is the part of the case where the parties and their lawyers have the opportunity to get to know a little bit about you, in order to help them come to their own conclusions about your ability to be fair and impartial, so they can decide who they think should be the jurors in this case.

How we go about that is as follows: First, I'll ask some general questions of you. Then, each of the lawyers will have more specific questions that they will ask of you. After they have asked all of their questions, I will meet with them and they will tell me their choices for jurors. Each side can ask that I exclude a person from serving on a jury if they can give me a reason to believe that he or she might be unable to be fair and impartial. That is what is called a challenge for cause. The lawyers also have a certain number of what are called peremptory challenges, by which they may exclude a person from the jury without giving a reason. By this process of elimination, the remaining persons are selected as the jury. It may take more than one conference among the parties, their attorneys, and me before the final selections are made. If you're ultimately excused or you're not chosen, you should not feel offended or feel that your honesty or integrity or anything of that sort has been called into question because it has not.

Purpose of Questioning: The questions that you will be asked during this process are not intended to embarrass you or unnecessarily pry into your personal affairs, but it is important that the parties and their attorneys know enough about you to make this important decision. If a question is asked that you would prefer not to answer in front of the whole courtroom, just let me know and you can come up here and give your answer just in front of the attorneys and me. If you have a question of either the attorneys or me, don't hesitate to let me know.

Response to Questioning: There are no right or wrong answers to the questions that will be asked of you. The only thing that I ask is that you answer the questions as frankly and as honestly and as completely as you can. You [will take] [have taken] an oath to answer all questions truthfully and completely and you must do so. Remaining silent when you have information you should disclose is a violation of that oath as well. If a juror violates this oath, it not only may result in having to try the case all over again but also can result in civil and

criminal penalties against a juror personally. So, again, it is very important that you be as honest and complete with your answers as you possibly can. If you don't understand the question, please raise your hand and ask for an explanation or clarification.

In sum, this is a process to assist the parties and their attorneys to select a fair and impartial jury. All of the questions they ask you are for this purpose. If, for any reason, you do not think you can be a fair and impartial juror, you must tell us.

202.1 INTRODUCTION

Administer oath:

You have now taken an oath to serve as jurors in this trial. Before we begin, I am going to tell you about the rules of law that apply to this case and let you know what you can expect as the trial proceeds.

It is my intention to give you [all] [most] of the rules of law but it might be that I will not know for sure all of the law that will apply in this case until all of the evidence is presented. However, I can anticipate most of the law and give it to you at the beginning of the trial so that you will better understand what to be looking for while the evidence is presented. If I later decide that different or additional law applies to the case, I will tell you. In any event, at the end of the evidence I will give you the final instructions on which you must base your verdict. At that time, you will have a complete written set of the instructions so you do not have to memorize what I am about to tell you.

202.2 EXPLANATION OF THE TRIAL PROCEDURE

Now that you have heard the law, I want to let you know what you can expect as the trial proceeds.

Opening Statements: In a few moments, the attorneys will each have a chance to make what are called opening statements. In an opening statement, an attorney is allowed to give you [his] [her] views about what the evidence will be in the trial and what you are likely to see and hear in the testimony.

Evidentiary Phase: After the attorneys' opening statements the plaintiffs will bring their witnesses and evidence to you.

Evidence: Evidence is the information that the law allows you to see or hear in deciding this case. Evidence includes the testimony of the witnesses, documents, and anything else that I instruct you to consider.

Witnesses: A witness is a person who takes an oath to tell the truth and then answers attorneys' questions for the jury. The answering of attorneys' questions by witnesses is called "giving testimony." Testimony means statements that are made when someone has sworn an oath to tell the truth.

The plaintiff's lawyer will normally ask a witness the questions first. That is called direct examination. Then the defense lawyer[s] may ask the same witness additional questions about whatever the witness has testified to. That is called cross-examination. Certain documents or other evidence may also be shown to you during direct or cross-examination. After the plaintiff's witnesses have testified, the defendant[s] will have the opportunity to put witnesses on the stand and go through the same process. Then the plaintiff's lawyer gets to do cross-examination. The process is designed to be fair to both sides.

It is important that you remember that testimony comes from witnesses. The attorneys do not give testimony and they are not themselves witnesses.

Objections: Sometimes the attorneys will disagree about the rules for trial procedure when a question is asked of a witness. When that happens, one of the lawyers may make what is called an "objection." The rules for a trial can be complicated, and there are many reasons for attorneys to object. You should simply wait for me to decide how to proceed. If I say that an objection is "sustained," that means the witness may not answer the question. If I say that the objection is "overruled," that means the witness may answer the question.

When there is an objection and I make a decision, you must not assume from that decision that I have any particular opinion other than that the rules for conducting a trial are being correctly followed. If I say a question may not be asked or answered, you must not try to guess what the answer would have been. That is against the rules, too.

Side Bar Conferences: Sometimes I will need to speak to the attorneys about legal elements of the case that are not appropriate for the jury to hear. The attorneys and I will try to have as few of these conferences as possible while you are giving us your valuable time in the courtroom. But, if we do have to have such a conference during testimony, we will try to hold the conference at the side of my desk so that we do not have to take a break and ask you to leave the courtroom.

Recesses: Breaks in an ongoing trial are usually called “recesses.” During a recess you still have your duties as a juror and must follow the rules, even while having coffee, at lunch, or at home.

Instructions Before Closing Arguments: After all the evidence has been presented to you, I will instruct you in the law that you must follow. It is important that you remember these instructions to assist you in evaluating the final attorney presentations, which come next, and, later, during your deliberations, to help you correctly sort through the evidence to reach your decision.

Closing Arguments: The attorneys will then have the opportunity to make their final presentations to you, which are called closing arguments.

Final Instructions: After you have heard the closing arguments, I will instruct you further in the law as well as explain to you the procedures you must follow to decide the case.

Deliberations: After you hear the final jury instructions, you will go to the jury room and discuss and decide the questions I have put on your verdict form. [You will have a copy of the jury instructions to use during your discussions.] The discussions you have and the decisions you make are usually called “jury deliberations.” Your deliberations are absolutely private and neither I nor anyone else will be with you in the jury room.

Verdict: When you have finished answering the questions, you will give the verdict form to the Bailiff and we will all return to the courtroom where

your verdict will be read. When that is completed, you will be released from your assignment as a juror.

Finally, before we begin the trial, I want to give you just a brief explanation of rules you must follow as the case proceeds.

Keeping an Open Mind: You must pay close attention to the testimony and other evidence as it comes into the trial. However, you must avoid forming any final opinion or telling anyone else your views on the case until you begin your deliberations. This rule requires you to keep an open mind until you have heard all of the evidence and is designed to prevent you from influencing how your fellow jurors think until they have heard all of the evidence and had an opportunity to form their own opinions. The time and place for coming to your final opinions and speaking about them with your fellow jurors is during deliberations in the jury room, after all of the evidence has been presented, closing arguments have been made, and I have instructed you on the law. It is important that you hear all of the facts and that you hear the law and how to apply it before you start deciding anything.

Consider Only the Evidence: It is the things you hear and see in this courtroom that matter in this trial. The law tells us that a juror can consider only the testimony and other evidence that all the other jurors have also heard and seen in the presence of the judge and the lawyers. Doing anything else is wrong and is against the law. That means you cannot do work or investigation of your own about the case. You cannot obtain on your own any information about the case or about anyone involved in the case, from any source whatsoever, including the internet, and you cannot visit places mentioned in the trial.

Do not provide any information about this case to anyone, including friends or family members. Do not let anyone, including the closest family members, make comments to you or ask questions about the trial. Similarly, it is important that you avoid reading any newspaper accounts or watching or listening to television or radio comments that have anything to do with this case or its subject.

No Mid-Trial Discussions: When we are in a recess, do not discuss anything about the trial or the case with each other or with anyone else. If attorneys approach you, don't speak with them. The law says they are to avoid contact with you. If an attorney will not look at you or speak to you, do not be

offended or form a conclusion about that behavior. The attorney is not supposed to interact with jurors outside of the courtroom and is only following the rules. The attorney is not being impolite. If an attorney or anyone else does try to speak with you or says something about the case in your presence, please inform the bailiff immediately.

Only the Jury Decides: Only you get to decide and answer the verdict questions at the end of the trial. I will not intrude into your deliberations at all. I am required to be neutral. You should not assume that I prefer one decision over another. You should not try to guess what my opinion is about any part of the case. It would be wrong for you to conclude that anything I say or do means that I am for one side or another in the trial. Discussing and deciding the facts is your job alone.

202.3 NOTE-TAKING BY JURORS

If you would like to take notes during the trial, you may do so. On the other hand, of course, you are not required to take notes if you do not want to. That will be left up to you individually.

You will be provided with a note pad and a pen for use if you wish to take notes. Any notes that you take will be for your personal use. However, you should not take them with you from the courtroom. During recesses, the bailiff will take possession of your notes and will return them to you when we reconvene. After you have completed your deliberations, the bailiff will collect your notes, which will be immediately destroyed. No one will ever read your notes.

If you take notes, do not get so involved in note-taking that you become distracted from the proceedings. Your notes should be used only as aids to your memory.

Whether or not you take notes, you should rely on your memory of the evidence and you should not be unduly influenced by the notes of other jurors. Notes are not entitled to any greater weight than each juror's memory of the evidence.

202.4 JUROR QUESTIONS

Questions for the court or courtroom personnel:

During the trial, you may have a question about these proceedings. If so, please write it down and hand it to the bailiff, who will then hand it to me. I will review your question with the parties [and their attorneys] before responding.

Questions for witnesses:

You also may have a question you think should be asked of a witness. If so, there is a way for you to request that I ask the witness a question. After all the attorneys have completed their questioning of the witness, you should raise your hand if you have a question. I will then give you sufficient time to write the question on a piece of paper, fold it, and give it to the bailiff, who will pass it to me. Do not put your name on the question, show it to anyone or discuss it with anyone.

It is important to know that if you have a question you believe should be asked of a witness, you must raise your hand and request that I ask the witness the question before the witness leaves the witness stand. You will not have an opportunity to ask the witness a question once the witness leaves the courtroom. I will then review the question with the attorneys. Under our law, only certain evidence may be considered by a jury in determining a verdict. You are bound by the same rules of evidence that control the attorneys' questions. If I decide that the question may not be asked under our rules of evidence, I will tell you. Otherwise, I will direct the question to the witness. The attorneys may then ask follow-up questions if they wish. If there are additional questions from jurors, we will follow the same procedure again.

By providing this procedure, I do not mean to suggest that you must or should submit written questions for witnesses. In most cases, the lawyers will have asked the necessary questions.

INSTRUCTION AFTER JURY SELECTION
PRIOR TO TRIAL

When I first met with you before we started the jury selection process, I told you a bit about this case and you are going to hear more. As I told you, Plaintiff in this case is _____. Defendant[s] in this case [is/are] _____.

[THE PARTIES SHALL PROVIDE THE TRIAL JUDGE WITH A BRIEF SUBMISSION OF THE CLAIMS AND THE DEFENSES THAT ARE PARTICULARIZED FOR THE CASE.]

[The plaintiff [insert] claims that [smoker] is a member of the *Engle* class. In order to be a member of the *Engle* class, the plaintiff must prove that [smoker] was addicted to cigarettes containing nicotine and, if so, that such addiction was a legal cause of [his/her] [disease, injury, or death]. The defense maintains that plaintiff cannot meet [his/her] burden of proof on [his/her] claims. Plaintiff must prove [his/her] claims by the greater weight of the evidence.]

This case arises out of a class action lawsuit, called the *Engle* case, that was filed on behalf of certain Florida residents back in 1994, and that case was finalized by appellate decisions of the State of Florida, that is a higher court than we have here, early in 2007.

At that time, the Florida Supreme Court decided that each individual plaintiff could present their claims against the tobacco companies and if the plaintiffs proved certain things, then the findings in the earlier class action lawsuit would be binding on the parties in an individual lawsuit. [R.J. Reynolds and Philip Morris USA], along with other tobacco companies, were defendants in the *Engle* case and are called "*Engle* defendants."

Those findings are:

1. Smoking cigarettes causes [insert diseases/medical conditions at issue in case];
2. Nicotine in cigarettes is addictive;

3. Defendant[s] placed cigarettes on the market that were defective and unreasonably dangerous;
4. Defendant[s] [was/were] negligent;
5. Defendant[s] concealed or omitted material information not otherwise known or available knowing that the material was false or misleading, or failed to disclose a material fact concerning the health effects or addictive nature of smoking cigarettes, or both; and
6. Defendant[s] agreed with other tobacco companies and/or industry organizations to conceal or omit information regarding the health effects of cigarettes or their addictive nature with the intention that smokers and the public would rely on this information to their detriment.

The fact that these findings are binding if you find that [smoker] is a class member does not mean that [Defendant(s)] [is/are] automatically liable. They do not establish whether [smoker] is automatically a member of the *Engle* class. These findings establish only what they expressly state, and you are not allowed to speculate or guess on the basis for those findings.

The first issue for your determination on the claim of [Plaintiff] is whether the decedent [smoker] was a member of the *Engle* class. Class members are cigarette smokers who on or before November 21, 1996, suffered or died from a disease or medical condition legally caused by an addiction to smoking cigarettes containing nicotine. If [smoker] is a class member, Plaintiff [insert name], may bring claims as [surviving spouse] for [smoker's] [insert disease, injury, or death].

An addiction to smoking cigarettes is a legal cause of [smoker's] [disease, injury, or death] if it directly and in a natural and continuous sequence produces or contributes substantially to producing suffering or death from a disease or medical condition, so that it can be reasonably said that, but for an addiction to smoking cigarettes, [smoker's] [disease, injury, or death] would not have been suffered.

In order to be regarded as a legal cause of [smoker's] [disease, injury, or death], an addiction to smoking cigarettes containing nicotine need not be the

only cause. An addiction to smoking cigarettes containing nicotine may be a legal cause of [smoker's] [disease, injury, or death] even though it operated in combination with the act of another, some natural cause or some other cause if such an addiction to cigarettes contributed substantially to producing the disease or medical condition at issue. In order for you to clearly understand your duties and to properly decide this case, I have determined that this trial should be conducted in two phases. At the end of each phase you will be asked to render decisions that will affect the ultimate disposition of this case.

In the first phase, you will be asked to determine if [smoker] was a member of the *Engle* class, if Plaintiff has proved the various causes of action, [insert applicable affirmative defenses or other case-specific issues here], the percentage of fault, if any, of each party, the amount, if any, of compensatory damages, and whether or not punitive damages are warranted.

If you find punitive damages are warranted, then you will consider in Phase 2 the amount of punitive damages, if any.

At the end of Phase I, I will give you further instructions of law as to the issues in this case and your duties and responsibility in reaching your verdict.

We will now hear the opening statements. [Counsel] you may proceed.

AFTER TRIAL

403.1 INTRODUCTION

Members of the jury, you have now heard and received all of the evidence in this case. I am now going to tell you about the rules of law that you must use in reaching your verdict. [You will recall at the beginning of the case I told you that if, at the end of the case I decided that different law applies, I would tell you so. These instructions are (slightly) different from what I gave you at the beginning and it is these rules of law that you must now follow.] When I finish telling you about the rules of law, the attorneys will present their final arguments and you will then retire to decide your verdict.

403.2 SUMMARY OF CLAIMS

The claims [and defenses] in this case are as follows. (Claimant) claims that [smoker] was a member of the *Engle* class and that Defendant[s], (1) [was/were] negligent, (2) manufactured and distributed a product that was defective and unreasonably dangerous, (3) concealed material health information about cigarettes, and (4) agreed with others to conceal such health information, any or all of which (Claimant) contends were a legal cause of (smoker's) (disease, injury, or death).

Defendant[s] [denies/deny] these claims [and also claims that (claimant) was [himself/herself] negligent in (describe the alleged comparative negligence), which caused [his/her] harm]. [Additionally Defendant[s] [has/have] raised the affirmative defense[s] of (describe any other affirmative defenses).]

Plaintiff[s] must prove all of [his/her/their] claims by the greater weight of the evidence.

[Defendant[s] must prove [its/their] affirmative defense[s] by the greater weight of the evidence.]

I will now define some of the terms you will use in deciding this case.

403.3 GREATER WEIGHT OF THE EVIDENCE

“Greater weight of the evidence” means the more persuasive and convincing force and effect of the entire evidence in the case.

DETERMINATION OF *ENGLE* CLASS MEMBERSHIP

The first issue for your determination on the claim of (Plaintiff) is whether (smoker) was a member of the *Engle* class. To prove that (smoker) was a member of the *Engle* class, Plaintiff(s) must prove by the greater weight of the evidence that (smoker) was addicted to cigarettes containing nicotine, and that such addiction was a legal cause of (his/her) (disease, injury or death).

If the greater weight of the evidence does not support Plaintiff's claim on one or both of these issues, your verdict should be for Defendant[s] and you will proceed no further. However, if the greater weight of the evidence does support Plaintiff's claim on both of these issues, your verdict should be for Plaintiff and you will proceed to decide additional issues regarding Plaintiff's claims.

403.12 LEGAL CAUSE

a. legal cause generally

An addiction to smoking cigarettes containing nicotine is a legal cause of (disease, injury, or death) if it directly and in natural and continuous sequence produces or contributes substantially to producing such (disease, injury, or death), so that it can reasonably be said that, but for an addiction to cigarettes containing nicotine, the (disease, injury, death) would not have occurred.

b. concurrent cause

In order to be regarded as a legal cause of a disease or a medical condition, an addiction to cigarettes containing nicotine need not be the only cause. An addiction to cigarettes containing nicotine may be a legal cause of (disease, injury, or death) even though it operates in combination with the act of another or some other cause, if the addiction to nicotine contributes substantially to producing such (disease, injury, or death).

c. intervening cause

***[In order to be regarded as a legal cause of [loss] [injury] [or] [death], negligence need not be its only cause. Negligence may also be a legal cause of [loss] [injury] [or] [damage] even though it operates in combination with [the act of another] [some natural cause] [or] [some other cause] occurring after the negligence occurs if such other cause was itself reasonably foreseeable and negligence contributes substantially to producing such [loss] [injury] [or] [damage] [or] [the resulting [loss] [injury] [or] [damage] was a reasonably foreseeable consequence of the negligence and the negligence contributes substantially to producing it.**

Instruction 403.12(b) must be given whenever there is a contention that some other cause may have contributed, in whole or part, to the occurrence or resulting injury.

If there is an issue of aggravation of a preexisting condition or of subsequent injuries or multiple events, instruction 501.2h(1) or (2) should be given as well. See *Hart v. Stern*, 824 So. 2d 927, 932–34 (Fla. 5th DCA 2002); *Marinelli v. Grace*, 608 So. 2d 833, 835 (Fla. 4th DCA 1992).

Instruction 403.12c (intervening cause) embraces two situations in which negligence may be a legal cause notwithstanding the influence of an intervening

cause: (1) where the damage was a reasonably foreseeable consequence of the negligence although the other cause was not foreseeable, *Mozer v. Semenza*, 177 So. 2d 880 (Fla. 3d DCA 1965); and (2) when the intervention of the other cause was itself foreseeable, *Gibson v. Avis Rent-A-Car System Inc.*, 386 So. 2d 520 (Fla. 1980).

ENGLE FINDINGS INSTRUCTION

If you find that (smoker) was a member of the *Engle* class, certain findings from that action are binding upon you, the Court, and the parties. The findings may not be denied or questioned and they must carry the same weight they would have if you had determined them yourselves. The findings that are binding on you are:

- (1) Smoking cigarettes causes (specific disease).
- (2) Nicotine in cigarettes is addictive.
- (3) Defendant(s) was/were negligent.
- (4) Defendant(s) placed cigarettes on the market that were defective and unreasonably dangerous.
- (5) Defendant(s) concealed or omitted material information not otherwise known or available, knowing that the material was false or misleading, or failed to disclose a material fact concerning or proving the health effects and/or addictive nature of cigarettes.
- (6) Defendant, R.J. Reynolds Tobacco Company agreed with other cigarette manufacturers to conceal or omit information regarding the health effects of smoking or the addictive nature of smoking cigarettes with the intention that smokers and members of the public would rely on them to their detriment.

The *Engle* Defendants included R.J. Reynolds Tobacco Company; Lorillard Tobacco Company; Brown & Williamson Tobacco Corporation, individually, and as a successor by merger to The American Tobacco Company; Philip Morris USA Inc.; Liggett Group Inc.; Brooke Group Holding Inc.; The Council for Tobacco Research-U.S.A., Inc.; and The Tobacco Institute, Inc.

Your consideration of these findings is subject to certain limitations.

First, you must not consider these findings in determining whether Plaintiff has proven that [he/she/smoker] was addicted to cigarettes containing nicotine, [and] that [his/her] addiction was a legal cause of [his/her] [Engle-qualifying injury/death]. The findings do not apply to Plaintiff's claims in this case unless you have first determined, without considering or applying those findings, that Plaintiff has proven both of those issues.

Second, the prior lawsuit did not determine and the findings of that case do not mean that Defendant[s] [is/are] liable to anyone, including Plaintiff, in this case. The question of whether or not Defendant[s] [is/are] liable for [smoker's] [disease, injury, or death] remains an issue for you to decide based on the evidence presented by the parties in this case and upon these instructions as to the law.

Third, the findings establish only what they expressly state, and you must not speculate or guess as to the basis for the findings.

Fourth, the findings may not be considered when determining whether punitive damages may be awarded against Defendant[s]. You must treat these findings as if they do not exist and you must make your determination regarding whether punitive damages may be warranted based solely upon the evidence of Defendant['s/s'] conducted presented to you in this trial.

INDIVIDUAL CAUSATION INSTRUCTION
(Use in a Single Defendant Case)

The next issue for your determination is whether smoking cigarettes manufactured by [Defendant] [or its predecessor companies] was a legal cause of [smoker's disease, injury, or death]. Smoking cigarettes manufactured by [Defendant] [or its predecessor companies] was a legal cause of [smoker's] [disease, injury, or death] if Plaintiff proves by the greater weight of the evidence that smoking such cigarettes directly and in natural and continuous sequence produced or contributed substantially to producing [smoker's] [disease, injury, or death] so that it can reasonably be said that, but for smoking such cigarettes, the [disease, injury, or death] would not have occurred.

In order to be a legal cause of [smoker's] [disease, injury, or death], smoking such cigarettes need not be the only cause. Smoking such cigarettes may be a legal cause of the [disease, injury, or death] even though it operates in combination with the act of another, some natural cause, or some other cause, if smoking such cigarettes contributed substantially to producing the [disease, injury, or death].

If the greater weight of the evidence does not support Plaintiff's claim that smoking cigarettes manufactured by [Defendant] [or its predecessor companies] was a legal cause of [smoker's] [disease, injury, or death], then your verdict on this issue should be for Defendant. However, if the greater weight of the evidence supports Plaintiff's claim that smoking cigarettes manufactured by [Defendant] [or its predecessor companies] was a legal cause of [smoker's] [disease, injury, or death], your verdict on this issue should be for Plaintiff and against Defendant.

INDIVIDUAL CAUSATION INSTRUCTION
(Instruction for Use in a Multi-Defendant Case)

The next issue for your determination is whether smoking cigarettes manufactured by each Defendant [or its predecessor companies] was a legal cause of [smoker's disease, injury, or death].

Smoking cigarettes manufactured by Defendant _____ [or its predecessor companies] was a legal cause of [smoker's] [disease, injury, or death] if Plaintiff proves by the greater weight of the evidence that smoking such cigarettes directly and in natural and continuous sequence produced or contributed substantially to producing [smoker's] [disease, injury, or death] so that it can reasonably be said that, but for smoking such cigarettes, the [disease, injury, or death] would not have occurred.

[Repeat preceding paragraph for each named Defendant and insert name of Defendant. There must be a separate instruction read for legal cause as to each named Defendant.]

In order to be a legal cause of [smoker's] [disease, injury, or death], smoking cigarettes manufactured by a Defendant [or its predecessor companies] need not be the only cause. Smoking such cigarettes may be a legal cause of [disease, injury, or death] even though it operates in combination with the act of another, some natural cause, or some other cause, if smoking such cigarettes contributed substantially to producing the [disease, injury, or death].

If the greater weight of the evidence does not support Plaintiff's claim that smoking cigarettes manufactured by a Defendant [or its predecessor companies] was a legal cause of [smoker's] [disease, injury, or death], then your verdict on this issue should be for [that or those] Defendant[s]. However, if the greater weight of the evidence supports Plaintiff's claim that smoking cigarettes manufactured by a Defendant [or its predecessor companies] was a legal cause of [smoker's] [disease, injury, or death], your verdict on this issue should be for Plaintiff and against [that or those] Defendant[s].

SUCCESSOR LIABILITY INSTRUCTION

(Use only if R.J. Reynolds is a Defendant)

R.J. Reynolds Tobacco Company is the successor corporation to the American Tobacco Company, Brown & Williamson Tobacco Corporation, and Lorillard Tobacco Company. As a result, R.J. Reynolds Tobacco Company is legally responsible for the conduct of the American Tobacco Company, Brown & Williamson Tobacco Corporation, and Lorillard Tobacco Company, and for the cigarettes manufactured by those companies.

401.4 NEGLIGENCE

Negligence is the failure to use reasonable care, which is the care that a reasonably careful person would use under like circumstances. Negligence is doing something that a reasonably careful person would not do under like circumstances or failing to do something that a reasonably careful person would do under like circumstances.

COMPARATIVE FAULT
(No Admission by Plaintiff of Comparative Fault)

If you find that smoking cigarettes manufactured by [one or more] Defendant[s] was a legal cause of [smoker's] [disease, injury, or death], you must next determine whether [smoker] was [himself/herself] at fault; and, if so, whether that fault was a legal cause of [smoker's] [disease, injury, or death]. Defendant[s] bear[s] the burden of proving this issue by the greater weight of the evidence.

[Smoker's] fault was a legal cause of [his/her] [disease, injury, or death] if it directly and in natural and continuous sequence produced or contributed substantially to producing such [disease, injury, or death], so that it can reasonably be said that, but for the smoker's fault, the [disease, injury, or death] would not have occurred.

If you determine that [smoker] was at fault to some degree and that [smoker's] fault was a legal cause of [his/her] [disease, injury, or death], you must determine and write on the verdict form the percentage of fault that you charge to [smoker], and the percentage of fault, if any, that you charge to [each] Defendant, for legally causing [smoker's] [disease, injury, or death]. Your determination of [each] Defendant's fault, if any, must be based solely on the conduct of [that] Defendant that was a legal cause of [smoker's] [disease, injury, or death].

COMPARATIVE FAULT
(Admission of Comparative Fault by Plaintiff)

With respect to Plaintiff's claims of negligence and the manufacture and distribution of cigarettes that were defective and unreasonably dangerous, you must consider Defendant['s/s'] defense of comparative fault that negligence on the part of [smoker] was a legal cause of [his/her] [disease, injury, or death]. Defendant[s] bear the burden of proving [its/their] defense by the greater weight of the evidence.

[*Plaintiff acknowledges that [insert case-specific instruction based on language of comparative fault admission in operative complaint]. Accordingly, you must assign some percentage of fault to [smoker] on the verdict form.]

Your determination of [each] Defendant['s/s'] fault, if any, must be based solely on the conduct of [that] Defendant that was a legal cause of [smoker's] [disease, injury, or death].

502.5 COMPARATIVE NEGLIGENCE, NON-PARTY FAULT AND MULTIPLE DEFENDANTS

In determining the total amount of damages to (decedent's) estate and [his/her] survivors as a result of [his/her] [disease, injury, or death], you should not make any reduction because of the negligence, if any, of (decedent or survivor or any other person). The court in entering judgment will make any appropriate reduction(s).

In the event, and only in the event, that you find that (a) the concealment or omission of material information or failure to disclose a material fact concerning or proving the health effects and/or addictive nature of smoking cigarettes or (b) the agreement to conceal or omit a material fact by [Defendant(s)], is a legal cause of the [disease, injury, or death] of [smoker], the court will not reduce the total amount of damages as to [Defendant(s)], by any percentage of fault which you find is chargeable to [smoker].

When a Fabre issue is involved:

In determining the total amount of damages, you should [also] not make any reduction because of the [negligence] [fault], if any, of (identify any additional person or entity who will be on verdict form). The court in entering judgment will make any appropriate reduction(s).

FRAUDULENT CONCEALMENT/OMISSION OF MATERIAL INFORMATION

The next issue for you to decide is Plaintiff's claim for fraudulent concealment. The Court has instructed you that Defendant[s] concealed or omitted material information about the health effects or addictive nature of their cigarettes, or both.

On Plaintiff's claim of fraudulent concealment, you must determine whether Plaintiff reasonably relied to [his/her] detriment on statements by Defendant[s] that concealed or omitted material information, not otherwise known or available, concerning the health effects and/or addictive nature of cigarette smoking, and if so, whether such reliance was a legal cause of Plaintiff's [insert disease, injury, or death].

Plaintiff's reasonable reliance is a legal cause of [his/her] [insert disease, injury, or death] if it directly and in natural and continuous sequence produced or contributed substantially to producing [insert applicable disease or death] so that it can reasonably be said that, but for the reliance, Plaintiff's [insert disease, injury, or death] would not have occurred.

In order to be regarded as a legal cause of injury or death, Plaintiff's reliance on the statements need not be the only cause. It may be a legal cause of injury or death even though it operates in combination with the act of another, some natural cause, or some other cause if it contributes substantially to producing injury or death.

Material information is one that is of such importance that Plaintiff would not have acted as [he/she] did, but for the Defendant['s/s'] concealment or omission of that information.

If the greater weight of the evidence does not support Plaintiff's claim on this issue, then your verdict should be for Defendant[s] on this claim. However, if the greater weight of the evidence supports Plaintiff's claim against Defendant[s], then you should so indicate in the appropriate designated place on the verdict form.

CONSPIRACY

The next issue for you to decide is Plaintiff's claim for conspiracy.

On Plaintiff's claim for conspiracy, you must determine whether Plaintiff reasonably relied to [his/her] detriment on statements by any party to the agreement between Defendant[s] and other tobacco companies and entities to conceal or omit material information, not otherwise known or available, concerning the health effects or addictive nature of cigarettes, or both, and if so, whether such reliance was a legal cause of Plaintiff's [insert applicable disease, injury, or death].

Conspiracy is the agreement between two or more parties to do an unlawful act or to do a lawful act by unlawful means, while doing any overt act in furtherance of the conspiracy. Defendant[s] [is/are] legally responsible for the acts or omissions, if any, of any other party to the agreement to conceal or omit material information so long as the acts or omissions were in furtherance of that agreement. I instruct you as a matter of law that Defendant[s] [is/are] legally responsible for the acts of each co-conspirator as long as those acts are in furtherance of a conspiracy to conceal or omit material information regarding the health effects and/or the addictive nature of smoking cigarettes.

In order to be a legal cause of disease, injury, or death, Plaintiff must show by direct or circumstantial evidence that Plaintiff reasonably relied to [his/her] detriment on the concealment or omission by the Defendant[s] or other tobacco companies and entities, in furtherance of such conspiracy, of information regarding the health effects of cigarette smoking or the addictive nature of smoking cigarettes with the intention that smokers and members of the public would rely on Defendant[s] or the other cigarette manufacturers to their detriment.

Plaintiff's reasonable reliance on statements by any party to the agreement to conceal or omit material information is a legal cause of Plaintiff's disease, injury, or death if it directly and in natural and continuous sequence produced or contributed substantially to producing such disease, injury, or

death, so that it can reasonably be said that, but for the agreement to conceal or omit, the disease, injury, or death would not have occurred.

In order to be regarded as a legal cause of the disease, injury, or death, Plaintiff's reasonable reliance on statements by any party to the agreement to conceal or omit material information need not be the only cause. It may be a legal cause of disease, injury, or death even though it operates in combination with the act of another, some natural cause, or some other cause if it contributes substantially to producing the disease, injury, or death.

If the greater weight of the evidence does not support the claim of Plaintiff, your verdict should be for the Defendant[s] on this claim. However, if the greater weight of the evidence does support the claim of Plaintiff, then your verdict should be for Plaintiff on this claim.

WARNING LABEL INSTRUCTION

I instruct you that after July 1, 1969, the warning labels that Defendant[s] and other *Engle* defendants placed on cigarette packs complied with federal law, and Defendant[s] and other *Engle* defendants had no legal obligation to make any additional warnings. Plaintiff has made no claim for failure to warn after 1969.

**NO LIABILITY FOR MANUFACTURE, SALE
OR ADVERTISING OF CIGARETTES**

Manufacturing, selling, and advertising cigarettes are lawful activities. Therefore, I instruct you that Defendant[s] cannot be held liable merely for manufacturing, selling, or advertising cigarettes

502.1 COMPENSATORY DAMAGES

[Note: The parties will provide to the trial judge an instruction on compensatory damages that fits the facts and claims in the case and is based on the appropriate subsections of Instruction No. 501 of the *Florida Standard Jury Instructions in Civil Cases*.]

If your verdict is for Defendant[s], you will not consider the matter of damages. But if the greater weight of the evidence supports (personal representative's) claim, you should determine and write on the verdict form, in dollars, the total amount of [loss, injury, or damage] which the greater weight of the evidence shows the estate of (decedent) and [his/her] survivors sustained as a result of [his/her] injury and death, including any damages that the estate and the survivors are reasonably certain to incur or experience in the future.

502.2 WRONGFUL DEATH DAMAGES: ELEMENTS FOR ESTATE AND SURVIVORS

ELEMENTS FOR ESTATE:

In determining the damages recoverable on behalf of (decedent's) estate, you shall consider the following elements:

a. *Lost earnings:*

The estate's loss of earnings of (decedent) from the date of injury to the date of death, [less any amount of monetary support you determine a survivor lost during that period].

b. *Lost accumulations:*

The estate's loss of net accumulations: "Net accumulations" is the part of (decedent's) net income [from salary or business] after taxes, including pension benefits [but excluding income from investments continuing beyond death], which (decedent), after paying [his] [her] personal expenses and monies for the support of [his] [her] survivors, would have left as part of [his] [her] estate if [he] [she] had lived [his] [her] normal life expectancy.

NOTE ON USE FOR 502.2b

The estate may recover lost accumulations when the sole survivor is a parent without a cause of action in his or her own right, as well as when survivors include a spouse or lineal descendant. *F.S. 768.21(6)(a)* (1985); *Vildibill v. Johnson*, 492 So. 2d 1047 (Fla. 1986). The committee expresses no opinion concerning whether "net accumulations" include income ending at death which is not derived from salary or business. See *F.S. 768.18(5)* (1985); *Delta Airlines, Inc. v. Ageloff*, 552 So. 2d 1089 (Fla. 1989); *Wilcox v. Leverock*, 548 So. 2d 1116 (Fla. 1989).

c. *Medical or funeral expenses:*

Medical or funeral expenses due to (decedent's) injury or death which [have become a charge against (decedent's) estate] [were paid by or on behalf of (decedent) by one other than a survivor].

***ELEMENTS FOR SURVIVING SPOUSE,
CHILD, OR PARENTS OF CHILD:***

In determining any damages to be awarded (decedent's) personal representative for the benefit of (decedent's) surviving [spouse] [children] [or] [parents], you shall consider certain additional elements of damage for which there is no exact standard for fixing the compensation to be awarded. Any such award should be fair and just in the light of the evidence regarding the following elements:

d. Damages of surviving spouse:

The [(wife's) (husband's)] loss of (decedent's) companionship and protection, and [her] [his] mental pain and suffering as a result of (decedent's) injury and death [from the date of injury]. In determining the duration of the losses, you may consider the [joint life expectancy of (decedent) and (surviving spouse)] [life expectancy of (surviving spouse)] together with the other evidence in the case.

NOTES ON USE FOR 502.2d

1. *F.S. 768.18 and 768.21 (1990)*, applicable to causes of action accruing after October 1, 1990, expand eligible survivor claimants in wrongful death actions by surviving parents and children, but are not applicable to claims for medical malpractice as defined by *F.S. 766.106(1) (1989)*.

2. This instruction is intended to allow a jury determination, if warranted by the evidence, that the surviving spouse's loss will continue beyond the "joint life expectancy" until the survivor's death, or will end before that actuarial period has elapsed.

e. Damages by surviving child:

The loss by (name all eligible children) of parental companionship, instruction and guidance, and [his] [her] [their] mental pain and suffering as a result of (decedent's) injury and death [from the date of the injury]. In determining the duration of those losses, you may consider the [joint life expectancy of (decedent) and (surviving child) [each of (surviving children)]] [life expectancy of (surviving children) [each of the surviving children]] together with

the other evidence in the case.

f. Damages by surviving parent of child:

The mental pain and suffering of (parents) as a result of the injury and death of (child) [from the date of injury]. In determining the duration of mental pain and suffering, you may consider the life [expectancy] [expectancies] of (surviving parent(s)) together with the other evidence in the case.

ELEMENTS FOR SURVIVORS, INCLUDING SURVIVING SPOUSE, CHILD, OR PARENTS OF CHILD:

In determining any damages to be awarded (decendent's) personal representative for the benefit of [each of] (decendent's) survivor[s]* (name them all), you shall consider the following elements:

**Further instructions may be required if there is a factual question of whether a person is a "survivor" within the meaning of F.S. 768.18(1).*

g. Lost support and services:

The [survivor's] [survivors', (name them all)], loss, by reason of (decendent's) injury and death, of (decendent's) support and services [including interest at (legal rate) on any amount awarded for such loss from the date of injury to the date of death]. In determining the duration of any future loss, you may consider the joint life expectancy of the survivor(s) and (decendent) [and the period of minority, ending at age 25, of a healthy minor child].

In evaluating past and future loss of support and services, you shall consider the survivor's relationship to (decendent), the amount of (decendent's) probable net income available for distribution to the survivor and the replacement value of (decendent's) services to the survivor(s). ["Support" includes contributions in kind as well as sums of money. "Services" means tasks regularly performed by (decendent) for a survivor that will be a necessary expense to the survivor because of (decendent's) death.]*

**The bracketed material should be given only when warranted by the evidence and requested by a party.*

NOTES ON USE FOR 502.2g

1. *Period of minority.* The period of minority for purposes of the wrongful death act is age 25. *F.S. 768.18(2)*. The bracketed reference to the period of minority, in the first paragraph, should not be given if the minor survivor's dependency will continue beyond that age because the child is not "healthy," or if the decedent was a minor on whose support or services the claimant survivor would remain dependent beyond that time.

2. *Support and services specially defined.* The special definitions of these terms bracketed in the second paragraph should be given only when warranted by the evidence and requested by a party.

h. Medical and funeral expenses paid by survivor:

[Medical] [or] [funeral] expenses due to (decedent's) [injury] [or] [death] paid by any survivor.

(Revised November 2, 2017.)

**502.3 WRONGFUL DEATH DAMAGES OF ESTATE AND SURVIVORS:
SEPARATE AWARDS FOR ESTATE AND SURVIVORS**

Any damages that you find were sustained by (decedent's) estate and by (name survivors) shall be separately stated in your verdict.

502.6 MORTALITY TABLES

a. Personal representative claiming damages for benefit of decedent's estate:

In determining how long (decedent) would have lived, had [he/she] lived out [his/her] normal life, you may consider [his/her] life expectancy at the time of [his/her] death. The mortality tables received in evidence may be considered in determining how long [he/she] may have been expected to live. Mortality tables are not binding on you but may be considered together with other evidence in the case bearing on [his/her] health, age and physical condition, before [his/her] [injury and] death, in determining the probable length of [his/her] life.

b. Personal representative claiming damages for loss to survivor:

In determining the duration of any future loss sustained by (name survivors) by reason of the death of (decedent), you may consider the joint life expectancy of (name survivors) and (decedent). The joint life expectancy is that period of time when both the decedent and a survivor would have remained alive. The mortality tables received in evidence may be considered, together with the other evidence in the case, in determining how long each may have been expected to live.

502.7 REDUCTION OF DAMAGES TO PRESENT VALUE

Any amount of damages which you allow for [loss of earnings] [the estate's loss of net accumulations], [or] [(describe any other future economic loss which is subject to reduction to present value)] should be reduced to its present money value and only the present money value of these future economic damages should be included in your verdict.

The present money value of future economic damages is the sum of money needed now which, together with what that sum will earn in the future, will compensate (claimant) for these losses as they are actually experienced in future years.

502.8 LIABILITY OF MULTIPLE TORTFEASORS

a. Comparative negligence cases (special verdicts):

Even if you decide that [both] [more than one] of the Defendant[s] [was/were] negligent, you should determine [each] (claimant's) damages in a single total amount, and write that amount, in dollars, on the verdict form.

b. Cases not requiring special verdicts:

If you find for (claimant) against [both] [more than one] of the Defendant[s], you should assess (claimant's) damages in a single amount against [both Defendants] [the Defendants whom you find to be liable to (claimant)].

PUNITIVE DAMAGES

If you find for the Plaintiff and against [one or both] Defendant[s] you should consider whether, in addition to compensatory damages, punitive damages are warranted against [each] Defendant in the circumstances of this case as punishment and as a deterrent to others.

The trial of the punitive damages issue is divided into two parts. In this first part, you will decide whether the conduct of [each] Defendant was such that punitive damages are warranted. If you decide that punitive damages are warranted, we will proceed to the second part of that issue during which the parties may present additional evidence and argument on the issue of punitive damages. I will then give you additional instructions, after which you will decide whether, in your discretion, punitive damages will be assessed and, if so, the amount.

Punitive damages are warranted against [a] Defendant if you find by clear and convincing evidence that:

- (1) the Defendant's conduct causing [smoker's] [disease, injury, or death] was so gross and flagrant as to show a reckless disregard of human life or of the safety of persons exposed to the effects of such conduct; or**
- (2) the Defendant's conduct causing [disease, injury, or death] showed such an entire lack of care that the Defendant must have been consciously indifferent to the consequences; or**
- (3) the Defendant's conduct causing [disease, injury, or death] showed such an entire lack of care that the Defendant must have wantonly or recklessly disregarded the safety and welfare of the public; or**

(4) the Defendant's conduct causing [disease, injury, or death] showed such reckless indifference to the rights of others as to be equivalent to an intentional violation of these rights.

Under those circumstances you may, in your discretion, find punitive damages are warranted against [a] Defendant.

"Clear and convincing evidence" differs from the "greater weight of the evidence" in that it is more compelling and persuasive. "Greater weight of the evidence" means the more persuasive and convincing force and effect of the entire evidence in the case. In contrast, "clear and convincing evidence" is evidence that is precise, explicit, lacking in confusion, and of such weight that it produces a firm belief or conviction, without hesitation, about the matter in issue.

For purposes of determining whether punitive damages are warranted and, if so, in what amount, you may not consider in any way the findings regarding Defendant's conduct from the prior jury trial that I described to you earlier. The only evidence you may consider on this issue is the evidence presented to you in this trial.

When considering whether punitive damages are warranted, you may consider any harm [a] Defendant's conduct caused to [smoker]. In determining whether punitive damages are warranted, you also may consider similar harms suffered by other persons not parties to this lawsuit for the limited purpose of assessing the reprehensibility or wrongfulness of [a] Defendant's acts that you find were a legal cause of [smoker's] [disease, injury, or death]. You may not seek to punish [a] Defendant for any harms suffered by any persons other than [smoker], and you may punish [a] Defendant only for those harms suffered by a [smoker] which were caused by [that] Defendant's punishable conduct.

If you decide that punitive damages are warranted, we will proceed to the second part of that issue as to the amount of punitive damages, if any, during which the parties may present additional evidence and argument on the issue of punitive damages. I will then give you additional instructions, after which you will decide whether, in your discretion, punitive damages will be assessed and, if so, the amount.

601.2 BELIEVABILITY OF WITNESSES

a. *General considerations:*

Let me speak briefly about witnesses. In evaluating the believability of any witness and the weight you will give the testimony of any witness, you may properly consider the demeanor of the witness while testifying; the frankness or lack of frankness of the witness; the intelligence of the witness; any interest the witness may have in the outcome of the case; the means and opportunity the witness had to know the facts about which the witness testified; the ability of the witness to remember the matters about which the witness testified; and the reasonableness of the testimony of the witness, considered in the light of all the evidence in the case and in the light of your own experience and common sense.

b. *Expert witnesses:*

[You have heard opinion testimony [on certain technical subjects] from [a person] [persons] referred to as [an] expert witness[es].] [Some of the testimony before you was in the form of opinions about certain technical subjects.]

You may accept such opinion testimony, reject it, or give it the weight you think it deserves, considering the knowledge, skill, experience, training, or education of the witness, the reasons given by the witness for the opinion expressed, and all the other evidence in the case.

c. *Witness talked to lawyer:*

[It is entirely proper for a lawyer to talk to a witness about what testimony the witness would give if called to the courtroom. The witness should not be discredited just because the witness talked with a lawyer about [his] [her] testimony.]

601.4 MULTIPLE CLAIMS, NUMEROUS PARTIES, CONSOLIDATED CASES

In your deliberations, you will consider and decide [several] [(state the number)] distinct claims. (Identify claims to be considered.) Although these claims have been tried together, each is separate from the other[s], and each party is entitled to have you separately consider each claim as it affects that party. Therefore, in your deliberations, you should consider the evidence as it relates to each claim separately, as you would had each claim been tried before you separately.

601.5 CONCLUDING INSTRUCTION (BEFORE FINAL ARGUMENT)

That is the law you must follow in deciding this case. The attorneys for the parties will now present their final arguments. When they are through, I will have a few final instructions about your deliberations.

SECTION 700 — CLOSING INSTRUCTIONS

Members of the jury, you have now heard all the evidence, my instructions on the law that you must apply in reaching your verdict and the closing arguments of the attorneys. You will shortly retire to the jury room to decide this case. [Before you do so, I have a few last instructions for you.]

During deliberations, jurors must communicate about the case only with one another and only when all jurors are present in the jury room. You will have in the jury room all of the evidence that was received during the trial. In reaching your decision, do not do any research on your own or as a group. Do not use dictionaries, the Internet, or any other reference materials. Do not investigate the case or conduct any experiments. Do not visit or view the scene of any event involved in this case or look at maps or pictures on the Internet. If you happen to pass by the scene, do not stop or investigate. All jurors must see or hear the same evidence at the same time. Do not read, listen to, or watch any news accounts of this trial.

You are not to communicate with any person outside the jury about this case. Until you have reached a verdict, you must not talk about this case in person or through the telephone, writing, or electronic communication, such as a blog, twitter, e-mail, text message, or any other means. Do not contact anyone to assist you, such as a family accountant, doctor, or lawyer. These communications rules apply until I discharge you at the end of the case.

If you become aware of any violation of these instructions or any other instruction I have given in this case, you must tell me by giving a note to the bailiff.

Any notes you have taken during the trial may be taken to the jury room

for use during your discussions. Your notes are simply an aid to your own memory, and neither your notes nor those of any other juror are binding or conclusive. Your notes are not a substitute for your own memory or that of other jurors. Instead, your verdict must result from the collective memory and judgment of all jurors based on the evidence and testimony presented during the trial.

At the conclusion of the trial, the bailiff will collect your notes, which will be immediately destroyed. No one will ever read your notes.

In reaching your verdict, do not let bias, sympathy, prejudice, public opinion, or any other sentiment for or against any party to influence your decision. Your verdict must be based on the evidence that has been received and the law on which I have instructed you.

Reaching a verdict is exclusively your job. I cannot participate in that decision in any way and you should not guess what I think your verdict should be from something I may have said or done. You should not think that I prefer one verdict over another. Therefore, in reaching your verdict, you should not consider anything that I have said or done, except for my specific instructions to you.

Pay careful attention to all the instructions that I gave you, for that is the law that you must follow. You will have a copy of my instructions with you when you go to the jury room to deliberate. All the instructions are important, and you must consider all of them together. There are no other laws that apply to this case, and even if you do not agree with these laws, you must use them in reaching your decision in this case.

When you go to the jury room, the first thing you should do is choose a presiding juror to act as a foreperson during your deliberations. The foreperson should see to it that your discussions are orderly and that everyone has a fair chance to be heard.

It is your duty to talk with one another in the jury room and to consider the views of all the jurors. Each of you must decide the case for yourself, but only after you have considered the evidence with the other members of the jury. Feel free to change your mind if you are convinced that your position should be different. You should all try to agree. But do not give up your honest beliefs just because the others think differently. Keep an open mind so that you and your fellow jurors can easily share ideas about the case.

[I will give you a verdict form with questions you must answer. I have already instructed you on the law that you are to use in answering these questions. You must follow my instructions and the form carefully. You must consider each question separately. Please answer the questions in the order they appear. After you answer a question, the form tells you what to do next. I will now read the form to you: (read form of verdict)]

[You will be given (state number) forms of verdict, which I shall now read to you: (read form of verdict(s))]

[If you find for (claimant(s)), your verdict will be in the following form: (read form of verdict)]

[If you find for (Defendant(s)), your verdict will be in the following form: (read form of verdict)]

Your verdict[s] must be unanimous, that is, your verdict must be agreed to by each of you. When you have [agreed on your verdict[s]] [finished filling out the form[s]], your foreperson must write the date and sign it at the bottom and return the verdict[s] to the bailiff.

If any of you need to communicate with me for any reason, write me a note and give it to the bailiff. In your note, do not disclose any vote or split or the reason for the communication.

You may now retire to decide your verdict[s].

APPENDIX

PROTECTED SPEECH

During the trial, you have heard reference(s) to Defendant['s/s'] appearances before Congress and various regulatory agencies. Under the law, Defendant[s] [has/have] the right to petition, provide information, and express [its/their] views to the government on the issue of policy and legislation concerning smoking and health.

These and similar communications with the government, advocacy efforts, and government submissions are protected under the First Amendment to the United States Constitution, as well as Florida law.

RIGHT TO DEFEND AGAINST CLAIMS

During trial, you have heard evidence about actions taken by Defendant[s] and [its/their] lawyers to defend against lawsuits, including this one. Actions taken to defend against litigation cannot form the basis for liability in this case.

PURPOSE OF COMPENSATORY DAMAGES

The purpose of an award of compensatory damages is not to punish or penalize [a] Defendant for its conduct or to make an example of [a] Defendant for the public good. Compensatory damages are meant to compensate for actual loss caused by [a] Defendant. Therefore, in determining the amount of damages to award, if any, you may consider only the amount necessary to compensate Plaintiff for the actual loss resulting from [a] Defendant's conduct that you have found caused [smoker's] [disease, injury, or death].