

## **Class-action suit claims 'light,' 'mild' cigarettes deceptive**

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**Vancouver Sun**

**Friday, May 09, 2003**

CREDIT: Wayne Cuddington, CanWest News Service; The Ottawa Citizen

A former B.C. smoker is suing Imperial Tobacco for promoting 'light' and 'mild' cigarettes. It's expected that thousands of other smokers will join the class-action lawsuit.

A BC man is suing Canada's largest tobacco company alleging that Imperial Tobacco engaged in "deceptive trade practices" in the marketing of its "light" and "mild" cigarette brands.

The proposed class action lawsuit alleges that smokers of light brands may do more harm because they tend to smoke more or puff harder.

While the lawsuit is the first of its kind in Canada, a similar case went to trial in Illinois, where a judge found last March that "light" cigarettes was a deceptive term.

The Illinois judge ordered American tobacco giant Philip Morris to pay \$10.1 billion US -- then the equivalent of about \$15 billion Cdn -- in punitive and compensatory damages, including the cost of reimbursing all plaintiffs for the light cigarettes they purchased over the years.

The BC lawsuit was filed by Vancouver lawyer David Klein on behalf Kenneth Knight, a resident of Roberts Creek near Gibsons.

Knight says he purchased and consumed about 1.5 packs a day of the defendant's light cigarettes in BC for 17 years before he quit. He thought the term "light" would mean he would get fewer toxic emissions when smoking.

The ground-breaking legal action was applauded by the Canadian anti-smoking organization Airspace, which helped facilitate the lawsuit.

"The tobacco industry has been getting away with murder," said Airspace president Heather Mackenzie. "Their message has been that light cigarettes are safer and less harmful than regular cigarettes. The truth is that they are not. In fact, evidence shows that light cigarettes are more harmful. So, smokers got the opposite of what they bargained for.

"The lawsuit alleges that Imperial Tobacco designed its light cigarettes in such a way that the "standard testing machines used to measure toxic emissions would record lower levels than the levels that are actually delivered to the smoker. . .

."Imperial Tobacco's designation of light and mild cigarettes had the capability, tendency or effect of being deceptive or misleading, says the BC lawsuit, which is expected to be joined by thousands of current and former smokers of light brands, which have been around since the 1970s.

The lawsuit is seeking to compensate those who join the class action by refunding all sums the class members paid to purchase the light cigarettes. It also seeks to have Imperial "disgorge all revenue or profits which it made on account of light cigarettes purchased by class members, together with any further relief which may be available. . . ."

Health Canada has called for a voluntary ban on the use of the words "light" and "mild" in the marketing of cigarettes. So far, Canadian tobacco companies have refused to comply.

Montreal-based Imperial Tobacco Canada Limited manufactures almost 70 per cent of the cigarettes sold in this country. Its brands include du Maurier Ultra Light, du Maurier Special Mild, Matinée Extra Mild, Player's Light, Player's Light Smooth and Player's Extra Light.

"The defendant's lights are not less harmful, nor do they transmit significantly fewer toxic emissions to the smoker," the BC lawsuit alleges.

The lower emission levels depended on changes in cigarette design and

composition that delivered lower levels of toxic emissions under machine testing conditions while continuing to deliver high levels of toxic emissions to smokers under normal smoking conditions, the legal action says.

The changes include the addition of tiny vent holes on or around the cigarette filter and the alteration of the materials used in filters and cigarette papers in order to dilute the toxic emissions of smoke per puff as measured by the industry standard testing machines, says the lawsuit.

These changes are negated by smokers of light cigarettes through a phenomenon known as "compensation" -- the tendency of smokers of light cigarettes to block the vent holes with their lips or fingers, inhale more deeply, puff more frequently, hold the smoke in their lungs for longer and smoke more cigarettes, the lawsuit says.

Imperial Tobacco conducted its own tests of its light cigarettes that revealed that the actual amounts of toxic emissions delivered to the smoker under normal use are substantially higher than the levels read by the testing machines, says the lawsuit.

The tobacco company failed to make timely disclosure to consumers of the existence and results of those tests, and failed to disclose that the smoke produced by its lights is more genotoxic (causing genetic and chromosomal damage) per milligram of tar than regular cigarettes, the lawsuit says.

Airspace says 45,000 people in Canada suffer and die from nicotine addiction each year -- equal to more than 15 World Trade Center attacks.

"The death toll is horrific," Mackenzie said. "We predict that the lawsuits will keep coming until the industry is toast."

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