

In the Supreme Court of Nevada

PHILIP MORRIS USA INC., a foreign corporation,

Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA, IN AND FOR THE COUNTY OF
CLARK; and the HONORABLE VERONICA M.
BARISICH,

Respondents,

and

DOLLY ROWAN, AS AN INDIVIDUAL, AS SPECIAL
ADMINISTRATOR OF THE ESTATE OF NOREEN THOMPSON;
NAVONA COLLISON, AS AN INDIVIDUAL; RUSSELL
THOMPSON, AS AN INDIVIDUAL; R.J. REYNOLDS TOBACCO
COMPANY, A FOREIGN CORPORATION; LIGGETT GROUP LLC,
A FOREIGN CORPORATION; QUICK STOP MARKET, LLC, A
DOMESTIC LIMITED LIABILITY COMPANY; JOE'S BAR, INC., A
DOMESTIC CORPORATION; THE POKER PALACE, A DOMESTIC
CORPORATION; SILVER NUGGET GAMING, LLC D/B/A
SILVER NUGGET CASINO, A DOMESTIC LIMITED LIABILITY
COMPANY; AND JERRY'S NUGGET, A DOMESTIC
CORPORATION,

Real Parties in Interest

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Case No. _____

District Court
Case No. A-19-807653-C

**PHILIP MORRIS USA INC.'S PETITION FOR
WRIT OF MANDAMUS OR, ALTERNATIVELY, PROHIBITION – APPENDIX
VOL. 6**

D. Lee Roberts, Jr., Esq.
Nevada Bar No. 8877
WEINBERG, WHEELER, HUDGINS,
GUNN & DIAL, LLC
6385 S. Rainbow Blvd., Ste. 400
Las Vegas, NV 89118
(702) 938-3838
lroberts@wwhgd.com
*Attorney for Petitioner Philip Morris
USA Inc.*

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1 is fairly, accurately, or appropriately in paragraph 113. Reynolds denies the remaining allegations
2 contained in paragraph 113.

3 114. Reynolds states that the allegations contained in paragraph 114, including
4 subparagraphs a. through d., purport to selectively quote, improperly characterize, and/or reference
5 portions of the district court's opinion in *United States v. Philip Morris USA, Inc.* Reynolds states
6 that the opinion speaks for itself but denies that it is fairly, accurately, or appropriately characterized
7 in paragraphs 114, including subparagraphs a. through d. Reynolds also states that the documents
8 purportedly quoted in paragraphs 114c. and 114d. are protected from disclosure by the attorney-
9 client privilege, the work product doctrine, and/or the joint defense or the joint interest privilege, and
10 that it is therefore improper for Plaintiff to have referred to and quoted these documents in the
11 Amended Complaint. Reynolds denies the remaining allegations of paragraph 114, including
12 subparagraphs a. through d., to the extent they are directed to Reynolds. To the extent the
13 allegations of paragraph 111, including subparagraphs a. through d., are directed toward other
14 Defendants, Reynolds is without knowledge or information sufficient to form a belief as to truth of
15 those allegations and, on that basis, denies those allegations.

16 **FIRST CLAIM FOR RELIEF**

17 **(WRONGFUL DEATH - NEGLIGENCE)**

18 **Dolly Rowan as Personal Representative of the Estate of Noreen Thompson and Dolly**
19 **Rowan as Heir of Noreen Thompson Against Defendants R.J. Reynolds, and Liggett**

20 115. Reynolds incorporates by this reference its responses to the allegations repeated and
21 re-alleged by Plaintiff in this paragraph as if fully restated herein.

22 116. Reynolds admits that Plaintiff purports to bring a claim for wrongful death. Reynolds
23 denies that Plaintiff has any cause of action against Reynolds, denies that Plaintiff is entitled to
24 judgment against, or any relief whatsoever from, Reynolds in this action, and denies the remaining
25 allegations contained in paragraph 116.

26 117. Reynolds is without knowledge or information sufficient to form a belief as to the
27 truth or falsity of the allegations contained in paragraph 117 and, on that basis, denies those
28 allegations.

1 118. Reynolds admits that Plaintiff purports to bring a claim pursuant to NRS 41.085(4).
2 Reynolds denies that Plaintiff has any cause of action against Reynolds, denies that Plaintiff is
3 entitled to judgment against, or any relief whatsoever from, Reynolds in this action, and denies the
4 remaining allegations contained in paragraph 118 that apply to Reynolds. Reynolds is without
5 knowledge or information sufficient to form a belief as to the truth or falsity of the remaining
6 allegations contained in paragraph 118 and, on that basis, denies those allegations.

7 119. Reynolds is without knowledge or information sufficient to form a belief as to the
8 truth or falsity of the allegations contained in paragraph 119 and, on that basis, denies those
9 allegations.

10 120. Reynolds admits that Plaintiff purports to bring a claim pursuant to NRS 41.085(5).
11 Reynolds denies that Plaintiff has any cause of action against Reynolds, denies that Plaintiff is
12 entitled to judgment against, or any relief whatsoever from, Reynolds in this action, and denies the
13 remaining allegations contained in paragraph 120 that apply to Reynolds. Reynolds is without
14 knowledge or information sufficient to form a belief as to the truth or falsity of the remaining
15 allegations contained in paragraph 120 and, on that basis, denies those allegations.

16 121. Reynolds admits that it had duties imposed by applicable law and that Reynolds
17 complied with those duties. Reynolds denies the remaining allegations contained in paragraph 121.

18 122. Reynolds is without knowledge or information sufficient to form a belief as to the
19 truth of the allegations contained in paragraph 122 concerning the products that Plaintiff's Decedent
20 allegedly "was exposed to and did inhale smoke from" and, accordingly, denies the same. Reynolds
21 denies the remaining allegations contained in paragraph 122.

22 123. Reynolds is without knowledge or information sufficient to form a belief as to the
23 truth of the allegations contained in paragraph 123 concerning the products that Plaintiff's Decedent
24 allegedly was "exposed to" and/or her alleged injuries or death and, accordingly, denies the same.
25 Reynolds denies the remaining allegations contained in paragraph 123.

26 124. Paragraph 124 does not require an answer because it asserts incorrect legal
27 conclusions, rather than stating factual allegations. To the extent that any answer is required
28 Reynolds denies the allegations in paragraph 124, including each of its subparagraphs.

1 125. Reynolds denies the allegations contained in paragraph 125. Reynolds states that all
2 packages of cigarettes manufactured by it for sale or distribution in the United States since January
3 1, 1966 (and all advertising for such cigarettes since March 30, 1972) have borne a warning deemed
4 by Congress to be adequate to warn the public of any relationship between smoking and health,
5 including the risk of lung cancer. Reynolds further states that, given the long standing common
6 knowledge of the risks of smoking, warnings were not necessary nor required prior to the effective
7 date of the Cigarette Labeling Act of 1966. There has been a longstanding awareness and belief of
8 the alleged health risks associated with smoking and of the characteristics of cigarette smoking
9 behavior, including the fact that some people at least at certain times have difficulty quitting.

10 126. Reynolds admits that it had duties imposed by applicable law and that Reynolds
11 complied with those duties. Reynolds denies that its cigarettes caused or contributed to the injuries
12 alleged and denies the remaining allegations contained in paragraph 126.

13 127. Reynolds denies that its cigarettes caused or contributed to the injuries alleged and
14 denies the remaining allegations contained in paragraph 127.

15 128. Paragraph 128 does not require an answer because it asserts incorrect legal
16 conclusions, rather than stating factual allegations. To the extent that any answer is required, except
17 as otherwise expressly admitted elsewhere herein, Reynolds denies the remaining allegations
18 contained in paragraph 128.

19 129. Reynolds denies that paragraph 129 fairly or accurately characterizes the state of
20 knowledge concerning smoking and health over time. Reynolds admits that there has been
21 longstanding awareness of the health risks associated with smoking. Reynolds states that it, like the
22 public at large, has been aware of information regarding the potential health risks associated with
23 cigarette smoking since Reynolds began manufacturing cigarettes in 1913. Since the early 1950s,
24 publicity attending claims of chronic disease risks associated with smoking has dramatically
25 increased. Further, since at least the mid-1950s, Reynolds monitored the publicly available scientific
26 and medical literature relating to smoking and health. Further responding, Reynolds states that its
27 views pertaining to smoking and health, including addiction, evolved over time. For example,
28 concerning lung cancer, Reynolds states that in 2000, Reynolds expressed the view that it

1 manufactures products that have significant and inherent health risks for a number of serious
2 diseases, including lung cancer, and may contribute to causing these diseases in some individuals.
3 Today, it is Reynolds' position that "Cigarette smoking is a leading preventable cause of death.
4 Quitting cigarette smoking significantly decreases the risk for lung cancer, heart disease, chronic
5 bronchitis, emphysema and other serious diseases and conditions." Reynolds denies the remaining
6 allegations contained in paragraph 129.

7 130. Paragraph 130 does not require an answer because it asserts incorrect legal
8 conclusions, rather than stating factual allegations. To the extent that any answer is required,
9 Reynolds denies that Plaintiff has any cause of action against Reynolds, denies that Plaintiff is
10 entitled to judgment against, or any relief whatsoever from, Reynolds in this action, and denies the
11 remaining allegations contained in paragraph 130.

12 131. Paragraph 131 does not require an answer because it asserts incorrect legal
13 conclusions, rather than stating factual allegations. To the extent that any answer is required,
14 Reynolds denies that Plaintiff has any cause of action against Reynolds, denies that Plaintiff is
15 entitled to judgment against, or any relief whatsoever from, Reynolds in this action, and denies the
16 remaining allegations contained in paragraph 131.

17 132. Paragraph 132 does not require an answer because it asserts incorrect legal
18 conclusions, rather than stating factual allegations. To the extent that any answer is required,
19 Reynolds denies that Plaintiff has any cause of action against Reynolds, denies that Plaintiff is
20 entitled to judgment against, or any relief whatsoever from, Reynolds in this action, and denies the
21 remaining allegations contained in paragraph 132.

22 133. Reynolds denies that it engaged in the conduct alleged in the Amended Complaint
23 and denies the remaining allegations of paragraph 133.

24 134. Reynolds denies that it engaged in the conduct alleged in the Amended Complaint.
25 Reynolds also denies that Plaintiff has any cause of action against Reynolds, denies that Plaintiff is
26 entitled to judgment against, or any relief whatsoever from, Reynolds in this action, and denies the
27 remaining allegations contained in paragraph 134.

28 135. Reynolds denies that it engaged in the conduct alleged in the Amended Complaint.

Reynolds also denies that Plaintiff has any cause of action against Reynolds, denies that Plaintiff is entitled to judgment against, or any relief whatsoever from, Reynolds in this action, and denies the remaining allegations contained in paragraph 135.

136. Reynolds denies that Plaintiff has any cause of action against Reynolds, denies that Plaintiff is entitled to judgment against, or any relief whatsoever from, Reynolds in this action, and denies the remaining allegations contained in paragraph 136.

SECOND CLAIM FOR RELIEF

(NEGLIGENCE)

Dolly Rowan as Administrator of the Estate of Noreen Thompson Against Defendants R.J. Reynolds and Liggett

137. Reynolds incorporates by this reference its responses to the allegations repeated and re-alleged by Plaintiff in this paragraph as if fully restated herein.

138. Reynolds denies that Plaintiff is entitled to judgment against, or any relief whatsoever from, Reynolds in this action, and denies the remaining allegations contained in paragraph 138 that apply to Reynolds. Reynolds is without knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations contained in paragraph 138 and, on that basis, denies those allegations.

139. Reynolds admits that it had duties imposed by applicable law and that Reynolds complied with those duties. Reynolds denies the remaining allegations contained in paragraph 139.

140. Reynolds is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 140 concerning the products that Plaintiff's Decedent allegedly "was exposed to and did inhale smoke from" and, accordingly, denies the same. Reynolds denies the remaining allegations contained in paragraph 140.

141. Reynolds is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 141 concerning the products that Plaintiff's Decedent allegedly was "exposed to" and/or her alleged injuries or death and, accordingly, denies the same. Reynolds denies the remaining allegations contained in paragraph 141.

142. Paragraph 142 does not require an answer because it asserts incorrect legal

1 conclusions, rather than stating factual allegations. To the extent that any answer is required
2 Reynolds denies the allegations in paragraph 142, including each of its subparagraphs.

3 143. Reynolds denies the allegations contained in paragraph 143. Reynolds states that all
4 packages of cigarettes manufactured by it for sale or distribution in the United States since January
5 1, 1966 (and all advertising for such cigarettes since March 30, 1972) have borne a warning deemed
6 by Congress to be adequate to warn the public of any relationship between smoking and health,
7 including the risk of lung cancer. Reynolds further states that, given the long standing common
8 knowledge of the risks of smoking, warnings were not necessary nor required prior to the effective
9 date of the Cigarette Labeling Act of 1966. There has been a longstanding awareness and belief of
10 the alleged health risks associated with smoking and of the characteristics of cigarette smoking
11 behavior, including the fact that some people at least at certain times have difficulty quitting.

12 144. Reynolds admits that it had duties imposed by applicable law and that Reynolds
13 complied with those duties. Reynolds denies that its cigarettes caused or contributed to the injuries
14 alleged and denies the remaining allegations contained in paragraph 144.

15 145. Reynolds is without knowledge or information sufficient to form a belief as to the
16 truth of the allegations contained in paragraph 145 concerning the products that Plaintiff's Decedent
17 allegedly "was exposed to," and/or her alleged injuries and, accordingly, denies the same. Reynolds
18 denies the remaining allegations contained in paragraph 145.

19 146. Reynolds denies that its cigarettes caused or contributed to the injuries alleged and
20 denies the remaining allegations contained in paragraph 146.

21 147. Paragraph 147 does not require an answer because it asserts incorrect legal
22 conclusions, rather than stating factual allegations. To the extent that any answer is required, except
23 as otherwise expressly admitted elsewhere herein, Reynolds denies the remaining allegations
24 contained in paragraph 147.

25 148. Reynolds denies that paragraph 148 fairly or accurately characterizes the state of
26 knowledge concerning smoking and health over time. Reynolds admits that there has been
27 longstanding awareness of the health risks associated with smoking. Reynolds states that it, like the
28 public at large, has been aware of information regarding the potential health risks associated with

cigarette smoking since Reynolds began manufacturing cigarettes in 1913. Since the early 1950s, publicity attending claims of chronic disease risks associated with smoking has dramatically increased. Further, since at least the mid-1950s, Reynolds monitored the publicly available scientific and medical literature relating to smoking and health. Further responding, Reynolds states that its views pertaining to smoking and health, including addiction, evolved over time. For example, concerning lung cancer, Reynolds states that in 2000, Reynolds expressed the view that it manufactures products that have significant and inherent health risks for a number of serious diseases, including lung cancer, and may contribute to causing these diseases in some individuals. Today, it is Reynolds' position that "Cigarette smoking is a leading preventable cause of death. Quitting smoking significantly decreases the risk for lung cancer, heart disease, chronic bronchitis, emphysema and other serious diseases and conditions." Reynolds denies the remaining allegations contained in paragraph 148.

149. Paragraph 149 does not require an answer because it asserts incorrect legal conclusions, rather than stating factual allegations. To the extent that any answer is required, Reynolds denies that Plaintiff has any cause of action against Reynolds, denies that Plaintiff is entitled to judgment against, or any relief whatsoever from, Reynolds in this action, and denies the remaining allegations contained in paragraph 149.

150. Paragraph 150 does not require an answer because it asserts incorrect legal conclusions, rather than stating factual allegations. To the extent that any answer is required, Reynolds denies that Plaintiff has any cause of action against Reynolds, denies that Plaintiff is entitled to judgment against, or any relief whatsoever from, Reynolds in this action, and denies the remaining allegations contained in paragraph 150.

151. Reynolds denies that it engaged in the conduct alleged in the Amended Complaint and denies the remaining allegations of paragraph 151.

152. Reynolds denies that it engaged in the conduct alleged in the Amended Complaint. Reynolds also denies that Plaintiff has any cause of action against Reynolds, denies that Plaintiff is entitled to judgment against, or any relief whatsoever from, Reynolds in this action, and denies the remaining allegations contained in paragraph 152.

153. Reynolds denies that it engaged in the conduct alleged in the Amended Complaint. Reynolds also denies that Plaintiff has any cause of action against Reynolds, denies that Plaintiff is entitled to judgment against, or any relief whatsoever from, Reynolds in this action, and denies the remaining allegations contained in paragraph 153.

154. Reynolds denies that Plaintiff has any cause of action against Reynolds, denies that Plaintiff is entitled to judgment against, or any relief whatsoever from, Reynolds in this action, and denies the remaining allegations contained in paragraph 154.

THIRD CLAIM FOR RELIEF

(WRONGFUL DEATH - STRICT LIABILITY)

Dolly Rowan, as Personal Representative of the Estate of Noreen Thompson, and Dolly Rowan as Heir of Noreen Thompson, Against Defendants R.J. Reynolds and Liggett

155. Reynolds incorporates by this reference its responses to the allegations repeated and re-alleged by Plaintiff in this paragraph as if fully restated herein.

156. Reynolds admits that Plaintiff purports to bring a claim for wrongful death. Reynolds denies that Plaintiff has any cause of action against Reynolds, denies that Plaintiff is entitled to judgment against, or any relief whatsoever from, Reynolds in this action, and denies the remaining allegations contained in paragraph 156.

157. Reynolds is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 157 and, on that basis, denies those allegations.

158. Reynolds admits that Plaintiff purports to bring a claim pursuant to NRS 41.085(4). Reynolds denies that Plaintiff has any cause of action against Reynolds, denies that Plaintiff is entitled to judgment against, or any relief whatsoever from, Reynolds in this action, and denies the remaining allegations contained in paragraph 158 that apply to Reynolds. Reynolds is without knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations contained in paragraph 158 and, on that basis, denies those allegations.

159. Reynolds is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 159 and, on that basis, denies those allegations.

1 160. Reynolds admits that Plaintiff purports to bring a claim pursuant to NRS 41.085(5).
2 Reynolds denies that Plaintiff has any cause of action against Reynolds, denies that Plaintiff is
3 entitled to judgment against, or any relief whatsoever from, Reynolds in this action, and denies the
4 remaining allegations contained in paragraph 160 that apply to Reynolds. Reynolds is without
5 knowledge or information sufficient to form a belief as to the truth or falsity of the remaining
6 allegations contained in paragraph 160 and, on that basis, denies those allegations.

7 161. Reynolds admits that it manufactured and distributed cigarettes for resale to adult
8 smokers throughout the United States, including the State of Nevada. Reynolds denies the
9 remaining allegations contained in paragraph 161.

10 162. Reynolds is without knowledge or information sufficient to form a belief as to the
11 truth or falsity of the allegations contained in paragraph 162 concerning the products sold or used by
12 Plaintiff's Decedent and, on that basis, denies those allegations. Except as expressly admitted
13 elsewhere herein, Reynolds denies the remaining allegations contained in paragraph 162.

14 163. Except as expressly admitted elsewhere herein, Reynolds denies the allegations
15 contained in paragraph 163. To the extent the allegations of paragraph 163 are directed toward other
16 Defendants, Reynolds is without knowledge or information sufficient to form a belief as to truth of
17 those remaining allegations contained in paragraph 163 and, on that basis, denies those allegations.

18 164. Reynolds admits that its cigarettes were expected to reach adult smokers without
19 substantial change in the condition in which they were produced, manufactured, sold and marketed.
20 Reynolds is without knowledge or information sufficient to form a belief as to the truth of the
21 allegations contained in paragraph 164 concerning the condition in which its products were "within
22 the possession" the Plaintiff's Decedent and, accordingly, denies the same. Reynolds denies the
23 remaining allegations contained in paragraph 164.

24 165. Reynolds denies the allegations contained in paragraph 165.

25 166. Reynolds denies the allegations contained in paragraph 166.

26 167. Reynolds denies the allegations contained in paragraph 167.

27 168. Reynolds denies that its cigarettes were defective or unreasonably dangerous.

28 Responding to subparagraphs o. through s., Reynolds admits that at all times since January 1, 1966,

1 it has complied with the Federal Cigarette Labeling and Advertising Act; Reynolds further admits
2 that all packs of cigarettes manufactured by it for sale or distribution in the United States since
3 January 1, 1966 (and all advertising for such cigarettes since approximately 1972) have borne the
4 warning(s) set forth in that Act, to wit: Reynolds admits that beginning October 12, 1985 a system of
5 four rotating labels has been utilized. These warnings are:

6 **Surgeon General's Warning: Smoking causes lung cancer, heart disease,**
7 **emphysema, and may complicate pregnancy.**

8 **Surgeon General's Warning: Quitting smoking now greatly reduces serious**
9 **risks to your health.**

10 **Surgeon General's Warning: Smoking by pregnant women may result in fetal**
11 **injury, premature birth, and low birth weight.**

12 **Surgeon General's Warning: Cigarette smoke contains carbon monoxide.**

13 Further responding, Reynolds denies that it had a duty to warn prior to January 1, 1966, and admits
14 that at all times since January 1, 1966, it has complied with the Federal Cigarette Labeling and
15 Advertising Act. In addition, Reynolds states that there has been a long-standing awareness and
16 belief of the alleged health risks associated with smoking and of the characteristics of cigarette
17 smoking behavior, including the fact that some people at least at certain times have difficulty
18 quitting; that in 1957 the Surgeon General of the United States and the Director of the National
19 Cancer Institute testified before Congress that no warning was necessary; that the framers of the
20 Restatement (Second) of Torts wrote in 1962 and confirmed in 1964 that cigarette smoking is not
21 unreasonably dangerous and that with respect to such products, there is no duty to warn; and that in
22 1964 the American Medical Association wrote to the Federal Trade Commission stating "With
23 respect to cigarets [sic], cautionary labeling cannot be anticipated to serve the public interest with
24 any particular degree of success. The health hazards of excessive smoking have been well-publicized
25 for more than 10 years and are common knowledge. Labeling will not alert even the young cigaret
26 [sic] smoker of any risks of which he is not already aware. . . ."; Reynolds denies the remaining
27 allegations contained in paragraph 168, including subparagraphs a. through s.

28 169. Reynolds is without knowledge or information sufficient to form a belief as to the
truth or falsity of the allegations contained in paragraph 169 concerning the cigarette products that

1 Plaintiff's Decedent "exposed to, breathed smoke from" and, on that basis, denies those allegations.
2 Reynolds denies that its cigarettes are or were "defective and unreasonably dangerous" and denies
3 the remaining allegations contained in paragraph 169.

4 170. Reynolds denies the allegations contained in paragraph 170.

5 171. Reynolds is without knowledge or information sufficient to form a belief as to the
6 truth or falsity of the allegations contained in paragraph 171 concerning Plaintiff's Decedent and, on
7 that basis, denies those allegations. Reynolds denies the remaining allegations contained in
8 paragraph 171.

9 172. Paragraph 172 does not require an answer because it asserts incorrect legal
10 conclusions, rather than stating factual allegations. To the extent that any answer is required,
11 Reynolds admits that Plaintiff purports to bring a claim pursuant to NRS 41.085(4). Reynolds
12 denies that Plaintiff has any cause of action against Reynolds, denies that Plaintiff is entitled to
13 judgment against, or any relief whatsoever from, Reynolds in this action, and denies the remaining
14 allegations contained in paragraph 172.

15 173. Paragraph 173 does not require an answer because it asserts incorrect legal
16 conclusions, rather than stating factual allegations. To the extent that any answer is required,
17 Reynolds denies that Plaintiff has any cause of action against Reynolds, denies that Plaintiff is
18 entitled to judgment against, or any relief whatsoever from, Reynolds in this action, and denies the
19 remaining allegations contained in paragraph 173.

20 174. Paragraph 174 does not require an answer because it asserts incorrect legal
21 conclusions, rather than stating factual allegations. To the extent that any answer is required,
22 Reynolds denies that Plaintiff has any cause of action against Reynolds, denies that Plaintiff is
23 entitled to judgment against, or any relief whatsoever from, Reynolds in this action, and denies the
24 remaining allegations contained in paragraph 174.

25 175. Reynolds denies that it engaged in the conduct alleged in the Amended Complaint
26 and denies the remaining allegations contained in paragraph 175.

27 176. Reynolds denies that it engaged in the conduct alleged in the Amended Complaint.
28 Reynolds also denies that Plaintiff has any cause of action against Reynolds, denies that Plaintiff is

1 entitled to judgment against, or any relief whatsoever from, Reynolds in this action, and denies the
2 remaining allegations contained in paragraph 176.

3 177. Reynolds denies that it engaged in the conduct alleged in the Amended Complaint.
4 Reynolds also denies that Plaintiff has any cause of action against Reynolds, denies that Plaintiff is
5 entitled to judgment against, or any relief whatsoever from, Reynolds in this action, and denies the
6 remaining allegations contained in paragraph 177.

7 178. Reynolds denies that Plaintiff has any cause of action against Reynolds, denies that
8 Plaintiff is entitled to judgment against, or any relief whatsoever from, Reynolds in this action, and
9 denies the remaining allegations contained in paragraph 178.

10 **FOURTH CLAIM FOR RELIEF**
11 **(STRICT PRODUCTS LIABILITY)**

12 **Dolly Rowan as Administrator of the Estate of Noreen Thompson Against Defendants**
13 **R.J. Reynolds and Liggett**

14 179. Reynolds incorporates by this reference its responses to the allegations repeated and
15 re-alleged by Plaintiff in this paragraph as if fully restated herein.

16 180. Reynolds denies that Plaintiff is entitled to judgment against, or any relief whatsoever
17 from, Reynolds in this action, and denies the remaining allegations contained in paragraph 180 that
18 apply to Reynolds. Reynolds is without knowledge or information sufficient to form a belief as to
19 the truth or falsity of the remaining allegations contained in paragraph 180 and, on that basis, denies
20 those allegations.

21 181. Reynolds admits that it manufactured and distributed cigarettes for resale to adult
22 smokers throughout the United States, including the State of Nevada. Reynolds denies the
23 remaining allegations contained in paragraph 181.

24 182. Reynolds is without knowledge or information sufficient to form a belief as to the
25 truth or falsity of the allegations contained in paragraph 182 concerning the products sold to or used
26 by Plaintiff's Decedent and, on that basis, denies those allegations. Except as expressly admitted
27 elsewhere herein, Reynolds denies the remaining allegations contained in paragraph 182.

28 183. Except as expressly admitted elsewhere herein, Reynolds denies the remaining

1 allegations contained in paragraph 183. To the extent the allegations of paragraph 183 are directed
2 toward other Defendants, Reynolds is without knowledge or information sufficient to form a belief
3 as to truth of those remaining allegations contained in paragraph 183 and, on that basis, denies those
4 allegations.

5 184. Reynolds admits that its cigarettes were expected to reach adult smokers without
6 substantial change in the condition in which they were produced, manufactured, sold and marketed.
7 Reynolds is without knowledge or information sufficient to form a belief as to the truth of the
8 allegations contained in paragraph 184 concerning the condition in which its products were “within
9 the possession” the Plaintiff’s Decedent and, accordingly, denies the same. Reynolds denies the
10 remaining allegations contained in paragraph 184.

11 185. Reynolds denies the allegations contained in paragraph 185.

12 186. Reynolds denies the allegations contained in paragraph 186.

13 187. Reynolds denies the allegations contained in paragraph 187.

14 188. Reynolds denies the allegations contained in paragraph 188, including subparagraphs
15 a. through n.

16 189. Reynolds is without knowledge or information sufficient to form a belief as to the
17 truth or falsity of the allegations contained in paragraph 189 concerning the cigarette products that
18 Plaintiff’s Decedent, “was exposed to,” smoked and/or inhaled and, on that basis, denies those
19 allegations. Reynolds denies that its cigarettes are or were “defective and unreasonably dangerous”
20 and denies the remaining allegations contained in paragraph 189.

21 190. Reynolds denies the allegations contained in paragraph 190.

22 191. Reynolds is without knowledge or information sufficient to form a belief as to the
23 truth or falsity of the allegations contained in paragraph 191 concerning Plaintiff’s Decedent and, on
24 that basis, denies those allegations. Reynolds denies the remaining allegations contained in
25 paragraph 191.

26 192. Paragraph 192 does not require an answer because it asserts incorrect legal
27 conclusions, rather than stating factual allegations. To the extent that any answer is required,
28 Reynolds denies that Plaintiff has any cause of action against Reynolds, denies that Plaintiff is

entitled to judgment against, or any relief whatsoever from, Reynolds in this action, and denies the remaining allegations contained in paragraph 192.

193. Paragraph 193 does not require an answer because it asserts incorrect legal conclusions, rather than stating factual allegations. To the extent that any answer is required, Reynolds denies that Plaintiff has any cause of action against Reynolds, denies that Plaintiff is entitled to judgment against, or any relief whatsoever from, Reynolds in this action, and denies the remaining allegations contained in paragraph 193.

194. Reynolds denies that it engaged in the conduct alleged in the Amended Complaint and denies the remaining allegations of paragraph 194.

195. Reynolds denies that it engaged in the conduct alleged in the Amended Complaint. Reynolds also denies that Plaintiff has any cause of action against Reynolds, denies that Plaintiff is entitled to judgment against, or any relief whatsoever from, Reynolds in this action, and denies the remaining allegations contained in paragraph 195.

196. Reynolds denies that it engaged in the conduct alleged in the Amended Complaint. Reynolds also denies that Plaintiff has any cause of action against Reynolds, denies that Plaintiff is entitled to judgment against, or any relief whatsoever from, Reynolds in this action, and denies the remaining allegations contained in paragraph 196.

197. Reynolds denies that Plaintiff has any cause of action against Reynolds, denies that Plaintiff is entitled to judgment against, or any relief whatsoever from, Reynolds in this action, and denies the remaining allegations contained in paragraph 197.

FIFTH CLAIM FOR RELIEF

(WRONGFUL DEATH - FRAUDULENT MISREPRESENTATION)

Dolly Rowan as Personal Representative of the Estate of Noreen Thompson and Dolly Rowan as Heir of Noreen Thompson Against Defendants R.J. Reynolds and Liggett

198. Reynolds incorporates by this reference its responses to the allegations repeated and re-alleged by Plaintiff in this paragraph as if fully restated herein.

199. Reynolds admits that Plaintiff purports to bring a claim for wrongful death. Reynolds denies that Plaintiff has any cause of action against Reynolds, denies that Plaintiff is entitled to

1 judgment against, or any relief whatsoever from, Reynolds in this action, and denies the remaining
2 allegations contained in paragraph 199.

3 200. Reynolds is without knowledge or information sufficient to form a belief as to the
4 truth of the allegations contained in paragraph 200 and, on that basis, denies those allegations.

5 201. Reynolds admits that Plaintiff purports to bring a claim pursuant to NRS 41.085(4).
6 Reynolds denies that Plaintiff has any cause of action against Reynolds, denies that Plaintiff is
7 entitled to judgment against, or any relief whatsoever from, Reynolds in this action, and denies the
8 remaining allegations contained in paragraph 201 that apply to Reynolds. Reynolds is without
9 knowledge or information sufficient to form a belief as to the truth or falsity of the remaining
10 allegations contained in paragraph 201 and, on that basis, denies those allegations.

11 202. Reynolds is without knowledge or information sufficient to form a belief as to the
12 truth or falsity of the allegations contained in paragraph 202 and, on that basis, denies those
13 allegations.

14 203. Reynolds admits that Plaintiff purports to bring a claim pursuant to NRS 41.085(5).
15 Reynolds denies that Plaintiff has any cause of action against Reynolds, denies that Plaintiff is
16 entitled to judgment against, or any relief whatsoever from, Reynolds in this action, and denies the
17 remaining allegations contained in paragraph 203 that apply to Reynolds. Reynolds is without
18 knowledge or information sufficient to form a belief as to the truth or falsity of the remaining
19 allegations contained in paragraph 203 and, on that basis, denies those allegations.

20 204. Reynolds denies the allegations contained in paragraph 204.

21 205. Reynolds denies the existence of, and its participation in, any alleged conspiracy,
22 denies making misrepresentations and/or false statements, and denies the remaining allegations
23 contained in paragraph 205.

24 206. Reynolds denies the allegations contained in paragraph 206.

25 207. Reynolds denies making false statements and/or misrepresentations and denies the
26 remaining allegations contained in paragraph 207, including each of its subparagraphs.

27 208. Reynolds is without knowledge or information sufficient to form a belief as to the
28 existence, authenticity, content, or context of the unidentified “media campaigns, mailings . . . and

1 testimony” referenced in paragraph 208 and, accordingly, denies the allegations relating thereto.

2 Reynolds denies the remaining allegations contained in paragraph 208.

3 209. Reynolds denies the allegations contained in paragraph 209.

4 210. Reynolds states that paragraph 210g. quotes accurately but out of context from
5 Reynolds’ advertisements that were published in 1985 in various magazines and newspapers. The
6 full and precise content of the advertisements may be ascertained from the statements themselves.
7 Reynolds states that the remaining subparagraphs are not directed to Reynolds and do not require an
8 answer. Reynolds denies the remaining allegations contained in paragraph 210, including each of its
9 subparagraphs a. through g.

10 211. Reynolds is without knowledge or information sufficient to form a belief as to the
11 existence, authenticity, content, or context of the unidentified statements referenced in paragraph
12 211 and, accordingly, denies the allegations relating thereto. Reynolds denies the remaining
13 allegations contained in paragraph 211.

14 212. Reynolds is without knowledge or information sufficient to form a belief as to the
15 existence, authenticity, content, or context of the unidentified press releases and statements
16 referenced in paragraph 212 and, accordingly, denies the allegations relating thereto. Reynolds
17 denies the remaining allegations contained in paragraph 212.

18 213. Reynolds is without knowledge or information sufficient to form a belief as to the
19 existence, authenticity, content, or context of the unidentified statements referenced in paragraph
20 213 and, accordingly, denies the allegations relating thereto. Reynolds denies the remaining
21 allegations contained in paragraph 213.

22 214. Reynolds denies that the allegations contained in paragraph 214 fairly or accurately
23 characterize the substance of Reynolds’ defense to smoking and health litigation. Reynolds admits
24 that smokers can and do quit smoking. Reynolds denies the remaining allegations contained in
25 paragraph 214.

26 215. Reynolds admits that, consistent with applicable law, it has claimed and continues to
27 claim that certain documents are protected by the attorney-client privilege and/or other applicable
28 privileges or protections. Reynolds further admits that it has withheld such documents from

1 production in litigation in which production has been called for and has listed the withheld
2 documents on privilege logs in accordance with applicable law and rules of procedure. Reynolds
3 states that it has complied with all court orders requiring the production of documents as to which it
4 has asserted privilege. Reynolds denies the remaining allegations contained in paragraph 215.

5 216. Reynolds denies that the allegations contained in paragraph 216 fairly or accurately
6 characterize the substance of Reynolds' defense to smoking and health litigation and denies the
7 remaining allegations contained in paragraph 216.

8 217. Paragraph 217 does not require an answer because it asserts incorrect legal
9 conclusions, rather than stating factual allegations. To the extent that any answer is required,
10 Reynolds is without knowledge or information sufficient to form a belief as to the unidentified
11 "statements" referenced in paragraph 217 and, accordingly, denies the allegations relating thereto.
12 Reynolds denies the remaining allegations contained in paragraph 217.

13 218. Reynolds is without knowledge or information sufficient to form a belief as to the
14 truth of the remaining allegations contained in paragraph 218 concerning what the Plaintiff's
15 Decedent "heard, read, and relied upon" and, accordingly, denies the same. Reynolds denies making
16 "misrepresentations and false statements" and denies the remaining allegations contained in
17 paragraph 218.

18 219. Reynolds denies the existence of, and its participation in, any alleged conspiracy,
19 denies making false statements and/or misrepresentations, and denies the remaining allegations
20 contained in paragraph 219.

21 220. Reynolds denies making "false and misleading marketing and advertisements."
22 Reynolds is without knowledge or information sufficient to form a belief as to the truth or falsity of
23 the allegations contained in paragraph 220 concerning the Plaintiff's Decedent's smoking history
24 and/or alleged injuries and, on that basis, denies those allegations. Reynolds admits that the selected
25 phrase quoted in paragraph 220 appeared at some point in time in certain advertisements for Camel
26 brand cigarettes. Reynolds denies that the advertisement is fairly or accurately characterized in
27 paragraph 220 and states that the complete and precise content of the advertisement can be
28 ascertained from the advertisements itself. Reynolds denies the remaining allegations contained in

1 paragraph 220 that apply to Reynolds. Reynolds is without knowledge or information sufficient to
2 form a belief as to the truth or falsity of the remaining allegations contained in paragraph 220 that
3 apply to other Defendants and, on that basis, denies those allegations.

4 221. Reynolds is without knowledge or information sufficient to form a belief as to the
5 truth of the remaining allegations contained in paragraph 221 concerning what the Plaintiff's
6 Decedent "heard" and, accordingly, denies the same. Reynolds denies making "false or misleading
7 statements" and denies the remaining allegations contained in paragraph 221.

8 222. Reynolds denies the existence of, and its participation in, any alleged conspiracy,
9 denies making false statements and/or misrepresentations, and denies the remaining allegations
10 contained in paragraph 222.

11 223. Paragraph 223 does not require an answer because it asserts incorrect legal
12 conclusions, rather than stating factual allegations. To the extent that any answer is required,
13 Reynolds is without knowledge or information sufficient to form a belief as to the unidentified
14 "statements" referenced in paragraph 223 and, accordingly, denies the allegations relating thereto.
15 Reynolds denies the remaining allegations contained in paragraph 223.

16 224. Reynolds is without knowledge or information sufficient to form a belief as to the
17 truth or falsity of the allegations contained in paragraph 224 concerning Plaintiff's Decedent's
18 smoking history and, on that basis, denies those allegations. Reynolds denies the remaining
19 allegations contained in paragraph 224.

20 225. Paragraph 225 does not require an answer because it asserts incorrect legal
21 conclusions, rather than stating factual allegations. To the extent that any answer is required,
22 Reynolds is without knowledge or information sufficient to form a belief as to the unidentified
23 statements and testimony referenced in paragraph 225 and, accordingly, denies the allegations
24 relating thereto. Reynolds denies the remaining allegations contained in paragraph 225.

25 226. Paragraph 226 does not require an answer because it asserts incorrect legal
26 conclusions, rather than stating factual allegations. To the extent that any answer is required,
27 Reynolds denies making "misrepresentations" to the Plaintiff's Decedent and denies the remaining
28 allegations contained in paragraph 226, including each of its subparagraphs.

1 227. Paragraph 227 does not require an answer because it asserts incorrect legal
2 conclusions, rather than stating factual allegations. To the extent that any answer is required,
3 Reynolds denies making “false promises” to the Plaintiff’s Decedent and denies the remaining
4 allegations contained in paragraph 227, including each of its subparagraphs.

5 228. Paragraph 228 does not require an answer because it asserts incorrect legal
6 conclusions, rather than stating factual allegations. To the extent that any answer is required,
7 Reynolds denies that Plaintiff has any cause of action against Reynolds, denies that Plaintiff is
8 entitled to judgment against, or any relief whatsoever from, Reynolds in this action, and denies the
9 remaining allegations contained in paragraph 228.

10 229. Paragraph 229 does not require an answer because it asserts incorrect legal
11 conclusions, rather than stating factual allegations. To the extent that any answer is required,
12 Reynolds denies that Plaintiff has any cause of action against Reynolds, denies that Plaintiff is
13 entitled to judgment against, or any relief whatsoever from, Reynolds in this action, and denies the
14 remaining allegations contained in paragraph 229.

15 230. Paragraph 230 does not require an answer because it asserts incorrect legal
16 conclusions, rather than stating factual allegations. To the extent that any answer is required,
17 Reynolds denies that Plaintiff has any cause of action against Reynolds, denies that Plaintiff is
18 entitled to judgment against, or any relief whatsoever from, Reynolds in this action, and denies the
19 remaining allegations contained in paragraph 230.

20 231. Reynolds denies that it engaged in the conduct alleged in the Amended Complaint
21 and denies the remaining allegations of paragraph 231.

22 232. Reynolds denies that it engaged in the conduct alleged in the Amended Complaint.
23 Reynolds also denies that Plaintiff has any cause of action against Reynolds, denies that Plaintiff is
24 entitled to judgment against, or any relief whatsoever from, Reynolds in this action, and denies the
25 remaining allegations contained in paragraph 232.

26 233. Reynolds denies that it engaged in the conduct alleged in the Amended Complaint.
27 Reynolds also denies that Plaintiff has any cause of action against Reynolds, denies that Plaintiff is
28 entitled to judgment against, or any relief whatsoever from, Reynolds in this action, and denies the

1 remaining allegations contained in paragraph 233.

2 234. Reynolds denies that Plaintiff has any cause of action against Reynolds, denies that
3 Plaintiff is entitled to judgment against, or any relief whatsoever from, Reynolds in this action, and
4 denies the remaining allegations contained in paragraph 234.

5 **SIXTH CLAIM FOR RELIEF**
6 **(FRAUDULENT MISREPRESENTATION)**

7 **Dolly Rowan as Administrator of the Estate of Noreen Thompson Against Defendants**
8 **R.J. Reynolds, and Liggett**

9 235. Reynolds incorporates by this reference its responses to the allegations repeated and
10 re-alleged by Plaintiff in this paragraph as if fully restated herein.

11 236. Reynolds denies that Plaintiff is entitled to judgment against, or any relief whatsoever
12 from, Reynolds in this action, and denies the remaining allegations contained in paragraph 236 that
13 apply to Reynolds. Reynolds is without knowledge or information sufficient to form a belief as to
14 the truth or falsity of the remaining allegations contained in paragraph 236 and, on that basis, denies
15 those allegations.

16 237. Reynolds denies the allegations contained in paragraph 237.

17 238. Reynolds denies the existence of, and its participation in, any alleged conspiracy,
18 denies making misrepresentations and/or false statements, and denies the remaining allegations
19 contained in paragraph 238.

20 239. Reynolds denies the allegations contained in paragraph 239.

21 240. Reynolds denies making false statements and/or misrepresentations and denies the
22 remaining allegations contained in paragraph 240, including each of its subparagraphs.

23 241. Reynolds is without knowledge or information sufficient to form a belief as to the
24 existence, authenticity, content, or context of the unidentified “media campaigns, mailings . . . and
25 testimony” referenced in paragraph 241 and, accordingly, denies the allegations relating thereto.
26 Reynolds denies the remaining allegations contained in paragraph 241.

27 242. Reynolds denies the allegations contained in paragraph 242.

28 243. Reynolds states that paragraph 243g. quotes accurately but out of context from