

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

**PHILIP MORRIS USA INC.'S PETITION FOR  
WRIT OF MANDAMUS OR, ALTERNATIVELY, PROHIBITION – APPENDIX  
VOL. 14**

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**SECOND CLAIM FOR RELIEF**

**(NEGLIGENCE)**

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

141. Plaintiff repeats and realleges the allegations as contained in paragraphs 1 through 116 and 117-140 and incorporate the same herein by reference.

142. Plaintiff, DOLLY ROWAN, brings this claim as Administrator of the Estate of NOREEN THOMPSON pursuant to NRS 41.100.

143. Defendants R.J. Reynolds, and Liggett owed a duty to the general public, including Decedent, to manufacture, design, sell, market, promote, and/or otherwise produce a product and/or any of its component parts safe and free of unreasonable and harmful defects when used in the manner and for the purpose it was designed, manufactured, and/or intended to be used.

144. Decedent was exposed to and did inhale smoke from cigarettes which were designed, manufactured, marketed, distributed, and/or sold by said Defendants.

145. Each exposure to said Defendants' cigarettes caused Decedent to inhale smoke which caused her to become addicted to cigarettes, and further caused her to develop lung cancer and suffer severe bodily injuries and death.

146. Defendants R.J. Reynolds and Liggett were negligent in all the following respects, same being the proximate and/or legal cause of NOREEN THOMPSON'S injuries and death, including but not limited to:

- a. designing and manufacturing an unreasonably dangerous and deadly product;
- b. designing and manufacturing cigarettes to be addictive;
- c. designing and manufacturing cigarettes to be inhalable;
- d. manipulating the level of nicotine in cigarettes to make them more addictive;
- e. genetically modifying nicotine in tobacco plants;

- f. blending different types of tobacco to obtain a desired amount of nicotine;
- g. engineering cigarettes to be rapidly inhaled into the bloodstream;
- h. adding chemicals and other deadly, poisonous compounds to cigarettes;
- i. adding and/or manipulating compounds such as ammonia and diammonium phosphate to Defendants' cigarettes to "free-base" nicotine;
- j. marketing and advertising "filter" and "filtered" cigarettes as safe;
- k. marketing and advertising "light" and "ultra light" cigarettes as safe, low nicotine, and low tar;
- l. adding "onserts" to packages of cigarettes even after the United States government banned marketing of "light" and "ultra-light" cigarettes;
- m. manipulating levels of pH in Defendants' cigarettes;
- n. targeting children who could not understand or comprehend the seriousness or addictive nature of nicotine and smoking;
- o. targeting minority populations such as African Americans, Hispanics, and women such as NOREEN THOMPSON, to obtain a greater market share to increase their profits;
- p. failing to develop and utilize alternative designs, manufacturing methods, and/or materials to reduce and/or eliminate harmful materials from cigarettes;
- q. continuing to manufacture, distribute, and/or sell cigarettes when Defendants knew at all times material that their products could cause, and in fact were more likely to cause, injuries including, but not limited to, emphysema, throat cancer, COPD, laryngeal cancer, lung cancer, and/or other forms of cancer when used as intended;
- r. making knowingly false and misleading statements to Decedent, the public, and the American government that cigarettes were safe and/or not proven to be dangerous;



- 1 s. failing to remove and recall cigarettes from the stream of commerce and the  
2 marketplace upon ascertaining that said products would cause disease and death.

3 147. Additionally, prior to July 1, 1969, Defendants failed to warn/and or adequately warn  
4 foreseeable users, such as NOREEN THOMPSON, of the following, including but not limited to:

- 5 a. failing to warn and/or adequately warn foreseeable users, such as NOREEN  
6 THOMPSON, of the dangerous and deadly nature of cigarettes;  
7  
8 b. failing to warn foreseeable users, such as NOREEN THOMPSON, that users could  
9 develop fatal injuries including, but not limited to, emphysema, COPD, throat cancer,  
10 laryngeal cancer, lung cancer, and/or other forms of cancer, as a result of smoking  
11 and/or inhaling smoke from Defendants' cigarettes;  
12  
13 c. failing to warn foreseeable users, such as NOREEN THOMPSON, that the use of  
14 cigarettes would more likely than not lead to addiction, habituation, and/or dependence;  
15  
16 d. failing to warn foreseeable users, such as NOREEN THOMPSON, that quitting and/or  
17 limiting use of cigarettes would be extremely difficult, particularly if users started  
18 smoking at an early age;  
19  
20 e. failing to disclose to consumers of cigarettes, such as NOREEN THOMPSON, the  
21 results of genuine scientific research conducted by and/or known to Defendants that  
22 cigarettes were dangerous, defective, and addictive.

23 148. Defendants breached the aforementioned duties of due and reasonable care in that they  
24 produced, designed, manufactured, sold, and/or marketed defective cigarettes and/or any of their  
25 component parts which contained risks of harm to the user/consumer and which were reasonably  
26 foreseeable to cause harm in the use or exercise of reasonable and/or ordinary care.

27 149. As a direct and proximate and/or legal result of Defendants' aforementioned  
28 negligence, NOREEN THOMPSON was severely injured and died when she was exposed to

1 Defendants' cigarettes. Each exposure to Defendants' cigarettes caused NOREEN THOMPSON to  
2 become addicted to cigarettes and to inhale smoke which caused her to develop lung cancer, in addition  
3 to other related physical conditions which resulted in and directly caused her to suffer severe bodily  
4 injuries and death. Each exposure to such products was harmful and caused or contributed  
5 substantially to NOREEN THOMPSON'S aforementioned injuries and death.  
6

7 150. NOREEN THOMPSON'S aforementioned injuries and death arose out of and were  
8 connected to the way Defendants designed, manufactured, marketed, distributed, and/or sold their  
9 products.

10 151. The aforementioned damages of NOREEN THOMPSON were directly and  
11 proximately and/or legally caused by Defendants' negligence, in that they produced, sold,  
12 manufactured, and/or otherwise placed into the stream of intrastate and interstate commerce, cigarettes  
13 which they knew, or in the exercise of ordinary care should have known, were deleterious and highly  
14 harmful to NOREEN THOMPSON'S health and well-being.  
15

16 152. Defendants, prior to selling and/or distributing the cigarettes to which NOREEN  
17 THOMPSON was exposed, knew or should have known that exposure to cigarette smoke was harmful  
18 and caused injuries including, but not limited to, lung cancer, pharyngeal cancer, laryngeal cancer,  
19 emphysema, COPD, heart disease, other forms of cancer, and/or result in death.  
20

21 153. Defendants' negligence is an actual and proximate or legal cause of NOREEN  
22 THOMPSON'S injuries and death. NOREEN THOMPSON thereby experienced great pain and  
23 anxiety to her body and mind. NOREEN THOMPSON sustained injuries and damages in an amount  
24 in excess of Fifteen Thousand Dollars (\$15,000.00), for which Plaintiff, DOLLY ROWAN, as  
25 Administrator of the Estate of NOREEN THOMPSON, now seeks recovery pursuant to NRS 41.100.  
26

27 154. As a further actual and proximate or legal result of Defendants' negligence, NOREEN  
28 THOMPSON underwent medical treatment and incurred past medical and/or incidental expenses. The

1 exact amount of such damages is unknown at this present time, but NOREEN THOMPSON suffered  
2 special damages in excess of Fifteen Thousand Dollars (\$15,000.00). Plaintiff, DOLLY ROWAN, as  
3 Administrator of the Estate of NOREEN THOMPSON seeks recovery of these damages pursuant to  
4 NRS 41.100.

5  
6 155. Defendants' conduct was despicable and so contemptible that it would be looked down  
7 upon and despised by ordinary decent people and was carried on by Defendants with willful and  
8 conscious disregard for the safety of anyone in the community.

9 156. Defendants' outrageous and unconscionable conduct warrants an award of exemplary  
10 and punitive damages pursuant to NRS 42.005, in an amount appropriate to punish and make an  
11 example of Defendants, and to deter similar conduct in the future. As Administrator of the Estate of  
12 NOREEN THOMPSON, DOLLY ROWAN seeks exemplary and punitive damages pursuant to NRS  
13 41.100.  
14

15 157. To the extent NRS 42.007 is applicable to Defendants' conduct, Defendants are  
16 vicariously liable for punitive damages arising from the outrageous and unconscionable conduct of  
17 their employees, agents, and/or servants, as set forth herein.

18 158. The actions of Defendants have forced Plaintiff to retain counsel to represent her in the  
19 prosecution of this action, and she is therefore entitled to an award of a reasonable amount as attorneys'  
20 fees and costs of suit.  
21  
22  
23  
24  
25  
26  
27  
28

**THIRD CLAIM FOR RELIEF**

**(WRONGFUL DEATH - STRICT LIABILITY)**

**Dolly Rowan as Administrator of the Estate of Noreen Thompson, and Dolly Rowan, NAVONA COLLISON, and Russell Thompson, as Heirs of Noreen Thompson, Against Defendants R.J. Reynolds and Liggett**

159. Plaintiffs repeat and reallege the allegations contained in the paragraphs 1-116 and incorporates the same herein by reference.

160. Plaintiff brings this wrongful death claim based on a strict liability claim against Defendants R.J. Reynolds and Liggett.

161. Plaintiff, DOLLY ROWAN, is the heir of NOREEN THOMPSON.

162. Plaintiff, NAVONA COLLISON, is the heir of NOREEN THOMPSON.

163. Plaintiff, RUSSELL THOMPSON, is the heir of NOREEN THOMPSON.

164. Plaintiffs, DOLLY ROWAN, NAVONA COLLISON, and RUSSELL THOMPSON, bring this cause of action pursuant to NRS 41.085(4), as the heirs of NOREEN THOMPSON.

165. Plaintiff, DOLLY ROWAN, is the Special Administrator and Personal Representative of the Estate of NOREEN THOMPSON.

166. Plaintiff, DOLLY ROWAN, brings this claim pursuant to 41.085(5) as the Special Administrator and Personal Representative of the Estate of NOREEN THOMPSON.

167. Upon information and belief, at all times material, Defendants were and are in the business of designing, engineering, manufacturing, distributing, marketing, selling, and/or otherwise placing cigarettes into the stream of commerce.

168. The products complained of were cigarettes designed, manufactured, marketed, distributed, and/or sold by Defendants and used by NOREEN THOMPSON.

169. The aforesaid products were distributed, sold, manufactured, and/or otherwise placed into the stream of commerce by Defendants.

170. Defendants' defective and unreasonably dangerous cigarettes reached NOREEN THOMPSON without substantial change from that in which such products were when within the possession of Defendants.

171. Defendants' cigarettes were dangerous beyond the expectation of the ordinary user/consumer when used as intended or in a manner reasonably foreseeable by Defendants.

172. The nature and degree of danger of Defendants' cigarettes were beyond the expectation of the ordinary consumer, including NOREEN THOMPSON, when used as intended or in a reasonably foreseeable manner.

173. Defendants' cigarettes were unreasonably dangerous because a less dangerous design and/or modification was economically and scientifically feasible.

174. Defendants' purposely designed and/or manufactured cigarettes to be defective and unreasonably dangerous by doing the following, including but not limited to:

- a. manipulating levels of nicotine in cigarettes to make them more addictive;
- b. manipulating ingredients in cigarettes to make them inhalable;
- c. genetically modifying nicotine in tobacco plants;
- d. blending different types of tobacco to obtain a desired amount of nicotine;
- e. engineering cigarettes to be rapidly inhaled into the lungs;
- f. adding chemicals and other deadly, poisonous compounds to cigarettes;
- g. adding and/or manipulating compounds such as ammonia and diammonium phosphate to Defendants' cigarettes to "free-base" nicotine;
- h. manipulating levels of pH in Defendants' cigarettes;
- i. manipulating and adding deadly and harmful additives, compounds, and ingredients in their cigarette design and manufacturing process when alternative, less dangerous materials were available;

- 1 j. intentionally failing to filter out harmful substances so that during ordinary use, such  
2 materials would not be liberated into the air and/or breathed by the smoker such as the  
3 Decedent herein;
- 4 k. designing, through the use of filters, manufacturing methods, engineering methods  
5 and/or materials, cigarettes in such a way to make smoking them more tasteful,  
6 pleasurable and less likely to trigger the smoker's own biological self defense  
7 mechanisms which otherwise may have limited and/or altered the smoker's behavior in  
8 such a way that the smoker may have smoked less, inhaled less deeply or not at all;
- 9 l. adding "onserts" to packages of cigarettes even after the United States government  
10 banned marketing of "light" and "ultra-light" cigarettes;
- 11 m. failing to create safer alternative designs for cigarettes including nicotine free or  
12 reduced nicotine cigarettes;
- 13 n. falsely labeling and branding cigarettes as filtered, "light" "low tar" and "ultra light;"
- 14 o. prior to July 1, 1969, failing to warn and/or adequately warn foreseeable users, such as  
15 NOREEN THOMPSON, of the dangerous and deadly nature of cigarettes;
- 16 p. prior to July 1, 1969, failing to warn foreseeable users, such as NOREEN  
17 THOMPSON, that they could develop fatal injuries including, but not limited to,  
18 emphysema, throat cancer, laryngeal cancer, lung cancer, and/or other forms of cancer,  
19 as a result of smoking and/or inhaling smoke from Defendants' cigarettes;
- 20 q. prior to July 1, 1969, failing to warn foreseeable users, such as NOREEN  
21 THOMPSON, that the use of cigarettes would more likely than not lead to addiction,  
22 habituation and/or dependence;
- 23  
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1 r. prior to July 1, 1969, failing to warn foreseeable users, such as NOREEN  
2 THOMPSON, that quitting and/or limiting use of cigarettes would be extremely  
3 difficult, particularly if users started smoking at an early age;

4 s. prior to July 1, 1969, failing to disclose to consumers of cigarettes, such as NOREEN  
5 THOMPSON, the results of scientific research conducted by and/or known to  
6 Defendants that cigarettes may be dangerous, defective, and/or addictive.  
7

8 175. NOREEN THOMPSON was unaware of the defective and unreasonably dangerous  
9 condition of Defendants' cigarettes, and at a time when such products were being used in the manner  
10 and for the purposes which Defendants' intended, was exposed to, breathed smoke from, and inhaled  
11 Defendants' cigarettes.  
12

13 176. Defendants knew their cigarettes would be used without inspection for defects, and by  
14 placing them on the market, represented to foreseeable users, including NOREEN THOMPSON, that  
15 they would be safe.

16 177. NOREEN THOMPSON was unaware of the hazards and defects in Defendants'  
17 cigarettes, to-wit, that exposure to said products would cause NOREEN THOMPSON to become  
18 addicted and develop lung cancer and ultimately cause her death.

19 178. Defendants' actions were the actual and proximate or legal cause of NOREEN  
20 THOMPSON'S injuries and death. Plaintiffs, DOLLY ROWAN, NAVONA COLLISON, and  
21 RUSSELL THOMPSON, have sustained damages consisting of the loss of NOREEN THOMPSON'S  
22 love, companionship, comfort, affection, society, and moral support, and have suffered great  
23 emotional and psychological loss, all in amount in excess of Fifteen Thousand Dollars (\$15,000.00).  
24 As NOREEN THOMPSON'S heirs, Plaintiffs DOLLY ROWAN, NAVONA COLLISON, and  
25 RUSSELL THOMPSON seek these damages pursuant to NRS 41.085(4).  
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27  
28

179. As a further actual and proximate or legal result of Defendants' actions, NOREEN THOMPSON endured pain, suffering, and/or disfigurement. As NOREEN THOMPSON'S heirs, Plaintiffs DOLLY ROWAN, NAVONA COLLISON, and RUSSELL THOMPSON seek general damages for this pain, suffering, and/or disfigurement pursuant to NRS 41.085(4) in an amount in excess of Fifteen Thousand Dollars (\$15,000.00).

180. As a further actual and proximate or legal result of Defendants' actions, NOREEN THOMPSON'S estate incurred special damages, to include medical expenses and funeral expenses, in an amount in excess of Fifteen Thousand Dollars (\$15,000.00). As personal representative of NOREEN THOMPSON'S Estate, DOLLY ROWAN seeks these special damages pursuant to NRS 41.085(5).

181. Defendants' conduct was despicable and so contemptible that it would be looked down upon and despised by ordinary decent people and was carried on by Defendants with willful and conscious disregard for the safety of anyone in the community.

182. Defendants' outrageous and unconscionable conduct warrants an award of exemplary and punitive damages pursuant to NRS 42.005, in an amount appropriate to punish and make an example of Defendants, and to deter similar conduct in the future. As personal representative of NOREEN THOMPSON'S estate, DOLLY ROWAN seeks exemplary and punitive damages pursuant to NRS 41.085(5).

183. To the extent NRS 42.007 is applicable to Defendants' conduct, Defendants are vicariously liable for punitive damages arising from the outrageous and unconscionable conduct of their employees, agents, and/or servants, as set forth herein.

184. The actions of Defendants have forced Plaintiffs to retain counsel to represent them in the prosecution of this action, and they are therefore entitled to an award of a reasonable amount as attorneys' fees and costs of suit.



**FOURTH CLAIM FOR RELIEF**

**(STRICT PRODUCTS LIABILITY)**

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

185. Plaintiff repeats and realleges the allegations as contained in paragraphs 1 through 116 and 159-184 and incorporates the same herein by reference.

186. Plaintiff, DOLLY ROWAN, brings this claim as Administrator of the Estate of NOREEN THOMPSON pursuant to NRS 41.100.

187. Upon information and belief, at all times material, Defendants were and are in the business of designing, engineering, manufacturing, distributing, marketing, selling, and/or otherwise placing cigarettes into the stream of commerce.

188. The products complained of were cigarettes designed, manufactured, marketed, distributed, and/or sold by Defendants and used by NOREEN THOMPSON.

189. The aforesaid products were distributed, sold, manufactured, and/or otherwise placed into the stream of commerce by Defendants.

190. Defendants' defective and unreasonably dangerous cigarettes reached NOREEN THOMPSON without substantial change in condition from that in which such products were when they left the possession of Defendants.

191. Defendants' cigarettes were dangerous beyond the expectation of the ordinary user/consumer when used as intended or in a manner reasonably foreseeable by Defendants.

192. The nature and degree of danger of Defendants' cigarettes were beyond the expectation of the ordinary consumer, including NOREEN THOMPSON, when used as intended or in a reasonably foreseeable manner.

193. Defendants' cigarettes were unreasonably dangerous because a less dangerous design and/or modification was economically and scientifically feasible.

194. Defendants' purposely designed and/or manufactured cigarettes to be defective and unreasonably dangerous by doing the following, including but not limited to:

- a. manipulating levels of nicotine in cigarettes to make them more addictive;
- b. manipulating ingredients in cigarettes to make them inhalable;
- c. genetically modifying nicotine in tobacco plants;
- d. blending different types of tobacco to obtain a desired amount of nicotine;
- e. engineering cigarettes to be rapidly inhaled into the lungs;
- f. adding chemicals and other deadly, poisonous compounds to cigarettes;
- g. adding and/or manipulating compounds such as ammonia and diammonium phosphate to Defendants' cigarettes to "free-base" nicotine;
- h. manipulating levels of pH in Defendants' cigarettes;
- i. manipulating and adding deadly and harmful additives, compounds, and ingredients in their cigarette design and manufacturing process when alternative, less dangerous materials were available;
- j. intentionally failing to filter out harmful substances so that during ordinary use, such materials would not be liberated into the air and/or breathed by the smoker such as the Decedent herein;
- k. designing, through the use of filters, manufacturing methods, engineering methods and/or materials, cigarettes in such a way to make smoking them more tasteful, pleasurable and less likely to trigger the smoker's own biological self defense mechanisms which otherwise may have limited and/or altered the smoker's behavior in such a way that the smoker may have smoked less, inhaled less deeply or not at all;

1. adding “onserts” to packages of cigarettes even after the United States government banned marketing of “light” and “ultra-light” cigarettes;
- m. failing to create safer alternative designs for cigarettes including nicotine free or reduced nicotine cigarettes;
- n. falsely labeling and branding cigarettes as filtered, “light” “low tar” and “ultra light;”

195. NOREEN THOMPSON was unaware of the defective and unreasonably dangerous condition of Defendants’ cigarettes, and at a time when such products were being used for the purposes for which they were intended, was exposed to, breathed smoke from, and inhaled Defendants’ cigarettes.

196. Defendants knew their cigarettes would be used without inspection for defects, and by placing them on the market, represented to foreseeable users, including NOREEN THOMPSON, that they would be safe.

197. NOREEN THOMPSON was unaware of the hazards and defects in Defendants’ cigarettes, to-wit: that exposure to said products would cause NOREEN THOMPSON to become addicted and develop lung cancer and ultimately caused her death.

198. Defendants’ actions are an actual and proximate or legal cause of NOREEN THOMPSON’S injuries. NOREEN THOMPSON thereby experienced great pain, and anxiety her body and mind. NOREEN THOMPSON sustained injuries and damages in an amount in excess of Fifteen Thousand Dollars (\$15,000.00), for which Plaintiff, DOLLY ROWAN, as Administrator of the Estate of NOREEN THOMPSON, now seeks recovery pursuant to NRS 41.100.

199. As a further actual and proximate or legal result of Defendants’ actions NOREEN THOMPSON underwent medical treatment and incurred past medical and/or incidental expenses. The exact amount of such damages is unknown at this present time, but NOREEN THOMPSON suffered special damages in excess of Fifteen Thousand Dollars (\$15,000.00). Plaintiff, DOLLY ROWAN, as

1 Administrator of the Estate of NOREEN THOMPSON seeks recovery of these damages pursuant to  
2 NRS 41.100.

3 200. Defendants' conduct was despicable and so contemptible that it would be looked down  
4 upon and despised by ordinary decent people and was carried on by Defendants with willful and  
5 conscious disregard for the safety of anyone in the community.  
6

7 201. Defendants' outrageous and unconscionable conduct warrants an award of exemplary  
8 and punitive damages pursuant to NRS 42.005, in an amount appropriate to punish and make an  
9 example of Defendants, and to deter similar conduct in the future. As Administrator of the Estate of  
10 NOREEN THOMPSON, DOLLY ROWAN seeks exemplary and punitive damages pursuant to NRS  
11 41.100.  
12

13 202. To the extent NRS 42.007 is applicable to Defendants' conduct, Defendants are  
14 vicariously liable for punitive damages arising from the outrageous and unconscionable conduct of  
15 their employees, agents, and/or servants, as set forth herein.

16 203. The actions of Defendants have forced Plaintiff to retain counsel to represent her in the  
17 prosecution of this action, and she is therefore entitled to an award of a reasonable amount as attorneys'  
18 fees and costs of suit.  
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**FIFTH CLAIM FOR RELIEF**

**(WRONGFUL DEATH - FRAUDULENT MISREPRESENTATION)**

**Dolly Rowan as Administrator of the Estate of Noreen Thompson, and Dolly Rowan, NAVONA COLLISON, and Russell Thompson, as Heirs of Noreen Thompson, Against Defendants R.J. Reynolds and Liggett**

204. Plaintiffs repeat and reallege the allegations contained in the paragraphs 1 through 116 and incorporates the same herein by reference.

205. Plaintiffs bring this wrongful death claim based on a fraudulent misrepresentation claim against Defendants R.J. Reynolds and Liggett.

206. Plaintiff, DOLLY ROWAN, is the heir of NOREEN THOMPSON.

207. Plaintiff, NAVONA COLLISON, is the heir of NOREEN THOMPSON.

208. Plaintiff, RUSSELL THOMPSON, is the heir of NOREEN THOMPSON.

209. Plaintiffs, DOLLY ROWAN, NAVONA COLLISON, and RUSSELL THOMPSON, bring this cause of action pursuant to NRS 41.085(4), as the heirs of NOREEN THOMPSON.

210. Plaintiff, DOLLY ROWAN, is the Special Administrator and Personal Representative of the Estate of NOREEN THOMPSON.

211. Plaintiff, DOLLY ROWAN, brings this claim pursuant to 41.085(5) as the Special Administrator and Personal Representative of the Estate of NOREEN THOMPSON.

212. Beginning at an exact time unknown to Plaintiffs, and continuing even today, the cigarette manufacturers, including Defendants herein, have carried out, and continue to carry out a campaign designed to deceive the public, including NOREEN THOMPSON, the government, and others, as to the health hazards and addictive nature of cigarettes, through false statements and/or misrepresentations of material facts.

213. The cigarette manufacturers, including Defendants herein, made literally thousands of misrepresentations to the decedent and others similarly situated over the course of the last fifty years.

1 Plaintiff is unable to allege in full these misrepresentations, which are found in thousands of pre-1969  
2 advertisements, continuing press releases, testimony by cigarette manufacturers' officers and employees  
3 before Congress and other governmental entities, etc., that the cigarette manufacturers and their co-  
4 conspirators, THE TOBACCO INSTITUTE, INC. ("TI") formed in 1958, TOBACCO INDUSTRY  
5 RESEARCH COMMITTEE ("TIRC") formed in 1954, and COUNCIL for TOBACCO RESEARCH  
6 ("CTR") formed in 1964 and previously known as the TIRC, both because she does not have access to  
7 this information, and because to allege each and every such misrepresentation and/or false statement here  
8 would entail hundreds or even thousands of pages of pleadings. I Indeed, it is the cigarette manufacturers  
9 themselves, including Defendants herein, that have this knowledge and information, and are in the best  
10 position to know the contents of each and every such misrepresentation and/or false statement.  
11

12 214. Defendants made intentional misrepresentations, false promises, concealed  
13 information, and failed to disclose material information concerning the health effects and addictive  
14 nature of cigarettes to NOREEN THOMPSON, the public, and the American government.  
15

16 215. Defendants carried out their campaign of fraud, false statements, and/or  
17 misrepresentations in the following ways, without limitation:

- 18 a. Defendants falsely represented to NOREEN THOMPSON that questions about  
19 smoking and health would be answered by unbiased, trustworthy sources;
- 20 b. Defendants misrepresented and confused facts about health hazards of cigarettes and  
21 nicotine addiction;
- 22 c. Defendants, along with other cigarette manufacturers, spent billions of dollars hiring  
23 lawyers, fake scientists, and public relations firms to misdirect purported "objective"  
24 scientific research;
- 25 d. Defendants discouraged meritorious litigation by engaging in "scorched earth" tactics,  
26 as noted in a previously secret 1988 document: "to paraphrase General Patton, the way  
27  
28

1 we won these cases was not by spending all of [their] money, but by making that other  
2 son of a bitch spend all of his;”

3 e. Defendants suppressed and distorted evidence concerning the health effects and  
4 addictive nature of cigarettes to protect their existence and profits;

5 f. Defendants designed, marketed, and sold so-called “filtered” and “light” cigarettes  
6 despite knowing internally that such cigarettes were just as addictive, dangerous, and  
7 deadly as “regular” cigarettes.  
8

9 i. Defendants knew their system to measure the tar and nicotine was neither a  
10 valid nor reliable way to measure the amount of tar and nicotine inhaled by an  
11 actual smoker.

12 ii. Notwithstanding same, the Defendants marketed “Light” cigarettes to  
13 consumers as a safer alternative based upon said measuring system.

14 iii. Defendants manipulated the design of cigarettes to produce test results that  
15 were artificially low.  
16

17 iv. Defendants knew that “Light” cigarette smokers compensate to obtain the same  
18 level of tar or nicotine as non-light cigarettes either by taking more puffs on  
19 each cigarette, by taking larger, longer or deeper puffs, and/or by smoking more  
20 cigarettes.  
21

22 g. Defendants continued to fraudulently market and sell “mild”, “low tar”, and “light”  
23 cigarettes through 2010 despite knowing they were no safer than ‘full flavor’ cigarettes  
24 and knowing consumers perceived them as safer.

25 i. The cigarette manufacturers, including Defendants herein, were ultimately  
26 prohibited by Congress from marketing “mild”, “low tar”, and “light” cigarettes  
27 when Congress passed the Family Smoking Prevention and Tobacco Control  
28

1 Act, Public Law 111-31 (June 22, 2009), which became effective on June 22,  
2 2010.

3 ii. Despite the congressional ban, the cigarette manufacturers, including  
4 Defendants herein, have continued to market and sell even today the same  
5 “mild”, “low tar”, and “light” cigarettes, only now these cigarettes are marketed  
6 with a new package coloring scheme in order to get around the banned light  
7 descriptors.

8  
9 iii. These cigarettes are the same or substantially the same as the pre-prohibition  
10 “mild”, “light”, and “low tar” cigarettes. By design, consumers often perceive  
11 the color descriptors on packaging as suggesting the cigarettes are less harmful  
12 to smoke than regular or full flavor brands.

13  
14 iv. The cigarette manufacturers, including Defendants herein, are thus able to  
15 continue fraudulently misrepresenting the “light”, “low tar” and “mild”  
16 cigarette marketing the ban was designed to prevent.

17 216. Cigarette manufacturers, including Defendants herein, knew cigarettes were dangerous  
18 and addictive. It became their practice, purpose, and goal to question any scientific research which  
19 concluded cigarettes were dangerous. They did this through misleading media campaigns, mailings  
20 to doctors and other scientific professionals, and testimony before governmental bodies.

21  
22 217. Defendants made multiple misrepresentations to NOREEN THOMPSON, including  
23 misrepresentations and misleading statements in advertisements, news programs and articles, media  
24 reports, and press releases, concerning the health effects and addictive nature of cigarettes, including  
25 “light” and “low tar” cigarettes.



1           218. Throughout the years, Defendants and co-conspirators have repeatedly stated that  
2 cigarettes were not dangerous, and that they would either remove harmful constituents or stop making  
3 cigarettes altogether. Some examples include:

- 4           a. A 1970 advertisement from the Tobacco Institute said: “[t]he Tobacco Institute  
5 believes the American public is entitled to complete, authenticated information  
6 about cigarette smoking and health.”
- 7           b. In 1971, Joseph Cullman, Chairman of Philip Morris, stated on Face the Nation,  
8 “we do not believe that cigarettes are hazardous; we don’t accept that.”
- 9           c. In 1972 Philip Morris vice president James Bowling repeated the company’s  
10 promise to consumers two decades earlier that “if our product is harmful, we’ll  
11 stop making it.”
- 12           d. Bowling repeated the company’s position on smoking and health in a 1976  
13 interview when he noted: “from our standpoint, if anyone ever identified any  
14 ingredient in tobacco smoke as being hazardous to human health or being  
15 something that shouldn’t be there, we could eliminate it. But no one ever has.”
- 16           e. In a 1978 magazine interview William Dwyer, vice president of the Tobacco  
17 Institute, stated: “we take the view that the best science can say is that cigarette  
18 smoking may be hazardous. And then it may not be.”
- 19           f. A 1978 Philip Morris publication entitled “Facts About the Smoking  
20 Controversy” stated: “scientists have not determined what causes  
21 cancer...cigarettes have never been proven unsafe.”
- 22           g. In 1985, R.J. Reynolds took out advertisements in major newspapers and  
23 magazines which stated: “We believe in science. That is why we continue to  
24 provide funding for independent research into smoking and health...Science is  
25 science. Proof is proof. That is why the controversy over smoking and health  
26 remains an open one.”

27           219. Defendants continued to make these and similar statements well into the 1990s, with  
28 the goal of convincing consumers to start and keep smoking, not reduce their smoking, and/or not quit.

29           220. Defendants and the tobacco industry promoted their message through many press  
30 releases and statements and through less obvious methods, including influencing the content of  
31 apparently neutral articles and cultivating opinion leaders who would convey their message.

1 Defendant and the tobacco industry communicated their message through all forms of available media,  
2 including newspapers, magazines, and television.

3       221. Industry spokespersons appeared on news shows, on commercials and public television  
4 to state falsely that the evidence concerning the health effects of tobacco was based primarily on  
5 statistical relationships and that there was no proof that a specific tobacco component caused a specific  
6 disease and that cigarette smoking was not addictive.

7  
8       222. Cigarette manufacturers when sued denied that cigarettes were addictive and claimed that  
9 smoking was a matter of free choice and that smokers could simply quit smoking if they so wanted.

10       223. Cigarette manufacturers claimed attorney-client privilege to shield as many documents as  
11 possible from disclosure and destroyed and/or refused to produce documents related to health issues and  
12 plaintiffs' claims.

13  
14       224. Cigarette manufacturers, when sued for smoking-related injuries, conducted the litigation  
15 in such a way as to cause the maximum expenditure of time and resources by the claimants for the  
16 purposes of exhausting their adversaries' resources and to discourage other meritorious litigation.

17       225. These misrepresentations and false statements include, but are not limited to, the  
18 aforementioned statements and actions contained herein, including in the *Historical Allegations of*  
19 *Defendants Unlawful Conduct Giving Rise to the Lawsuit* section above.

20  
21       226. These misrepresentations and false statements also include the following statements  
22 which were heard, read, and relied upon by Decedent, NOREEN THOMPSON, who remembered  
23 these statements or substantially similar statements, made by Defendants, their co-conspirators, and  
24 their spokespeople:

25       a. That the addictive nature and health effects of smoking were matters of "open debate."  
26  
27  
28

- b. "It is not known whether cigarettes cause cancer, it has not been casually established." Edward Horrigan, President of R.J. Reynolds Tobacco Company on ABC Nightline 1984.
- c. "Despite all of the research to date there has been no causal link established [between cigarette smoking and cancer]." Edward Horrigan, President of R.J. Reynolds Tobacco Company on ABC Nightline 1984.
- d. "There is absolutely no proof that cigarettes are addictive." Edward Horrigan, CEO of R.J. Reynolds, Congressional Testimony 1982.
- e. "Claims that cigarettes are addictive [are] irresponsible and scare tactics." Tobacco Industry Response to 1988 United States Surgeon General's Report.
- f. "To my knowledge, it's not been proven that cigarette smoking causes cancer." William Campbell, CEO Philip Morris, Congressional Testimony, 1993.

227. The aforementioned acts, false statements and/or misrepresentations which were made and/or caused to be made by the cigarette manufacturers, either directly or indirectly including Defendants herein and their co-conspirators, were justifiably relied upon by NOREEN THOMPSON, resulted in NOREEN THOMPSON being unaware of the extent of the danger of the Defendant's cigarette products, the addictive nature of Defendants' cigarette products, and that filtered and "light" cigarettes were just as dangerous as regular and/or unfiltered cigarettes.

228. Furthermore, NOREEN THOMPSON relied on Defendants' false and misleading marketing and advertisements of cigarettes, which caused her to start and continue smoking filtered cigarettes, including but not limited to the following:

- a. False and misleading commercials.
- b. False and misleading marketing gimmicks and jingles including but not limited to the Winston Jingle "Winston takes good like a cigarette should," the iconic "Marlboro

1 Man,” “Marlboro Country,” “Walk a Mile for Camel,” “Joe Camel,” Lucile Ball, and  
2 Rawhide.

3 c. False and misleading marketing tactics regarding “filtered” cigarettes which caused  
4 Mrs. Thompson to smoke a filtered cigarette and continue to smoke a filtered cigarette  
5 and become addicted to a filtered cigarette which caused and contributed to her  
6 developing lung cancer.  
7

8 229. NOREEN THOMPSON, during the course of her smoking history, heard some or all  
9 of the false or misleading statements and/or similar statements made directly or indirectly by the  
10 Defendants, believed some or all of the Defendants’ false or misleading statements and relied upon  
11 them to her detriment, and smoked and/or continued to smoke cigarettes based on such false or  
12 misleading statements.  
13

14 230. The aforementioned acts, false statements and/or misrepresentations which were made  
15 and/or caused to be made by the cigarette manufacturers, including Defendants herein, and their co-  
16 conspirators were justifiably relied upon by NOREEN THOMPSON, resulted in her being unaware  
17 of the extent of the danger of the Defendants’ cigarette products, the addictive nature of Defendants’  
18 cigarette products, and that low tar, low nicotine and/or filtered cigarettes were just as dangerous as  
19 regular and/or unfiltered cigarettes. Such acts, false statements and/or misrepresentations were made  
20 by the Defendants who had knowledge superior to NOREEN THOMPSON regarding the health  
21 aspects and addictive nature of cigarettes.  
22

23 231. As a direct and proximate result of these aforementioned statements, Decedent,  
24 NOREEN THOMPSON, continued to smoke cigarettes which caused or contributed her developing  
25 lung cancer.

26 232. If NOREEN THOMPSON had known the true health hazards and addictive nature of  
27 cigarettes, she would not have started smoking, nor smoked light, low tar, and/or filtered cigarettes.  
28

1 nor continued to smoke for many years.

2 233. As a direct and proximate result of these aforementioned statements, Decedent,  
3 NOREEN THOMPSON, relied upon the assurances from the tobacco industry, including statements  
4 and sworn congressional testimony from Defendants' CEOs and also statements from the Defendants'  
5 spokesmen and women hired by Defendants and their co-conspirators, and as a direct and proximate  
6 result of that reliance, continued to smoke cigarettes.  
7

8 234. Defendants made intentional misrepresentations to Decedent, NOREEN THOMPSON,  
9 in the following ways:

- 10 a. The aforementioned representations were regarding material facts about cigarettes and  
11 were knowingly false;  
12  
13 b. Defendants knew said representations were false at the time they made such statements;  
14  
15 c. Defendants knew NOREEN THOMPSON did not possess sufficient information to  
16 understand or appreciate the dangers of cigarettes;  
17  
18 d. Defendants intended to induce NOREEN THOMPSON, and did indeed induce  
19 NOREEN THOMPSON, to rely upon the aforementioned false  
20 representations/acts/statements;  
21  
22 e. NOREEN THOMPSON was unaware of the falsity of Defendants' aforementioned  
23 false representations/acts/statements;  
24  
25 f. NOREEN THOMPSON was justified in relying upon Defendants' misrepresentations  
26 because they were made by Defendants, who possessed superior knowledge regarding  
27 the health hazards and addictive nature of cigarettes;  
28  
g. As a direct and proximate and/or legal cause of Defendants' intentional  
misrepresentations, NOREEN THOMPSON became addicted to cigarettes and  
developed lung cancer, which caused her death.

235. Furthermore, Defendants made false promises to Decedent, NOREEN THOMPSON, in the following ways:

- a. By making false promises to the public, including NOREEN THOMPSON that Defendants would (i) cooperate with public health, including the Surgeon General, (ii) conduct allegedly “objective” research regarding the addictive nature and health hazards of cigarettes, (ii) remove any harmful elements to cigarettes, if there were any, (iv) form purported “objective” research committees dedicated to undertaking an interest in health as its “basic responsibility paramount to every other consideration,” (v) falsely pledging to provide aid and assistance to research cigarette use and health and others;
- b. At all times material, Defendants did not intend to keep their promises;
- c. Defendants made these promises with the intent to induce Decedent to begin and continue smoking;
- d. NOREEN THOMPSON was unaware of Defendants’ intention not to perform their promises;
- e. NOREEN THOMPSON acted in reliance upon Defendants’ promises;
- f. NOREEN THOMPSON was justified in relying upon Defendants’ promises;
- g. As a direct and proximate and/or legal cause of Defendants’ false promises, NOREEN THOMPSON became addicted to cigarettes and developed lung cancer, which caused her death.

236. Defendants’ conduct was the actual and proximate or legal cause of NOREEN THOMPSON’S injuries and death. Plaintiffs, DOLLY ROWAN, NAVONA COLLISON, and RUSSELL THOMPSON, have sustained damages consisting of the loss of NOREEN THOMPSON’S love, companionship, comfort, affection, society, and moral support, and have suffered great

1 emotional and psychological loss, all in amount in excess of Fifteen Thousand Dollars (\$15,000.00).  
2 As NOREEN THOMPSON'S heir, Plaintiffs, DOLLY ROWAN, NAVONA COLLISON, and  
3 RUSSELL THOMPSON, seek these damages pursuant to NRS 41.085(4).

4         237. As a further actual and proximate or legal result of Defendants' conduct, NOREEN  
5 THOMPSON endured pain, suffering, and/or disfigurement. As NOREEN THOMPSON'S heirs,  
6 Plaintiffs, DOLLY ROWAN, NAVONA COLLISON, and RUSSELL THOMPSON, seeks general  
7 damages for this pain, suffering, and/or disfigurement pursuant to NRS 41.085(4) in an amount in  
8 excess of Fifteen Thousand Dollars (\$15,000.00).

9  
10         238. As a further actual and proximate or legal result of Defendants' conduct, NOREEN  
11 THOMPSON'S estate incurred special damages, to include medical expenses and funeral expenses,  
12 in an amount in excess of Fifteen Thousand Dollars (\$15,000.00). As personal representative of  
13 NOREEN THOMPSON'S Estate, DOLLY ROWAN seeks these special damages pursuant to NRS  
14 41.085(5).

15  
16         239. Defendants' conduct was despicable and so contemptible that it would be looked down  
17 upon and despised by ordinary decent people and was carried on by Defendants with willful and  
18 conscious disregard for the safety of anyone in the community.

19  
20         240. Defendants' outrageous and unconscionable conduct warrants an award of exemplary  
21 and punitive damages pursuant to NRS 42.005, in an amount appropriate to punish and make an  
22 example of Defendants, and to deter similar conduct in the future. As personal representative of  
23 NOREEN THOMPSON'S estate, DOLLY ROWAN seeks exemplary and punitive damages pursuant  
24 to NRS 41.085(5).

25         241. To the extent NRS 42.007 is applicable to Defendants' conduct, Defendants are  
26 vicariously liable for punitive damages arising from the outrageous and unconscionable conduct of  
27 their employees, agents, and/or servants, as set forth herein.  
28

1           242. The actions of Defendants have forced Plaintiffs to retain counsel to represent them in  
2 the prosecution of this action, and they are therefore entitled to an award of a reasonable amount as  
3 attorneys' fees and costs of suit.  
4

5  
6  
7  
8                           **SIXTH CLAIM FOR RELIEF**

9                           **(FRAUDULENT MISREPRESENTATION)**

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

12           243. Plaintiff repeats and realleges each and every allegation as contained in paragraphs 1  
13 through 116 and 204 through 242 and incorporates the same herein by reference.  
14

15           244. Plaintiff, DOLLY ROWAN, brings this claim as Administrator of the Estate of  
16 NOREEN THOMPSON pursuant to NRS 41.100.

17           245. Beginning at an exact time unknown to Plaintiff, and continuing even today, the  
18 cigarette manufacturers, including Defendants herein, have carried out, and continue to carry out a  
19 campaign designed to deceive the public, including NOREEN THOMPSON, the government, and  
20 others, as to the health hazards and addictive nature of cigarettes, through false statements and/or  
21 misrepresentations of material facts.  
22

23           246. The cigarette manufacturers, including Defendants herein, made literally thousands of  
24 misrepresentations to the decedent and others similarly situated over the course of the last fifty years.  
25 Plaintiff is unable to allege in full these misrepresentations, which are found in thousands of pre-1969  
26 advertisements, continuing press releases, testimony by cigarette manufacturers' officers and employees  
27 before Congress and other governmental entities, etc., that the cigarette manufacturers and their co-  
28 conspirators TI (formed in 1958), TIRC (formed in 1954), and CTR (formed in 1964)), both because she