

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. 15**

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1 does not have access to this information, and because to allege each and every such misrepresentation
2 and/or false statement here would entail hundreds or even thousands of pages of pleadings. I Indeed, it is
3 the cigarette manufacturers themselves, including Defendants herein, that have this knowledge and
4 information, and are in the best position to know the contents of each and every such misrepresentation
5 and/or false statement.
6

7 247. Defendants made intentional misrepresentations, false promises, concealed
8 information, and failed to disclose material information concerning the health effects and addictive
9 nature of cigarettes to NOREEN THOMPSON, the public, and the American government.

10 248. Defendants carried out their campaign of fraud, false statements, and/or
11 misrepresentations in the following ways, without limitation:

- 12 a. Defendants falsely represented to NOREEN THOMPSON that questions about
13 smoking and health would be answered by unbiased, trustworthy sources;
- 14 b. Defendants misrepresented and confused facts about health hazards of cigarettes and
15 nicotine addiction;
- 16 c. Defendants, along with other cigarette manufacturers, spent billions of dollars hiring
17 lawyers, fake scientists, and public relations firms to misdirect purported “objective”
18 scientific research;
- 19 d. Defendants discouraged meritorious litigation by engaging in “scorched earth” tactics,
20 as noted in a previously secret 1988 document: “to paraphrase General Patton, the way
21 we won these cases was not by spending all of [their] money, but by making that other
22 son of a bitch spend all of his;”
- 23 e. Defendants suppressed and distorted evidence concerning the health effects and
24 addictive nature of cigarettes to protect their existence and profits;
- 25
- 26
- 27
- 28

- 1 f. Defendants designed, marketed, and sold so-called “filtered” and “light” cigarettes
2 despite knowing internally that such cigarettes were just as addictive, dangerous, and
3 deadly as “regular” cigarettes.
- 4 i. Defendants knew their system to measure the tar and nicotine was neither a
5 valid nor reliable way to measure the amount of tar and nicotine inhaled by an
6 actual smoker.
- 7 ii. Notwithstanding same, the Defendants marketed “Light” cigarettes to
8 consumers as a safer alternative based upon said measuring system.
- 9 iii. Defendants manipulated the design of cigarettes to produce test results that
10 were artificially low.
- 11 iv. Defendants knew that “Light” cigarette smokers compensate to obtain the same
12 level of tar or nicotine as non-light cigarettes either by taking more puffs on
13 each cigarette, by taking larger, longer or deeper puffs, and/or by smoking more
14 cigarettes.
- 15 g. Defendants continued to fraudulently market and sell “mild”, “low tar”, and “light”
16 cigarettes through 2010 despite knowing they were no safer than ‘full flavor’ cigarettes
17 and knowing consumers perceived them as safer.
- 18 i. The cigarette manufacturers, including Defendants herein, were ultimately
19 prohibited by Congress from marketing “mild”, “low tar”, and “light” cigarettes
20 when Congress passed the Family Smoking Prevention and Tobacco Control
21 Act, Public Law 111-31 (June 22, 2009), which became effective on June 22,
22 2010.
- 23 ii. Despite the congressional ban, the cigarette manufacturers, including
24 Defendants herein, have continued to market and sell even today the same
25
26
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1 “mild”, “low tar”, and “light” cigarettes, only now these cigarettes are marketed
2 with a new package coloring scheme in order to get around the banned light
3 descriptors.

4
5 iii. These cigarettes are the same or substantially the same as the pre-prohibition
6 “mild”, “light”, and “low tar” cigarettes. By design, consumers often perceive
7 the color descriptors on packaging as suggesting the cigarettes are less harmful
8 to smoke than regular or full flavor brands.

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

12
13 249. Cigarette manufacturers, including Defendants herein, knew cigarettes were dangerous
14 and addictive. It became their practice, purpose, and goal to question any scientific research which
15 concluded cigarettes were dangerous. They did this through misleading media campaigns, mailings
16 to doctors and other scientific professionals, and testimony before governmental bodies.

17 250. Defendants made multiple misrepresentations to NOREEN THOMPSON, including
18 misrepresentations and misleading statements in advertisements, news programs and articles, media
19 reports, and press releases, concerning the health effects and addictive nature of cigarettes, including
20 “light” and “low tar” cigarettes.

21
22 251. Throughout the years, Defendants and co-conspirators have repeatedly stated that
23 cigarettes were not dangerous, and that they would either remove harmful constituents or stop making
24 cigarettes altogether. Some examples include:

- 25 a. A 1970 advertisement from the Tobacco Institute said: “[t]he Tobacco Institute
26 believes the American public is entitled to complete, authenticated information
27 about cigarette smoking and health.”
28 b. In 1971, Joseph Cullman, Chairman of Philip Morris, stated on Face the Nation,
“we do not believe that cigarettes are hazardous; we don’t accept that.”

- c. In 1972 Philip Morris vice president James Bowling repeated the company's promise to consumers two decades earlier that "if our product is harmful, we'll stop making it."
- d. Bowling repeated the company's position on smoking and health in a 1976 interview when he noted: "from our standpoint, if anyone ever identified any ingredient in tobacco smoke as being hazardous to human health or being something that shouldn't be there, we could eliminate it. But no one ever has."
- e. In a 1978 magazine interview William Dwyer, vice president of the Tobacco Institute, stated: "we take the view that the best science can say is that cigarette smoking may be hazardous. And then it may not be."
- f. A 1978 Philip Morris publication entitled "Facts About the Smoking Controversy" stated: "scientists have not determined what causes cancer...cigarettes have never been proven unsafe."
- g. In 1985, R.J. Reynolds took out advertisements in major newspapers and magazines which stated: "We believe in science. That is why we continue to provide funding for independent research into smoking and health...Science is science. Proof is proof. That is why the controversy over smoking and health remains an open one."

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

253. Defendants and the tobacco industry promoted their message through many press releases and statements and through less obvious methods, including influencing the content of apparently neutral articles and cultivating opinion leaders who would convey their message. Defendant and the tobacco industry communicated their message through all forms of available media, including newspapers, magazines, and television.

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

1 255. Cigarette manufacturers when sued denied that cigarettes were addictive and claimed that
2 smoking was a matter of free choice and that smokers could simply quit smoking if they so wanted.

3 256. Cigarette manufacturers claimed attorney-client privilege to shield as many documents as
4 possible from disclosure and destroyed and/or refused to produce documents related to health issues and
5 plaintiffs' claims.
6

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

10 258. These misrepresentations and false statements include, but are not limited to, the
11 aforementioned statements and actions contained herein, including in the *Historical Allegations of*
12 *Defendants Unlawful Conduct Giving Rise to the Lawsuit* section above.
13

14 259. These misrepresentations and false statements also include the following statements
15 which were heard, read, and relied upon by Decedent, NOREEN THOMPSON, who remembered
16 these statements or substantially similar statements, made by Defendants, their co-conspirators, and
17 their spokespeople:

- 18 a. That the addictive nature and health effects of smoking were matters of "open debate."
19 b. "It is not known whether cigarettes cause cancer, it has not been casually established."
20 Edward Horrigan, President of R.J. Reynolds Tobacco Company on ABC Nightline
21 1984.
22 c. "Despite all of the research to date there has been no causal link established [between
23 cigarette smoking and cancer]." Edward Horrigan, President of R.J. Reynolds Tobacco
24 Company on ABC Nightline 1984.
25 d. "There is absolutely no proof that cigarettes are addictive." Edward Horrigan, CEO of
26 R.J. Reynolds, Congressional Testimony 1982.
27
28

- 1 e. "Claims that cigarettes are addictive [are] irresponsible and scare tactics." Tobacco
2 Industry Response to 1988 United States Surgeon General's Report.
3 f. "To my knowledge, it's not been proven that cigarette smoking causes cancer."
4 William Campbell, CEO Philip Morris, Congressional Testimony, 1993.

5 260. The aforementioned acts, false statements and/or misrepresentations which were made
6 and/or caused to be made by the cigarette manufacturers, either directly or indirectly including
7 Defendants herein and their co-conspirators, were justifiably relied upon by NOREEN THOMPSON,
8 resulted in NOREEN THOMPSON being unaware of the extent of the danger of the Defendants'
9 cigarette products, the addictive nature of Defendants' cigarette products, and that filtered and "light"
10 cigarettes were just as dangerous as regular and/or unfiltered cigarettes.
11

12 261. Furthermore, NOREEN THOMPSON relied on Defendants' following false and
13 misleading marketing and advertisements of cigarettes, which caused her to start and continue
14 smoking filtered cigarettes, without limitation:
15

- 16 a. False and misleading commercials.
17 b. False and misleading marketing gimmicks and jingles including but not limited to the
18 Winston Jingle "Winston takes good like a cigarette should," the iconic "Marlboro
19 Man," "Marlboro Country," "Walk a Mile for Camel," "Joe Camel," Lucile Ball, and
20 Rawhide.
21 c. False and misleading marketing tactics regarding "filtered" cigarettes which caused
22 Mrs. Thompson to smoke a filtered cigarette and continue to smoke a filtered cigarette
23 and become addicted to a filtered cigarette which caused and contributed to her
24 developing lung cancer.
25

26 262. NOREEN THOMPSON, during the course of her smoking history, heard some or all
27 of the false or misleading statements and/or similar statements made directly or indirectly by the
28

1 Defendants, believed some or all of the Defendants' false or misleading statements and relied upon
2 them to her detriment, and smoked and/or continued to smoke cigarettes based on such false or
3 misleading statements.

4 263. The aforementioned acts, false statements and/or misrepresentations which were made
5 and/or caused to be made by the cigarette manufacturers, including Defendants herein, and their co-
6 conspirators were justifiably relied upon by NOREEN THOMPSON, resulted in her being unaware
7 of the extent of the danger of the Defendants' cigarette products, the addictive nature of Defendants'
8 cigarette products, and that low tar, low nicotine and/or filtered cigarettes were just as dangerous as
9 regular and/or unfiltered cigarettes. Such acts, false statements and/or misrepresentations were made
10 by the Defendants who had knowledge superior to NOREEN THOMPSON regarding the health
11 aspects and addictive nature of cigarettes.
12

13 264. As a direct and proximate result of these aforementioned statements, Decedent,
14 NOREEN THOMPSON, continued to smoke cigarettes which caused or contributed her developing
15 lung cancer.
16

17 265. If NOREEN THOMPSON had known the true health hazards and addictive nature of
18 cigarettes, she would not have started smoking, nor smoked light, low tar, and/or filtered cigarettes.
19 nor continued to smoke for many years.
20

21 266. Decedent, NOREEN THOMPSON, relied upon the assurances from the tobacco
22 industry, including statements and sworn congressional testimony from Defendants' CEOs and also
23 statements from the Defendants' spokesmen and women hired by Defendants and their co-
24 conspirators, and as a direct and proximate result of that reliance, continued to smoke cigarettes.

25 267. Defendants made intentional misrepresentations to Decedent, NOREEN THOMPSON,
26 in the following ways:
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28

- a. The aforementioned representations were regarding material facts about cigarettes and were knowingly false;
- b. Defendants knew said representations were false at the time they made such statements;
- c. Defendants knew NOREEN THOMPSON did not possess sufficient information to understand or appreciate the dangers of cigarettes;
- d. Defendants intended to induce NOREEN THOMPSON, and did indeed induce NOREEN THOMPSON, to rely upon the aforementioned false representations/acts/statements;
- e. NOREEN THOMPSON was unaware of the falsity of Defendants' aforementioned false representations/acts/statements;
- f. NOREEN THOMPSON was justified in relying upon Defendants' misrepresentations because they were made by Defendants, who possessed superior knowledge regarding the health hazards and addictive nature of cigarettes;
- 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.

268. 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.

269. Defendants' conduct is 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'S 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.

270. As a further actual and proximate or legal result of Defendants' conduct 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 NOREEN, as Administrator of the Estate of NOREEN THOMPSON seeks recovery of these damages pursuant to NRS 41.100.

271. 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.

272. 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 Administrator of the Estate of NOREEN THOMPSON, DOLLY ROWAN seeks exemplary and punitive damages pursuant to NRS 41.100.

273. 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.

274. The actions of Defendants have forced Plaintiff to retain counsel to represent her in the prosecution of this action, and she is therefore entitled to an award of a reasonable amount as attorneys' fees and costs of suit.

SEVENTH CLAIM FOR RELIEF

(WRONGFUL DEATH – FRAUDULENT CONCEALMENT)

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

275. Plaintiffs repeat and reallege the allegations contained in the paragraphs 1-116 and 204– 274 and incorporates the same herein by reference.

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

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

1 278. Plaintiff, NAVONA COLLISON, is the heir of NOREEN THOMPSON.

2 279. Plaintiff, RUSSELL THOMPSON, is the heir of NOREEN THOMPSON.

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

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

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

9 283. Beginning at an exact time unknown to NOREEN THOMPSON, and continuing today,
10 cigarette manufacturers, including Defendants herein, have carried out, and continue to carry out, a
11 campaign designed to deceive the public, including NOREEN THOMPSON, physicians, the
12 government, and others as to the true dangers of cigarettes.

13 284. Cigarette manufacturers, including Defendants herein, carried out their plan by
14 concealing and suppressing facts, information, and knowledge about the dangers of smoking,
15 including addiction.

16 285. Defendants carried out their scheme by concealing their knowledge concerning the
17 dangerous and addictive nature of cigarettes as set forth in the *Historical Allegations of Defendants*
18 *Unlawful Conduct Giving Rise to the Lawsuit* allegations referenced above.

19 286. Defendants also carried out such scheme by concealing their knowledge concerning,
20 but not limited to, the following:

- 21 a. the highly addictive nature of nicotine in cigarettes;
- 22 b. the design of cigarettes to make them more addictive and easier to inhale;
- 23 c. the manipulating and controlling of nicotine content of their products to create and
24 perpetuate users' addiction to cigarettes;
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- d. the manufacturing and engineering process of making cigarettes, including adding chemicals and other deadly, poisonous compounds to cigarettes;
- e. the deliberate use of ammonia technology and/or certain tobacco blends to boost the pH of cigarette smoke to “free base” nicotine in cigarettes;
- f. their intentional use of tobacco high in nitrosamines—a potent carcinogen not found in natural, green tobacco leaf, but created during the tobacco curing process;
- g. their scheme to target and addict children to replace customers who were dying from smoking cigarettes;
- h. the true results of their research regarding the dangers posed by smoking cigarettes and the addictive nature of cigarettes. For example, in response to the 1965 Surgeon General report that related cigarette smoking to lung cancer in men, the cigarette manufacturers, including Defendants herein, concealed their research from the year prior which concluded:

Moreover, nicotine is addictive. We are, then in the business of selling nicotine, an addictive drug effective in the release of stress mechanisms ... But cigarettes - we assume the Surgeon General's Committee to say - despite the beneficent effect of nicotine, have certain unattractive side effects:

1. They cause, or predispose to, lung cancer.
 2. They contribute to certain cardiovascular disorders.
 3. They may well be truly causative in emphysema, etc.
- i. the risks of contracting cancer, including but not limited to laryngeal cancer, esophageal cancer, other head and neck cancers, oral cancer, emphysema, COPD, lung cancer, heart disease, strokes, bladder cancer, and other forms of cancer;
 - j. filtered, low tar, low nicotine, and/or “light” cigarettes were not safe, safer, or less dangerous than “regular” cigarettes;
 - k. the Federal Trade Commission (“FTC”) method of measuring “tar & nicotine” levels

underestimated and did not accurately reflect the levels of tar and nicotine delivered to a smoker;

1. by continuing even today to fraudulently market and sell multiple brands as “filtered” knowing that smokers wrongly believe that filtered cigarettes reduce the harms of smoking and despite knowing internally that such cigarettes are just as addictive, dangerous, and deadly as non-filtered cigarettes.

287. Cigarette manufacturers, including Defendants herein, through their actions, funding, and involvement with TIRC/CTR, also concealed and/or made fraudulent statements and misrepresentations to the public, including NOREEN THOMPSON, including but not limited to the following:

- a. falsely concealing that the true purpose of TIRC/CTR was public relations, politics, and positioning for litigation;
- b. falsely pledging to provide aid and assistance to research cigarette use and health;
- c. expressly undertaking a disingenuous interest in health as its “basic responsibility paramount to every other consideration;”
- d. affirmatively assumed a (broken) promise to truthfully disclose adverse information regarding the health hazards of smoking;
- e. purposely created the illusion that scientific research regarding the dangers of cigarettes was being conducted and the results of which would be made public;
- f. concealing information regarding the lack of bona fide research being conducted by TIRC/CTR and the lack of funds being provided for research;
- g. concealing that TIRC/CTR was nothing more than a “public relations” front and shield.

288. Cigarette manufacturers, including Defendants herein, knew cigarettes were dangerous and addictive. It became their practice, purpose, and goal to question any scientific research which

1 concluded cigarettes were dangerous. They did this through misleading media campaigns, mailings
2 to doctors and other scientific professionals, and testimony before governmental bodies.

3 289. Defendants made multiple misrepresentations to NOREEN THOMPSON including
4 misrepresentations and misleading statements in advertisements, news programs and articles, media
5 reports, and press releases.

6 290. Throughout the years, Defendants and their co-conspirators have repeatedly stated that
7 cigarettes were not dangerous, and that they would either remove harmful constituents or stop making
8 cigarettes altogether. Some examples include:
9

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

1 291. Defendants continued to make these and similar statements well into the 1990s with
2 the goal of convincing smokers to start and keep smoking, not reduce their smoking, and/or not quit.

3 292. Defendants and the tobacco industry promoted their message through many press
4 releases and statements and through less obvious methods, including influencing the content of
5 apparently neutral articles and cultivating opinion leaders who would convey their message.
6 Defendants and the tobacco industry communicated their message through all forms of available
7 media, including newspapers, magazines, and television.
8

9 293. Industry spokespersons appeared on news shows, on commercials and public television
10 to state that the evidence concerning the health effects of tobacco was based primarily on statistical
11 relationships and that there was no proof that a specific tobacco component caused a specific disease
12 and that cigarette smoking was not addictive.
13

14 294. Cigarette manufacturers when sued denied that cigarettes were addictive and claimed that
15 smoking was a matter of free choice and that smokers could quit smoking if they so wanted.

16 295. Cigarette manufacturers claimed attorney-client privilege to shield as many documents as
17 possible from disclosure and destroyed and/or refused to produce documents related to health issues and
18 plaintiffs' claims.

19 296. Cigarette manufacturers, when sued for smoking-related injuries, conducted the litigation
20 in such a way as to cause the maximum expenditure of time and resources by the claimants for the
21 purposes of exhausting their adversaries' resources and to discourage other meritorious litigation.
22

23 297. The concealed statements and misrepresentations which concealed material
24 information about the health hazards of cigarettes also include the following statements which were
25 heard, read, and relied upon by Decedent, NOREEN THOMPSON, who remembers these or
26 substantially similar statements made by Defendants, their co-conspirators, and their spokespeople:
27
28

- a. That the addictive nature and health effects of smoking were matters of “open debate.”
“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.
- b. “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.
- c. “There is absolutely no proof that cigarettes are addictive.” Edward Horrigan, CEO of
R.J. Reynolds, Congressional Testimony 1982.
- d. “Claims that cigarettes are addictive [are] irresponsible and scare tactics.” Tobacco
Industry Response to 1988 United States Surgeon General’s Report.
- e. “To my knowledge, it’s not been proven that cigarette smoking causes cancer.”
William Campbell, CEO Philip Morris, Congressional Testimony, 1993.

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

299. Furthermore, NOREEN THOMPSON relied on Defendants’ following 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 Man,” “Marlboro Country,” “Walk a Mile for Camel,” “Joe Camel,” Lucile Ball, and Rawhide.

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

300. During the course of NOREEN THOMPSON’s smoking history, she heard some or all of the false and misleading statements above and/or similar statements made directly or indirectly by Defendants and their co-conspirators, believed some or all of the Defendants’ and their co-conspirators’ false and misleading statements, and relied to her detriment and continued to smoke cigarettes based on such false and misleading statements.

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

302. If NOREEN THOMPSON had known the true health hazards and addictive nature of cigarettes, she would not have started smoking, nor smoked light, low tar, and/or filtered cigarettes, nor continued to smoke for many years.

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

304. NOREEN THOMPSON and others similarly situated justifiably relied upon the

1 cigarette manufacturers, including the Defendants herein, the TIRC, and the CTR to disseminate
2 knowledge and information which they possessed regarding the health hazards of cigarettes, especially
3 after the industry chose to repeatedly and publicly deny the harms of smoking and the addictive nature
4 of cigarettes/nicotine. NOREEN THOMPSON, during the course of her smoking history, heard some
5 or all of these false and misleading statements and/or similar statements made directly or indirectly by
6 the Defendants, believed some or all of the Defendants' false and misleading statements, and relied to
7 her detriment, and smoked and/or continued to smoke cigarettes based on such false and misleading
8 statements.

10 305. The aforementioned information and/or knowledge concealed and/or suppressed by the
11 cigarette manufacturers, including Defendants herein and their co-conspirators, was concealed for the
12 purposes of inducing the Decedent to smoke and preventing her from quitting or reducing
13 consumption of cigarettes. NOREEN THOMPSON was unaware of the extent of the danger of the
14 Defendants' cigarette products, the addictive nature of Defendants' cigarette products, and that low
15 tar, low nicotine and/or filtered cigarettes were just as dangerous as unfiltered cigarettes. The
16 knowledge and information concealed by the cigarette manufacturers, including the Defendants
17 herein, who had superior knowledge regarding the health aspects of cigarettes than NOREEN
18 THOMPSON.

20 306. Defendants made false promises to Decedent, NOREEN THOMPSON, in the
21 following ways:

- 23 a. Defendants assumed the responsibility to provide NOREEN THOMPSON, and the
24 public, accurate and truthful information about their own products;
 - 25 b. Defendants concealed and/or suppressed the aforementioned material facts about the
26 dangers of cigarettes;
 - 27 c. Defendants were under a duty to disclose material facts about the dangers of cigarettes
- 28

1 to Decedent;

- 2 d. Defendants assumed the duty of disclosing material facts about the dangers of
3 cigarettes through repeated public statements concerning tobacco and health, the need
4 for more research, and the open question about disease causation;
5
6 e. Defendants knew they were concealing material facts about the dangers of cigarettes
7 from Decedent;
8
9 f. Defendants intended to induce Decedent to smoke and become addicted to cigarettes;
10
11 g. Decedent was unaware of the dangerous and addictive nature of cigarettes, and would
12 not have begun or continued to smoke had she known the aforementioned concealed
13 and/or suppressed information Defendants' possessed;
14
15 h. Decedent was unaware of the danger of Defendants' cigarettes, the addictive nature of
16 Defendants' cigarettes, and that low tar, low nicotine, "light," and/or filtered cigarettes
17 were just as dangerous as unfiltered and "regular" cigarettes;
18
19 i. Decedent justifiably relied upon Defendants to disseminate the superior knowledge and
20 information they possessed regarding the dangers of cigarettes;
21
22 j. The concealment and/or suppressed of material facts regarding the hazards of cigarettes
23 caused Decedent to become addicted to cigarettes, and also caused her to develop lung
24 cancer.
25

26 307. Defendants' conduct was the actual and proximate or legal cause of NOREEN
27 THOMPSON'S injuries and death. Plaintiffs, DOLLY ROWAN, NAVONA COLLISON, and
28 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
emotional and psychological loss, all in amount in excess of Fifteen Thousand Dollars (\$15,000.00).
As NOREEN THOMPSON heirs, Plaintiffs, DOLLY ROWAN, NAVONA COLLISON, and

1 RUSSELL THOMPSON, seek these damages pursuant to NRS 41.085(4).

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

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

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

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

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

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

EIGHTH CLAIM FOR RELIEF
(FRAUDULENT CONCEALMENT)

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

314. Plaintiff repeats and realleges each and every allegation as contained in paragraphs 1 through 116 and 204 through 313 and incorporate the same herein by reference.

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

316. Beginning at an exact time unknown to Plaintiff and continuing today, cigarette manufacturers, including Defendants herein, have carried out, and continue to carry out, a campaign designed to deceive the public, including NOREEN THOMPSON, physicians, the government, and others as to the true dangers and addictive nature of cigarettes.

317. Cigarette manufacturers, including Defendants herein, carried out their plan by concealing and suppressing facts, information, and knowledge about the dangers of smoking, including addiction.

320. Defendants carried out their scheme by concealing their knowledge concerning the dangers of cigarettes and its addictive nature as set forth in the *Historical Allegations of Defendants Unlawful Conduct Giving Rise to the Lawsuit* allegations referenced above.

321. Defendants also carried out their scheme by concealing their knowledge concerning , but not limited to, the following:

- a. the highly addictive nature of nicotine in cigarettes;
- b. the design of cigarettes to make them more addictive and easier to inhale;

- c. the manipulation and controlling of the nicotine content in their cigarettes to create and perpetuate users' addiction to cigarettes;
- d. the manufacturing and engineering process of making cigarettes, including adding chemicals and other deadly, poisonous compounds to cigarettes;
- e. the deliberate use of ammonia technology and/or certain tobacco blends to boost the pH of cigarette smoke to "free base" nicotine in cigarettes;
- f. their intentional use of tobacco high in nitrosamines—a potent carcinogen not found in natural, green tobacco leaf, but created during the tobacco curing process;
- g. their scheme to target and addict children to replace customers who were dying from smoking cigarettes;
- h. the true results of their research regarding the dangers posed by smoking cigarettes and the addictive nature of cigarettes. For example, in response to the 1965 Surgeon General report that related cigarette smoking to lung cancer in men, the cigarette manufacturers, including Defendants herein, concealed their research, from the year prior, which concluded:

Moreover, nicotine is addictive. We are, then in the business of selling nicotine, an addictive drug effective in the release of stress mechanisms ... But cigarettes - we assume the Surgeon General's Committee to say - despite the beneficent effect of nicotine, have certain unattractive side effects:

1. They cause, or predispose to, lung cancer.
 2. They contribute to certain cardiovascular disorders.
 3. They may well be truly causative in emphysema, etc.
- i. the risks of contracting cancer, including but not limited to laryngeal cancer, esophageal cancer, other head and neck cancers, oral cancer, emphysema, COPD, lung cancer, heart disease, strokes, bladder cancer, other forms of cancer;
 - j. filtered, low tar, low nicotine, and/or "light" cigarettes were not safe, safer, or less

1 dangerous than “regular” cigarettes;

2 k. the Federal Trade Commission (“FTC”) method of measuring “tar & nicotine” levels
3 underestimated and did not accurately reflect the levels of tar and nicotine delivered to
4 a smoker.

5 l. continuing even today to fraudulently market and sell multiple brands as “filtered”
6 knowing that smokers wrongly believe that filtered cigarettes reduce the harms of
7 smoking and despite knowing internally that such cigarettes are just as addictive,
8 dangerous, and deadly as non-filtered cigarettes.

9
10 322. Cigarette manufacturers, including Defendants herein, through their actions, funding,
11 and involvement with TIRC/CTR, also concealed and/or made fraudulent statements and
12 misrepresentations to the public, including NOREEN THOMPSON, which include the following,
13 without limitation:
14

- 15 a. falsely concealing the true purpose of TIRC/CTR was public relations, politics, and
16 positioning for litigation;
- 17 b. falsely pledging to provide aid and assistance to research cigarette use and health;
- 18 c. expressly undertaking a disingenuous interest in health as its “basic responsibility
19 paramount to every other consideration;”
- 20 d. assuming the duty of disclosing material facts about the dangers of cigarettes through
21 repeated public statements concerning tobacco and health, the need for more research,
22 and the open question about disease causation;
- 23 e. assuming a (broken) promise to truthfully disclose adverse information regarding the
24 health hazards of smoking;
- 25 f. purposely creating the illusion that scientific research regarding the dangers of
26 cigarettes was being conducted and the results of which would be made public;
27
28

1 g. concealing information regarding the lack of bona fide research being conducted by
2 TIRC/CTR and the lack of funds being provided for research;

3 h. concealing that TIRC/CTR was nothing more than a “public relations” front and shield.

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

9 324. Defendants made multiple misrepresentations to NOREEN THOMPSON, including
10 misrepresentations and misleading statements in advertisements, news programs and articles, media
11 reports, and press releases.

12 325. Throughout the years, Defendants and their co-conspirators have repeatedly stated that
13 cigarettes were not dangerous, and that they would either remove harmful constituents or stop making
14 cigarettes altogether. Some examples include:

- 16 a. A 1970 advertisement from the Tobacco Institute said: “[t]he Tobacco Institute
17 believes the American public is entitled to complete, authenticated information
18 about cigarette smoking and health.”
- 19 b. In 1971, Joseph Cullman, Chairman of Philip Morris, stated on Face the Nation,
20 “we do not believe that cigarettes are hazardous; we don’t accept that.”
- 21 c. In 1972 Philip Morris vice president James Bowling repeated the company’s
22 promise to consumers two decades earlier that “if our product is harmful, we’ll
23 stop making it.”
- 24 d. Bowling repeated the company’s position on smoking and health in a 1976
25 interview when he noted: “from our standpoint, if anyone ever identified any
26 ingredient in tobacco smoke as being hazardous to human health or being
27 something that shouldn’t be there, we could eliminate it. But no one ever has.”
- 28 e. In a 1978 magazine interview William Dwyer, vice president of the Tobacco
Institute, stated: “we take the view that the best science can say is that cigarette
smoking may be hazardous. And then it may not be.”
- f. A 1978 Philip Morris publication entitled “Facts About the Smoking
Controversy” stated: “scientists have not determined what causes