

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. 16**

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1 cancer...cigarettes have never been proven unsafe.”

2 g. In 1985, R.J. Reynolds took out advertisements in major newspapers and
3 magazines which stated: “We believe in science. That is why we continue to
4 provide funding for independent research into smoking and health...Science is
5 science. Proof is proof. That is why the controversy over smoking and health
6 remains an open one.”

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

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

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

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

20 330. Cigarette manufacturers claimed attorney-client privilege to shield as many documents as
21 possible from disclosure and destroyed and/or refused to produce documents related to health issues and
22 plaintiffs' claims.

23 331. Cigarette manufacturers when sued for smoking-related injuries, conducted the litigation
24 in such a way as to cause the maximum expenditure of time and resources by the claimants for the
25 purposes of exhausting their adversaries' resources and to discourage other meritorious litigation.
26
27
28

332. These concealed statement, misrepresentations and false statements which concealed material information about the health hazards of cigarette also include the following statements which were heard, read, and relied upon by Decedent, NOREEN THOMPSON, who remembered these statements or substantially similar statements, made by Defendants, their co-conspirators, and their spokespeople:

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

333. 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 Defendants’ cigarette products, the addictive nature of Defendants’ cigarette products, and that filtered cigarettes

1 were just as dangerous as regular and/or unfiltered cigarettes.

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

- 5 a. False and misleading commercials
- 6
- 7 b. False and misleading marketing gimmicks and jingles including but not limited to the
- 8 Winston Jingle "Winston takes good like a cigarette should," the iconic "Marlboro
- 9 Man," "Marlboro Country," "Walk a Mile for Camel," "Joe Camel," Lucile Ball, and
- 10 Rawhide.
- 11 c. False and misleading marketing tactics regarding "filtered" cigarettes which caused
- 12 Mrs. Thompson to smoke a filtered cigarette and continue to smoke a filtered cigarette
- 13 and become addicted to a filtered cigarette which caused and contributed to her
- 14 developing lung cancer.
- 15

16 335. During the course of Mrs. Thompson's smoking history, she heard some or all of these

17 false and misleading statements above and/or similar statements made directly or indirectly by

18 Defendants and its co-conspirators, believed some or all of the Defendants' and their co-conspirators'

19 false and misleading statements and relied to her detriment and continued to smoke cigarettes based

20 on such false and misleading statements.

21

22 336. As a direct and proximate result of these aforementioned statements, Decedent,

23 NOREEN THOMPSON, continued to smoke cigarettes which caused or contributed to her developing

24 lung cancer.

25 337. If NOREEN THOMPSON had known the true health hazards and addictive nature of

26 cigarettes, she would not have started smoking, nor continued to smoke for many years.

27 338. As a direct and proximate result of these aforementioned statements, Decedent,

28

1 NOREEN THOMPSON, relied upon the assurances from the tobacco industry, including statements
2 and sworn congressional testimony from Defendants' CEOs and also statements from the Defendants'
3 spokesmen and women hired by Defendants and its co-conspirators, and as a result of that reliance,
4 continued to smoke cigarettes.

5
6 339. NOREEN THOMPSON and others similarly situated justifiably relied upon the
7 cigarette manufacturers, including the Defendants herein, the TIRC, and the CTR, to disseminate
8 knowledge and information which they possessed regarding the health hazards of cigarettes, especially
9 after the industry chose to repeatedly and publicly deny the harms of smoking and the addictive nature
10 of cigarettes/nicotine. NOREEN THOMPSON, during the course of her smoking history heard some
11 or all of these false and misleading statements and/or similar statements made directly or indirectly by
12 the Defendants, believed some or all of the Defendants' false and misleading statements and relied to
13 her detriment and smoked and/or continued to smoke cigarettes based on such false and misleading
14 statements.
15

16 340. The aforementioned information and/or knowledge concealed and/or suppressed by the
17 cigarette manufacturers, including Defendants herein, and its co-conspirators was concealed for the
18 purposes of inducing the Decedent to smoke, fail to quit or reduce consumption. NOREEN
19 THOMPSON was unaware of the extent of the danger of the Defendants' cigarette products, the
20 addictive nature of Defendants' cigarette products, and that low tar, low nicotine and/or filtered
21 cigarettes were just as dangerous as unfiltered cigarettes. The knowledge and information concealed
22 by the cigarette manufacturers, including the Defendants herein, was concealed by entities which had
23 superior knowledge regarding the health aspects of cigarettes than NOREEN THOMPSON.
24

25 341. Defendants made false promises to Decedent, NOREEN THOMPSON, in the
26 following ways:

27 a. Defendants assumed the responsibility to provide NOREEN THOMPSON, and the
28

- 1 public, accurate and truthful information about their own products;
- 2 b. Defendants concealed and/or suppressed the aforementioned material facts about the
- 3 dangers of cigarettes;
- 4 c. Defendants were under a duty to disclose material facts about the dangers of cigarettes
- 5 to Decedent;
- 6 d. Defendants knew it was concealing material facts about the dangers of cigarettes from
- 7 Decedent;
- 8 e. Defendants intended to induce Decedent to smoke and become addicted to cigarettes;
- 9 f. Decedent was unaware of the dangerous and addictive nature of cigarettes, and would
- 10 not have begun or continued to smoke had she known the aforementioned concealed
- 11 and/or suppressed information Defendants' possessed;
- 12 g. Decedent was unaware of the danger of Defendants' cigarettes, the addictive nature of
- 13 Defendants' cigarettes, and that low tar, low nicotine, "light," and/or filtered cigarettes
- 14 were just as dangerous as unfiltered and "regular" cigarettes;
- 15 h. Decedent justifiably relied upon Defendants to disseminate the superior knowledge and
- 16 information it possessed regarding the dangers of cigarettes;
- 17 i. The concealment and/or suppressed of material facts regarding the hazards of cigarettes
- 18 caused Decedent to become addicted to cigarettes, and also caused her to develop lung
- 19 cancer.
- 20
- 21
- 22

23 342. Defendants' conduct is an actual and proximate or legal cause of NOREEN

24 THOMPSON'S injuries. NOREEN THOMPSON thereby experienced great pain, and anxiety her

25 body and mind. NOREEN THOMPSON sustained injuries and damages in an amount in excess of

26 Fifteen Thousand Dollars (\$15,000.00), for which Plaintiff, DOLLY ROWAN, as Administrator of

27 the Estate of NOREEN THOMPSON, now seeks recovery pursuant to NRS 41.100.

28

1 343. As a further actual and proximate or legal result of Defendants' conduct NOREEN
2 THOMPSON underwent medical treatment and incurred past medical and/or incidental expenses. The
3 exact amount of such damages is unknown at this present time, but NOREEN THOMPSON suffered
4 special damages in excess of Fifteen Thousand Dollars (\$15,000.00). Plaintiff, DOLLY ROWAN, as
5 Administrator of the Estate of NOREEN THOMPSON seeks recovery of these damages pursuant to
6 NRS 41.100.
7

8 344. Defendants' conduct was despicable and so contemptible that it would be looked down
9 upon and despised by ordinary decent people and was carried on by Defendants with willful and
10 conscious disregard for the safety of anyone in the community.
11

12 345. Defendants' outrageous and unconscionable conduct warrants an award of exemplary
13 and punitive damages pursuant to NRS 42.005, in an amount appropriate to punish and make an
14 example of Defendants, and to deter similar conduct in the future. As Administrator of the Estate of
15 NOREEN THOMPSON, DOLLY ROWAN seeks exemplary and punitive damages pursuant to NRS
16 41.100.
17

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

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

NINTH CLAIM FOR RELIEF

(WRONGFUL DEATH – CIVIL CONSPIRACY)

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, Liggett and Philip Morris

348. Plaintiffs repeat and reallege the allegations contained in the paragraphs 1 through 347 and incorporates the same herein by reference.

349. Plaintiffs bring this wrongful death claim based on a civil conspiracy claim against Defendants Philip Morris, R.J. Reynolds, and Liggett.

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

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

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

353. 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.

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

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

356. Defendants acted in concert to accomplish an unlawful objective for the purposes of harming Decedent, NOREEN THOMPSON. Defendants' actions include but are not limited to the following:

- a. Defendants, along with other cigarette manufacturers, CTR, TIRC, TI, and with attorneys and law firms retained by Defendants, unlawfully agreed to conceal and/or omit, and did in fact conceal and/or omit, information regarding the health hazards of

cigarettes and/or their addictive nature with the intention that smokers and the public would rely on this information to their detriment.

- b. Defendants agreed to execute their scheme by performing the abovementioned unlawful acts and/or by doing lawful acts by unlawful means;
- c. Defendants, along with other entities including TIRC, CTR, TI and persons including their in-house lawyers and outside retained counsel, entered into a conspiracy in 1953 to conceal the harms of smoking cigarettes;
- d. Defendants, through their executives, employees, agents, officers and representatives made numerous public statements from 1953 through 2000 directly denying the health hazards and addictive nature of smoking cigarettes.

357. After the year 2000, Defendants continued their conspiratorial acts in furtherance of their conspiracy related to the harms of smoking including but not limited to the following acts:

- a. Marketing and/or advertising filters as safer or less hazardous to health than non-filtered cigarettes;
- b. Marketing and/or advertising low tar cigarettes as safer or less hazardous to health;
- c. Marketing and/or advertising lights and ultra-light cigarettes as safer or less hazardous to health;
- d. Knowingly concealing from the public that filtered, low tar, lights, and ultra-lights cigarettes were no safer or even less hazardous than other cigarettes;
- e. Adding “onserts” to packages of cigarettes even after the United States government banned marketing of “light” and “ultra-light” cigarettes;
- f. Continuing to market and/or advertise lights, ultra lights, and low tar cigarettes under color brand name descriptors such as “Gold” and “Silver” and informing smokers “pack

will be changing, but your cigarette will stay the same” following the federal ban on the use of “lights”, “mild”, and “low” tar descriptors in 2010;

g. Opposing, and continuing to oppose proposed FDA regulations to reduce or eliminate levels of nicotine in cigarettes;

h. Continuing to market and prey upon children and teenagers who are not able to understand or appreciate the risks and dangers associated with cigarette smoking.

358. Defendants’ actions, as it relates to their acts in furtherance of their conspiracy as alleged in this complaint, continues through the present.

359. Two or more of the cigarette manufacturers, including Defendants herein, by their aforementioned concerted actions, intended to accomplish, and did indeed accomplish, an unlawful objective of misleading and deceiving the public, for the purpose of harming Plaintiff.

360. NOREEN THOMPSON relied, both directly and indirectly, on the Defendants’ concealment and omission of such information to her detriment. NOREEN THOMPSON, during the course of her smoking history heard, some or all of these false and misleading statements and/or similar statements made directly or indirectly by the 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 smoked and/or continued to smoke cigarettes based on such false and misleading statements.

361. The success of the conspiracy depended upon the concerted action of the cigarette manufacturers (in a so-called "gentleman's agreement"), for otherwise the revelation by one company of what it knew about the health consequences of smoking and/or the availability of a "safe" or "safer" cigarette and/or the addictive nature of the manufacturers' cigarette would have thwarted the conspiracy.

1 362. Specifically, Defendant PHILIP MORRIS conspired with Defendants R.J.
2 REYNOLDS and LIGGETT to conceal the truth regarding the hazardous and deadly nature of
3 cigarettes by doing the following including but not limited to:

- 4 a. By advertising “light” and “low tar” cigarettes to the public, including NOREEN
5 THOMPSON, to help create and sustain the culture and societal and consumer
6 expectations that “light” cigarettes were better, safer, and healthier than regular
7 cigarettes;
8
- 9 b. By endeavoring in mass marketing campaigns consistent with R.J. REYNOLDS and
10 LIGGETT’s campaign regarding the appeal of cigarettes including but not limited to
11 their Marlboro County and Marlboro Man campaigns;
12
- 13 c. By working with R.J. REYNOLDS and LIGGETT to create “fake science” by hiring
14 “fake scientists” to spread “fake scientific research” about the health hazards of
15 smoking cigarettes including but not limited to the following:
16 i. Working with R.J. Reynolds and Liggett to create the Center for Indoor Air
17 Research (“CIAR”) whose intent was to broaden the question of indoor air
18 pollution to avert attention away from tobacco smoking causing disease and
19 death;
20 ii. Creating the “White Papers” which rebutted scientific reports which were
21 critical of tobacco.
22
- 23 d. By hiring industry spokespeople to appear on national television and media to mislead
24 and lie to the public, including NOREEN THOMPSON, regarding the health hazards
25 of smoking cigarettes including but not limited to the following examples:
26 i. In 1968 an article “To Smoke or Not to smoke – That is still the question” was
27 published in *True* magazine and was authorized by an allegedly independent
28

1 source Stanley Frank; however, Frank was actually paid \$500 by Brown &
2 Williamson (who was later subsumed by Defendant R.J. Reynolds), and the
3 newspaper itself was paid \$500,000 by the Tobacco Institute, which was in part
4 funded and guided by Defendant Philip Morris;

- 5
6 ii. Joseph Culman III, Chairman and CEO of Philip Morris and Chairman of the
7 Tobacco Institute, appealing on the news program “Face the Nation” stating the
8 following: **“We do not believe cigarettes are hazardous, we don’t accept**
9 **that . . . This industry can face the future with confidence because when,**
10 **as and if, any ingredient in cigarette smoke is identified as being injurious**
11 **to human health we are confident that we can illuminate that ingredient .**
12 **. . I believe they [cigarettes] have not been proven to be unsafe . . . It’s true,**
13 **babies born from women who smoke are smaller . . . and some women**
14 **would prefer having smaller babies.”**

- 15
16 e. By knowingly and intentionally working with R.J. Reynolds and Liggett by creating a
17 false and misleading “cigarette controversy” which was promulgated by trade
18 organizations that Philip Morris was not only actively participating in and employees’
19 were chairmen and members of, but also in fact helped financially fund and set up
20 including the TI, TIRC, and CTR whose internal, previously secret and concealed
21 documents include the following statements discussing their conspiracy:

- 22
23 i. “Our basic position in the cigarette controversy is subject to the charge, and
24 may be subject to a finding, that **we are making false or misleading**
25 **statements to promote the sale of cigarettes**” (Previously concealed from
26 Tobacco Institute);
27
28

- 1 ii. “For nearly 20 years, this industry has employed a single strategy to defend
2 itself . . . brilliantly conceived and executed . . . a holding strategy . . . creating
3 doubt about the health charge without actually denying it” (Letter from
4 Vice President of the Tobacco Institute Fred Panzer);
- 5
6 iii. “The most important type of story is that which casts doubt on the cause
7 and effect theory of disease and smoking . . . Doubt is our product.”
8 (Previously concealed memo to the Tobacco Institute);
- 9 iv. Ann Browder, a representative from the Tobacco Institute appearing on WPLG
10 in 1983 stating the following: “We don’t know what causes the illness
11 [cancer] . . . I don’t think there is a causal relationship because cigarette
12 smoking and any illness;”
- 13
14 v. “CTR began as an organization called the Tobacco Research Council (TIRC).
15 It was set up as an industry “shield” in 1954 . . . [an attorney] feels that
16 “special projects” are the best way that monies are spent. On these projects CTR
17 as acted as a front.” (Previously concealment meeting minutes from a CTR
18 meeting held in New York in 1978 where Jim Bowling, Senior Vice President
19 of Corporate Affairs, Bob Seligman, Vice President of Research &
20 Development, and Tom Osdene, Director of Research all from Philip
21 Morris were in attendance along with [an attorney at an outside law firm])”
- 22
23 f. In conjunction with Defendants R.J. Reynolds and Liggett, spending over
24 \$300,000,000 funding fraudulent “research” and marketing by the TIRC to create,
25 sustain, and spread a false controversy regarding smoking and health;
26
27
28

1 g. By having their executives such as their Chief Operating Officer, William Campbell,
2 lie under oath before Congress in 1993 stating “to my knowledge, it’s not been proven
3 that cigarette smoking causes cancer.”

4 363. Defendant Philip Morris’s actions and statements as described above, combined with
5 the actions of R.J. Reynolds and Liggett, lead to a systemic culture in America regarding an alleged
6 cigarette controversy, where people, including Mrs. Thompson, were manipulated into believing
7 cigarettes were safe and not deadly.
8

9 364. Philip Morris’s actions further directly lead to mass marketing of cigarettes in
10 quantities we cannot even comprehend today that seeped into every household and family in
11 American, including Mrs. Thompsons.
12

13 365. As a direct and proximate result of Philip Morris’s actions and contributions to the TI,
14 TIRC, and CTR, the tobacco industry was able to create and sustain the largest conspiracy and
15 deception this county has ever seen.

16 366. But for Philip Morris’s direct involvement, Mrs. Thompson would not have been
17 exposed to the same degree or intensity of cigarette advertising or have been exposed to the alleged
18 “controversy” regarding cigarettes as she was exposed to.

19 367. But for Philip Morris’s direct involvement, Mrs. Thompson would not have began
20 smoking as a child, continued to smoke, become addicted to smoking cigarettes, or died as a result of
21 smoking cigarettes.
22

23 368. Defendants’ conduct was the actual and proximate or legal cause of NOREEN
24 THOMPSON’S injuries and death. Plaintiffs, DOLLY ROWAN, NAVONA COLLISON, and
25 RUSSELL THOMPSON, have sustained damages consisting of the loss of NOREEN THOMPSON’S
26 love, companionship, comfort, affection, society, and moral support, and has suffered great emotional
27
28

1 and psychological loss, all in amount in excess of Fifteen Thousand Dollars (\$15,000.00). As
2 NOREEN THOMPSON'S heir, Plaintiff seeks these damages pursuant to NRS 41.085(4).

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

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

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

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

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

374. 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.

TENTH CLAIM FOR RELIEF

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

d. Defendants, through their executives, employees, agents, officers and representatives made numerous public statements from 1953 through 2000 directly denying the health hazards and addictive nature of smoking cigarettes.

378. After the year 2000, Defendants continued their conspiratorial acts in furtherance of their conspiracy related to the harms of smoking including but not limited to the following acts:

- a. Marketing and/or advertising filters as safer or less hazardous to health than non-filtered cigarettes;
- b. Marketing and/or advertising low tar cigarettes as safer or less hazardous to health;
- c. Marketing and/or advertising lights and ultra-light cigarettes as safer or less hazardous to health;
- d. Knowingly concealing from the public that filtered, low tar, lights, and ultra-lights cigarettes were no safer or even less hazardous than other cigarettes;
- e. Adding “onserts” to packages of cigarettes even after the United States government banned marketing of “light” and “ultra-light” cigarettes;
- f. Continuing to market and/or advertise lights, ultra lights, and low tar cigarettes under color brand name descriptors such as “Gold” and “Silver” and informing smokers “pack will be changing, but your cigarette will stay the same” following the federal ban on the use of “lights”, “mild”, and “low” tar descriptors in 2010;
- g. Opposing, and continuing to oppose proposed FDA regulations to reduce or eliminate levels of nicotine in cigarettes;
- h. Continuing to market and prey upon children and teenagers who are not able to understand or appreciate the risks and dangers associated with cigarette smoking.

379. Defendants’ actions, as it relates to their acts in furtherance of their conspiracy as alleged in this complaint, continues through the present.

1 380. Two or more of the cigarette manufacturers, including Defendants herein, by their
2 aforementioned concerted actions, intended to accomplish, and did indeed accomplish, an unlawful
3 objective of misleading and deceiving the public, for the purpose of harming Plaintiff.

4 381. NOREEN THOMPSON relied, both directly and indirectly, on the Defendants'
5 concealment and omission of such information to her detriment. NOREEN THOMPSON, during the
6 course of her smoking history heard, some or all of these false and misleading statements and/or
7 similar statements made directly or indirectly by the Defendants and their co-conspirators, believed
8 some or all of the Defendants' and their co-conspirators' false and misleading statements and relied
9 to her detriment and smoked and/or continued to smoke cigarettes based on such false and misleading
10 statements.
11

12 382. The success of the conspiracy depended upon the concerted action of the cigarette
13 manufacturers (in a so-called "gentleman's agreement"), for otherwise the revelation by one company
14 of what it knew about the health consequences of smoking and/or the availability of a "safe" or "safer"
15 cigarette and/or the addictive nature of the manufacturers' cigarette would have thwarted the
16 conspiracy.
17

18 383. Specifically, Defendant, PHILIP MORRIS, conspired with Defendants R.J.
19 REYNOLDS and LIGGETT to conceal the truth regarding the hazardous and deadly nature of
20 cigarettes by doing the following including but not limited to:
21

- 22 a. By advertising "light" and "low tar" cigarettes to the public, including NOREEN
23 THOMPSON, to help create and sustain the culture and societal and consumer
24 expectations that "light" cigarettes were better, safer, and healthier than regular
25 cigarettes;
26
27
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- 1 b. By endeavoring in mass marketing campaigns consistent with R.J. REYNOLDS and
2 LIGGETT's campaign regarding the appeal of cigarettes including but not limited to
3 their Marlboro County and Marlboro Man campaigns;
4
5 c. By working with R.J. REYNOLDS and LIGGETT to create "fake science" by hiring
6 "fake scientists" to spreads "fake scientific research" about the health hazards of
7 smoking cigarettes including but not limited to the following:
8
9 i. Working with R.J. Reynolds and Liggett to create the Center for Indoor Air
10 Research ("CIAR") whose intent was to broaden the question of indoor air
11 pollution to avert attention away from tobacco smoking causing disease and
12 death;
13
14 ii. Creating the "White Papers" which rebutted scientific reports which were
15 critical of tobacco.
16
17 d. By hiring industry spokespeople to appear on national television and media to mislead
18 and lie to the public, including NOREEN THOMPSON, regarding the health hazards
19 of smoking cigarettes including but not limited to the following examples:
20
21 i. In 1968 an article "To Smoke or Not to smoke – That is still the question" was
22 published in *True* magazine and was authorized by an allegedly independent
23 source Stanley Frank; however, Frank was actually paid \$500 by Brown &
24 Williamson (who was later subsumed by Defendant R.J. Reynolds), and the
25 newspaper itself was paid \$500,000 by the Tobacco Institute, which was in part
26 funded and guided by Defendant Philip Morris;
27
28 ii. Joseph Culman III, Chairman and CEO of Philip Morris and Chairman of the
Tobacco Institute, appealing on the news program "Face the Nation" stating the
following: **"We do not believe cigarettes are hazardous, we don't accept**

1 that . . . This industry can face the future with confidence because when,
2 as and if, any ingredient in cigarette smoke is identified as being injurious
3 to human health we are confident that we can illuminate that ingredient .
4 . . I believe they [cigarettes] have not been proven to be unsafe . . . It's true,
5 babies born from women who smoke are smaller . . . and some women
6 would prefer having smaller babies."

7
8 e. By knowingly and intentionally working with R.J. Reynolds and Liggett by creating a
9 false and misleading "cigarette controversy" which was promulgated by trade
10 organizations that Philip Morris was not only actively participating in and employees'
11 were chairmen and members of, but also in fact helped financially fund and set up
12 including the TI, TIRC, and CTR whose internal, previously secret and concealed
13 documents include the following statements discussing their conspiracy:
14

15 i. "Our basic position in the cigarette controversy is subject to the charge, and
16 may be subject to a finding, that we are making false or misleading
17 statements to promote the sale of cigarettes" (Previously concealed from
18 Tobacco Institute);

19 ii. "For nearly 20 years, this industry has employed a single strategy to defend
20 itself . . . brilliantly conceived and executed . . . a holding strategy . . . creating
21 doubt about the health charge without actually denying it" (Letter from
22 Vice President of the Tobacco Institute Fred Panzer);

23 iii. "The most important type of story is that which casts doubt on the cause
24 and effect theory of disease and smoking . . . Doubt is our product."
25 (Previously concealed memo to the Tobacco Institute);
26
27
28

1 iv. Ann Browder, a representative from the Tobacco Institute appearing on WPLG
2 in 1983 stating the following: **“We don’t know what causes the illness**
3 [cancer] . . . **I don’t think there is a causal relationship because cigarette**
4 **smoking and any illness;”**

5 v. “CTR began as an organization called the Tobacco Research Council (TIRC).
6 **It was set up as an industry “shield” in 1954** . . . Bill Shinn feels that “special
7 projects” are the best way that monies are spent. On these projects CTR as acted
8 as a front.” (Previously concealment meeting minutes from a CTR meeting held
9 in New York in 1978 **where Jim Bowling, Senior Vice President of**
10 **Corporate Affairs, Bob Seligman, Vice President of Research &**
11 **Development, and Tom Osdene, Director of Research all from Philip**
12 **Morris were in attendance** along with [an attorney at an outside law firm])”

13
14
15 f. In conjunction with Defendants R.J. Reynolds and Liggett, spending over
16 \$300,000,000 funding fraudulent “research” and marketing by the TIRC to create,
17 sustain, and spread a false controversy regarding smoking and health;

18 g. By having their executives such as their Chief Operating Officer, William Campbell,
19 lie under oath before Congress in 1993 stating “to my knowledge, it’s not been proven
20 that cigarette smoking causes cancer.”

21
22 384. Defendant, Philip Morris’s actions and statements as described above, combined with
23 the actions of R.J. Reynolds and Liggett, lead to a systemic culture in America regarding an alleged
24 cigarette controversy, where people, including Mrs. Thompson, were manipulated into believing
25 cigarettes were safe and not deadly.
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1 385. Philip Morris's actions further directly lead to mass marketing of cigarettes in
2 quantities we cannot even comprehend today that seeped into every household and family in
3 American, including Mrs. Thompsons.

4 386. As a direct and proximate result of Philip Morris's actions and contributions to the TI,
5 TIRC, and CTR, the tobacco industry was able to create and sustain the largest conspiracy and
6 deception this county has ever seen.
7

8 387. But for Philip Morris's direct involvement, Mrs. Thompson would not have been
9 exposed to the same degree or intensity of cigarette advertising or have been exposed to the alleged
10 "controversy" regarding cigarettes as she was exposed to.

11 388. But for Philip Morris's direct involvement, Mrs. Thompson would not have began
12 smoking as a child, continued to smoke, become addicted to smoking cigarettes, or died as a result of
13 smoking cigarettes.
14

15 389. Defendants' conduct is an actual and proximate or legal cause of NOREEN
16 THOMPSON'S injuries. NOREEN THOMPSON thereby experienced great pain, and anxiety her
17 body and mind. NOREEN THOMPSON sustained injuries and damages in an amount in excess of
18 Fifteen Thousand Dollars (\$15,000.00), for which Plaintiff, DOLLY ROWAN, as Administrator of
19 the Estate of NOREEN THOMPSON, now seeks recovery pursuant to NRS 41.100.
20

21 390. As a further actual and proximate or legal result of Defendants' conduct NOREEN
22 THOMPSON underwent medical treatment and incurred past medical and/or incidental expenses. The
23 exact amount of such damages is unknown at this present time, but NOREEN THOMPSON suffered
24 special damages in excess of Fifteen Thousand Dollars (\$15,000.00). Plaintiff, DOLLY ROWAN, as
25 Administrator of the Estate of NOREEN THOMPSON seeks recovery of these damages pursuant to
26 NRS 41.100.
27
28

391. 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.

392. 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.

393. 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.

394. 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.

ELEVENTH CLAIM FOR RELIEF

(WRONGFUL DEATH – NEVADA DECEPTIVE TRADE PRACTICE ACT)

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, Liggett and Philip Morris

395. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 394 and incorporates the same herein by reference.

396. Plaintiffs bring this wrongful death claim based on a deceptive trade practice claim against Defendants Philip Morris, R.J. Reynolds, and Liggett.

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

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

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

400. 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.

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

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

403. At all times relevant herein, there was a statute in effect entitled Nevada Deceptive Trade Practices Act, NRS 598.0903 et seq.

404. Defendants are subject to the provisions of the Nevada Deceptive Trade Practices Act, and Plaintiff is one of the persons the Act was enacted to present.

405. Plaintiffs bring this claim pursuant to NRS 41.600, which entitles any person who is the victim of consumer fraud to bring an action. A deceptive trade practice as defined in NRS 598.0915 to 598.0925 constitutes consumer fraud.

406. NRS 598.0915 states that a person engages in a deceptive trade practice if, in the course of his or her business or occupation:

2. Knowingly makes a false representation as to the source, sponsorship, approval or certification of goods or services for sale or lease.

3. Knowingly makes a false representation as to affiliation, connection, association with or certification by another person.

5. Knowingly makes a false representation as to the characteristics, ingredients, uses, benefits, alterations or quantities of goods or services for sale or lease or a false representation as to the sponsorship, approval, status, affiliation or connection of a person therewith.

1 7. Represents that goods or services for sale or lease are of a particular standard, quality
2 or grade, or that such goods are of a particular style or model, if he or she knows or
3 should know that they are of another standard, quality, grade, style or model.

4 ****

5 15. Knowingly makes any other false representation in a transaction.

6 407. Upon information and belief, Defendants knowingly violated NRS 598.0915 by
7 making the following false and misleading statements and representations, including but not limited
8 to:

- 9 a. making countless publicized appearances on television and radio disingenuously
10 denying cigarettes were addictive and claimed smoking was a matter of free choice and
11 smokers could quit smoking if they wanted to;
- 12 b. representing to the public that it was not known whether cigarettes were harmful or
13 caused disease;
- 14 c. falsely advertising and promoting cigarettes as safe, not dangerous, and not harmful;
- 15 d. falsely advertising and promoting “filtered” and “light” cigarettes as “low tar” and “low
16 nicotine” through print advertisements in magazines and newspapers throughout the
17 1950s, 1960s, 1970s, 1980s, 1990s, and even into the 2000s;
- 18 e. falsely representing that questions about smoking and health would be answered by an
19 allegedly unbiased, trustworthy source;
- 20 f. misrepresenting and confusing facts about health hazards of cigarettes and addiction;
- 21 g. creating a made up “cigarette controversy;”
- 22 h. taking out a full page advertisement called the “Frank Statement to Cigarette Smokers”
23 which falsely assured the public, the American government, and NOREEN
24 THOMPSON, that would purportedly “safeguard” the health of smokers, support
25 allegedly “disinterested” research into smoking and health, and reveal to the public the
26
27
28

- 1 results of their alleged “objective” research;
- 2 i. falsely assuring the public that TIRC/CTR was an “objective” research committee
- 3 when internal company documents reveals that TIRC/CTR functioned not for the
- 4 promotion of scientific goals, but for public relations, politics, and positioning for
- 5 litigation;
- 6
- 7 j. sponsoring, being quoted in, and helping publish articles to mislead the public
- 8 including but not limited to the following: “Smoke-Cancer Tie Termed Obscure”
- 9 (1955), “Study of Smoking is Inconclusive” (1956), “Cigarette Threat Called
- 10 Unproven,” (1962), “Tobacco Spokesmen Dispute Lung Study” (1962), “Tobacco
- 11 Cancer Scare Fading in Smoke Ring (1964), and “Smokers Assured In Industry Study”
- 12 (1962);
- 13
- 14 k. responding to the 1964 Surgeon General Report which linked cigarette smoking to
- 15 health, by falsely assuring the public that (i) cigarettes were not injurious to health, (ii)
- 16 the industry would cooperate with the Surgeon General, (iii) more research was needed,
- 17 and (iv) if there were any bad elements discovered in cigarettes, the cigarette
- 18 manufacturers would remove those elements;
- 19
- 20 l. advertising and promoting cigarettes on television and radio as safe and glamorous, to
- 21 the extent that cigarette advertising was the number one most heavily advertised
- 22 product on television;
- 23
- 24 m. making knowingly false and misleading statements during a governmental hearing,
- 25 including stating that, “there is absolutely no proof that cigarettes are addictive;”
- 26
- 27 n. purposefully targeting children yet openly in press releases falsely claiming, “We don’t
- 28 advertise to children . . . Some straight talk about smoking for young people;”
- o. responding the 1988 United States Surgeon General’s report that nicotine is the drug

1 in tobacco that causes addiction, by issuing press releases stating, “Claims that
2 cigarettes are addictive is irresponsible and scare tactics;”

- 3 p. lying under oath before the United States Congress in 1994 that it was their opinion
4 that it had not been proven that cigarettes were addictive, caused disease, or caused one
5 single person to die.
6

7 408. Specifically, Defendant, PHILIP MORRIS, conspired with Defendants R.J.
8 REYNOLDS and LIGGETT to knowingly make false and misleading representations regarding the
9 truth regarding the hazardous and deadly nature of cigarettes and the ingredients in cigarettes by doing
10 the following including but not limited to:

- 11 a. By advertising “light” and “low tar” cigarettes to the public, including NOREEN
12 THOMPSON, to help create and sustain the culture and societal and consumer
13 expectations that “light” cigarettes were better, safer, and healthier than regular
14 cigarettes;
15
16 b. By endeavoring in mass marketing campaigns consistent with R.J. REYNOLDS and
17 LIGGETT’s campaign regarding the appeal of cigarettes including but not limited to
18 their Marlboro County and Marlboro Man campaigns;
19
20 c. By working with R.J. REYNOLDS and LIGGETT to create “fake science” by hiring
21 “fake scientists” to spread “fake scientific research” about the health hazards of
22 smoking cigarettes including but not limited to the following:
23
24 i. Working with R.J. Reynolds and Liggett to create the Center for Indoor Air
25 Research (“CIAR”) whose intent was to broaden the question of indoor air
26 pollution to avert attention away from tobacco smoking causing disease and
27 death;
28