

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. 19**

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1 68. Defendants deliberately added chemicals such as urea, ammonia,
2 diammonium-phosphate, and other chemicals to their cigarettes. They deliberately
3 designed cigarettes to “free-base” nicotine and manipulated levels of pH in smoke to
4 make cigarettes more addictive and easier to inhale.
5

6 69. Defendants’ sole priority was to make as much money as quickly as
7 possible, with no concern about the safety or well-being of their customers.
8

9 70. In 1966, the United States Government mandated that a “Caution” label be
10 placed on packs of cigarettes stating, “Cigarette Smoking May be Hazardous to Your
11 Health.”

12 71. The cigarette industry responded to the “Caution” label by continuing their
13 massive public relations campaign, continuing to spread doubt and confusion, and
14 continuing to deceive the public.
15

16 72. Also in 1966, the Tobacco Institute (“TI”) issued a press release where it
17 stated on behalf of the industry falsely assuring the public the following:

18 **“Scientists throughout the world are continuing to**
19 **investigate to learn the full facts about ‘tar’ and**
20 **nicotine, and about questions concerning tobacco and**
21 **health. *The tobacco industry is supporting much of this***
22 ***research and will continue to do so.*”**

23 73. Throughout this period, Defendants also introduced “filtered” cigarettes –
24 cigarettes falsely marketed, advertised, and promoted as delivering and/or containing
25 “less tar” and “less nicotine.”

26 74. However, internally, in Defendants’ previously concealed, hidden
27 documents, the true nature of filtered cigarettes was revealed – filtered cigarettes were
28 just as harmful, dangerous, and hazardous as unfiltered cigarettes; in fact, they were

1 more dangerous. In a previously secret document from 1976, Ernie Pepples from
2 Brown & Williamson states, “the smoker of a filter cigarette was getting as much or
3 more nicotine and tar as he would have gotten from a regular cigarette.”

4
5 75. Defendants continued throughout the 1970s, 1980s, and 1990s to encourage
6 the false impression that there was a genuine and continuing controversy regarding
7 the health hazards of smoking.

8
9 76. The tobacco industry frequently attacked the Surgeon General. For
10 example, the industry preempted the Surgeon General’s 1979 report on national news
11 networks, stating the report was “suspect from the start.” The industry later attacked
12 the Surgeon General following the 1988 report on the addictive nature of cigarettes
13 with a press release titled, “CLAIMS THAT CIGARETTES ARE ADDICTIVE
14 CONTRADICT COMMON SENSE.”

15
16 77. Throughout the 1960s, 1970s, 1980s and 1990s, the cigarette industry,
17 including Defendants herein, spent two hundred and fifty billion dollars on marketing
18 efforts to promote the sale of cigarettes.

19
20 78. The cigarette industry spent more money on marketing and advertising
21 cigarettes *in one day* than the public health community spent *in one year*.

22
23 79. Cigarette smoking was glamorized – celebrities smoked, athletes smoked,
24 doctors smoked, politicians smoked – everyone smoked.

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26 80. As early as the 1920s, and continuing today, cigarette manufacturers,
27 including Defendants herein, were also intentionally targeting children. Their
28 documents reveal:

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“School days are here. And that means BIG TOBACCO BUSINESS for somebody . . . line up the most popular students” (Concealed Document 1927).

“SUMMER SCHOOL IS STARTING . . . lining up these students . . . as consumers” (Concealed Document 1928).

“Today’s teenager is tomorrow’s potential regular customer” (Concealed Document 1981).

“The 14-24 age group . . . represent tomorrow’s cigarette business” (Concealed Document 1974).

81. Cigarette manufacturers, including Defendants herein, also targeted and preyed upon minority populations in an effort to increase their market share and ultimately their profits.

82. Cigarettes were the number one most heavily advertised product on television until the United States Government banned television advertisements in 1972.

83. When cigarettes advertising was banned on television, Defendants turned to marketing in stadiums, sponsoring sporting events such as the Winston Cup and Marlboro 500, sponsoring concerts, utilizing print advertisements in magazines,



adding product placement in movies, and more.

1 84. Meanwhile, internally Defendants were praising themselves for accomplishing
2 this “brilliantly conceived” conspiracy which deceived NOREEN THOMPSON, millions
3 of Americans, the government, and the public health community.
4

5 **“[F]or nearly 20 years, this industry has employed a**
6 **single strategy to defend itself . . . brilliantly conceived**
7 **and executed . . . a holding strategy . . . creating doubt**
8 **about the health charge without actually denying it”**
9 (Concealed Document 1972).

10 85. In 1985, four rotating warning labels were placed on packs of cigarettes
11 which warned, for the first time, that smoking causes lung cancer, heart disease,
12 emphysema, and may complicate pregnancy.

13 86. The cigarette industry, including Defendants herein, opposed these
14 warning labels and throughout the 1980s, despite the warning labels being placed on
15 their cigarettes, spoke publicly through their representatives in the Tobacco Institute
16 (TI) that it was allegedly still unknown whether smoking cigarettes caused cancer or
17 was addictive because, apparently, “more research was needed.”

18 87. In 1988, the United States Surgeon General reported that cigarettes and
19 other forms of tobacco were addicting, and that nicotine is the drug in tobacco that
20 causes addiction. In fact, in his report, the Surgeon General compared tobacco’s
21 addictiveness to heroin and cocaine.
22

23 88. In response, the cigarette industry, including Defendants herein, issued a
24 press release knowingly and disingenuously stating, “Claims that cigarettes are
25 addictive is irresponsible and scare tactics.”
26

27 89. Defendants continued to publicly deny the addictive nature and health
28 hazards of smoking cigarettes until the year 2000, after litigation was brought against

1 them by the Attorneys General of multiple States and their previously concealed
2 documents were made public.

3
4 90. In 1994, CEOs from the seven largest cigarette companies, including
5 Defendants herein, testified under oath before the United States Congress that it was
6 their opinion that it had not been proven that cigarettes were addictive, caused disease,
7 or caused one single person to die.



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15 91. After the industry executives testified before congress that cigarettes were
16 not addictive and had not been proven to cause cancer, Defendants, including Philip
17 Morris, continued to adhere to the controversy by stating both smokers and non-smokers
18 deserve to know the facts, not innuendo, about cigarettes:

19
20 Yesterday, Philip Morris and other U.S. tobacco
21 manufacturers helped to set the record straight by speaking
22 before a Congressional committee...

23 Fact: Philip Morris does not add nicotine to its cigarettes...

24 Fact: Philip Morris does not "manipulate" nicotine levels...

25 Fact: Philip Morris does not believe cigarette smoking is
26 addictive...

27 Fact: None of the ingredients added in the manufacture of
28 cigarettes is harmful as used...

92. Despite their own intensive research and millions of internal documents
describing the dangers and addictive qualities of cigarettes, Defendants negligently,

1 willfully, maliciously, and intentionally made false and misleading statements to
2 Congress, the public, and Decedent, NOREEN THOMPSON.

3 93. Even after Defendants knowingly lied during these Congressional
4 hearings, Defendants continued, and still continue, to perpetuate their conspiracy.
5

6 94. For example, in 1997, Liggett announced that they would voluntarily place
7 a warning label on their cigarette packages, in addition to the labels mandated by the
8 United States government, that smoking is addictive. Defendant, Philip Morris,
9 immediately filed a restraining order against Liggett to prevent them from adding this
10 warning label. Then, in 1998, Liggett sold its three major cigarette brands, L&N, Lark,
11 and Chesterfield, to Philip Morris, which in turn immediately removed the “smoking
12 was addictive” warning label from these products.
13

14 95. Furthermore, from 2000 through 2010, Defendants continued to mislead
15 the public by marketing and promoting “light” and “ultra-light” cigarettes, despite
16 knowing internally that such cigarettes were just as dangerous and addictive as
17 “regular” cigarettes.
18

19 96. In 2010, after Defendants were required by the United States government
20 to remove the misleading “light” and “ultra-light” labels from their cigarettes, they
21 instead added “onserts” to their packages of cigarettes explaining that, for example,
22 “Your Marlboro Lights pack is changing. But your cigarette stays the same. In the
23 future, ask for ‘Marlboro in the gold pack.’”
24

25 97. Additionally, including as recently as 2018, Defendants have continued to
26 oppose proposed FDA regulations which would reduce or eliminate nicotine in
27 cigarettes.
28

1 98. As recently as 2019, Defendants have not admitted and still do not admit
2 or acknowledge that nicotine in their cigarette smoke “is” addictive.

3 99. As recently as 2019, Defendants have not admitted and still do not admit
4 or acknowledge that nicotine addiction can cause diseases.

5 100. As recently as 2019, Defendants continue to make false or misleading
6 statements that filtered cigarettes, lights, ultra-lights and low tar are less hazardous
7 than conventional full favored cigarettes.

8 101. Finally, Defendants have continued to target and prey upon children,
9 teenagers, minorities, and other segment populations, all in the name of money.

10 102. Defendants, despite being rivals and competitors, locked arms and banded
11 together to purposefully and internationally engage in an over 65-year conspiracy to
12 deceive the public regarding the addictive nature and health hazards of cigarette
13 smoking.

14 103. This sophisticated conspiracy involved hundreds of billions of dollars spent
15 on marketing efforts, massive deception, including lying under oath before Congress
16 and other governmental entities, forming fake organizations with fake scientists and
17 fake research, and creating a “brilliantly conceived” public relations campaign
18 designed to create and sustain doubt and confusion regarding a supposed - made up -
19 cigarette ‘controversy’ of their own invention.

20 104. This conspiracy is memorialized through Defendants’ own documents,
21 authored by their own executives and scientists, including over fourteen million
22 previously concealed records.

1 105. From 1953 through 2000, Defendants made false or misleading statements
2 including but not limited to the following:

- 3 • denying that smoking “is” addictive;
- 4 • that smoking is not injurious to health;
- 5 • that it is unknown if smoking causes serious diseases;
- 6 • that scientific and medical community has not reached a consensus about
7 the harms of smoking;
- 8 • that no one knows what causes cancer;
- 9 • that the tobacco industry made an honest effort to study the harms of
10 smoking and a causal relationship had not need proven;
- 11

12 106. From 1953 through the present, Defendants made false or misleading
13 statements including but not limited to the following:

- 14 • that filter, low tar and low nicotine, lights and ultra-light are safe, or safer
15 than full flavor cigarettes, and/or directly and/or indirectly made statements
16 about their safety and efficacy.

17 107. Throughout the same period, Defendants publicly attacked the validity of
18 research suggesting any harmful effects from smoking.

19 **Conspiratorial Involvement by Defendants’ Lawyers**

20 108. Throughout this fifty-plus year conspiracy, Defendants and their co-
21 conspirators utilized attorneys – both in-house and outside counsel – to further their
22 conspiracy. Defendants and their co-conspirators consulted with these attorneys both
23 before any litigation was contemplated, and once litigation against the tobacco companies
24 began.
25

26 109. Philip Morris USA Inc., R.J. Reynolds Tobacco Company, British American
27 Tobacco Company, American Tobacco Company, Lorillard Tobacco Company, Brown &
28

1 Williamson Tobacco Company, and Liggett Group LLC, collectively and through their
2 general counsel, formed the Committee of Counsel and/or the Counsel of Six (hereafter
3 “CC”), whose purpose was to oversee, organize, operate, and execute a conspiracy to conceal
4 and/or misrepresent the harms and addictive nature of cigarettes.
5

6 110. Beginning in the 1950s, Philip Morris USA Inc., R.J. Reynolds Tobacco
7 Company, British American Tobacco Company, American Tobacco Company, Lorillard
8 Tobacco Company, Brown & Williamson Tobacco Company, and Liggett Group LLC,
9 through the CC, also retained outside counsel to assist them in their conspiratorial
10 activities, which included concealing and/or misrepresenting the harms of smoking and its
11 addictive nature to the public.
12

13 111. The law firms whom Defendants retained as outside counsel included several
14 prominent law firms.

15 112. Beginning in the 1950s, the CC and the outside law firms (hereafter
16 “Lawyers”) conspired with Defendants and acted as agents, servants, representatives
17 and/or employees of Defendants in the course and scope of their agency or employment and
18 in furtherance of the conspiracy.¹
19

20 113. The Lawyers played a central role in creating, sustaining, and perpetuating
21 the Defendants’ and the tobacco industry’s conspiracy. Some examples include, but are not
22 limited to the following:
23

- 24 a. The Lawyers directed “scientists” as to what research they should and should
25 not undertake (“new research [regarding the health effects of smoking] will
26 have questionable value, but no negative results”) (CC229); (quote from an
27

28 ¹ The allegations herein are not directed to Defendants’ current counsel and/or their representation as part of their lawful defense in this case.

1 attorney: “epidemiological evidence is necessary if for no other reason than to
2 effectively respond to anti-smoking groups . . . the industry should continue
3 to emphasize the lack of substantive proof of causation”) (CC188);

4
5 b. The Lawyers were involved at every level of alleged scientific “research”
6 pursued by Defendants and the tobacco industry (“The excessive involvement
7 of external lawyers at this very basic scientific level is questionable”)
8 (COVB11);

9
10 c. The Lawyers allegedly vetted scientific “research” papers and reports as well
11 as public relations materials to ensure the interests of the conspiracy would
12 be protected;

13
14 d. The Lawyers improperly identified “friendly” scientific witnesses, subsidized
15 them with grants from the Center for Tobacco Research and the Center for
16 Indoor Air Research, paid them enormous fees, and often hid the relationship
17 between those witnesses and the industry;

18
19 e. The Lawyers devised and carried out document destruction policies and took
20 shelter behind baseless assertions of attorney client privilege (SHB118,
21 SHB109, CC139);

22
23 f. The Lawyers advocated for tobacco committees to be “front” organizations;
24 (one attorney stated in 1978 that an ad hoc committee should be a broad
25 policy making committee, not just a smoking and health committee, and that
26 the best way money was spent was on “special projects” where “CTR has acted
27 as a ‘front’”) (CC141);

28 g. The Lawyers chaired meetings with co-conspirators (one attorney chaired the

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- Environmental Tobacco Smoke meeting in 1988) (CC188);
- h. The Lawyers presented the results of scientific studies at industry meetings (for example, in 1993, one attorney presented four epidemiologic studies which were used to “merchandize the ‘positive’ progress in epidemiology”) (COVB122);
 - i. The Lawyers oversaw domestic smoking and health projects (for example, in 1998, one attorney and his firm advised Philip Morris regarding whether to initially fund, and whether to continue or discontinue funding, scientists) (SHB 109);
 - j. The Lawyers also worked with and coached scientists on how to be possible witness in litigation, how to speak at legislative hearings, how to serve as consultants, and/or how to conduct specific supposed research;
 - k. They further oversaw international smoking and health projects (for example, in 1991, one attorney wrote a memo praising how the Latin American and Far East programs were ideal because a law firm developed them in such a way “that there was no direct association between the scientists and the tobacco industry”) (COVB130);
 - l. The Lawyers screened international scientists in order to eliminate those with views opposing the conspiracy (“Candidates who have made public statements adverse to the industry on the primary health issue generally are avoided”) (COVB124);
 - m. The Lawyers hid the source of the money used for special projects to make them appear more acceptable to the public:

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- i. On November 15, 1978, at a CTR meeting in New York, one attorney told the attendees that “special projects” were the best way money was spent, and said “on these projects, CTR has acted as a ‘front.’” (CC141);
- ii. On July 13, 1984, a memorandum from one attorney to another stated, “[the] non-CTR projects fund was originally developed so that companies would not be paying scientists directly.” (SHB118);
- iii. On October 1989, a scientist from BAT, Dr. Ray Thornton, was invited by Dr. Helmut Gaisch of PM to a meeting with the Association for Research on Indoor Air (ARIA). Dr. Thornton’s record indicates PM funded ARIA, through a law firm, who in turn supplied money to George Leslie, who in turn set up ARIA. (COVB131);
- iv. On April 28, 1992, an attorney wrote that Lorillard and CTR inquired about funding through a law firm’s special account for one Dr. Bennett Jensen. The law firm proposed to give Dr. Jensen \$40,000, not for specific research or with an eye to publication, but solely to maintain a good relationship with him and secure his continued help in contacting other scientists. Dr. Jensen previously received CTR Special Project Funds in 1988. An attorney wrote:

Allinder admits that [the law firm] wants to give Jensen money to keep him happy and that there is no immediate value to his research . . . issue raises a larger question—whether ‘CTR Special Projects’ funds (and, after such activities were moved out of CTR, joint industry funds administered through [the law firm]) were used to purchase favorable judicial or legislative testimony, thereby perpetrating a fraud on the public”

(CC119) (emphasis added);

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n. The Lawyers ensured that Defendants and the tobacco industry did not directly support legitimate projects related to smoking and health, and instead directed the companies toward supporting alternative projects including junk science, attacks on legitimate public health research, and research of scientifically implausible alternative causation theories for smoking-related diseases.

114. The Lawyers were also crucial to the development of research the Defendants and the tobacco industry funded through their selection of Directors for the Center for Tobacco Research (CTR) Scientific Advisory Board (SAB) who imposed unnecessary limits on the research funded by CTR.

115. Additionally, the outside Lawyers went so far as to take over access to a database of documents created by RJR's Research and Development division. The outside Lawyers banned the tobacco companies and their in-house counsel from accessing these documents in order to conceal the documents through a false assertion of alleged attorney work product privilege.

116. Further, the Lawyers played a major role in Defendants' witness development plans to perpetuate the conspiracy's "open question" position.

a. For example, shortly after joining Brown & Williamson Tobacco Co. as Vice President of Research and Development in 1989, Jeffrey Wigand, as part of his orientation, was required to go to Kansas City, Missouri to meet for three days with lawyers from a law firm for an "orientation session." At the session, Wigand was "coached by lawyers regarding the company line on smoking and health, and addiction." The company line was "[t]hat causation had not been

1 proven and that nicotine had not been shown to be addictive." Similar
2 orientation meetings took place with other tobacco scientists at the law firm's
3 offices. (See SHB195, SHB106, United States v. Philip Morris USA, Inc., 449
4 F. Supp. 2d 1, 805 (D.D.C. 2006)).
5

6 b. Wigand described the orientation session as follows:

7 Lawyers were instructing me, a scientist, how to
8 interpret epidemiological studies. In every instance, I
9 was instructed that the evidence in the public health
10 domain had not satisfactorily proven causation. I was
11 told that studies that demonstrated a link between
12 smoking and cancer were fraught with errors. Moreover,
13 I was told that epidemiology could not be relied upon
14 because it was just statisticians doing guess work.

13 c. In addition, an attorney from the same law firm sent a letter to a fellow
14 attorney on briefing research associate and chemist Dr. Alex Spears (who
15 would later become Lorillard's CEO) for a conversation with physician and
16 medical news reporter Dean Edell:
17

18 CTR Special Projects, non-CTR projects and the Industry
19 Research Committee are obviously sensitive. Dr. Spears
20 should be prepared to respond to questions in a way that
21 does not lead Edell into these areas. In particular, Dr.
22 Spears should try to avoid references to the role of
23 attorneys. However, this should not become too awkward
24 . . . Dr. Spears should attempt to divert the question.
(Emphasis added.)

24 d. Further, on January 12, 1967, another attorney at the same firm wrote to
25 several other industry attorneys asking them for written comments regarding
26 special projects and congressional hearings. (SHB111.) Two attorneys wrote
27 back stating they hoped materials being developed by TIRC/CTR head Tom
28

1 Hoyt for various Special Projects would be useful in developing a witness to
2 emphasize the importance of multivariant analysis over univariant ones. The
3 two attorneys also recommended development of two witnesses who could
4 comment upon diseases other than lung cancer. They would present the
5 position that the claimed associations have not been proven to be causal. As
6 to one such potential witness, Dr. Pratt, they noted that while he had
7 potential, he would require “considerable work” before he would be prepared
8 to appear before Congress. (SHB112).
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11 **FIRST CLAIM FOR RELIEF**

12 **(WRONGFUL DEATH - NEGLIGENCE)**

13
14 **Dolly Rowan as Personal Representative of the Estate of Noreen Thompson**
15 **and Dolly Rowan as Heir of Noreen Thompson Against Defendants R.J.**
16 **Reynolds, and Liggett**

17 117. Plaintiffs repeat and reallege the allegations as contained in paragraphs 1
18 through 116 and incorporate the same herein by reference.

19 118. Plaintiffs bring this wrongful death claim based on Defendants’ negligence
20 as set forth below against R.J. Reynolds and Liggett.

21 119. Plaintiff, DOLLY ROWAN, is the heir of NOREEN THOMPSON.

22 120. Plaintiff, NAVONA COLLISON, is the heir of NOREEN THOMPSON.

23 121. Plaintiff, RUSSELL THOMPSON, is the heir of NOREEN THOMPSON.

24 122. Plaintiffs, DOLLY ROWAN, NAVONA COLLISON, and RUSSELL
25 THOMPSON, bring this cause of action pursuant to NRS 41.085(4), as the heirs of
26 NOREEN THOMPSON.
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1 123. Plaintiff, DOLLY ROWAN, is the Special Administrator and Personal
2 Representative of the Estate of NOREEN THOMPSON.

3 124. Plaintiff, DOLLY ROWAN, brings this claim pursuant to 41.085(5) as the
4 Special Administrator and Personal Representative of the Estate of NOREEN
5 THOMPSON.
6

7 125. Defendants owed a duty to the general public, including Decedent, to
8 manufacture, design, sell, market, promote, and/or otherwise produce a product and/or
9 any of its component parts safe and free of unreasonable and harmful defects when used
10 in the manner and for the purpose it was designed, manufactured, and/or intended to be
11 used.
12

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

15 127. Each exposure to Defendants' cigarettes caused Decedent to inhale smoke
16 which caused her to become addicted to cigarettes, and further caused her to develop lung
17 cancer and suffer severe bodily injuries and death.
18

19 128. Defendants were negligent in all the following respects, same being the
20 proximate and/or legal cause of NOREEN THOMPSON'S injuries and death, including
21 but not limited to:
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- 23 a. designing and manufacturing an unreasonably dangerous and deadly
24 product;
25 b. designing and manufacturing cigarettes to be addictive;
26 c. designing and manufacturing cigarettes to be inhalable;
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- d. manipulating the level of nicotine in cigarettes to make them more addictive;
- e. genetically modifying nicotine in tobacco plants;
- f. blending different types of tobacco to obtain a desired amount of nicotine;
- g. engineering cigarettes to be rapidly inhaled into the bloodstream;
- h. adding chemicals and other deadly, poisonous compounds to cigarettes;
- i. adding and/or manipulating compounds such as urea, ammonia and diammonium phosphate to Defendants' cigarettes to "free-base" nicotine;
- j. marketing and advertising "filter" and "filtered" cigarettes as safe;
- k. marketing and advertising "light" and "ultra light" cigarettes as safe, low nicotine, and low tar;
- l. adding "onserts" to packages of cigarettes even after the United States government banned marketing of "light" and "ultra-light" cigarettes;
- m. manipulating levels of pH in Defendants' cigarettes;
- n. targeting children who could not understand or comprehend the seriousness or addictive nature of nicotine and smoking;
- o. targeting minority populations such as African Americans, Hispanics, and women, such as NOREEN THOMPSON, to obtain a greater market share to increase their profits;
- p. failing to develop and utilize alternative designs, manufacturing methods, and/or materials to reduce and/or eliminate harmful materials from cigarettes;

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- q. continuing to manufacture, distribute, and/or sell cigarettes when Defendants knew at all times material that its products could cause, and in fact were more likely to cause, injuries including, but not limited to, emphysema, throat cancer, COPD, laryngeal cancer, lung cancer, and/or other forms of cancer when used as intended;
- r. making knowingly false and misleading statements to Plaintiff, the public, and the American government that cigarettes were safe and/or not proven to be dangerous;
- s. failing to remove and recall cigarettes from the stream of commerce and the marketplace upon ascertaining that said products would cause disease and death.

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

- a. failing to warn and/or adequately warn foreseeable users, such as NOREEN THOMPSON, of the dangerous and deadly nature of cigarettes;
- b. failing to warn foreseeable users, such as NOREEN THOMPSON, that users could develop fatal injuries including, but not limited to, emphysema, COPD, throat cancer, laryngeal cancer, lung cancer, and/or other forms of cancer, as a result of smoking and/or inhaling smoke from Defendants' cigarettes;

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- c. failing to warn foreseeable users, such as NOREEN THOMPSON, that the use of cigarettes would more likely than not lead to addiction, habituation, and/or dependence;
- d. failing to warn foreseeable users, such as NOREEN THOMPSON, that quitting and/or limiting use of cigarettes would be extremely difficult, particularly if users started smoking at an early age;
- e. failing to disclose to consumers of cigarettes, such as NOREEN THOMPSON, the results of genuine scientific research conducted by and/or known to Defendant that cigarettes were dangerous, defective, and addictive.

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

131. NOREEN THOMPSON'S aforementioned injuries arose out of and were connected to the way Defendants' designed, manufactured, marketed, distributed, and/or sold its products.

132. The aforementioned damages of NOREEN THOMPSON were directly and proximately and/or legally caused by Defendants' negligence, in that they produced, sold, manufactured, and/or otherwise placed into the stream of intrastate and interstate commerce, cigarettes which they knew, or in the exercise of ordinary care should have

1 known, were deleterious and highly harmful to NOREEN THOMPSON'S health and
2 well-being.

3 133. Defendants, prior to selling and/or distributing the cigarettes to which
4 NOREEN THOMPSON was exposed, knew or should have known that exposure to
5 cigarette smoke was harmful and caused injuries including, but not limited to, lung
6 cancer, pharyngeal cancer, laryngeal cancer, emphysema, COPD, heart disease, and
7 other forms of cancer, and/or result in death.

8
9 134. Defendants' negligence and/or wrongful acts were the actual and proximate
10 or legal cause of NOREEN THOMPSON'S injuries and death. Plaintiffs, DOLLY
11 ROWAN, NAVONA COLLISON, and RUSSELL THOMPSON, have sustained damages
12 consisting of the loss of NOREEN THOMPSON'S love, companionship, comfort,
13 affection, society, and moral support, and has suffered great emotional and psychological
14 loss, all in amounts in excess of Fifteen Thousand Dollars (\$15,000.00). As NOREEN
15 THOMPSON'S heirs, DOLLY ROWAN, NAVONA COLLISON, and RUSSELL
16 THOMPSON seek these damages pursuant to NRS 41.085(4).
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19 135. As a further actual and proximate or legal result of Defendants' negligence,
20 NOREEN THOMPSON endured pain, suffering, and/or disfigurement. As NOREEN
21 THOMPSON'S heirs, DOLLY ROWAN, NAVONA COLLISON, and RUSSELL
22 THOMPSON seek general damages for this pain, suffering, and/or disfigurement
23 pursuant to NRS 41.085(4) in an amount in excess of Fifteen Thousand Dollars
24 (\$15,000.00).
25

26 136. As a further actual and proximate or legal result of Defendants' negligence,
27 NOREEN THOMPSON'S estate incurred special damages, to include medical expenses
28

1 and funeral expenses, in an amount in excess of Fifteen Thousand Dollars (\$15,000.00).
2 As personal representative of NOREEN THOMPSON'S Estate, DOLLY ROWAN seeks
3 these special damages pursuant to NRS 41.085(5).
4

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

9 138. Defendants' outrageous and unconscionable conduct warrants an award of
10 exemplary and punitive damages pursuant to NRS 42.005, in an amount appropriate to
11 punish and make an example of Defendants, and to deter similar conduct in the future.
12 As personal representative of NOREEN THOMPSON'S estate, DOLLY ROWAN seeks
13 exemplary and punitive damages pursuant to NRS 41.085(5).
14

15 139. To the extent NRS 42.007 is applicable to Defendants' conduct, Defendants
16 are vicariously liable for punitive damages arising from the outrageous and
17 unconscionable conduct of their employees, agents, and/or servants, as set forth herein.
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19 140. The actions of Defendants have forced Plaintiffs to retain counsel to
20 represent them in the prosecution of this action, and they are therefore entitled to an
21 award of a reasonable amount as attorneys' fees and costs of suit.
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SECOND CLAIM FOR RELIEF

(NEGLIGENCE)

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

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

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

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

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

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

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

- a. designing and manufacturing an unreasonably dangerous and deadly product;
- b. designing and manufacturing cigarettes to be addictive;

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- c. designing and manufacturing cigarettes to be inhalable;
- d. manipulating the level of nicotine in cigarettes to make them more addictive;
- e. genetically modifying nicotine in tobacco plants;
- f. blending different types of tobacco to obtain a desired amount of nicotine;
- g. engineering cigarettes to be rapidly inhaled into the bloodstream;
- h. adding chemicals and other deadly, poisonous compounds to cigarettes;
- i. adding and/or manipulating compounds such as ammonia and diammonium phosphate to Defendants' cigarettes to "free-base" nicotine;
- j. marketing and advertising "filter" and "filtered" cigarettes as safe;
- k. marketing and advertising "light" and "ultra light" cigarettes as safe, low nicotine, and low tar;
- l. adding "onserts" to packages of cigarettes even after the United States government banned marketing of "light" and "ultra-light" cigarettes;
- m. manipulating levels of pH in Defendants' cigarettes;
- n. targeting children who could not understand or comprehend the seriousness or addictive nature of nicotine and smoking;
- o. targeting minority populations such as African Americans, Hispanics, and women such as NOREEN THOMPSON, to obtain a greater market share to increase their profits;
- p. failing to develop and utilize alternative designs, manufacturing methods, and/or materials to reduce and/or eliminate harmful materials from cigarettes;

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- q. continuing to manufacture, distribute, and/or sell cigarettes when Defendants knew at all times material that their products could cause, and in fact were more likely to cause, injuries including, but not limited to, emphysema, throat cancer, COPD, laryngeal cancer, lung cancer, and/or other forms of cancer when used as intended;
- r. making knowingly false and misleading statements to Decedent, the public, and the American government that cigarettes were safe and/or not proven to be dangerous;
- s. failing to remove and recall cigarettes from the stream of commerce and the marketplace upon ascertaining that said products would cause disease and death.

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

- a. failing to warn and/or adequately warn foreseeable users, such as NOREEN THOMPSON, of the dangerous and deadly nature of cigarettes;
- b. failing to warn foreseeable users, such as NOREEN THOMPSON, that users could develop fatal injuries including, but not limited to, emphysema, COPD, throat cancer, laryngeal cancer, lung cancer, and/or other forms of cancer, as a result of smoking and/or inhaling smoke from Defendants' cigarettes;

- 1 c. failing to warn foreseeable users, such as NOREEN THOMPSON, that the
2 use of cigarettes would more likely than not lead to addiction, habituation,
3 and/or dependence;
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5 d. failing to warn foreseeable users, such as NOREEN THOMPSON, that
6 quitting and/or limiting use of cigarettes would be extremely difficult,
7 particularly if users started smoking at an early age;
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9 e. failing to disclose to consumers of cigarettes, such as NOREEN
10 THOMPSON, the results of genuine scientific research conducted by and/or
11 known to Defendants that cigarettes were dangerous, defective, and
12 addictive.

13 148. Defendants breached the aforementioned duties of due and reasonable care
14 in that they produced, designed, manufactured, sold, and/or marketed defective
15 cigarettes and/or any of their component parts which contained risks of harm to the
16 user/consumer and which were reasonably foreseeable to cause harm in the use or
17 exercise of reasonable and/or ordinary care.
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19 149. As a direct and proximate and/or legal result of Defendants' aforementioned
20 negligence, NOREEN THOMPSON was severely injured and died when she was exposed
21 to Defendants' cigarettes. Each exposure to Defendants' cigarettes caused NOREEN
22 THOMPSON to become addicted to cigarettes and to inhale smoke which caused her to
23 develop lung cancer, in addition to other related physical conditions which resulted in
24 and directly caused her to suffer severe bodily injuries and death. Each exposure to such
25 products was harmful and caused or contributed substantially to NOREEN
26 THOMPSON'S aforementioned injuries and death.
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1 150. NOREEN THOMPSON'S aforementioned injuries and death arose out of
2 and were connected to the way Defendants designed, manufactured, marketed,
3 distributed, and/or sold their products.
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5 151. The aforementioned damages of NOREEN THOMPSON were directly and
6 proximately and/or legally caused by Defendants' negligence, in that they produced, sold,
7 manufactured, and/or otherwise placed into the stream of intrastate and interstate
8 commerce, cigarettes which they knew, or in the exercise of ordinary care should have
9 known, were deleterious and highly harmful to NOREEN THOMPSON'S health and
10 well-being.
11

12 152. Defendants, prior to selling and/or distributing the cigarettes to which
13 NOREEN THOMPSON was exposed, knew or should have known that exposure to
14 cigarette smoke was harmful and caused injuries including, but not limited to, lung
15 cancer, pharyngeal cancer, laryngeal cancer, emphysema, COPD, heart disease, other
16 forms of cancer, and/or result in death.
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18 153. Defendants' negligence is an actual and proximate or legal cause of
19 NOREEN THOMPSON'S injuries and death. NOREEN THOMPSON thereby
20 experienced great pain and anxiety to her body and mind. NOREEN THOMPSON
21 sustained injuries and damages in an amount in excess of Fifteen Thousand Dollars
22 (\$15,000.00), for which Plaintiff, DOLLY ROWAN, as Administrator of the Estate of
23 NOREEN THOMPSON, now seeks recovery pursuant to NRS 41.100.
24

25 154. As a further actual and proximate or legal result of Defendants' negligence,
26 NOREEN THOMPSON underwent medical treatment and incurred past medical and/or
27 incidental expenses. The exact amount of such damages is unknown at this present time,
28

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

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

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

15 157. To the extent NRS 42.007 is applicable to Defendants' conduct, Defendants
16 are vicariously liable for punitive damages arising from the outrageous and
17 unconscionable conduct of their employees, agents, and/or servants, as set forth herein.
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19 158. The actions of Defendants have forced Plaintiff to retain counsel to
20 represent her in the prosecution of this action, and she is therefore entitled to an award
21 of a reasonable amount as attorneys' fees and costs of suit.
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1 168. The products complained of were cigarettes designed, manufactured,
2 marketed, distributed, and/or sold by Defendants and used by NOREEN THOMPSON.

3 169. The aforesaid products were distributed, sold, manufactured, and/or
4 otherwise placed into the stream of commerce by Defendants.
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6 170. Defendants' defective and unreasonably dangerous cigarettes reached
7 NOREEN THOMPSON without substantial change from that in which such products
8 were when within the possession of Defendants.

9 171. Defendants' cigarettes were dangerous beyond the expectation of the
10 ordinary user/consumer when used as intended or in a manner reasonably foreseeable
11 by Defendants.
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13 172. The nature and degree of danger of Defendants' cigarettes were beyond the
14 expectation of the ordinary consumer, including NOREEN THOMPSON, when used as
15 intended or in a reasonably foreseeable manner.
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17 173. Defendants' cigarettes were unreasonably dangerous because a less
18 dangerous design and/or modification was economically and scientifically feasible.

19 174. Defendants' purposely designed and/or manufactured cigarettes to be
20 defective and unreasonably dangerous by doing the following, including but not limited
21 to:
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- 23 a. manipulating levels of nicotine in cigarettes to make them more addictive;
- 24 b. manipulating ingredients in cigarettes to make them inhalable;
- 25 c. genetically modifying nicotine in tobacco plants;
- 26 d. blending different types of tobacco to obtain a desired amount of nicotine;
- 27 e. engineering cigarettes to be rapidly inhaled into the lungs;
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- f. adding chemicals and other deadly, poisonous compounds to cigarettes;
- g. adding and/or manipulating compounds such as ammonia and diammonium phosphate to Defendants' cigarettes to "free-base" nicotine;
- h. manipulating levels of pH in Defendants' cigarettes;
- i. manipulating and adding deadly and harmful additives, compounds, and ingredients in their cigarette design and manufacturing process when alternative, less dangerous materials were available;
- j. intentionally failing to filter out harmful substances so that during ordinary use, such materials would not be liberated into the air and/or breathed by the smoker such as the Decedent herein;
- k. designing, through the use of filters, manufacturing methods, engineering methods and/or materials, cigarettes in such a way to make smoking them more tasteful, pleasurable and less likely to trigger the smoker's own biological self defense mechanisms which otherwise may have limited and/or altered the smoker's behavior in such a way that the smoker may have smoked less, inhaled less deeply or not at all;
- l. adding "onserts" to packages of cigarettes even after the United States government banned marketing of "light" and "ultra-light" cigarettes;
- m. failing to create safer alternative designs for cigarettes including nicotine free or reduced nicotine cigarettes;
- n. falsely labeling and branding cigarettes as filtered, "light" "low tar" and "ultra light;"