

**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. 20**

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- o. prior to July 1, 1969, failing to warn and/or adequately warn foreseeable users, such as NOREEN THOMPSON, of the dangerous and deadly nature of cigarettes;
- p. prior to July 1, 1969, failing to warn foreseeable users, such as NOREEN THOMPSON, that they could develop fatal injuries including, but not limited to, emphysema, throat cancer, laryngeal cancer, lung cancer, and/or other forms of cancer, as a result of smoking and/or inhaling smoke from Defendants' cigarettes;
- q. prior to July 1, 1969, 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;
- r. prior to July 1, 1969, 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;
- s. prior to July 1, 1969, failing to disclose to consumers of cigarettes, such as NOREEN THOMPSON, the results of scientific research conducted by and/or known to Defendants that cigarettes may be dangerous, defective, and/or addictive.

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

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

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

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

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

180. As a further actual and proximate or legal result of Defendants' actions, NOREEN THOMPSON'S estate incurred special damages, to include medical expenses

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

5 181. 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.

9 182. 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

15 183. 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.  
18

19 184. 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.  
22

23 ///

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28 ///

**FOURTH CLAIM FOR RELIEF**

**(STRICT PRODUCTS LIABILITY)**

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

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

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

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

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

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

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

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

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

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

3 194. Defendants' purposely designed and/or manufactured cigarettes to be  
4 defective and unreasonably dangerous by doing the following, including but not limited  
5 to:  
6

- 7 a. manipulating levels of nicotine in cigarettes to make them more addictive;
- 8 b. manipulating ingredients in cigarettes to make them inhalable;
- 9 c. genetically modifying nicotine in tobacco plants;
- 10 d. blending different types of tobacco to obtain a desired amount of nicotine;
- 11 e. engineering cigarettes to be rapidly inhaled into the lungs;
- 12 f. adding chemicals and other deadly, poisonous compounds to cigarettes;
- 13 g. adding and/or manipulating compounds such as ammonia and
- 14 diammonium phosphate to Defendants' cigarettes to "free-base" nicotine;
- 15 h. manipulating levels of pH in Defendants' cigarettes;
- 16 i. manipulating and adding deadly and harmful additives, compounds, and
- 17 ingredients in their cigarette design and manufacturing process when
- 18 alternative, less dangerous materials were available;
- 19 j. intentionally failing to filter out harmful substances so that during
- 20 ordinary use, such materials would not be liberated into the air and/or
- 21 breathed by the smoker such as the Decedent herein;
- 22 k. designing, through the use of filters, manufacturing methods, engineering
- 23 methods and/or materials, cigarettes in such a way to make smoking them
- 24 more tasteful, pleasurable and less likely to trigger the smoker's own
- 25
- 26
- 27
- 28

1 biological self defense mechanisms which otherwise may have limited  
2 and/or altered the smoker's behavior in such a way that the smoker may  
3 have smoked less, inhaled less deeply or not at all;

- 4  
5 1. adding “onserts” to packages of cigarettes even after the United States  
6 government banned marketing of “light” and “ultra-light” cigarettes;  
7 m. failing to create safer alternative designs for cigarettes including nicotine  
8 free or reduced nicotine cigarettes;  
9 n. falsely labeling and branding cigarettes as filtered, “light” “low tar” and  
10 “ultra light;”  
11

12 195. NOREEN THOMPSON was unaware of the defective and unreasonably  
13 dangerous condition of Defendants’ cigarettes, and at a time when such products were  
14 being used for the purposes for which they were intended, was exposed to, breathed  
15 smoke from, and inhaled Defendants’ cigarettes.  
16

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

20 197. NOREEN THOMPSON was unaware of the hazards and defects in  
21 Defendants’ cigarettes, to-wit: that exposure to said products would cause NOREEN  
22 THOMPSON to become addicted and develop lung cancer and ultimately caused her  
23 death.  
24

25 198. Defendants’ actions are an actual and proximate or legal cause of NOREEN  
26 THOMPSON’S injuries. NOREEN THOMPSON thereby experienced great pain, and  
27 anxiety her body and mind. NOREEN THOMPSON sustained injuries and damages in  
28

1 an amount in excess of Fifteen Thousand Dollars (\$15,000.00), for which Plaintiff,  
2 DOLLY ROWAN, as Administrator of the Estate of NOREEN THOMPSON, now seeks  
3 recovery pursuant to NRS 41.100.  
4

5 199. As a further actual and proximate or legal result of Defendants' actions  
6 NOREEN THOMPSON underwent medical treatment and incurred past medical and/or  
7 incidental expenses. The exact amount of such damages is unknown at this present time,  
8 but NOREEN THOMPSON suffered special damages in excess of Fifteen Thousand  
9 Dollars (\$15,000.00). Plaintiff, DOLLY ROWAN, as Administrator of the Estate of  
10 NOREEN THOMPSON seeks recovery of these damages pursuant to NRS 41.100.  
11

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

17 201. Defendants' outrageous and unconscionable conduct warrants an award of  
18 exemplary and punitive damages pursuant to NRS 42.005, in an amount appropriate to  
19 punish and make an example of Defendants, and to deter similar conduct in the future.  
20 As Administrator of the Estate of NOREEN THOMPSON, DOLLY ROWAN seeks  
21 exemplary and punitive damages pursuant to NRS 41.100.  
22

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

27 ///

28 ///

203. 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.

**FIFTH CLAIM FOR RELIEF**

**(WRONGFUL DEATH - FRAUDULENT MISREPRESENTATION)**

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

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

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

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

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

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

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

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

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

1           212. Beginning at an exact time unknown to Plaintiffs, and continuing even  
2 today, the cigarette manufacturers, including Defendants herein, have carried out, and  
3 continue to carry out a campaign designed to deceive the public, including NOREEN  
4 THOMPSON, the government, and others, as to the health hazards and addictive nature  
5 of cigarettes, through false statements and/or misrepresentations of material facts.  
6

7           213. The cigarette manufacturers, including Defendants herein, made literally  
8 thousands of misrepresentations to the decedent and others similarly situated over the  
9 course of the last fifty years. Plaintiff is unable to allege in full these misrepresentations,  
10 which are found in thousands of pre-1969 advertisements, continuing press releases,  
11 testimony by cigarette manufacturers' officers and employees before Congress and other  
12 governmental entities, etc., that the cigarette manufacturers and their co-conspirators ,  
13 THE TOBACCO INSTITUTE, INC. ("TI") formed in 1958, TOBACCO INDUSTRY  
14 RESEARCH COMMITTEE ("TIRC") formed in 1954, and COUNCIL for TOBACCO  
15 RESEARCH ("CTR") formed in 1964 and previously known as the TIRC, both because she  
16 does not have access to this information, and because to allege each and every such  
17 misrepresentation and/or false statement here would entail hundreds or even thousands  
18 of pages of pleadings. I Indeed, it is the cigarette manufacturers themselves, including  
19 Defendants herein, that have this knowledge and information, and are in the best position  
20 to know the contents of each and every such misrepresentation and/or false statement.  
21  
22

23           214. Defendants made intentional misrepresentations, false promises, concealed  
24 information, and failed to disclose material information concerning the health effects  
25 and addictive nature of cigarettes to NOREEN THOMPSON, the public, and the  
26 American government.  
27  
28

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

- 3           a. Defendants falsely represented to NOREEN THOMPSON that questions  
4           about smoking and health would be answered by unbiased, trustworthy  
5           sources;  
6  
7           b. Defendants misrepresented and confused facts about health hazards of  
8           cigarettes and nicotine addiction;  
9  
10          c. Defendants, along with other cigarette manufacturers, spent billions of  
11          dollars hiring lawyers, fake scientists, and public relations firms to  
12          misdirect purported “objective” scientific research;  
13  
14          d. Defendants discouraged meritorious litigation by engaging in “scorched  
15          earth” tactics, as noted in a previously secret 1988 document: “to  
16          paraphrase General Patton, the way we won these cases was not by  
17          spending all of [their] money, but by making that other son of a bitch spend  
18          all of his;”  
19  
20          e. Defendants suppressed and distorted evidence concerning the health  
21          effects and addictive nature of cigarettes to protect their existence and  
22          profits;  
23  
24          f. Defendants designed, marketed, and sold so-called “filtered” and “light”  
25          cigarettes despite knowing internally that such cigarettes were just as  
26          addictive, dangerous, and deadly as “regular” cigarettes.  
27  
28

- i. Defendants knew their system to measure the tar and nicotine was neither a valid nor reliable way to measure the amount of tar and nicotine inhaled by an actual smoker.
  - ii. Notwithstanding same, the Defendants marketed “Light” cigarettes to consumers as a safer alternative based upon said measuring system.
  - iii. Defendants manipulated the design of cigarettes to produce test results that were artificially low.
  - iv. Defendants knew that “Light” cigarette smokers compensate to obtain the same level of tar or nicotine as non-light cigarettes either by taking more puffs on each cigarette, by taking larger, longer or deeper puffs, and/or by smoking more cigarettes.
- g. Defendants continued to fraudulently market and sell “mild”, “low tar”, and “light” cigarettes through 2010 despite knowing they were no safer than ‘full flavor’ cigarettes and knowing consumers perceived them as safer.
- i. The cigarette manufacturers, including Defendants herein, were ultimately prohibited by Congress from marketing “mild”, “low tar”, and “light” cigarettes when Congress passed the Family Smoking Prevention and Tobacco Control Act, Public Law 111-31 (June 22, 2009), which became effective on June 22, 2010.
  - ii. Despite the congressional ban, the cigarette manufacturers, including Defendants herein, have continued to market and sell even today the same “mild”, “low tar”, and “light” cigarettes, only now

1                   these cigarettes are marketed with a new package coloring scheme  
2                   in order to get around the banned light descriptors.

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

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

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

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

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

23           a. A 1970 advertisement from the Tobacco Institute said: “[t]he Tobacco  
24          Institute believes the American public is entitled to complete,  
25          26          27          28

1 authenticated information about cigarette smoking and health.”

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

25 219. Defendants continued to make these and similar statements well into the  
26 1990s, with the goal of convincing consumers to start and keep smoking, not reduce their  
27 smoking, and/or not quit.

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

1 their message through all forms of available media, including newspapers, magazines,  
2 and television.

3 221. Industry spokespersons appeared on news shows, on commercials and  
4 public television to state falsely that the evidence concerning the health effects of tobacco  
5 was based primarily on statistical relationships and that there was no proof that a  
6 specific tobacco component caused a specific disease and that cigarette smoking was not  
7 addictive.  
8

9 222. Cigarette manufacturers when sued denied that cigarettes were addictive  
10 and claimed that smoking was a matter of free choice and that smokers could simply quit  
11 smoking if they so wanted.  
12

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

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

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

26 226. These misrepresentations and false statements also include the following  
27 statements which were heard, read, and relied upon by Decedent, NOREEN  
28

1 THOMPSON, who remembered these statements or substantially similar statements,  
2 made by Defendants, their co-conspirators, and their spokespeople:

- 3 a. That the addictive nature and health effects of smoking were matters of  
4 “open debate.”  
5  
6 b. “It is not known whether cigarettes cause cancer, it has not been casually  
7 established.” Edward Horrigan, President of R.J. Reynolds Tobacco  
8 Company on ABC Nightline 1984.  
9  
10 c. “Despite all of the research to date there has been no causal link established  
11 [between cigarette smoking and cancer].” Edward Horrigan, President of  
12 R.J. Reynolds Tobacco Company on ABC Nightline 1984.  
13  
14 d. “There is absolutely no proof that cigarettes are addictive.” Edward  
15 Horrigan, CEO of R.J. Reynolds, Congressional Testimony 1982.  
16  
17 e. “Claims that cigarettes are addictive [are] irresponsible and scare tactics.”  
18 Tobacco Industry Response to 1988 United States Surgeon General’s  
19 Report.  
20  
21 f. “To my knowledge, it’s not been proven that cigarette smoking causes  
22 cancer.” William Campbell, CEO Philip Morris, Congressional Testimony,  
23 1993.

24 227. The aforementioned acts, false statements and/or misrepresentations  
25 which were made and/or caused to be made by the cigarette manufacturers, either  
26 directly or indirectly including Defendants herein and their co-conspirators, were  
27 justifiably relied upon by NOREEN THOMPSON, resulted in NOREEN THOMPSON  
28 being unaware of the extent of the danger of the Defendant’s cigarette products, the

1 addictive nature of Defendants' cigarette products, and that filtered and "light"  
2 cigarettes were just as dangerous as regular and/or unfiltered cigarettes.

3 228. Furthermore, NOREEN THOMPSON relied on Defendants' false and  
4 misleading marketing and advertisements of cigarettes, which caused her to start and  
5 continue smoking filtered cigarettes, including but not limited to the following:  
6

- 7 a. False and misleading commercials.
- 8 b. False and misleading marketing gimmicks and jingles including but not  
9 limited to the Winston Jingle "Winston takes good like a cigarette should,"  
10 the iconic "Marlboro Man," "Marlboro Country," "Walk a Mile for Camel,"  
11 "Joe Camel," Lucile Ball, and Rawhide.
- 12 c. False and misleading marketing tactics regarding "filtered" cigarettes  
13 which caused Mrs. Thompson to smoke a filtered cigarette and continue to  
14 smoke a filtered cigarette and become addicted to a filtered cigarette which  
15 caused and contributed to her developing lung cancer.  
16  
17

18 229. NOREEN THOMPSON, during the course of her smoking history, heard  
19 some or all of the false or misleading statements and/or similar statements made directly  
20 or indirectly by the Defendants, believed some or all of the Defendants' false or  
21 misleading statements and relied upon them to her detriment, and smoked and/or  
22 continued to smoke cigarettes based on such false or misleading statements.  
23

24 230. The aforementioned acts, false statements and/or misrepresentations  
25 which were made and/or caused to be made by the cigarette manufacturers, including  
26 Defendants herein, and their co-conspirators were justifiably relied upon by NOREEN  
27 THOMPSON, resulted in her being unaware of the extent of the danger of the  
28

1 Defendants' cigarette products, the addictive nature of Defendants' cigarette products,  
2 and that low tar, low nicotine and/or filtered cigarettes were just as dangerous as regular  
3 and/or unfiltered cigarettes. Such acts, false statements and/or misrepresentations were  
4 made by the Defendants who had knowledge superior to NOREEN THOMPSON  
5 regarding the health aspects and addictive nature of cigarettes.  
6

7 231. As a direct and proximate result of these aforementioned statements,  
8 Decedent, NOREEN THOMPSON, continued to smoke cigarettes which caused or  
9 contributed her developing lung cancer.  
10

11 232. If NOREEN THOMPSON had known the true health hazards and addictive  
12 nature of cigarettes, she would not have started smoking, nor smoked light, low tar,  
13 and/or filtered cigarettes. nor continued to smoke for many years.  
14

15 233. As a direct and proximate result of these aforementioned statements,  
16 Decedent, NOREEN THOMPSON, relied upon the assurances from the tobacco  
17 industry, including statements and sworn congressional testimony from Defendants'  
18 CEOs and also statements from the Defendants' spokesmen and women hired by  
19 Defendants and their co-conspirators, and as a direct and proximate result of that  
20 reliance, continued to smoke cigarettes.  
21

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

- 24 a. The aforementioned representations were regarding material facts about  
25 cigarettes and were knowingly false;  
26 b. Defendants knew said representations were false at the time they made  
27 such statements;  
28

- c. Defendants knew NOREEN THOMPSON did not possess sufficient information to understand or appreciate the dangers of cigarettes;
- d. Defendants intended to induce NOREEN THOMPSON, and did indeed induce NOREEN THOMPSON, to rely upon the aforementioned false representations/acts/statements;
- e. NOREEN THOMPSON was unaware of the falsity of Defendants' aforementioned false representations/acts/statements;
- f. NOREEN THOMPSON was justified in relying upon Defendants' misrepresentations because they were made by Defendants, who possessed superior knowledge regarding the health hazards and addictive nature of cigarettes;
- g. As a direct and proximate and/or legal cause of Defendants' intentional misrepresentations, NOREEN THOMPSON became addicted to cigarettes and developed lung cancer, which caused her death.

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

- a. By making false promises to the public, including NOREEN THOMPSON that Defendants would (i) cooperate with public health, including the Surgeon General, (ii) conduct allegedly "objective" research regarding the addictive nature and health hazards of cigarettes, (ii) remove any harmful elements to cigarettes, if there were any, (iv) form purported "objective" research committees dedicated to undertaking an interest in health as its "basic responsibility paramount to every other consideration," (v) falsely

pledging to provide aid and assistance to research cigarette use and health and others;

b. At all times material, Defendants did not intend to keep their promises;

c. Defendants made these promises with the intent to induce Decedent to begin and continue smoking;

d. NOREEN THOMPSON was unaware of Defendants' intention not to perform their promises;

e. NOREEN THOMPSON acted in reliance upon Defendants' promises;

f. NOREEN THOMPSON was justified in relying upon Defendants' promises;

g. As a direct and proximate and/or legal cause of Defendants' false promises, NOREEN THOMPSON became addicted to cigarettes and developed lung cancer, which caused her death.

236. Defendants' conduct was the actual and proximate or legal cause of NOREEN THOMPSON'S injuries and death. Plaintiffs, DOLLY ROWAN, NAVONA COLLISON, and RUSSELL THOMPSON, have sustained damages consisting of the loss of NOREEN THOMPSON'S love, companionship, comfort, affection, society, and moral support, and have suffered great emotional and psychological loss, all in amount in excess of Fifteen Thousand Dollars (\$15,000.00). As NOREEN THOMPSON'S heir, Plaintiffs, DOLLY ROWAN, NAVONA COLLISON, and RUSSELL THOMPSON, seek these damages pursuant to NRS 41.085(4).

237. As a further actual and proximate or legal result of Defendants' conduct, NOREEN THOMPSON endured pain, suffering, and/or disfigurement. As NOREEN THOMPSON'S heirs, Plaintiffs, DOLLY ROWAN, NAVONA COLLISON, and

1 RUSSELL THOMPSON, seeks general damages for this pain, suffering, and/or  
2 disfigurement pursuant to NRS 41.085(4) in an amount in excess of Fifteen Thousand  
3 Dollars (\$15,000.00).

4  
5 238. As a further actual and proximate or legal result of Defendants' conduct,  
6 NOREEN THOMPSON'S estate incurred special damages, to include medical expenses  
7 and funeral expenses, in an amount in excess of Fifteen Thousand Dollars (\$15,000.00).  
8 As personal representative of NOREEN THOMPSON'S Estate, DOLLY ROWAN seeks  
9 these special damages pursuant to NRS 41.085(5).  
10

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

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

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

24 242. The actions of Defendants have forced Plaintiffs to retain counsel to  
25 represent them in the prosecution of this action, and they are therefore entitled to an  
26 award of a reasonable amount as attorneys' fees and costs of suit.  
27  
28

**SIXTH CLAIM FOR RELIEF****(FRAUDULENT MISREPRESENTATION)****Dolly Rowan as Administrator of the Estate of Noreen Thompson Against  
Defendants R.J. Reynolds, and Liggett**

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

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

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

246. The cigarette manufacturers, including Defendants herein, made literally thousands of misrepresentations to the decedent and others similarly situated over the course of the last fifty years. Plaintiff is unable to allege in full these misrepresentations, which are found in thousands of pre-1969 advertisements, continuing press releases, testimony by cigarette manufacturers' officers and employees before Congress and other governmental entities, etc., that the cigarette manufacturers and their co-conspirators TI (formed in 1958), TIRC (formed in 1954), and CTR (formed in 1964)), both because she does not have access to this information, and because to allege each and every such misrepresentation and/or false statement here would entail hundreds or even thousands

1 of pages of pleadings. I Indeed, it is the cigarette manufacturers themselves, including  
2 Defendants herein, that have this knowledge and information, and are in the best position  
3 to know the contents of each and every such misrepresentation and/or false statement.  
4

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

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

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

- 1 e. Defendants suppressed and distorted evidence concerning the health  
2 effects and addictive nature of cigarettes to protect their existence and  
3 profits;  
4  
5 f. Defendants designed, marketed, and sold so-called “filtered” and “light”  
6 cigarettes despite knowing internally that such cigarettes were just as  
7 addictive, dangerous, and deadly as “regular” cigarettes.  
8  
9 i. Defendants knew their system to measure the tar and nicotine was  
10 neither a valid nor reliable way to measure the amount of tar and  
11 nicotine inhaled by an actual smoker.  
12  
13 ii. Notwithstanding same, the Defendants marketed “Light” cigarettes  
14 to consumers as a safer alternative based upon said measuring  
15 system.  
16  
17 iii. Defendants manipulated the design of cigarettes to produce test  
18 results that were artificially low.  
19  
20 iv. Defendants knew that “Light” cigarette smokers compensate to  
21 obtain the same level of tar or nicotine as non-light cigarettes either  
22 by taking more puffs on each cigarette, by taking larger, longer or  
23 deeper puffs, and/or by smoking more cigarettes.  
24  
25 g. Defendants continued to fraudulently market and sell “mild”, “low tar”, and  
26 “light” cigarettes through 2010 despite knowing they were no safer than  
27 ‘full flavor’ cigarettes and knowing consumers perceived them as safer.  
28  
29 i. The cigarette manufacturers, including Defendants herein, were  
ultimately prohibited by Congress from marketing “mild”, “low tar”,

1 and “light” cigarettes when Congress passed the Family Smoking  
2 Prevention and Tobacco Control Act, Public Law 111-31 (June 22,  
3 2009), which became effective on June 22, 2010.

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

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

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

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

25  
26 250. Defendants made multiple misrepresentations to NOREEN THOMPSON,  
27 including misrepresentations and misleading statements in advertisements, news  
28

1 programs and articles, media reports, and press releases, concerning the health effects  
2 and addictive nature of cigarettes, including “light” and “low tar” cigarettes.

3 251. Throughout the years, Defendants and co-conspirators have repeatedly  
4 stated that cigarettes were not dangerous, and that they would either remove harmful  
5 constituents or stop making cigarettes altogether. Some examples include:  
6

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

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

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

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

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

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

21           257. Cigarette manufacturers, when sued for smoking-related injuries, conducted  
22 the litigation in such a way as to cause the maximum expenditure of time and resources  
23  
24  
25  
26  
27  
28

1 by the claimants for the purposes of exhausting their adversaries' resources and to  
2 discourage other meritorious litigation.

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

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

- 13 a. That the addictive nature and health effects of smoking were matters of  
14 "open debate."
- 15 b. "It is not known whether cigarettes cause cancer, it has not been casually  
16 established." Edward Horrigan, President of R.J. Reynolds Tobacco  
17 Company on ABC Nightline 1984.
- 18 c. "Despite all of the research to date there has been no causal link established  
19 [between cigarette smoking and cancer]." Edward Horrigan, President of  
20 R.J. Reynolds Tobacco Company on ABC Nightline 1984.
- 21 d. "There is absolutely no proof that cigarettes are addictive." Edward  
22 Horrigan, CEO of R.J. Reynolds, Congressional Testimony 1982.
- 23 e. "Claims that cigarettes are addictive [are] irresponsible and scare tactics."  
24 Tobacco Industry Response to 1988 United States Surgeon General's  
25 Report.  
26  
27  
28

1 f. "To my knowledge, it's not been proven that cigarette smoking causes  
2 cancer." William Campbell, CEO Philip Morris, Congressional Testimony,  
3 1993.

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

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

- 16 a. False and misleading commercials.  
17  
18 b. False and misleading marketing gimmicks and jingles including but not  
19 limited to the Winston Jingle "Winston takes good like a cigarette should,"  
20 the iconic "Marlboro Man," "Marlboro Country," "Walk a Mile for Camel,"  
21 "Joe Camel," Lucile Ball, and Rawhide.  
22  
23 c. False and misleading marketing tactics regarding "filtered" cigarettes  
24 which caused Mrs. Thompson to smoke a filtered cigarette and continue to  
25 smoke a filtered cigarette and become addicted to a filtered cigarette which  
26 caused and contributed to her developing lung cancer.  
27  
28

1           262. NOREEN THOMPSON, during the course of her smoking history, heard  
2 some or all of the false or misleading statements and/or similar statements made directly  
3 or indirectly by the Defendants, believed some or all of the Defendants' false or  
4 misleading statements and relied upon them to her detriment, and smoked and/or  
5 continued to smoke cigarettes based on such false or misleading statements.  
6

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

18           264. As a direct and proximate result of these aforementioned statements,  
19 Decedent, NOREEN THOMPSON, continued to smoke cigarettes which caused or  
20 contributed her developing lung cancer.  
21

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

25           266. Decedent, NOREEN THOMPSON, relied upon the assurances from the  
26 tobacco industry, including statements and sworn congressional testimony from  
27 Defendants' CEOs and also statements from the Defendants' spokesmen and women  
28