

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. 21**

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1 hired by Defendants and their co-conspirators, and as a direct and proximate result of
2 that reliance, continued to smoke cigarettes.

3 267. Defendants made intentional misrepresentations to Decedent, NOREEN
4 THOMPSON, in the following ways:
5

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

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

- 3 a. By making false promises to the public, including NOREEN THOMPSON
4 that Defendants would (i) cooperate with public health, including the
5 Surgeon General, (ii) conduct allegedly “objective” research regarding the
6 addictive nature and health hazards of cigarettes, (ii) remove any harmful
7 elements to cigarettes, if there were any, (iv) form purported “objective”
8 research committees dedicated to undertaking an interest in health as its
9 “basic responsibility paramount to every other consideration,” (v) falsely
10 pledging to provide aid and assistance to research cigarette use and health
11 and others;
12
13 b. At all times material, Defendants did not intend to keep their promises;
14
15 c. Defendants made these promises with the intent to induce Decedent to
16 begin and continue smoking;
17
18 d. NOREEN THOMPSON was unaware of Defendants’ intention not to
19 perform their promises;
20
21 e. NOREEN THOMPSON acted in reliance upon Defendants’ promises;
22 f. NOREEN THOMPSON was justified in relying upon Defendants’ promises;
23 g. As a direct and proximate and/or legal cause of Defendants’ false promises,
24 NOREEN THOMPSON became addicted to cigarettes and developed lung
25 cancer, which caused her death.

26 269. Defendants’ conduct is an actual and proximate or legal cause of NOREEN
27 THOMPSON’S injuries. NOREEN THOMPSON thereby experienced great pain, and
28

1 anxiety her body and mind. NOREEN THOMPSON'S sustained injuries and damages
2 in an amount in excess of Fifteen Thousand Dollars (\$15,000.00), for which Plaintiff,
3 DOLLY ROWAN, as Administrator of the Estate of NOREEN THOMPSON, now seeks
4 recovery pursuant to NRS 41.100.
5

6 270. As a further actual and proximate or legal result of Defendants' conduct
7 NOREEN THOMPSON underwent medical treatment and incurred past medical and/or
8 incidental expenses. The exact amount of such damages is unknown at this present time,
9 but NOREEN THOMPSON suffered special damages in excess of Fifteen Thousand
10 Dollars (\$15,000.00). Plaintiff, DOLLY NOREEN, as Administrator of the Estate of
11 NOREEN THOMPSON seeks recovery of these damages pursuant to NRS 41.100.
12

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

18 272. Defendants' outrageous and unconscionable conduct warrants an award of
19 exemplary and punitive damages pursuant to NRS 42.005, in an amount appropriate to
20 punish and make an example of Defendants, and to deter similar conduct in the future.
21 As Administrator of the Estate of NOREEN THOMPSON, DOLLY ROWAN seeks
22 exemplary and punitive damages pursuant to NRS 41.100.
23

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

1 274. The actions of Defendants have forced Plaintiff to retain counsel to
2 represent her in the prosecution of this action, and she is therefore entitled to an award
3 of a reasonable amount as attorneys' fees and costs of suit.
4

5
6 **SEVENTH CLAIM FOR RELIEF**

7 **(WRONGFUL DEATH – FRAUDULENT CONCEALMENT)**

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

11 275. Plaintiffs repeat and reallege the allegations contained in the paragraphs
12 1-116 and 204– 274 and incorporates the same herein by reference.
13

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

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

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

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

19 280. Plaintiffs, DOLLY ROWAN, NAVONA COLLISON, and RUSSELL
20 THOMPSON, bring this cause of action pursuant to NRS 41.085(4), as the heirs of
21 NOREEN THOMPSON.
22

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

25 282. Plaintiff, DOLLY ROWAN, brings this claim pursuant to 41.085(5) as the
26 Special Administrator and Personal Representative of the Estate of NOREEN
27 THOMPSON.
28

1 283. Beginning at an exact time unknown to NOREEN THOMPSON, and
2 continuing today, cigarette manufacturers, including Defendants herein, have carried
3 out, and continue to carry out, a campaign designed to deceive the public, including
4 NOREEN THOMPSON, physicians, the government, and others as to the true dangers
5 of cigarettes.
6

7 284. Cigarette manufacturers, including Defendants herein, carried out their
8 plan by concealing and suppressing facts, information, and knowledge about the dangers
9 of smoking, including addiction.
10

11 285. Defendants carried out their scheme by concealing their knowledge
12 concerning the dangerous and addictive nature of cigarettes as set forth in the *Historical*
13 *Allegations of Defendants Unlawful Conduct Giving Rise to the Lawsuit* allegations
14 referenced above.
15

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

- 18 a. the highly addictive nature of nicotine in cigarettes;
- 19 b. the design of cigarettes to make them more addictive and easier to inhale;
- 20 c. the manipulating and controlling of nicotine content of their products to
21 create and perpetuate users' addiction to cigarettes;
- 22 d. the manufacturing and engineering process of making cigarettes, including
23 adding chemicals and other deadly, poisonous compounds to cigarettes;
- 24 e. the deliberate use of ammonia technology and/or certain tobacco blends to
25 boost the pH of cigarette smoke to "free base" nicotine in cigarettes;
- 26
- 27
- 28

- 1 f. their intentional use of tobacco high in nitrosamines—a potent carcinogen
2 not found in natural, green tobacco leaf, but created during the tobacco
3 curing process;
4
5 g. their scheme to target and addict children to replace customers who were
6 dying from smoking cigarettes;
7
8 h. the true results of their research regarding the dangers posed by smoking
9 cigarettes and the addictive nature of cigarettes. For example, in response
10 to the 1965 Surgeon General report that related cigarette smoking to lung
11 cancer in men, the cigarette manufacturers, including Defendants herein,
12 concealed their research from the year prior which concluded:

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

- 17 1. They cause, or predispose to, lung cancer.
18 2. They contribute to certain cardiovascular
19 disorders.
20 3. They may well be truly causative in
emphysema, etc.
21
22 i. the risks of contracting cancer, including but not limited to laryngeal
23 cancer, esophageal cancer, other head and neck cancers, oral cancer,
24 emphysema, COPD, lung cancer, heart disease, strokes, bladder cancer,
25 and other forms of cancer;
26
27 j. filtered, low tar, low nicotine, and/or “light” cigarettes were not safe, safer,
or less dangerous than “regular” cigarettes;
28
k. the Federal Trade Commission (“FTC”) method of measuring “tar &

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

- 3
4 1. by continuing even today to fraudulently market and sell multiple brands
5 as “filtered” knowing that smokers wrongly believe that filtered cigarettes
6 reduce the harms of smoking and despite knowing internally that such
7 cigarettes are just as addictive, dangerous, and deadly as non-filtered
8 cigarettes.

9
10 287. Cigarette manufacturers, including Defendants herein, through their
11 actions, funding, and involvement with TIRC/CTR, also concealed and/or made
12 fraudulent statements and misrepresentations to the public, including NOREEN
13 THOMPSON, including but not limited to the following:

- 14 a. falsely concealing that the true purpose of TIRC/CTR was public relations,
15 politics, and positioning for litigation;
16
17 b. falsely pledging to provide aid and assistance to research cigarette use and
18 health;
19
20 c. expressly undertaking a disingenuous interest in health as its “basic
21 responsibility paramount to every other consideration;”
22
23 d. affirmatively assumed a (broken) promise to truthfully disclose adverse
24 information regarding the health hazards of smoking;
25
26 e. purposely created the illusion that scientific research regarding the
27 dangers of cigarettes was being conducted and the results of which would
28 be made public;
f. concealing information regarding the lack of bona fide research being

1 conducted by TIRC/CTR and the lack of funds being provided for research;
2 g. concealing that TIRC/CTR was nothing more than a “public relations” front
3 and shield.
4

5 288. Cigarette manufacturers, including Defendants herein, knew cigarettes
6 were dangerous and addictive. It became their practice, purpose, and goal to question
7 any scientific research which concluded cigarettes were dangerous. They did this
8 through misleading media campaigns, mailings to doctors and other scientific
9 professionals, and testimony before governmental bodies.
10

11 289. Defendants made multiple misrepresentations to NOREEN THOMPSON
12 including misrepresentations and misleading statements in advertisements, news
13 programs and articles, media reports, and press releases.
14

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

- 19 a. A 1970 advertisement from the Tobacco Institute said: “[t]he Tobacco
20 Institute believes the American public is entitled to complete,
21 authenticated information about cigarette smoking and health.”
22 b. In 1971, Joseph Cullman, Chairman of Philip Morris, stated on Face
23 the Nation, “we do not believe that cigarettes are hazardous; we don’t
24 accept that.”
25 c. In 1972 Philip Morris vice president James Bowling repeated the
26 company’s promise to consumers two decades earlier that “if our
27 product is harmful, we’ll stop making it.”
28 d. Bowling repeated the company’s position on smoking and health in
a 1976 interview when he noted: “from our standpoint, if anyone ever
identified any ingredient in tobacco smoke as being hazardous to
human health or being something that shouldn’t be there, we could

1 eliminate it. But no one ever has.”

- 2 e. In a 1978 magazine interview William Dwyer, vice president of the
3 Tobacco Institute, stated: “we take the view that the best science can
4 say is that cigarette smoking may be hazardous. And then it may not
5 be.”
- 6 f. A 1978 Philip Morris publication entitled “Facts About the Smoking
7 Controversy” stated: “scientists have not determined what causes
8 cancer...cigarettes have never been proven unsafe.”
- 9 g. In 1985, R.J. Reynolds took out advertisements in major newspapers
10 and magazines which stated: “We believe in science. That is why we
11 continue to provide funding for independent research into smoking
12 and health...Science is science. Proof is proof. That is why the
13 controversy over smoking and health remains an open one.”

14 291. Defendants continued to make these and similar statements well into the
15 1990s with the goal of convincing smokers to start and keep smoking, not reduce their
16 smoking, and/or not quit.

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

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

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

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

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

11 297. The concealed statements and misrepresentations which concealed
12 material information about the health hazards of cigarettes also include the following
13 statements which were heard, read, and relied upon by Decedent, NOREEN
14 THOMPSON, who remembers these or substantially similar statements made by
15 Defendants, their co-conspirators, and their spokespeople:

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

Horrigan, CEO of R.J. Reynolds, Congressional Testimony 1982.

d. "Claims that cigarettes are addictive [are] irresponsible and scare tactics."

Tobacco Industry Response to 1988 United States Surgeon General's Report.

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

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

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

- a. False and misleading commercials.
- b. False and misleading marketing gimmicks and jingles including but not limited to the Winston Jingle "Winston takes good like a cigarette should," the iconic "Marlboro Man," "Marlboro Country," "Walk a Mile for Camel," "Joe Camel," Lucile Ball, and Rawhide.
- c. False and misleading marketing tactics regarding "filtered" cigarettes

1 which caused Mrs. Thompson to smoke a filtered cigarette and continue to
2 smoke a filtered cigarette and become addicted to a filtered cigarette which
3 caused and contributed to her developing lung cancer.

4
5 300. During the course of NOREEN THOMPSON's smoking history, she heard
6 some or all of the false and misleading statements above and/or similar statements made
7 directly or indirectly by Defendants and their co-conspirators, believed some or all of the
8 Defendants' and their co-conspirators' false and misleading statements, and relied to her
9 detriment and continued to smoke cigarettes based on such false and misleading
10 statements.

11
12 301. As a direct and proximate result of these aforementioned statements,
13 Decedent, NOREEN THOMPSON, continued to smoke cigarettes which caused or
14 contributed to her developing lung cancer.

15
16 302. If NOREEN THOMPSON had known the true health hazards and addictive
17 nature of cigarettes, she would not have started smoking, nor smoked light, low tar,
18 and/or filtered cigarettes, nor continued to smoke for many years.

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

26
27 304. NOREEN THOMPSON and others similarly situated justifiably relied
28 upon the cigarette manufacturers, including the Defendants herein, the TIRC, and the

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

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

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

- a. Defendants assumed the responsibility to provide NOREEN THOMPSON, and the public, accurate and truthful information about their own products;
- b. Defendants concealed and/or suppressed the aforementioned material facts

- 1 about the dangers of cigarettes;
- 2 c. Defendants were under a duty to disclose material facts about the dangers
- 3 of cigarettes to Decedent;
- 4
- 5 d. Defendants assumed the duty of disclosing material facts about the dangers
- 6 of cigarettes through repeated public statements concerning tobacco and
- 7 health, the need for more research, and the open question about disease
- 8 causation;
- 9 e. Defendants knew they were concealing material facts about the dangers of
- 10 cigarettes from Decedent;
- 11
- 12 f. Defendants intended to induce Decedent to smoke and become addicted to
- 13 cigarettes;
- 14
- 15 g. Decedent was unaware of the dangerous and addictive nature of cigarettes,
- 16 and would not have begun or continued to smoke had she known the
- 17 aforementioned concealed and/or suppressed information Defendants'
- 18 possessed;
- 19
- 20 h. Decedent was unaware of the danger of Defendants' cigarettes, the
- 21 addictive nature of Defendants' cigarettes, and that low tar, low nicotine,
- 22 "light," and/or filtered cigarettes were just as dangerous as unfiltered and
- 23 "regular" cigarettes;
- 24
- 25 i. Decedent justifiably relied upon Defendants to disseminate the superior
- 26 knowledge and information they possessed regarding the dangers of
- 27 cigarettes;
- 28
- j. The concealment and/or suppressed of material facts regarding the hazards

1 of cigarettes caused Decedent to become addicted to cigarettes, and also
2 caused her to develop lung cancer.

3 307. Defendants' conduct was the actual and proximate or legal cause of
4 NOREEN THOMPSON'S injuries and death. Plaintiffs, DOLLY ROWAN, NAVONA
5 COLLISON, and RUSSELL THOMPSON, have sustained damages consisting of the loss
6 of NOREEN THOMPSON'S love, companionship, comfort, affection, society, and moral
7 support, and have suffered great emotional and psychological loss, all in amount in
8 excess of Fifteen Thousand Dollars (\$15,000.00). As NOREEN THOMPSON heirs,
9 Plaintiffs, DOLLY ROWAN, NAVONA COLLISON, and RUSSELL THOMPSON, seek
10 these damages pursuant to NRS 41.085(4).
11

12 308. As a further actual and proximate or legal result of Defendants' conduct,
13 NOREEN THOMPSON endured pain, suffering, and/or disfigurement. As NOREEN
14 THOMPSON'S heirs, Plaintiffs, DOLLY ROWAN, NAVONA COLLISON, and
15 RUSSELL THOMPSON, seek general damages for this pain, suffering, and/or
16 disfigurement pursuant to NRS 41.085(4) in an amount in excess of Fifteen Thousand
17 Dollars (\$15,000.00).
18

19 309. As a further actual and proximate or legal result of Defendants' conduct,
20 NOREEN THOMPSON'S estate incurred special damages, to include medical expenses
21 and funeral expenses, in an amount in excess of Fifteen Thousand Dollars (\$15,000.00).
22 As personal representative of NOREEN THOMPSON'S Estate, DOLLY ROWAN seeks
23 these special damages pursuant to NRS 41.085(5).
24

25 310. Defendants' conduct was despicable and so contemptible that it would be
26 looked down upon and despised by ordinary decent people and was carried on by
27
28

1 Defendants with willful and conscious disregard for the safety of anyone in the
2 community.

3 311. Defendants' outrageous and unconscionable conduct warrants an award of
4 exemplary and punitive damages pursuant to NRS 42.005, in an amount appropriate to
5 punish and make an example of Defendants, and to deter similar conduct in the future.
6 As personal representative of NOREEN THOMPSON'S estate, DOLLY ROWAN seeks
7 exemplary and punitive damages pursuant to NRS 41.085(5).
8

9 312. To the extent NRS 42.007 is applicable to Defendants' conduct, Defendants
10 are vicariously liable for punitive damages arising from the outrageous and
11 unconscionable conduct of their employees, agents, and/or servants, as set forth herein.
12

13 313. The actions of Defendants have forced Plaintiffs to retain counsel to
14 represent them in the prosecution of this action, and they are therefore entitled to an
15 award of a reasonable amount as attorneys' fees and costs of suit.
16

17 **EIGHTH CLAIM FOR RELIEF**
18 **(FRAUDULENT CONCEALMENT)**

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

21 314. Plaintiff repeats and realleges each and every allegation as contained in
22 paragraphs 1 through 116 and 204 through 313 and incorporate the same herein by
23 reference.
24

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

27 316. Beginning at an exact time unknown to Plaintiff and continuing today,
28 cigarette manufacturers, including Defendants herein, have carried out, and continue to

1 carry out, a campaign designed to deceive the public, including NOREEN THOMPSON,
2 physicians, the government, and others as to the true dangers and addictive nature of
3 cigarettes.

4
5 317. Cigarette manufacturers, including Defendants herein, carried out their
6 plan by concealing and suppressing facts, information, and knowledge about the dangers
7 of smoking, including addiction.

8
9 320. Defendants carried out their scheme by concealing their knowledge
10 concerning the dangers of cigarettes and its addictive nature as set forth in the *Historical*
11 *Allegations of Defendants Unlawful Conduct Giving Rise to the Lawsuit* allegations
12 referenced above.

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

- 15 a. the highly addictive nature of nicotine in cigarettes;
- 16 b. the design of cigarettes to make them more addictive and easier to inhale;
- 17 c. the manipulation and controlling of the nicotine content in their cigarettes
18 to create and perpetuate users' addiction to cigarettes;
- 19 d. the manufacturing and engineering process of making cigarettes, including
20 adding chemicals and other deadly, poisonous compounds to cigarettes;
- 21 e. the deliberate use of ammonia technology and/or certain tobacco blends to
22 boost the pH of cigarette smoke to "free base" nicotine in cigarettes;
- 23 f. their intentional use of tobacco high in nitrosamines—a potent carcinogen
24 not found in natural, green tobacco leaf, but created during the tobacco
25 curing process;
- 26
27
28

- 1 g. their scheme to target and addict children to replace customers who were
2 dying from smoking cigarettes;
3
4 h. the true results of their research regarding the dangers posed by smoking
5 cigarettes and the addictive nature of cigarettes. For example, in response
6 to the 1965 Surgeon General report that related cigarette smoking to lung
7 cancer in men, the cigarette manufacturers, including Defendants herein,
8 concealed their research, from the year prior, which concluded:

9
10 Moreover, nicotine is addictive. We are, then in the
11 business of selling nicotine, an addictive drug effective
12 in the release of stress mechanisms ... But cigarettes -
13 we assume the Surgeon General's Committee to say -
14 despite the beneficent effect of nicotine, have certain
15 unattractive side effects:

- 16 1. They cause, or predispose to, lung cancer.
17 2. They contribute to certain cardiovascular
18 disorders.
19 3. They may well be truly causative in
20 emphysema, etc.
21
22 i. the risks of contracting cancer, including but not limited to laryngeal
23 cancer, esophageal cancer, other head and neck cancers, oral cancer,
24 emphysema, COPD, lung cancer, heart disease, strokes, bladder cancer,
25 other forms of cancer;
26
27 j. filtered, low tar, low nicotine, and/or "light" cigarettes were not safe, safer,
28 or less dangerous than "regular" cigarettes;
k. the Federal Trade Commission ("FTC") method of measuring "tar &
nicotine" levels underestimated and did not accurately reflect the levels of
tar and nicotine delivered to a smoker.
l. continuing even today to fraudulently market and sell multiple brands as

1 “filtered” knowing that smokers wrongly believe that filtered cigarettes
2 reduce the harms of smoking and despite knowing internally that such
3 cigarettes are just as addictive, dangerous, and deadly as non-filtered
4 cigarettes.
5

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

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

- 1 g. concealing information regarding the lack of bona fide research being
2 conducted by TIRC/CTR and the lack of funds being provided for research;
3 h. concealing that TIRC/CTR was nothing more than a “public relations” front
4 and shield.
5

6 323. Cigarette manufacturers, including Defendants herein, knew cigarettes
7 were dangerous and addictive. It became their practice, purpose, and goal to question
8 any scientific research which concluded cigarettes were dangerous. They did this
9 through misleading media campaigns, mailings to doctors and other scientific
10 professionals, and testimony before governmental bodies.
11

12 324. Defendants made multiple misrepresentations to NOREEN THOMPSON,
13 including misrepresentations and misleading statements in advertisements, news
14 programs and articles, media reports, and press releases.
15

16 325. Throughout the years, Defendants and their co-conspirators have
17 repeatedly stated that cigarettes were not dangerous, and that they would either
18 remove harmful constituents or stop making cigarettes altogether. Some examples
19 include:
20

- 21 a. A 1970 advertisement from the Tobacco Institute said: “[t]he Tobacco
22 Institute believes the American public is entitled to complete,
23 authenticated information about cigarette smoking and health.”
24 b. In 1971, Joseph Cullman, Chairman of Philip Morris, stated on Face
25 the Nation, “we do not believe that cigarettes are hazardous; we don’t
26 accept that.”
27 c. In 1972 Philip Morris vice president James Bowling repeated the
28 company’s promise to consumers two decades earlier that “if our
product is harmful, we’ll stop making it.”
d. Bowling repeated the company’s position on smoking and health in
a 1976 interview when he noted: “from our standpoint, if anyone ever

1 identified any ingredient in tobacco smoke as being hazardous to
2 human health or being something that shouldn't be there, we could
3 eliminate it. But no one ever has."

- 4 e. In a 1978 magazine interview William Dwyer, vice president of the
5 Tobacco Institute, stated: "we take the view that the best science can
6 say is that cigarette smoking may be hazardous. And then it may not
7 be."
8 f. A 1978 Philip Morris publication entitled "Facts About the Smoking
9 Controversy" stated: "scientists have not determined what causes
10 cancer...cigarettes have never been proven unsafe."
11 g. In 1985, R.J. Reynolds took out advertisements in major newspapers
12 and magazines which stated: "We believe in science. That is why we
13 continue to provide funding for independent research into smoking
14 and health...Science is science. Proof is proof. That is why the
15 controversy over smoking and health remains an open one."

16 326. Defendants continued to make these and similar statements well into the
17 1990s with the goal of convincing smokers to start and keep smoking, not reduce their
18 smoking, and/or not quit.

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

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

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

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

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

11 332. These concealed statement, misrepresentations and false statements which
12 concealed material information about the health hazards of cigarette also include the
13 following statements which were heard, read, and relied upon by Decedent, NOREEN
14 THOMPSON, who remembered these statements or substantially similar statements,
15 made by Defendants, their co-conspirators, and their spokespeople:
16

17 a. That the addictive nature and health effects of smoking were matters of
18 "open debate."

19 b. ;

20 c. "It is not known whether cigarettes cause cancer, it has not been casually
21 established." Edward Horrigan, President of R.J. Reynolds Tobacco
22 Company on ABC Nightline 1984.

23 d. "Despite all of the research to date there has been no causal link established
24 [between cigarette smoking and cancer.]" Edward Horrigan, President of
25

1 R.J. Reynolds Tobacco Company on ABC Nightline 1984.

2 e. "There is absolutely no proof that cigarettes are addictive." Edward
3 Horrigan, CEO of R.J. Reynolds, Congressional Testimony 1982.

4 f. "Claims that cigarettes are addictive is irresponsible and scare tactics."
5 Tobacco Industry Response to 1988 United States Surgeon General's
6 Report.

7 g. "To my knowledge, it's not been proven that cigarette smoking causes
8 cancer." William Campbell, CEO Philip Morris, Congressional Testimony,
9 1993.

10 333. The aforementioned acts, false statements and/or misrepresentations
11
12 which were made and/or caused to be made by the cigarette manufacturers, either
13 directly or indirectly including Defendants herein and their co-conspirators, were
14 justifiably relied upon by NOREEN THOMPSON, resulted in NOREEN THOMPSON
15 being unaware of the extent of the danger of the Defendants' cigarette products, the
16 addictive nature of Defendants' cigarette products, and that filtered cigarettes were just
17 as dangerous as regular and/or unfiltered cigarettes.

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

21 a. False and misleading commercials

22 b. False and misleading marketing gimmicks and jingles including but not
23 limited to the Winston Jingle "Winston takes good like a cigarette should,"
24 the iconic "Marlboro Man," "Marlboro Country," "Walk a Mile for Camel,"
25
26
27
28

1 “Joe Camel,” Lucile Ball, and Rawhide.

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

7 335. During the course of Mrs. Thompson’s smoking history, she heard some or
8 all of these false and misleading statements above and/or similar statements made
9 directly or indirectly by Defendants and its co-conspirators, believed some or all of the
10 Defendants’ and their co-conspirators’ false and misleading statements and relied to her
11 detriment and continued to smoke cigarettes based on such false and misleading
12 statements.
13

14 336. As a direct and proximate result of these aforementioned statements,
15 Decedent, NOREEN THOMPSON, continued to smoke cigarettes which caused or
16 contributed to her developing lung cancer.
17

18 337. If NOREEN THOMPSON had known the true health hazards and addictive
19 nature of cigarettes, she would not have started smoking, nor continued to smoke for
20 many years.
21

22 338. As a direct and proximate result of these aforementioned statements,
23 Decedent, NOREEN THOMPSON, relied upon the assurances from the tobacco
24 industry, including statements and sworn congressional testimony from Defendants’
25 CEOs and also statements from the Defendants’ spokesmen and women hired by
26 Defendants and its co-conspirators, and as a result of that reliance, continued to smoke
27 cigarettes.
28

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

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

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

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

- 1 and the public, accurate and truthful information about their own products;
- 2 b. Defendants concealed and/or suppressed the aforementioned material facts
- 3 about the dangers of cigarettes;
- 4
- 5 c. Defendants were under a duty to disclose material facts about the dangers
- 6 of cigarettes to Decedent;
- 7
- 8 d. Defendants knew it was concealing material facts about the dangers of
- 9 cigarettes from Decedent;
- 10
- 11 e. Defendants intended to induce Decedent to smoke and become addicted to
- 12 cigarettes;
- 13
- 14 f. Decedent was unaware of the dangerous and addictive nature of cigarettes,
- 15 and would not have begun or continued to smoke had she known the
- 16 aforementioned concealed and/or suppressed information Defendants'
- 17 possessed;
- 18
- 19 g. Decedent was unaware of the danger of Defendants' cigarettes, the
- 20 addictive nature of Defendants' cigarettes, and that low tar, low nicotine,
- 21 "light," and/or filtered cigarettes were just as dangerous as unfiltered and
- 22 "regular" cigarettes;
- 23
- 24 h. Decedent justifiably relied upon Defendants to disseminate the superior
- 25 knowledge and information it possessed regarding the dangers of
- 26 cigarettes;
- 27
- 28 i. The concealment and/or suppressed of material facts regarding the hazards
- of cigarettes caused Decedent to become addicted to cigarettes, and also
- caused her to develop lung cancer.

1 342. Defendants' conduct is an actual and proximate or legal cause of NOREEN
2 THOMPSON'S injuries. NOREEN THOMPSON thereby experienced great pain, and
3 anxiety her body and mind. NOREEN THOMPSON sustained injuries and damages in
4 an amount in excess of Fifteen Thousand Dollars (\$15,000.00), for which Plaintiff,
5 DOLLY ROWAN, as Administrator of the Estate of NOREEN THOMPSON, now seeks
6 recovery pursuant to NRS 41.100.
7

8 343. As a further actual and proximate or legal result of Defendants' conduct
9 NOREEN THOMPSON underwent medical treatment and incurred past medical and/or
10 incidental expenses. The exact amount of such damages is unknown at this present time,
11 but NOREEN THOMPSON suffered special damages in excess of Fifteen Thousand
12 Dollars (\$15,000.00). Plaintiff, DOLLY ROWAN, as Administrator of the Estate of
13 NOREEN THOMPSON seeks recovery of these damages pursuant to NRS 41.100.
14

15 344. Defendants' conduct was despicable and so contemptible that it would be
16 looked down upon and despised by ordinary decent people and was carried on by
17 Defendants with willful and conscious disregard for the safety of anyone in the
18 community.
19

20 345. Defendants' outrageous and unconscionable conduct warrants an award of
21 exemplary and punitive damages pursuant to NRS 42.005, in an amount appropriate to
22 punish and make an example of Defendants, and to deter similar conduct in the future.
23 As Administrator of the Estate of NOREEN THOMPSON, DOLLY ROWAN seeks
24 exemplary and punitive damages pursuant to NRS 41.100.
25

26 346. To the extent NRS 42.007 is applicable to Defendants' conduct, Defendants
27 are vicariously liable for punitive damages arising from the outrageous and
28

unconscionable conduct of their employees, agents, and/or servants, as set forth herein.

347. 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.

NINTH CLAIM FOR RELIEF

(WRONGFUL DEATH – CIVIL CONSPIRACY)

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

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

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

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

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

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

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

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

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

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

- 4 a. Defendants, along with other cigarette manufacturers, CTR, TIRC, TI, and
5 with attorneys and law firms retained by Defendants, unlawfully agreed to
6 conceal and/or omit, and did in fact conceal and/or omit, information
7 regarding the health hazards of cigarettes and/or their addictive nature
8 with the intention that smokers and the public would rely on this
9 information to their detriment.
10
11 b. Defendants agreed to execute their scheme by performing the
12 abovementioned unlawful acts and/or by doing lawful acts by unlawful
13 means;
14
15 c. Defendants, along with other entities including TIRC, CTR, TI and persons
16 including their in-house lawyers and outside retained counsel, entered into
17 a conspiracy in 1953 to conceal the harms of smoking cigarettes;
18
19 d. Defendants, through their executives, employees, agents, officers and
20 representatives made numerous public statements from 1953 through 2000
21 directly denying the health hazards and addictive nature of smoking
22 cigarettes.
23

24 357. After the year 2000, Defendants continued their conspiratorial acts in
25 furtherance of their conspiracy related to the harms of smoking including but not limited
26 to the following acts:
27
28