

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

Electronically Filed
Jun 02 2022 09:52 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

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. 22**

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

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

1 359. Two or more of the cigarette manufacturers, including Defendants herein,
2 by their aforementioned concerted actions, intended to accomplish, and did indeed
3 accomplish, an unlawful objective of misleading and deceiving the public, for the purpose
4 of harming Plaintiff.
5

6 360. NOREEN THOMPSON relied, both directly and indirectly, on the
7 Defendants' concealment and omission of such information to her detriment. NOREEN
8 THOMPSON, during the course of her smoking history heard, some or all of these false
9 and misleading statements and/or similar statements made directly or indirectly by the
10 Defendants and their co-conspirators, believed some or all of the Defendants' and their
11 co-conspirators' false and misleading statements and relied to her detriment and smoked
12 and/or continued to smoke cigarettes based on such false and misleading statements.
13

14 361. The success of the conspiracy depended upon the concerted action of the
15 cigarette manufacturers (in a so-called "gentleman's agreement"), for otherwise the
16 revelation by one company of what it knew about the health consequences of smoking
17 and/or the availability of a "safe" or "safer" cigarette and/or the addictive nature of the
18 manufacturers' cigarette would have thwarted the conspiracy.
19

20 362. Specifically, Defendant PHILIP MORRIS conspired with Defendants R.J.
21 REYNOLDS and LIGGETT to conceal the truth regarding the hazardous and deadly
22 nature of cigarettes by doing the following including but not limited to:
23

- 24 a. By advertising "light" and "low tar" cigarettes to the public, including
25 NOREEN THOMPSON, to help create and sustain the culture and societal
26 and consumer expectations that "light" cigarettes were better, safer, and
27 healthier than regular cigarettes;
28

- 1 b. By endeavoring in mass marketing campaigns consistent with R.J.
2 REYNOLDS and LIGGETT's campaign regarding the appeal of cigarettes
3 including but not limited to their Marlboro County and Marlboro Man
4 campaigns;
5
6 c. By working with R.J. REYNOLDS and LIGGETT to create "fake science"
7 by hiring "fake scientists" to spreads "fake scientific research" about the
8 health hazards of smoking cigarettes including but not limited to the
9 following:
10
11 i. Working with R.J. Reynolds and Liggett to create the Center for
12 Indoor Air Research ("CIAR") whose intent was to broaden the
13 question of indoor air pollution to avert attention away from tobacco
14 smoking causing disease and death;
15
16 ii. Creating the "White Papers" which rebutted scientific reports which
17 were critical of tobacco.
18
19 d. By hiring industry spokespeople to appear on national television and media
20 to mislead and lie to the public, including NOREEN THOMPSON,
21 regarding the health hazards of smoking cigarettes including but not
22 limited to the following examples:
23
24 i. In 1968 an article "To Smoke or Not to smoke – That is still the
25 question" was published in *True* magazine and was authorized by an
26 allegedly independent source Stanley Frank; however, Frank was
27 actually paid \$500 by Brown & Williamson (who was later subsumed
28 by Defendant R.J. Reynolds), and the newspaper itself was paid

1 \$500,000 by the Tobacco Institute, which was in part funded and
2 guided by Defendant Philip Morris;

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

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

- 21 i. “Our basic position in the cigarette controversy is subject to the
22 charge, and may be subject to a finding, that **we are making false**
23
24
25
26
27
28

1 or misleading statements to promote the sale of cigarettes”

2 (Previously concealed from Tobacco Institute);

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

8 iii. “The most important type of story is that which casts doubt on
9 the cause and effect theory of disease and smoking . . . Doubt
10 is our product.” (Previously concealed memo to the Tobacco
11 Institute);

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

16 v. “CTR began as an organization called the Tobacco Research Council
17 (TIRC). It was set up as an industry “shield” in 1954 . . . [an
18 attorney] feels that “special projects” are the best way that monies
19 are spent. On these projects CTR as acted as a front.” (Previously
20 concealment meeting minutes from a CTR meeting held in New York
21 in 1978 where Jim Bowling, Senior Vice President of
22 Corporate Affairs, Bob Seligman, Vice President of Research
23 & Development, and Tom Osdene, Director of Research all
24
25
26
27
28

1 **from Philip Morris were in attendance** along with [an attorney
2 at an outside law firm)]”

3 f. In conjunction with Defendants R.J. Reynolds and Liggett, spending over
4 \$300,000,000 funding fraudulent “research” and marketing by the TIRC to
5 create, sustain, and spread a false controversy regarding smoking and
6 health;

7 g. By having their executives such as their Chief Operating Officer, William
8 Campbell, lie under oath before Congress in 1993 stating “to my knowledge,
9 it’s not been proven that cigarette smoking causes cancer.”
10

11 363. Defendant Philip Morris’s actions and statements as described above,
12 combined with the actions of R.J. Reynolds and Liggett, lead to a systemic culture in
13 America regarding an alleged cigarette controversy, where people, including Mrs.
14 Thompson, were manipulated into believing cigarettes were safe and not deadly.
15

16 364. Philip Morris’s actions further directly lead to mass marketing of cigarettes
17 in quantities we cannot even comprehend today that seeped into every household and
18 family in American, including Mrs. Thompsons.
19

20 365. As a direct and proximate result of Philip Morris’s actions and contributions
21 to the TI, TIRC, and CTR, the tobacco industry was able to create and sustain the largest
22 conspiracy and deception this county has ever seen.
23

24 366. But for Philip Morris’s direct involvement, Mrs. Thompson would not have
25 been exposed to the same degree or intensity of cigarette advertising or have been
26 exposed to the alleged “controversy” regarding cigarettes as she was exposed to.
27

1 367. But for Philip Morris's direct involvement, Mrs. Thompson would not have
2 began smoking as a child, continued to smoke, become addicted to smoking cigarettes,
3 or died as a result of smoking cigarettes.

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

12 369. 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

19 370. 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

25 371. 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.

3 372. 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

9 373. 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

13 374. 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 **TENTH CLAIM FOR RELIEF**

18 **(CIVIL CONSPIRACY)**

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

21 375. Plaintiff repeats and realleges the allegations as contained in paragraphs
22 1 through 374 and incorporate the same herein by reference.

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

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

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

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

- a. Marketing and/or advertising filters as safer or less hazardous to health than non-filtered cigarettes;
- b. Marketing and/or advertising low tar cigarettes as safer or less hazardous to health;

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

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

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

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

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

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

- 19 a. By advertising "light" and "low tar" cigarettes to the public, including
20 NOREEN THOMPSON, to help create and sustain the culture and societal
21 and consumer expectations that "light" cigarettes were better, safer, and
22 healthier than regular cigarettes;
23
- 24 b. By endeavoring in mass marketing campaigns consistent with R.J.
25 REYNOLDS and LIGGETT's campaign regarding the appeal of cigarettes
26 including but not limited to their Marlboro County and Marlboro Man
27 campaigns;
28

- 1 c. By working with R.J. REYNOLDS and LIGGETT to create “fake science”
2 by hiring “fake scientists” to spreads “fake scientific research” about the
3 health hazards of smoking cigarettes including but not limited to the
4 following:
5
6 i. Working with R.J. Reynolds and Liggett to create the Center for
7 Indoor Air Research (“CIAR”) whose intent was to broaden the
8 question of indoor air pollution to avert attention away from tobacco
9 smoking causing disease and death;
10
11 ii. Creating the “White Papers” which rebutted scientific reports which
12 were critical of tobacco.
- 13 d. By hiring industry spokespeople to appear on national television and media
14 to mislead and lie to the public, including NOREEN THOMPSON,
15 regarding the health hazards of smoking cigarettes including but not
16 limited to the following examples:
17
18 i. In 1968 an article “To Smoke or Not to smoke – That is still the
19 question” was published in *True* magazine and was authorized by an
20 allegedly independent source Stanley Frank; however, Frank was
21 actually paid \$500 by Brown & Williamson (who was later subsumed
22 by Defendant R.J. Reynolds), and the newspaper itself was paid
23 \$500,000 by the Tobacco Institute, which was in part funded and
24 guided by Defendant Philip Morris;
25
26 ii. Joseph Culman III, Chairman and CEO of Philip Morris and
27 Chairman of the Tobacco Institute, appealing on the news program
28

1 “Face the Nation” stating the following: “We do not believe
2 cigarettes are hazardous, we don’t accept that . . . This
3 industry can face the future with confidence because when,
4 as and if, any ingredient in cigarette smoke is identified as
5 being injurious to human health we are confident that we can
6 illuminate that ingredient . . . I believe they [cigarettes] have
7 not been proven to be unsafe . . . It’s true, babies born from
8 women who smoke are smaller . . . and some women would
9 prefer having smaller babies.”

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

19
20 i. “Our basic position in the cigarette controversy is subject to the
21 charge, and may be subject to a finding, that we are making false
22 or misleading statements to promote the sale of cigarettes”

23
24 (Previously concealed from Tobacco Institute);

25 ii. “For nearly 20 years, this industry has employed a single strategy
26 to defend itself . . . brilliantly conceived and executed . . . a holding
27 strategy . . . creating doubt about the health charge without
28

- 1 actually denying it” (Letter from Vice President of the Tobacco
2 Institute Fred Panzer);
- 3 iii. “The most important type of story is that which casts doubt on
4 the cause and effect theory of disease and smoking . . . Doubt
5 is our product.” (Previously concealed memo to the Tobacco
6 Institute);
- 7
- 8 iv. Ann Browder, a representative from the Tobacco Institute appearing
9 on WPLG in 1983 stating the following: “We don’t know what
10 causes the illness [cancer] . . . I don’t think there is a causal
11 relationship because cigarette smoking and any illness;”
- 12
- 13 v. “CTR began as an organization called the Tobacco Research Council
14 (TIRC). It was set up as an industry “shield” in 1954 . . . Bill
15 Shinn feels that “special projects” are the best way that monies are
16 spent. On these projects CTR as acted as a front.” (Previously
17 concealment meeting minutes from a CTR meeting held in New York
18 in 1978 where Jim Bowling, Senior Vice President of
19 Corporate Affairs, Bob Seligman, Vice President of Research
20 & Development, and Tom Osdene, Director of Research all
21 from Philip Morris were in attendance along with [an attorney
22 at an outside law firm])”
- 23
- 24
- 25 f. In conjunction with Defendants R.J. Reynolds and Liggett, spending over
26 \$300,000,000 funding fraudulent “research” and marketing by the TIRC to
27
28

1 create, sustain, and spread a false controversy regarding smoking and
2 health;

3 g. By having their executives such as their Chief Operating Officer, William
4 Campbell, lie under oath before Congress in 1993 stating “to my knowledge,
5 it’s not been proven that cigarette smoking causes cancer.”
6

7 384. Defendant, Philip Morris’s actions and statements as described above,
8 combined with the actions of R.J. Reynolds and Liggett, lead to a systemic culture in
9 America regarding an alleged cigarette controversy, where people, including Mrs.
10 Thompson, were manipulated into believing cigarettes were safe and not deadly.
11

12 385. Philip Morris’s actions further directly lead to mass marketing of cigarettes
13 in quantities we cannot even comprehend today that seeped into every household and
14 family in American, including Mrs. Thompsons.
15

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

19 387. But for Philip Morris’s direct involvement, Mrs. Thompson would not have
20 been exposed to the same degree or intensity of cigarette advertising or have been
21 exposed to the alleged “controversy” regarding cigarettes as she was exposed to.
22

23 388. But for Philip Morris’s direct involvement, Mrs. Thompson would not have
24 began smoking as a child, continued to smoke, become addicted to smoking cigarettes,
25 or died as a result of smoking cigarettes.

26 389. 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 sustained injuries and damages in
2 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

6 390. 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 ROWAN, as Administrator of the Estate of
11 NOREEN THOMPSON seeks recovery of these damages pursuant to NRS 41.100.
12

13 391. 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

18 392. 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

24 393. 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

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

ELEVENTH CLAIM FOR RELIEF

(WRONGFUL DEATH – NEVADA DECEPTIVE TRADE PRACTICE ACT)

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

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

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

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

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

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

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

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

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

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

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

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

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

10 ****

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

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

15 ****

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

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

24 ****

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

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

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

1 committee when internal company documents reveals that TIRC/CTR
2 functioned not for the promotion of scientific goals, but for public relations,
3 politics, and positioning for litigation;

4
5 j. sponsoring, being quoted in, and helping publish articles to mislead the
6 public including but not limited to the following: “Smoke-Cancer Tie
7 Termed Obscure” (1955), “Study of Smoking is Inconclusive” (1956),
8 “Cigarette Threat Called Unproven,” (1962), “Tobacco Spokesmen Dispute
9 Lung Study” (1962), “Tobacco Cancer Scare Fading in Smoke Ring (1964),
10 and “Smokers Assured In Industry Study” (1962);

11
12 k. responding to the 1964 Surgeon General Report which linked cigarette
13 smoking to health, by falsely assuring the public that (i) cigarettes were not
14 injurious to health, (ii) the industry would cooperate with the Surgeon
15 General, (iii) more research was needed, and (iv) if there were any bad
16 elements discovered in cigarettes, the cigarette manufacturers would
17 remove those elements;

18
19 l. advertising and promoting cigarettes on television and radio as safe and
20 glamorous, to the extent that cigarette advertising was the number one
21 most heavily advertised product on television;

22
23 m. making knowingly false and misleading statements during a governmental
24 hearing, including stating that, “there is absolutely no proof that cigarettes
25 are addictive;”

26
27 n. purposefully targeting children yet openly in press releases falsely
28 claiming, “We don’t advertise to children . . . Some straight talk about

1 smoking for young people;”

2 o. responding the 1988 United States Surgeon General’s report that nicotine
3 is the drug in tobacco that causes addiction, by issuing press releases
4 stating, “Claims that cigarettes are addictive is irresponsible and scare
5 tactics;”

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

10 408. Specifically, Defendant, PHILIP MORRIS, conspired with Defendants R.J.
11 REYNOLDS and LIGGETT to knowingly make false and misleading representations
12 regarding the truth regarding the hazardous and deadly nature of cigarettes and the
13 ingredients in cigarettes by doing the following including but not limited to:
14

15 a. By advertising “light” and “low tar” cigarettes to the public, including
16 NOREEN THOMPSON, to help create and sustain the culture and societal
17 and consumer expectations that “light” cigarettes were better, safer, and
18 healthier than regular cigarettes;
19

20 b. By endeavoring in mass marketing campaigns consistent with R.J.
21 REYNOLDS and LIGGETT’s campaign regarding the appeal of cigarettes
22 including but not limited to their Marlboro County and Marlboro Man
23 campaigns;
24

25 c. By working with R.J. REYNOLDS and LIGGETT to create “fake science”
26 by hiring “fake scientists” to spreads “fake scientific research” about the
27
28

1 health hazards of smoking cigarettes including but not limited to the
2 following:

- 3 i. Working with R.J. Reynolds and Liggett to create the Center for
4 Indoor Air Research (“CIAR”) whose intent was to broaden the
5 question of indoor air pollution to avert attention away from tobacco
6 smoking causing disease and death;
7
8 ii. Creating the “White Papers” which rebutted scientific reports which
9 were critical of tobacco.
10
11 d. By hiring industry spokespeople to appear on national television and media
12 to mislead and lie to the public, including NOREEN THOMPSON,
13 regarding the health hazards of smoking cigarettes including but not
14 limited to the following examples:
15
16 i. In 1968 an article “To Smoke or Not to smoke – That is still the
17 question” was published in *True* magazine and was authorized by an
18 allegedly independent source Stanley Frank; however, Frank was
19 actually paid \$500 by Brown & Williamson (who was later subsumed
20 by Defendant R.J. Reynolds), and the newspaper itself was paid
21 \$500,000 by the Tobacco Institute, which was in part funded and
22 guided by Defendant Philip Morris;
23
24 ii. Joseph Culman III, Chairman and CEO of Philip Morris and
25 Chairman of the Tobacco Institute, appealing on the news program
26 “Face the Nation” stating the following: **“We do not believe**
27 **cigarettes are hazardous, we don’t accept that . . . This**
28

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

8
9 e. By knowingly and intentionally working with R.J. Reynolds and Liggett by
10 creating a "cigarette controversy" which was promulgated by trade
11 organizations that Philip Morris was not only actively participating in and
12 employees' were chairmen and members of, but also in fact helped
13 financially fund and set up including the TI, TIRC, and CTR whose
14 internal, previously secret and concealed documents include the following
15 statements discussing their conspiracy:
16

17
18 i. "Our basic position in the cigarette controversy is subject to the
19 charge, and may be subject to a finding, that we are making false
20 or misleading statements to promote the sale of cigarettes"

21 (Previously concealed from Tobacco Institute);

22
23 ii. "For nearly 20 years, this industry has employed a single strategy
24 to defend itself . . . brilliantly conceived and executed . . . a holding
25 strategy . . . creating doubt about the health charge without
26 actually denying it" (Letter from Vice President of the Tobacco
27 Institute Fred Panzer);
28

- 1 iii. “The most important type of story is that which casts doubt on
2 the cause and effect theory of disease and smoking . . . Doubt
3 is our product.” (Previously concealed memo to the Tobacco
4 Institute);
- 5
- 6 iv. Ann Browder, a representative from the Tobacco Institute appearing
7 on WPLG in 1983 stating the following: “We don’t know what
8 causes the illness [cancer] . . . I don’t think there is a causal
9 relationship because cigarette smoking and any illness;”
- 10
- 11 v. “CTR began as an organization called the Tobacco Research Council
12 (TIRC). It was set up as an industry “shield” in 1954 . . . Bill
13 Shinn feels that “special projects” are the best way that monies are
14 spent. On these projects CTR as acted as a front.” (Previously
15 concealment meeting minutes from a CTR meeting held in New York
16 in 1978 where Jim Bowling, Senior Vice President of
17 Corporate Affairs, Bob Seligman, Vice President of Research
18 & Development, and Tom Osdene, Director of Research all
19 from Philip Morris were in attendance along with [an attorney
20 at an outside law firm)])”
- 21
- 22
- 23 f. In conjunction with Defendants R.J. Reynolds and Liggett, spending over
24 \$300,000,000 funding alleged “research” and marketing by the TIRC to
25 create, sustain, and spread a false controversy regarding smoking and
26 health;
- 27
- 28

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

4
5 409. Defendant, Philip Morris knowingly make false and misleading
6 representations regarding the ingredients in cigarettes, the sources and funding behind
7 alleged “scientific research” regarding cigarettes, and more as described above which
8 lead to a systemic culture in America regarding an alleged cigarette controversy, where
9 people, including Mrs. Thompson, were manipulated into believing cigarettes were safe
10 and not deadly.

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

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

19
20 412. But for Philip Morris’s direct involvement, Mrs. Thompson would not have
21 been exposed to the same degree or intensity of cigarette advertising or have been
22 exposed to the alleged “controversy” regarding cigarettes as she was exposed to.

23
24 413. But for Philip Morris’s direct involvement, Mrs. Thompson would not have
25 began smoking as a child, continued to smoke, become addicted to smoking cigarettes,
26 or died as a result of smoking cigarettes.

27
28 414. Defendants’ conduct was the actual and proximate or legal cause of
NOREEN THOMPSON’S injuries and death. Plaintiffs, DOLLY ROWAN, NAVONA

1 COLLISON, and RUSSELL THOMPSON, have sustained damages consisting of the loss
2 of NOREEN THOMPSON'S love, companionship, comfort, affection, society, and moral
3 support, and have suffered great emotional and psychological loss, all in amount in
4 excess of Fifteen Thousand Dollars (\$15,000.00). As NOREEN THOMPSON'S heirs,
5 Plaintiffs DOLLY ROWAN, NAVONA COLLISON, and RUSSELL THOMPSON, seek
6 these damages pursuant to NRS 41.085(4).
7

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

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

21 417. Defendants' conduct was despicable and so contemptible that it would be
22 looked down upon and despised by ordinary decent people and was carried on by
23 Defendants with willful and conscious disregard for the safety of anyone in the
24 community.
25

26 418. Defendants' outrageous and unconscionable conduct warrants an award of
27 exemplary and punitive damages pursuant to NRS 42.005, in an amount appropriate to
28

1 punish and make an example of Defendants, and to deter similar conduct in the future.
2 As personal representative of NOREEN THOMPSON'S estate, DOLLY ROWAN seeks
3 exemplary and punitive damages pursuant to NRS 41.085(5).
4

5 419. To the extent NRS 42.007 is applicable to Defendants' conduct, Defendants
6 are vicariously liable for punitive damages arising from the outrageous and
7 unconscionable conduct of its employees, agents, and/or servants, as set forth herein.
8

9 420. The actions of Defendants have forced Plaintiffs to retain counsel to
10 represent them in the prosecution of this action, and they are therefore entitled to an
11 award of a reasonable amount as attorneys' fees and costs of suit.
12

13 **TWELTH CLAIM FOR RELIEF**

14 **(VIOLATION OF DECEPTIVE TRADE PRACTICES ACT – NRS 598.0903)**

15 **Dolly Rowan as Administrator of the Estate of Noreen Thompson Against** 16 **Defendants R.J. Reynold, Liggett, and Philip Morris**

17 421. Plaintiff repeats and realleges the allegations contained in paragraphs 1
18 through 420 and incorporates the same herein by reference.

19 422. Plaintiff, DOLLY ROWAN, brings this claim as Administrator of the Estate
20 of NOREEN THOMPSON pursuant to NRS 41.100.
21

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

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

26 425. Plaintiff brings this claim pursuant to NRS 41.600, which entitles any
27 person who is the victim of consumer fraud to bring an action. A deceptive trade practice
28

as defined in NRS 598.0915 to 598.0925 constitutes consumer fraud.

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

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

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

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

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

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

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

- a. making countless publicized appearances on television and radio disingenuously denying cigarettes were addictive and claimed smoking was a matter of free choice and smokers could quit smoking if they wanted to;
- b. representing to the public that it was not known whether cigarettes were harmful or caused disease;
- c. falsely advertising and promoting cigarettes as safe, not dangerous, and not harmful;

- d. falsely advertising and promoting “filtered” and “light” cigarettes as “low tar” and “low nicotine” through print advertisements in magazines and newspapers throughout the 1950s, 1960s, 1970s, 1980s, 1990s, and even into the 2000s;
- e. falsely representing that questions about smoking and health would be answered by an allegedly unbiased, trustworthy source;
- f. misrepresenting and confusing facts about health hazards of cigarettes and addiction;
- g. creating a made up “cigarette controversy;”
- h. taking out a full page advertisement called the “Frank Statement to Cigarette Smokers” which falsely assured the public, the American government, and NOREEN THOMPSON, that would purportedly “safeguard” the health of smokers, support allegedly “disinterested” research into smoking and health, and reveal to the public the results of their alleged “objective” research;
- i. falsely assuring the public that TIRC/CTR was an “objective” research committee when internal company documents reveals that TIRC/CTR functioned not for the promotion of scientific goals, but for public relations, politics, and positioning for litigation;
- j. sponsoring, being quoted in, and helping publish articles to mislead the public including but not limited to the following: “Smoke-Cancer Tie Termed Obscure” (1955), “Study of Smoking is Inconclusive” (1956), “Cigarette Threat Called Unproven,” (1962), “Tobacco Spokesmen Dispute

1 Lung Study” (1962), “Tobacco Cancer Scare Fading in Smoke Ring (1964),
2 and “Smokers Assured In Industry Study” (1962);

- 3 k. responding to the 1964 Surgeon General Report which linked cigarette
4 smoking to health, by falsely assuring the public that (i) cigarettes were not
5 injurious to health, (ii) the industry would cooperate with the Surgeon
6 General, (iii) more research was needed, and (iv) if there were any bad
7 elements discovered in cigarettes, the cigarette manufacturers would
8 remove those elements;
9
10 l. advertising and promoting cigarettes on television and radio as safe and
11 glamorous, to the extent that cigarette advertising was the number one
12 most heavily advertised product on television;
13
14 m. making knowingly false and misleading statements during a governmental
15 hearing, including stating that, “there is absolutely no proof that cigarettes
16 are addictive;”
17
18 n. purposefully targeting children yet openly in press releases falsely
19 claiming, “We don’t advertise to children . . . Some straight talk about
20 smoking for young people;”
21
22 o. responding the 1988 United States Surgeon General’s report that nicotine
23 is the drug in tobacco that causes addiction, by issuing press releases
24 stating, “Claims that cigarettes are addictive is irresponsible and scare
25 tactics;”
26
27 p. lying under oath before the United States Congress in 1994 that it was their
28 opinion that it had not been proven that cigarettes were addictive, caused