

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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District Court
Case No. A-19-807653-C

**PHILIP MORRIS USA INC.'S PETITION FOR
WRIT OF MANDAMUS OR, ALTERNATIVELY, PROHIBITION – APPENDIX
VOL. 29**

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1 103. Liggett denies the allegations contained in paragraph 103, including the
2 existence of or its participation in a conspiracy.

3 104. Liggett denies the allegations contained in paragraph 104, including the
4 existence of or its participation in a conspiracy.

5 105. Liggett denies the allegations contained in paragraph 105.

6 106. Liggett denies the allegations contained in paragraph 106.

7 107. Liggett denies the allegations contained in paragraph 107.

8 **Conspiratorial Involvement by General Counsel for Tobacco Companies & Outside Law**

9 **Firms**

10 108. Liggett denies the allegations contained in paragraph 108.

11 109. Liggett denies the allegations contained in paragraph 109.

12 110. Liggett denies the allegations contained in paragraph 110.

13 111. Liggett denies the allegations contained in paragraph 111 as they relate to
14 Liggett. Liggett is otherwise without knowledge or information sufficient to form a belief as
15 to the truth of the allegations contained in paragraph 111 and therefore denies those
16 allegations.

17 112. Liggett denies the allegations contained in paragraph 112, including footnote
18 1 referenced therein.

19 113. Liggett denies the allegations contained in paragraph 113, including its
20 subparts a through n.

21 114. Liggett denies the allegations contained in paragraph 114.

22 115. Liggett denies the allegations contained in paragraph 115.

23 116. Liggett denies the allegations contained in paragraph 116, including its
24 subparts a through d.

FIRST CLAIM FOR RELIEF

(WRONGFUL DEATH - NEGLIGENCE)

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

117. In response to the allegations contained in paragraph 117, Liggett realleges its responses to paragraphs 1 through 116.

118. To the extent the allegations contained in paragraph 118 state legal conclusions rather than factual allegations, no response is required. To the extent a response is deemed required, Liggett denies the allegations contained in paragraph 118.

119. Liggett is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 119 and therefore denies those allegations.

120. Liggett is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 120 and therefore denies those allegations.

121. Liggett is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 121 and therefore denies those allegations.

122. Liggett admits that Plaintiff brings this action pursuant to NRS 41.085(4), but denies that she is entitled to maintain such an action against Liggett and denies that she is entitled to any relief as against Liggett whatsoever.

123. Liggett is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 123 and therefore denies those allegations.

124. Liggett admits that Plaintiff brings this action pursuant to 41.085(5), but denies that she is entitled to maintain such an action against Liggett and denies that she is entitled to any relief as against Liggett whatsoever.

125. Liggett denies the allegations contained in paragraph 125.

126. Liggett denies the allegations contained in paragraph 126.

127. Liggett denies the allegations contained in paragraph 127.

128. Liggett denies the allegations contained in paragraph 128 and its subparts (a) through (s).

1 129. Liggett denies the allegations contained in paragraph 129 and its subparts (a)
2 through (e).

3 130. Liggett denies the allegations contained in paragraph 130.

4 131. Liggett denies the allegations contained in paragraph 131.

5 132. Liggett denies the allegations contained in paragraph 132.

6 133. Liggett denies the allegations contained in paragraph 133.

7 134. Liggett denies the allegations contained in paragraph 134, including that
8 Plaintiff is entitled to any relief against Liggett whatsoever.

9 135. Liggett denies the allegations contained in paragraph 135, including that
10 Plaintiff is entitled to any relief against Liggett whatsoever.

11 136. Liggett denies the allegations contained in paragraph 136, including that
12 Plaintiff is entitled to any relief against Liggett whatsoever.

13 137. Liggett denies the allegations contained in paragraph 137.

14 138. Liggett denies the allegations contained in paragraph 138, including that
15 Plaintiff is entitled to any relief against Liggett whatsoever.

16 139. Liggett denies the allegations contained in paragraph 139, including that
17 Plaintiff is entitled to any relief against Liggett whatsoever.

18 140. Liggett denies the allegations contained in paragraph 140, including that
19 Plaintiff is entitled to any relief against Liggett whatsoever.

20 **SECOND CLAIM FOR RELIEF**

21 **(NEGLIGENCE)**

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

24 141. In response to the allegations contained in paragraph 141, Liggett realleges its
25 responses to paragraphs 1 through 116 and 117-140.

26 142. Liggett admits that Plaintiff brings this action pursuant to NRS 41.100, but
27 denies that she is entitled to maintain such an action against Liggett and denies that she is
28 entitled to any relief as against Liggett whatsoever.

- 1 143. Liggett denies the allegations contained in paragraph 143.
- 2 144. Liggett is without knowledge or information sufficient to form a belief as to
3 the truth of the allegations contained in paragraph 144 and therefore denies those allegations.
- 4 145. Liggett denies the allegations contained in paragraph 145.
- 5 146. Liggett denies the allegations contained in paragraph 146, including subparts
6 (a) through (s).
- 7 147. Liggett denies the allegations contained in paragraph 147, including subparts
8 (a) through (e).
- 9 148. Liggett denies the allegations contained in paragraph 148.
- 10 149. Liggett denies the allegations contained in paragraph 149.
- 11 150. Liggett denies the allegations contained in paragraph 150.
- 12 151. Liggett denies the allegations contained in paragraph 151.
- 13 152. Liggett denies the allegations contained in paragraph 152.
- 14 153. Liggett denies the allegations in paragraph 153, including that Plaintiff is
15 entitled to any relief against Liggett whatsoever.
- 16 154. Liggett denies the allegations in paragraph 154, including that Plaintiff is
17 entitled to any relief against Liggett whatsoever.
- 18 155. Liggett denies the allegations in paragraph 155.
- 19 156. Liggett denies the allegations contained in paragraph 156, including that
20 Plaintiff is entitled to any relief against Liggett whatsoever.
- 21 157. Liggett denies the allegations contained in paragraph 157, including that
22 Plaintiff is entitled to any relief against Liggett whatsoever.
- 23 158. Liggett denies the allegations contained in paragraph 158, including that
24 Plaintiff is entitled to any relief against Liggett whatsoever.
- 25
- 26
- 27
- 28

THIRD CLAIM FOR RELIEF

(WRONGFUL DEATH – STRICT LIABILITY)

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

159. In response to the allegations contained in paragraph 159, Liggett realleges its responses to paragraphs 1 through 116.

160. To the extent the allegations contained in paragraph 160 state legal conclusions rather than factual allegations, no response is required. To the extent a response is deemed required, Liggett denies the allegations contained in paragraph 160.

161. Liggett is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 161 and therefore denies those allegations.

162. Liggett is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 162 and therefore denies those allegations.

163. Liggett is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 163 and therefore denies those allegations.

164. Liggett admits that Plaintiff brings this action pursuant to NRS 41.085(4), but denies that she is entitled to maintain such an action against Liggett and denies that she is entitled to any relief as against Liggett whatsoever.

165. Liggett is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 165 and therefore denies those allegations.

166. Liggett admits that Plaintiff brings this action pursuant to 41.085(5), but denies that she is entitled to maintain such an action against Liggett and denies that she is entitled to any relief as against Liggett whatsoever.

167. Liggett admits that it has been and is engaged in the business of manufacturing cigarettes for distribution at the wholesale level and that it has at various times marketed those products. Liggett denies the remaining allegations contained in paragraph 167.

168. Liggett is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 168 and therefore denies those allegations.

1 169. Liggett is without knowledge or information sufficient to form a belief as to
2 the truth of the allegations contained in paragraph 169 and therefore denies those allegations.

3 170. Liggett denies the allegations contained in paragraph 170.

4 171. Liggett denies the allegations contained in paragraph 171.

5 172. Liggett denies the allegations contained in paragraph 172.

6 173. Liggett denies the allegations contained in paragraph 173.

7 174. Liggett denies the allegations contained in paragraph 174, including subparts
8 (a) through (s).

9 175. Liggett denies the allegations contained in paragraph 175.

10 176. Liggett denies the allegations contained in paragraph 176.

11 177. Liggett denies the allegations contained in paragraph 177.

12 178. Liggett denies the allegations contained in paragraph 178, including that
13 Plaintiff is entitled to any relief against Liggett whatsoever.

14 179. Liggett denies the allegations contained in paragraph 179, including that
15 Plaintiff is entitled to any relief against Liggett whatsoever.

16 180. Liggett denies the allegations contained in paragraph 180, including that
17 Plaintiff is entitled to any relief against Liggett whatsoever.

18 181. Liggett denies the allegations contained in paragraph 181.

19 182. Liggett denies the allegations contained in paragraph 182, including that
20 Plaintiff is entitled to any relief against Liggett whatsoever.

21 183. Liggett denies the allegations contained in paragraph 183, including that
22 Plaintiff is entitled to any relief against Liggett whatsoever.

23 184. Liggett denies the allegations contained in paragraph 184, including that
24 Plaintiff is entitled to any relief against Liggett whatsoever.

FOURTH CLAIM FOR RELIEF

(STRICT PRODUCTS LIABILITY)

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

185. In response to the allegations contained in paragraph 185, Liggett realleges its responses to paragraphs 1 through 116 and 159 through 184.

186. Liggett admits that Plaintiff brings this action pursuant to NRS 41.100, but denies that she is entitled to maintain such an action against Liggett and denies that she is entitled to any relief as against Liggett whatsoever.

187. Liggett admits that it has been and is engaged in the business of manufacturing cigarettes for distribution at the wholesale level and that it has at various times marketed those products. Liggett denies the remaining allegations contained in paragraph 187.

188. Liggett is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 188 and therefore denies those allegations.

189. Liggett is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 189 and therefore denies those allegations.

190. Liggett denies the allegations contained in paragraph 190.

191. Liggett denies the allegations contained in paragraph 191.

192. Liggett denies the allegations contained in paragraph 192.

193. Liggett denies the allegations contained in paragraph 193.

194. Liggett denies the allegations contained in paragraph 194, including subparts (a) through (n).

195. Liggett denies the allegations contained in paragraph 195.

196. Liggett denies the remaining allegations in paragraph 196.

197. Liggett denies the remaining allegations in paragraph 197.

198. Liggett denies the allegations contained in paragraph 198, including that Plaintiff is entitled to any relief against Liggett whatsoever.

1 199. Liggett denies the allegations in paragraph 199, including that Plaintiff is
2 entitled to any relief against Liggett whatsoever.

3 200. Liggett denies the remaining allegations in paragraph 200.

4 201. Liggett denies the allegations contained in paragraph 201, including that
5 Plaintiff is entitled to any relief against Liggett whatsoever.

6 202. Liggett denies the allegations contained in paragraph 202, including that
7 Plaintiff is entitled to any relief against Liggett whatsoever.

8 203. Liggett denies the allegations contained in paragraph 203, including that
9 Plaintiff is entitled to any relief against Liggett whatsoever.

10 **FIFTH CLAIM FOR RELIEF**

11 **(WRONGFUL DEATH – FRAUDULENT MISREPRESENTATION)**

12 **Dolly Rowan as Administrator of the Estate of Noreen Thompson and Dolly Rowan,**
13 **Navona Collison, and Russell Thompson, as Heirs of Noreen Thompson, Against**
14 **Defendants R.J. Reynolds and Liggett**

15 204. In response to the allegations contained in paragraph 204, Liggett realleges its
16 responses to paragraphs 1 through 116.

17 205. To the extent the allegations contained in paragraph 205 state legal
18 conclusions rather than factual allegations, no response is required. To the extent a response
19 is deemed required, Liggett denies the allegations contained in paragraph 205.

20 206. Liggett is without knowledge or information sufficient to form a belief as to
21 the truth of the allegations contained in paragraph 206 and therefore denies those allegations.

22 207. Liggett is without knowledge or information sufficient to form a belief as to
23 the truth of the allegations contained in paragraph 207 and therefore denies those allegations.

24 208. Liggett is without knowledge or information sufficient to form a belief as to
25 the truth of the allegations contained in paragraph 208 and therefore denies those allegations.

26 209. Liggett admits that Plaintiff brings this action pursuant to NRS 41.085(4), but
27 denies that she is entitled to maintain such an action against Liggett and denies that she is
28 entitled to any relief as against Liggett whatsoever.

1 210. Liggett is without knowledge or information sufficient to form a belief as to
2 the truth of the allegations contained in paragraph 210 and therefore denies those allegations.

3 211. Liggett admits that Plaintiff brings this action pursuant to 41.085(5), but
4 denies that she is entitled to maintain such an action against Liggett and denies that she is
5 entitled to any relief as against Liggett whatsoever.

6 212. Liggett denies the allegations contained in paragraph 212.

7 213. Liggett denies the allegations contained in paragraph 213.

8 214. Liggett denies the allegations contained in paragraph 214.

9 215. Liggett denies the allegations contained in paragraph 215, including subparts
10 (a) through (g).

11 216. Liggett denies the allegations contained in paragraph 216.

12 217. Liggett denies the allegations contained in paragraph 217.

13 218. Liggett denies the allegations contained in paragraph 218, including subparts
14 (a) through (g).

15 219. Liggett denies the allegations contained in paragraph 219.

16 220. Liggett denies the allegations contained in paragraph 220.

17 221. Liggett denies the allegations contained in paragraph 221.

18 222. Liggett denies the allegations contained in paragraph 222.

19 223. Liggett denies the allegations contained in paragraph 223.

20 224. Liggett denies the allegations contained in paragraph 224.

21 225. Liggett denies the allegations contained in paragraph 225.

22 226. Liggett denies the allegations contained in paragraph 226, including subparts
23 (a) through (f).

24 227. Liggett denies the allegations contained in paragraph 227

25 228. Liggett denies the allegations contained in paragraph 228, including subparts
26 (a) through (c).

27 229. Liggett denies the allegations contained in paragraph 229.

28 230. Liggett denies the allegations contained in paragraph 230.

- 1 231. Liggett denies the allegations contained in paragraph 231.
- 2 232. Liggett denies the allegations contained in paragraph 232.
- 3 233. Liggett denies the allegations contained in paragraph 233.
- 4 234. Liggett denies the allegations contained in paragraph 234, including subparts
- 5 (a) through (g).
- 6 235. Liggett denies the allegations contained in paragraph 235, including subparts
- 7 (a) through (g).
- 8 236. Liggett denies the allegations contained in paragraph 236, including that
- 9 Plaintiff is entitled to any relief against Liggett whatsoever.
- 10 237. Liggett denies the allegations contained in paragraph 237, including that
- 11 Plaintiff is entitled to any relief against Liggett whatsoever.
- 12 238. Liggett denies the allegations contained in paragraph 238, including that
- 13 Plaintiff is entitled to any relief against Liggett whatsoever.
- 14 239. Liggett denies the allegations contained in paragraph 239.
- 15 240. Liggett denies the allegations contained in paragraph 240, including that
- 16 Plaintiff is entitled to any relief against Liggett whatsoever.
- 17 241. Liggett denies the allegations contained in paragraph 241, including that
- 18 Plaintiff is entitled to any relief against Liggett whatsoever.
- 19 242. Liggett denies the allegations contained in paragraph 242, including that
- 20 Plaintiff is entitled to any relief against Liggett whatsoever.

21 **SIXTH CLAIM FOR RELIEF**

22 **(FRAUDULENT MISREPRESENTATION)**

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

- 25 243. In response to the allegations contained in paragraph 243 Liggett realleges its
- 26
- 27
- 28

1 responses to paragraphs 1 through 116 and 204 through 242.

2 244. Liggett admits that Plaintiff brings this action pursuant to NRS 41.100, but
3 denies that she is entitled to maintain such an action against Liggett and denies that she is
4 entitled to any relief as against Liggett whatsoever.

5 245. Liggett denies the allegations contained in paragraph 245.

6 246. Liggett denies the allegations contained in paragraph 246, including the
7 existence of or its participation in a conspiracy.

8 247. Liggett denies the allegations contained in paragraph 247.

9 248. Liggett denies the allegations contained in paragraph 248, including subparts
10 (a) through (g).

11 249. Liggett denies the allegations contained in paragraph 249.

12 250. Liggett denies the allegations contained in paragraph 250.

13 251. Liggett denies the allegations contained in paragraph 251, including the
14 existence of or its participation in a conspiracy.

15 252. Liggett denies the allegations contained in paragraph 252.

16 253. Liggett denies the allegations contained in paragraph 253.

17 254. Liggett denies the allegations contained in paragraph 254.

18 255. Liggett denies the allegations contained in paragraph 255.

19 256. Liggett denies the allegations contained in paragraph 256.

20 257. Liggett denies the allegations contained in paragraph 257.

21 258. Liggett denies the allegations contained in paragraph 258.

22 259. Liggett denies the allegations contained in paragraph 259, including subparts
23 (a) through (f).

24 260. Liggett denies the allegations contained in paragraph 260.

25 261. Liggett denies the allegations contained in paragraph 261, including subparts
26 (a) through (c).

27 262. Liggett denies the allegations contained in paragraph 262.

28 263. Liggett denies the allegations contained in paragraph 263.

1 264. Liggett denies the allegations contained in paragraph 264.
2 265. Liggett denies the allegations contained in paragraph 265.
3 266. Liggett denies the allegations contained in paragraph 266.
4 267. Liggett denies the allegations contained in paragraph 267, including subparts
5 (a) through (g).

6 268. Liggett denies the allegations contained in paragraph 268, including subparts
7 (a) through (g).

8 269. Liggett denies the allegations contained in paragraph 269, including that
9 Plaintiff is entitled to any relief against Liggett whatsoever.

10 270. Liggett denies the allegations contained in paragraph 270, including that
11 Plaintiff is entitled to any relief against Liggett whatsoever.

12 271. Liggett denies the allegations contained in paragraph 271.

13 272. Liggett denies the allegations contained in paragraph 272, including that
14 Plaintiff is entitled to any relief against Liggett whatsoever.

15 273. Liggett denies the allegations contained in paragraph 273, including that
16 Plaintiff is entitled to any relief against Liggett whatsoever.

17 274. Liggett denies the allegations contained in paragraph 274, including that
18 Plaintiff is entitled to any relief against Liggett whatsoever.

19 **SEVENTH CLAIM FOR RELIEF**

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

21 **Dolly Rowan as Administrator of the Noreen Thompson, and Dolly Rowan, Navona**
22 **Collision, and Russell Thompson, as Heirs of Noreen Thompson Against Defendants**
23 **R.J. Reynolds and Liggett**

24 275. In response to the allegations contained in paragraph 275, Liggett realleges its
25 responses to paragraphs 1 through 116 and 204 through 274.

26 276. To the extent the allegations contained in paragraph 276 state legal
27 conclusions rather than factual allegations, no response is required. To the extent a response
28 is deemed required, Liggett denies the allegations contained in paragraph 276.

1 277. Liggett is without knowledge or information sufficient to form a belief as to
2 the truth of the allegations contained in paragraph 277 and therefore denies those allegations.

3 278. Liggett is without knowledge or information sufficient to form a belief as to
4 the truth of the allegations contained in paragraph 278 and therefore denies those allegations.

5 279. Liggett is without knowledge or information sufficient to form a belief as to
6 the truth of the allegations contained in paragraph 279 and therefore denies those allegations.

7 280. Liggett admits that Plaintiff brings this action pursuant to NRS 41.085(4), but
8 denies that she is entitled to maintain such an action against Liggett and denies that she is
9 entitled to any relief as against Liggett whatsoever.

10 281. Liggett is without knowledge or information sufficient to form a belief as to
11 the truth of the allegations contained in paragraph 281 and therefore denies those allegations.

12 282. Liggett admits that Plaintiff brings this action pursuant to 41.085(5), but
13 denies that she is entitled to maintain such an action against Liggett and denies that she is
14 entitled to any relief as against Liggett whatsoever.

15 283. Liggett denies the allegations contained in paragraph 283.

16 284. Liggett denies the allegations contained in paragraph 284.

17 285. Liggett denies the allegations contained in paragraph 285.

18 286. Liggett denies the allegations contained in paragraph 286, including subparts
19 (a) through (l).

20 287. Liggett denies the allegations contained in paragraph 287, including subparts
21 (a) through (g).

22 288. Liggett denies the allegations contained in paragraph 288.

23 289. Liggett denies the allegations contained in paragraph 289.

24 290. Liggett denies the allegations contained in paragraph 290, including subparts
25 (a) through (g), and specifically denies the existence of or its participation in a conspiracy.

26 291. Liggett denies the allegations contained in paragraph 291.

27 292. Liggett denies the allegations contained in paragraph 292.

28 293. Liggett denies the allegations contained in paragraph 293.

- 1 294. Liggett denies the allegations contained in paragraph 294.
- 2 295. Liggett denies the allegations contained in paragraph 295.
- 3 296. Liggett denies the allegations contained in paragraph 296.
- 4 297. Liggett denies the allegations contained in paragraph 297, including subparts
5 (a) through (e), and specifically denies the existence of or its participation in a conspiracy.
- 6 298. Liggett denies the allegations contained in paragraph 298.
- 7 299. Liggett denies the allegations contained in paragraph 299, including subparts
8 (a) through (c).
- 9 300. Liggett denies the allegations contained in paragraph 300, including the
10 existence of or its participation in a conspiracy.
- 11 301. Liggett denies the allegations contained in paragraph 301.
- 12 302. Liggett denies the allegations contained in paragraph 302.
- 13 303. Liggett denies the allegations contained in paragraph 303.
- 14 304. Liggett denies the allegations contained in paragraph 304.
- 15 305. Liggett denies the allegations contained in paragraph 305, including the
16 existence of or its participation in a conspiracy.
- 17 306. Liggett denies the allegations contained in paragraph 306, including subparts
18 (a) through (j).
- 19 307. Liggett denies the allegations contained in paragraph 307, including that
20 Plaintiff is entitled to any relief against Liggett whatsoever.
- 21 308. Liggett denies the allegations contained in paragraph 308, including that
22 Plaintiff is entitled to any relief against Liggett whatsoever.
- 23 309. Liggett denies the allegations contained in paragraph 309, including that
24 Plaintiff is entitled to any relief against Liggett whatsoever.
- 25 310. Liggett denies the allegations contained in paragraph 310.
- 26 311. Liggett denies the allegations contained in paragraph 311.
- 27 312. Liggett denies the allegations contained in paragraph 312, including that
28 Plaintiff is entitled to any relief against Liggett whatsoever.

1 313. Liggett denies the allegations contained in paragraph 313, including that
2 Plaintiff is entitled to any relief against Liggett whatsoever.

3 **EIGHTH CLAIM FOR RELIEF**
4 **(FRAUDULENT CONCEALMENT)**

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

7 314. In response to the allegations contained in paragraph 314, Liggett realleges its
8 responses to paragraphs 1 through 116 and 204 through 313.

9 315. Liggett admits that Plaintiff brings this action pursuant to NRS 41.100, but
10 denies that she is entitled to maintain such an action against Liggett and denies that she is
11 entitled to any relief as against Liggett whatsoever.

12 316. Liggett denies the allegations contained in paragraph 316.

13 317. Liggett denies the allegations contained in paragraph 317.

14 320. Liggett denies the allegations contained in paragraph 320.¹

15 321. Liggett denies the allegations contained in paragraph 312, including subparts
16 (a) through (l).

17 322. Liggett denies the allegations contained in paragraph 322, including subparts
18 (a) through (g).

19 323. Liggett denies the allegations contained in paragraph 466, including subparts
20 (a) through (h).

21 324. Liggett denies the allegations contained in paragraph 324.

22 325. Liggett denies the allegations contained in paragraph 325, including subparts
23 (a) through (g).

24 326. Liggett denies the allegations contained in paragraph 326.

25 327. Liggett denies the allegations contained in paragraph 327.

26 328. Liggett denies the allegations contained in paragraph 328.

27 329. Liggett denies the allegations contained in paragraph 329.

28 ¹ In responding to the Complaint, Liggett has maintained Plaintiff's original numbering
which omits paragraphs 318 and 319.

- 1 330. Liggett denies the allegations contained in paragraph 330.
- 2 331. Liggett denies the allegations contained in paragraph 331.
- 3 332. Liggett denies the allegations contained in paragraph 332, including subparts
- 4 (a) through (g), and specifically denies the existence of or its participation in a conspiracy.
- 5 333. Liggett denies the allegations contained in paragraph 333, including the
- 6 existence of or its participation in a conspiracy.
- 7 334. Liggett denies the allegations contained in paragraph 334, including subparts
- 8 (a) through (c).
- 9 335. Liggett denies the allegations contained in paragraph 335, including the
- 10 existence of or its participation in a conspiracy.
- 11 336. Liggett denies the allegations contained in paragraph 336.
- 12 337. Liggett denies the allegations contained in paragraph 337.
- 13 338. Liggett denies the allegations contained in paragraph 338, including the
- 14 existence of or its participation in a conspiracy.
- 15 339. Liggett denies the allegations contained in paragraph 339.
- 16 340. Liggett denies the allegations contained in paragraph 340.
- 17 341. Liggett denies the allegations contained in paragraph 341, including subparts
- 18 (a) through (i).
- 19 342. Liggett denies the allegations contained in paragraph 342, including that
- 20 Plaintiff is entitled to any relief against Liggett whatsoever.
- 21 343. Liggett denies the allegations contained in paragraph 343, including that
- 22 Plaintiff is entitled to any relief against Liggett whatsoever.
- 23 344. Liggett denies the allegations contained in paragraph 344.
- 24 345. Liggett denies the allegations contained in paragraph 345, including that
- 25 Plaintiff is entitled to any relief against Liggett whatsoever.
- 26 346. Liggett denies the allegations contained in paragraph 346, including that
- 27 Plaintiff is entitled to any relief against Liggett whatsoever.
- 28

1 347. Liggett denies the allegations contained in paragraph 347, including that
2 Plaintiff is entitled to any relief against Liggett whatsoever.

3 **NINTH CLAIM FOR RELIEF**

4 **(WRONGFUL DEATH – CIVIL CONSPIRACY)**

5 **Dolly Rowan as Administrator of the Estate of Noreen Thompson, and Dolly Rowan,**
6 **Navona Collison, and Russell Thompson, as Heirs of Noreen Thompson Against**
7 **Defendants R.J. Reynolds, Liggett and Philip Morris**

8 348. In response to the allegations contained in paragraph 348, Liggett realleges its
9 responses to paragraphs 1 through 347.

10 349. To the extent the allegations contained in paragraph 349 state legal
11 conclusions rather than factual allegations, no response is required. To the extent a response
12 is deemed required, Liggett denies the allegations contained in paragraph 349.

13 350. Liggett is without knowledge or information sufficient to form a belief as to
14 the truth of the allegations contained in paragraph 350 and therefore denies those allegations.

15 351. Liggett is without knowledge or information sufficient to form a belief as to
16 the truth of the allegations contained in paragraph 351 and therefore denies those allegations.

17 352. Liggett is without knowledge or information sufficient to form a belief as to
18 the truth of the allegations contained in paragraph 352 and therefore denies those allegations.

19 353. Liggett admits that Plaintiff brings this action pursuant to NRS 41.085(4), but
20 denies that she is entitled to maintain such an action against Liggett and denies that she is
21 entitled to any relief as against Liggett whatsoever.

22 354. Liggett is without knowledge or information sufficient to form a belief as to
23 the truth of the allegations contained in paragraph 354 and therefore denies those allegations.

24 355. Liggett admits that Plaintiff brings this action pursuant to 41.085(5), but
25 denies that she is entitled to maintain such an action against Liggett and denies that she is
26 entitled to any relief as against Liggett whatsoever.

27 356. Liggett denies the allegations contained in paragraph 356, including subparts
28 (a) through (d).

1 357. Liggett denies the allegations contained in paragraph 357, including subparts
2 (a) through (h), and specifically denies the existence of or its participation in a conspiracy.

3 358. Liggett denies the allegations contained in paragraph 358, including the
4 existence of or its participation in a conspiracy.

5 359. Liggett denies the allegations contained in paragraph 359, including the
6 existence of or its participation in a conspiracy.

7 360. Liggett denies the allegations contained in paragraph 360, including the
8 existence of or its participation in a conspiracy.

9 361. Liggett denies the allegations contained in paragraph 361, including the
10 existence of or its participation in a conspiracy.

11 362. Liggett denies the allegations contained in paragraph 362, including subparts
12 (a) through (g), and specifically denies the existence of or its participation in a conspiracy.

13 363. Liggett denies the allegations contained in paragraph 363, including the
14 existence of or its participation in a conspiracy.

15 364. Liggett denies the allegations contained in paragraph 364, including the
16 existence of or its participation in a conspiracy.

17 365. Liggett denies the allegations contained in paragraph 365, including the
18 existence of or its participation in a conspiracy.

19 366. Liggett denies the allegations contained in paragraph 366, including the
20 existence of or its participation in a conspiracy.

21 367. Liggett denies the allegations contained in paragraph 367, including the
22 existence of or its participation in a conspiracy.

23 368. Liggett denies the allegations contained in paragraph 368, including that
24 Plaintiff is entitled to any relief against Liggett whatsoever.

25 369. Liggett denies the allegations contained in paragraph 369, including that
26 Plaintiff is entitled to any relief against Liggett whatsoever.

27 370. Liggett denies the allegations contained in paragraph 370, including that
28 Plaintiff is entitled to any relief against Liggett whatsoever.

1 371. Liggett denies the allegations contained in paragraph 371.

2 372. Liggett denies the allegations contained in paragraph 372, including that
3 Plaintiff is entitled to any relief against Liggett whatsoever.

4 373. Liggett denies the allegations contained in paragraph 373, including that
5 Plaintiff is entitled to any relief against Liggett whatsoever.

6 374. Liggett denies the allegations contained in paragraph 374, including that
7 Plaintiff is entitled to any relief against Liggett whatsoever.

8 **TENTH CLAIM FOR RELIEF**

9 **(CIVIL CONSPIRACY)**

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

12 375. In response to the allegations contained in paragraph 375, Liggett realleges its
13 responses to paragraphs 1 through 374.

14 376. Liggett admits that Plaintiff brings this action pursuant to NRS 41.100, but
15 denies that she is entitled to maintain such an action against Liggett and denies that she is
16 entitled to any relief as against Liggett whatsoever.

17 377. Liggett denies the allegations contained in paragraph 377, including subparts
18 (a) through (d).

19 378. Liggett denies the allegations contained in paragraph 378, including subparts
20 (a) through (h), and specifically denies the existence of or its participation in a conspiracy.

21 379. Liggett denies the allegations contained in paragraph 379, including the
22 existence of or its participation in a conspiracy.

23 380. Liggett denies the allegations contained in paragraph 380, including the
24 existence of or its participation in a conspiracy.

25 381. Liggett denies the allegations contained in paragraph 381, including the
26 existence of or its participation in a conspiracy.

27 382. Liggett denies the allegations contained in paragraph 382, including the
28 existence of or its participation in a conspiracy

1 383. Liggett denies the allegations contained in paragraph 383, including subparts
2 (a) through (g), and specifically denies the existence of or its participation in a conspiracy.

3 384. Liggett denies the allegations contained in paragraph 384, including the
4 existence of or its participation in a conspiracy.

5 385. Liggett denies the allegations contained in paragraph 385, including the
6 existence of or its participation in a conspiracy.

7 386. Liggett denies the allegations contained in paragraph 386, including the
8 existence of or its participation in a conspiracy.

9 387. Liggett denies the allegations contained in paragraph 387, including the
10 existence of or its participation in a conspiracy.

11 388. Liggett denies the allegations contained in paragraph 388, including the
12 existence of or its participation in a conspiracy.

13 389. Liggett denies the allegations contained in paragraph 389, including that
14 Plaintiff is entitled to any relief against Liggett whatsoever.

15 390. Liggett denies the allegations contained in paragraph 390, including that
16 Plaintiff is entitled to any relief against Liggett whatsoever.

17 391. Liggett denies the allegations contained in paragraph 391

18 392. Liggett denies the allegations contained in paragraph 392 including that
19 Plaintiff is entitled to any relief against Liggett whatsoever.

20 393. Liggett denies the allegations contained in paragraph 393, including that
21 Plaintiff is entitled to any relief against Liggett whatsoever.

22 394. Liggett denies the allegations contained in paragraph 394, including that
23 Plaintiff is entitled to any relief against Liggett whatsoever.

ELEVENTH CLAIM FOR RELIEF

(WRONGFUL DEATH – NEVADA DECEPTIVE TRADE PRACTICES 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. In response to the allegations contained in paragraph 395, Liggett realleges its responses to paragraphs 1 through 394.

396. To the extent the allegations contained in paragraph 396 state legal conclusions rather than factual allegations, no response is required. To the extent a response is deemed required, Liggett denies the allegations contained in paragraph 396.

397. Liggett is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 397 and therefore denies those allegations.

398. Liggett is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 398 and therefore denies those allegations.

399. Liggett is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 399 and therefore denies those allegations.

400. Liggett admits that Plaintiff brings this action pursuant to NRS 41.085(4), but denies that she is entitled to maintain such an action against Liggett and denies that she is entitled to any relief as against Liggett whatsoever.

401. Liggett is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 401 and therefore denies those allegations.

402. Liggett admits that Plaintiff brings this action pursuant to 41.085(5), but denies that she is entitled to maintain such an action against Liggett and denies that she is entitled to any relief as against Liggett whatsoever.

403. To the extent the allegations contained in paragraph 403 state legal conclusions rather than factual allegations, no response is required. To the extent a response is deemed required, Liggett states that NRS 598.0903 speaks for itself. Liggett denies the remaining allegations in paragraph 403.

404. Liggett denies the allegations contained in paragraph 404.

1 405. Liggett admits that Plaintiff brings this action pursuant to NRS 41.600, but
2 denies that she is entitled to maintain such an action against Liggett and denies that she is
3 entitled to any relief as against Liggett whatsoever. Liggett denies the remaining allegations
4 contained in paragraph 405.

5 406. To the extent the allegations contained in paragraph 406 state legal
6 conclusions rather than factual allegations, no response is required. To the extent a response
7 is deemed required, Liggett states that NRS 598.0915 speaks for itself. Liggett denies the
8 remaining allegations in paragraph 406.

9 407. Liggett denies the allegations contained in paragraph 407, including subparts
10 (a) through (p).

11 408. Liggett denies the allegations contained in paragraph 408, including subparts
12 (a) through (g), and specifically denies the existence of or its participation in a conspiracy.

13 409. Liggett denies the allegations contained in paragraph 409, including the
14 existence of or its participation in a conspiracy.

15 410. Liggett denies the allegations contained in paragraph 410, including the
16 existence of or its participation in a conspiracy.

17 411. Liggett denies the allegations contained in paragraph 411, including the
18 existence of or its participation in a conspiracy.

19 412. Liggett denies the allegations contained in paragraph 412, including the
20 existence of or its participation in a conspiracy.

21 413. Liggett denies the allegations contained in paragraph 413, including the
22 existence of or its participation in a conspiracy.

23 414. Liggett denies the allegations contained in paragraph 414, including that
24 Plaintiff is entitled to any relief against Liggett whatsoever.

25 415. Liggett denies the allegations contained in paragraph 415, including that
26 Plaintiff is entitled to any relief against Liggett whatsoever.

27 416. Liggett denies the allegations contained in paragraph 416 including that
28 Plaintiff is entitled to any relief against Liggett whatsoever.

1 417. Liggett denies the allegations contained in paragraph 417.

2 418. Liggett denies the allegations contained in paragraph 418 including that
3 Plaintiff is entitled to any relief against Liggett whatsoever.

4 419. Liggett denies the allegations contained in paragraph 419, including that
5 Plaintiff is entitled to any relief against Liggett whatsoever.

6 420. Liggett denies the allegations contained in paragraph 420, including that
7 Plaintiff is entitled to any relief against Liggett whatsoever.

8 **TWELFTH CLAIM FOR RELIEF**

9 **(VIOLATION OF DECEPTIVE TRADE PRACTICES ACT- NRS 598.0903)**

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

12 421. In response to the allegations contained in paragraph 421, Liggett realleges its
13 responses to paragraphs 1 through 420.

14 422. To the extent the allegations contained in paragraph 422 state legal
15 conclusions rather than factual allegations, no response is required. To the extent a response
16 is deemed required, Liggett denies the allegations contained in paragraph 422.

17 423. To the extent the allegations contained in paragraph 423 state legal
18 conclusions rather than factual allegations, no response is required. To the extent a response
19 is deemed required, Liggett states that NRS 598.0903 speaks for itself. Liggett denies the
20 remaining allegations in paragraph 423.

21 424. To the extent the allegations contained in paragraph 424 state legal
22 conclusions rather than factual allegations, no response is required. To the extent a response
23 is deemed required, Liggett denies the allegations contained in paragraph 424.

24 425. Liggett admits that Plaintiff brings this action pursuant to NRS 41.600, but
25 denies that she is entitled to maintain such an action against Liggett and denies that she is
26 entitled to any relief as against Liggett whatsoever. Liggett denies the remaining allegations
27 contained in paragraph 425.

1 426. To the extent the allegations contained in paragraph 426 state legal
2 conclusions rather than factual allegations, no response is required. To the extent a response
3 is deemed required, Liggett states that NRS 598.0915 speaks for itself. Liggett denies the
4 remaining allegations in paragraph 426.

5 427. Liggett denies the allegations contained in paragraph 427, including subparts
6 (a) through (p).

7 428. Liggett denies the allegations contained in paragraph 428, including subparts
8 (a) through (g), and specifically denies the existence of or its participation in a conspiracy.

9 429. Liggett denies the allegations contained in paragraph 429, including the
10 existence of or its participation in a conspiracy.

11 430. Liggett denies the allegations contained in paragraph 430, including the
12 existence of or its participation in a conspiracy.

13 431. Liggett denies the allegations contained in paragraph 431, including the
14 existence of or its participation in a conspiracy.

15 432. Liggett denies the allegations contained in paragraph 432, including the
16 existence of or its participation in a conspiracy.

17 433. Liggett denies the allegations contained in paragraph 433, including the
18 existence of or its participation in a conspiracy.

19 434. Liggett denies the allegations contained in paragraph 434, including that
20 Plaintiff is entitled to any relief against Liggett whatsoever.

21 435. Liggett denies the allegations contained in paragraph 435, including that
22 Plaintiff is entitled to any relief against Liggett whatsoever.

23 436. Liggett denies the allegations contained in paragraph 436.

24 437. Liggett denies the allegations contained in paragraph 437, including that
25 Plaintiff is entitled to any relief against Liggett whatsoever.

26 438. Liggett denies the allegations contained in paragraph 438, including that
27 Plaintiff is entitled to any relief against Liggett whatsoever.
28

1 439. Liggett denies the allegations contained in paragraph 439, including that
2 Plaintiff is entitled to any relief against Liggett whatsoever.

3 **THIRTEENTH CLAIM FOR RELIEF**

4 **(WRONGFUL DEATH- STRICT LIABILITY)**

5 **Dolly Rowan as Administrator of the Estate of Noreen Thompson and Dolly Rowan,**
6 **Novona Collision, and Russell Thompson, as Heirs of Noreen Thompson,**
7 **Against Defendants, Quick Stop market, LLC, Joe's Bar, Inc., The Poker**
8 **Palace, Silver Nugget Gaming, LLC d/b/a Silver Nugget Casino, and Jerry's**
9 **Nugget**

10 440-461. The allegations contained in paragraphs 440 through 461 do not require a
11 response because they are not directed to and do not seek relief from Liggett. To the extent
12 a response is required, Liggett denies the allegations contained in paragraphs 440 through
13 461, including that Plaintiff is entitled to any relief whatsoever from Liggett.

14 **FOURTEENTH CLAIM FOR RELIEF**

15 **(STRICT PRODUCT LIABILITY)**

16 **Dolly Rowan as Administrator of the Estate of Noreen Thompson Against Defendants,**
17 **Quick Stop market, LLC, Joe's Bar, Inc., The Poker Palace, Silver Nugget Gaming,**
18 **LLC d/b/a Silver Nugget Casino, and Jerry's Nugget**

19 462-476. The allegations contained in paragraphs 462 through 476 do not require a
20 response because they are not directed to, and do not seek relief from Liggett. To the extent
21 a response is required, Liggett denies the allegations contained in paragraphs 462 through
22 476, including that Plaintiff is entitled to any relief against Liggett whatsoever.

23 Liggett denies the allegations contained in the unnumbered *ad damnum* clause and its
24 subparts (1) through (8) following paragraph 476, including, without limitation, that Plaintiff
25 is entitled to any relief against Liggett whatsoever.

26 **AFFIRMATIVE DEFENSES**

27 Liggett asserts the following defenses to the Complaint. Liggett does not admit or
28 acknowledge that it bears the burden of proof and/or burden of persuasion with respect to any

1 such defenses. All of the following defenses are pleaded in the alternative and none
2 constitutes an admission that Liggett is liable to Plaintiff, that Plaintiff has been or will be
3 injured or damaged in any way, or that Plaintiff is entitled to any relief whatsoever. In
4 enumerating any defense as an affirmative defense, Liggett does not concede that the defense
5 or any similar defense must be pleaded affirmatively. *Clark Cty. Sch. Dist. v. Richardson*
6 *Constr., Inc.*, 123 Nev. 382, 394–95 & n.25, 168 P.3d 87, 95 & n.25 (2007). Liggett reserves
7 the right to (i) rely upon any other applicable defenses set forth in any answer or listing of
8 affirmative defenses of any other defendant in this action, (ii) rely upon any other defenses
9 that may become apparent during fact or expert discovery in this matter, and (iii) amend this
10 document and/or its answer to assert any such defenses.

11 **FIRST DEFENSE**

12 The Complaint and the causes of action or counts alleged therein fail to state facts
13 sufficient to constitute a claim upon which relief may be granted against Liggett and further
14 fails to allege facts, or a cause of action, sufficient to support a claim for attorneys' fees.

15 **SECOND DEFENSE**

16 The Complaint and all alleged claims contained therein are barred, in whole or in part,
17 by the applicable statutes of limitations or statutes of repose.

18 **THIRD DEFENSE**

19 The claims asserted by Plaintiff as against Liggett are barred, in whole or in part, by
20 operation of the *Noerr-Pennington* Doctrine, to the extent that Plaintiff's claims are premised,
21 in whole or in part, on alleged statements or conduct in judicial, legislative, or administrative
22 proceedings, of any kind or at any level of government as alleged in paragraphs 73, 85, 154(k)
23 and 203(p) of the Complaint.

24 **FOURTH DEFENSE**

25 Plaintiff's claims are barred, in whole or in part, by the operation of the Supremacy
26 Clause of the United States Constitution, art. VI, § 2, the Federal Cigarette Labeling and
27 Advertising Act, as amended, 15 U.S.C. § 1331, *et seq.*, and the Federal Trade Commission's
28

1 policies and regulations regarding the cigarette industry. Specifically, under the doctrine of
2 conflict preemption, because Congress has specifically foreclosed the removal of tobacco
3 products from the market, any claims of liability based on Liggett's manufacture, marketing
4 and sale of cigarettes are preempted. *See Cipollone v. Liggett Group, Inc.*, 505 U.S. 504
5 (1992).

6 **FIFTH DEFENSE**

7 Plaintiff's claims are barred, in whole or in part, because they violate Liggett's rights
8 under the First Amendment to the United States Constitution and the cognate provisions of
9 the Nevada Constitution, which protect the rights to freedom of speech, to petition the
10 government, and to freedom of association.

11 **SIXTH DEFENSE**

12 Plaintiff's claims against Liggett are barred, in whole or in part, because any cigarettes
13 manufactured and sold by Liggett or its predecessors at all material times conformed to
14 available technological, medical, scientific and industrial state-of-the-art, and comply and
15 have complied with all applicable governmental regulations.

16 **SEVENTH DEFENSE**

17 Plaintiff's claims are barred, in whole or in part, because they do not satisfy the
18 standard under the Restatement (Second) of Torts: Products Liability § 402A and comments
19 thereto and/or the Restatement (Third) of Torts: Products Liability §§ 2 and 4 and comments
20 thereto.

21 **EIGHTH DEFENSE**

22 Liggett avers that it did not know, and in light of the existing, reasonably available
23 scientific and technological knowledge, could not have known, of (1) the design
24 characteristics, if any, that allegedly caused the injuries and damages complained of herein or
25 the alleged danger of such characteristics, or (2) any alternative design referred to by Plaintiff.
26 Liggett further avers that any alternative design was not feasible, either scientifically or
27 technologically, or economically practical.
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