

In the Supreme Court of Nevada

PHILIP MORRIS USA INC., a foreign corporation,

Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA, IN AND FOR THE COUNTY OF
CLARK; and the HONORABLE VERONICA M.
BARISICH,

Respondents,

and

DOLLY ROWAN, AS AN INDIVIDUAL, AS SPECIAL
ADMINISTRATOR OF THE ESTATE OF NOREEN THOMPSON;
NAVONA COLLISON, AS AN INDIVIDUAL; RUSSELL
THOMPSON, AS AN INDIVIDUAL; R.J. REYNOLDS TOBACCO
COMPANY, A FOREIGN CORPORATION; LIGGETT GROUP LLC,
A FOREIGN CORPORATION; QUICK STOP MARKET, LLC, A
DOMESTIC LIMITED LIABILITY COMPANY; JOE'S BAR, INC., A
DOMESTIC CORPORATION; THE POKER PALACE, A DOMESTIC
CORPORATION; SILVER NUGGET GAMING, LLC D/B/A
SILVER NUGGET CASINO, A DOMESTIC LIMITED LIABILITY
COMPANY; AND JERRY'S NUGGET, A DOMESTIC
CORPORATION,

Real Parties in Interest

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Case No. _____

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

**PHILIP MORRIS USA INC.'S PETITION FOR
WRIT OF MANDAMUS OR, ALTERNATIVELY, PROHIBITION – APPENDIX
VOL. 31**

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1 same. Reynolds denies the remaining allegations contained in paragraph 67.

2 68. Reynolds denies the allegations contained in paragraph 68.

3 69. Reynolds denies the allegations contained in paragraph 69.

4 70. Reynolds admits that in 1966 Congress issued a mandate that all packages of
5 cigarettes have a warning label that read: "CAUTION: Cigarette Smoking May Be Hazardous To
6 Your Health." Reynolds denies the remaining allegations contained in paragraph 70.

7 71. Reynolds denies the allegations contained in paragraph 71.

8 72. Reynolds admits that paragraph 72 accurately quotes a portion of a press release
9 issued by the Tobacco Institute in 1966. Reynolds states that the complete language and/or context
10 of the press release can be ascertained from the press release itself. Reynolds denies the remaining
11 allegations contained in paragraph 72.

12 73. Reynolds admits that it and, upon information and belief, other cigarette
13 manufacturers at various times have introduced filtered cigarette brands for sale to adult cigarette
14 smokers. Reynolds denies the remaining allegations contained in paragraph 73.

15 74. Reynolds admits that it and, upon information and belief, other cigarette
16 manufacturers at various times have introduced filtered cigarette brands for sale to adult cigarette
17 smokers. Reynolds denies the remaining allegations contained in paragraph 74.

18 75. Reynolds states that paragraph 75 inaccurately reflects Reynolds' statements on
19 smoking and health. Reynolds states that the complete language and/or content of the alleged
20 statements can be ascertained from the alleged statements themselves and denies the alleged
21 statements are fairly or accurately characterized in paragraph 75. Reynolds denies the remaining
22 allegations contained in paragraph 75.

23 76. Reynolds admits that it is aware of a 1988 press release containing the language
24 quoted in the second sentence of paragraph 76, the full and precise content and context of which may
25 be ascertained from the press release itself. Reynolds denies the quoted statement is fairly or
26 accurately characterized. Reynolds denies the remaining allegations contained in paragraph 76.

27 77. After reasonable inquiry, Reynolds is without knowledge or information sufficient to
28 form a belief as to the truth or falsity of the allegations contained in paragraph 77 and, on that basis,

1 denies those allegations.

2 78. After reasonable inquiry, Reynolds is without knowledge or information sufficient to
3 form a belief as to the truth or falsity of the allegations contained in paragraph 78 and, on that basis,
4 denies those allegations.

5 79. Reynolds admits upon information and belief that at one or more times persons from
6 many professions smoked cigarettes. Reynolds denies the remaining allegations contained in
7 paragraph 79.

8 80. Reynolds admits that the first two documents referenced in paragraph 80 purports to
9 quote selected excerpts from Reynolds documents from the 1920's but denies that the documents are
10 quoted in context. Reynolds is without knowledge or information sufficient to form a belief as to the
11 truth or falsity of the allegations concerning the second two documents referenced in paragraph 80.
12 Reynolds denies the remaining allegations contained in paragraph 80.

13 81. Reynolds denies the allegations contained in paragraph 81.

14 82. Reynolds lacks knowledge or information sufficient to form a belief as to the truth of
15 the allegations contained in paragraph 82 and, on that basis, denies those allegations.

16 83. Reynolds lacks knowledge or information sufficient to form a belief as to the truth of
17 the allegations contained in paragraph 83 and, on that basis, denies those allegations.

18 84. Reynolds denies the existence of, and its participation in, any alleged conspiracy.
19 Reynolds is informed and believes that selected excerpts from a document prepared in or around
20 1972 by Fred Panzer are quoted accurately, although out of context, in paragraph 84. Reynolds
21 states that the complete and precise content of the referenced document can be ascertained from the
22 document itself but denies that it is fairly or accurately characterized in paragraph 84. Reynolds
23 denies the remaining allegations contained in paragraph 84.

24 85. Reynolds admits that at all times since January 1, 1966, it has complied with the
25 federal Cigarette Labeling and Advertising Act; Reynolds further admits that all packs of cigarettes
26 manufactured by it for sale or distribution in the United States since January 1, 1966 (and all
27 advertising for such cigarettes since approximately 1972) have borne the warning(s) set forth in that
28 Act, to wit: Reynolds admits that beginning October 12, 1985 a system of four rotating labels has

1 been utilized. These warnings are:

2 **Surgeon General's Warning: Smoking causes lung cancer, heart disease,**
3 **emphysema, and may complicate pregnancy.**

4 **Surgeon General's Warning: Quitting smoking now greatly reduces serious**
5 **risks to your health.**

6 **Surgeon General's Warning: Smoking by pregnant women may result in**
7 **fetal injury, premature birth, and low birth weight.**

8 **Surgeon General's Warning: Cigarette smoke contains carbon monoxide.**

9 Except as expressly admitted, Reynolds denies the allegations contained in paragraph 85.

10 86. Reynolds denies the allegations contained in paragraph 86.

11 87. Reynolds admits that the Surgeon General issued a report on smoking and health in
12 1988. Reynolds states the full and precise content of which may be ascertained from the report
13 itself, but denies that it is fairly or accurately characterized in paragraph 87. Reynolds denies the
14 remaining allegations contained in paragraph 87.

15 88. Reynolds denies the allegations contained in paragraph 88.

16 89. Reynolds denies the allegations contained in paragraph 89.

17 90. Reynolds admits that Mr. James W. Johnston, then-Chairman and Chief Executive
18 Officer of Reynolds, and senior officials of other companies testified before a congressional
19 subcommittee in April 1994. Reynolds states that the complete and precise content of the referenced
20 testimony can be ascertained from the testimony itself, but denies that it is fairly or accurately
21 characterized in paragraph 90. Reynolds denies the remaining allegations contained in paragraph 90
22 that apply to Reynolds. Reynolds is without knowledge or information sufficient to form a belief as
23 to the truth or falsity of the remaining allegations contained in paragraph 90 that apply to other
24 Defendants and, on that basis, denies those allegations.

25 91. Reynolds admits that representatives of various tobacco manufacturers have stated
26 their belief in or prior to 1994 that nicotine in cigarettes is not addictive under any objective,
27 scientifically verifiable pharmacological criteria used to define that term. Reynolds states the
28 remaining allegations in paragraph 91 are not directed toward Reynolds and, accordingly, no answer
from Reynolds is required. To the extent that an answer may be deemed required, Reynolds is

1 without knowledge or information sufficient to form a belief as to the truth or falsity of the
2 remaining allegations contained in paragraph 91 that apply to other Defendants and, on that basis,
3 denies those allegations.

4 92. Reynolds denies the allegations contained in paragraph 92.

5 93. Reynolds denies the existence of, and its participation in, any alleged conspiracy and
6 denies the remaining allegations contained in paragraph 93.

7 94. After reasonable inquiry, Reynolds is without knowledge or information sufficient to
8 form a belief as to the truth of the allegations directed toward other defendants and, on that basis,
9 denies those allegations. Reynolds denies the remaining allegations contained in paragraph 94.

10 95. Reynolds denies the allegations contained in paragraph 95.

11 96. Reynolds states that in accordance with the Family Smoking Prevention and Tobacco
12 Control Act, Reynolds has not used descriptors such as "light," "low," "mild" on its cigarettes since
13 in or about July 2010. Reynolds further admits that every pack of cigarettes it has sold since 1966
14 has contained one or more warnings required by the U.S. Congress and that since July 1, 1969 those
15 warnings have been adequate as a matter of law to apprise the public of any relationship between
16 smoking and health. Reynolds denies the remaining allegations contained in paragraph 96 that are
17 directed to Reynolds. Reynolds is without knowledge or information sufficient to form a belief as to
18 the truth of the allegations directed toward other defendants and, on that basis, denies those
19 allegations.

20 97. Reynolds denies the allegations contained in paragraph 97.

21 98. Reynolds denies the allegations contained in paragraph 98.

22 99. Reynolds denies the allegations contained in paragraph 99.

23 100. Reynolds denies the allegations contained in paragraph 100.

24 101. Reynolds denies that its advertising and marketing is or was directed to youth or
25 minors and denies the remaining allegations contained in paragraph 101.

26 102. Reynolds denies the existence of, and its participation in, any alleged conspiracy and
27 denies the remaining allegations contained in paragraph 102.

28 103. Reynolds denies the existence of, and its participation in, any alleged conspiracy and

1 denies the remaining allegations contained in paragraph 103.

2 104. Reynolds denies the existence of, and its participation in, any alleged conspiracy and
3 denies the remaining allegations contained in paragraph 104.

4 105. Reynolds states that paragraph 105 inaccurately reflects Reynolds' statements on
5 smoking and health. Reynolds states that the complete language and/or content of the alleged
6 statements can be ascertained from the alleged statements themselves and denies they are fairly or
7 accurately characterized. Reynolds denies the remaining allegations contained in paragraph 105 to
8 the extent that the allegations are directed to Reynolds. Reynolds is without knowledge or
9 information sufficient to form a belief as to the truth of the allegations contained in paragraph 105 to
10 the extent that they are directed to other Defendants and, accordingly, denies the same.

11 106. Reynolds denies the allegations contained in paragraph 106.

12 107. Reynolds is without knowledge or information sufficient to form a belief as to the
13 existence, authenticity, content, or context of the unidentified statements in paragraph 107 and,
14 accordingly, denies the allegations relating thereto.

15 108. Reynolds states that the allegations contained in paragraph 108 purport to selectively
16 quote, improperly characterize, and/or reference portions of the district court's opinion in United
17 States v. Philip Morris USA, Inc. Reynolds states that the opinion speaks for itself but denies that it
18 is fairly, accurately, or appropriately characterized in paragraph 108. Reynolds denies the
19 allegations contained in paragraph 108.

20 109. Reynolds states that the allegations contained in paragraph 109 purport to selectively
21 quote, improperly characterize, and/or reference portions of the district court's opinion in United
22 States v. Philip Morris USA, Inc. Reynolds states that the opinion speaks for itself but denies that it
23 is fairly, accurately, or appropriately characterized in paragraph 109. Reynolds denies the
24 allegations contained in paragraph 109.

25 110. Reynolds states that the allegations contained in paragraph 110 purport to selectively
26 quote, improperly characterize, and/or reference portions of the district court's opinion in United
27 States v. Philip Morris USA, Inc. Reynolds states that the opinion speaks for itself but denies that it
28 is fairly, accurately, or appropriately characterized in paragraph 110. Reynolds denies the

1 allegations contained in paragraph 110.

2 111. Reynolds admits that Plaintiffs purport to characterize certain law firms in paragraph
3 111. Reynolds denies the remaining allegations contained in paragraph 111.

4 112. [2]Reynolds states that the allegations contained in paragraph 112 purport to
5 selectively quote, improperly characterize, and/or reference portions of the district court's opinion in
6 United States v. Philip Morris USA, Inc. Reynolds states that the opinion speaks for itself but denies
7 that it is fairly, accurately, or appropriately characterized in paragraph 112. Reynolds denies the
8 allegations contained in paragraph 112.

9 113. Reynolds states that the allegations contained in paragraph 113, including
10 subparagraphs a. through n., purport to selectively quote, improperly characterize, and/or reference
11 portions of the district court's opinion in United States v. Philip Morris USA, Inc. Reynolds states
12 that the opinion speaks for itself but denies that it is fairly, accurately, or appropriately characterized
13 in paragraphs 113, including subparagraphs a. through n. Reynolds also states that documents
14 CC229, SHB118, CC139, CC141, and CC119 referenced in paragraph 113, including subparagraphs
15 a. through n., are protected from disclosure by the attorney-client privilege, the work product
16 doctrine, and/or the joint defense or the joint interest privilege, and that it is therefore improper for
17 Plaintiffs to have referred to and quoted these documents in the Second Amended Complaint.
18 Reynolds denies the remaining allegations of paragraph 113, including subparagraphs a. through n.,
19 to the extent they are directed to Reynolds. To the extent the allegations of paragraph 113, including
20 subparagraphs a. through n., are directed toward other Defendants, Reynolds is without knowledge
21 or information sufficient to form a belief as to truth of those allegations and, on that basis, denies
22 those allegations.

23 114. Reynolds states that the allegations contained in paragraph 114 purport to selectively
24 quote, improperly characterize, and/or reference portions of the district court's opinion in United
25 States v. Philip Morris USA, Inc. Reynolds states that the opinion speaks for itself but denies that it
26

27 [2] The allegations herein are not directed to Defendants' current counsel and/or their representation as
28 part of their lawsuit defense in this case.

Reynolds denies the allegations referenced in Plaintiffs' footnote No. 1.

1 is fairly, accurately, or appropriately characterized in paragraph 114. Reynolds denies the remaining
2 allegations contained in paragraph 114.

3 115. Reynolds states that the allegations contained in paragraph 115 purport to selectively
4 quote, improperly characterize, and/or reference portions of the district court's opinion in United
5 States v. Philip Morris USA, Inc. Reynolds states that the opinion speaks for itself but denies that it
6 is fairly, accurately, or appropriately in paragraph 115. Reynolds denies the remaining allegations
7 contained in paragraph 115.

8 116. Reynolds states that the allegations contained in paragraph 116, including
9 subparagraphs a. through d., purport to selectively quote, improperly characterize, and/or reference
10 portions of the district court's opinion in United States v. Philip Morris USA, Inc. Reynolds states
11 that the opinion speaks for itself but denies that it is fairly, accurately, or appropriately characterized
12 in paragraphs 116, including subparagraphs a. through d. Reynolds also states that the documents
13 purportedly quoted in paragraphs 116c. and 116d. are protected from disclosure by the attorney-
14 client privilege, the work product doctrine, and/or the joint defense or the joint interest privilege, and
15 that it is therefore improper for Plaintiffs to have referred to and quoted these documents in the
16 Second Amended Complaint. Reynolds denies the remaining allegations of paragraph 116,
17 including subparagraphs a. through d., to the extent they are directed to Reynolds. To the extent the
18 allegations of paragraph 116, including subparagraphs a. through d., are directed toward other
19 Defendants, Reynolds is without knowledge or information sufficient to form a belief as to truth of
20 those allegations and, on that basis, denies those allegations.

21 **FIRST CLAIM FOR RELIEF**
22 **(WRONGFUL DEATH - NEGLIGENCE)**

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

25 117. Reynolds incorporates by this reference its responses to the allegations repeated and
26 re-alleged by Plaintiffs in this paragraph as if fully restated herein.

27 118. Reynolds admits that Plaintiffs purport to bring a claim for wrongful death. Reynolds
28 denies that Plaintiffs have any cause of action against Reynolds, denies that Plaintiffs are entitled to

1 judgment against, or any relief whatsoever from, Reynolds in this action, and denies the remaining
2 allegations contained in paragraph 118.

3 119. Reynolds is without knowledge or information sufficient to form a belief as to the
4 truth or falsity of the allegations contained in paragraph 119 and, on that basis, denies those
5 allegations.

6 120. Reynolds is without knowledge or information sufficient to form a belief as to the
7 truth or falsity of the allegations contained in paragraph 120 and, on that basis, denies those
8 allegations.

9 121. Reynolds is without knowledge or information sufficient to form a belief as to the
10 truth or falsity of the allegations contained in paragraph 121 and, on that basis, denies those
11 allegations.

12 122. Reynolds admits that Plaintiffs purport to bring a claim pursuant to NRS 41.085(4).
13 Reynolds denies that Plaintiffs have any cause of action against Reynolds, denies that Plaintiffs are
14 entitled to judgment against, or any relief whatsoever from, Reynolds in this action, and denies the
15 remaining allegations contained in paragraph 122 that apply to Reynolds. Reynolds is without
16 knowledge or information sufficient to form a belief as to the truth or falsity of the remaining
17 allegations contained in paragraph 122 and, on that basis, denies those allegations.

18 123. Reynolds is without knowledge or information sufficient to form a belief as to the
19 truth or falsity of the allegations contained in paragraph 123 and, on that basis, denies those
20 allegations.

21 124. Reynolds admits that Plaintiffs purport to bring a claim pursuant to NRS 41.085(5t).
22 Reynolds denies that Plaintiffs have any cause of action against Reynolds, denies that Plaintiffs are
23 entitled to judgment against, or any relief whatsoever from, Reynolds in this action, and denies the
24 remaining allegations contained in paragraph 124 that apply to Reynolds. Reynolds is without
25 knowledge or information sufficient to form a belief as to the truth or falsity of the remaining
26 allegations contained in paragraph 124 and, on that basis, denies those allegations.

27 125. Reynolds admits that it had duties imposed by applicable law and that Reynolds
28 complied with those duties. Reynolds denies the remaining allegations contained in paragraph 125.

1 126. Reynolds is without knowledge or information sufficient to form a belief as to the
2 truth of the allegations contained in paragraph 126 concerning the products that Plaintiffs' Decedent
3 allegedly "was exposed to and did inhale smoke from" and, accordingly, denies the same. Reynolds
4 denies the remaining allegations contained in paragraph 126.

5 127. Reynolds is without knowledge or information sufficient to form a belief as to the
6 truth of the allegations contained in paragraph 127 concerning the products that Plaintiffs' Decedent
7 allegedly was "exposed to" and/or her alleged injuries or death and, accordingly, denies the same.
8 Reynolds denies the remaining allegations contained in paragraph 127.

9 128. Paragraph 128 does not require an answer because it asserts incorrect legal
10 conclusions, rather than stating factual allegations. To the extent that any answer is required
11 Reynolds denies the allegations in paragraph 128, including each of its subparagraphs.

12 129. Reynolds denies the allegations contained in paragraph 129. Reynolds states that all
13 packages of cigarettes manufactured by it for sale or distribution in the United States since January
14 1, 1966 (and all advertising for such cigarettes since March 30, 1972) have borne a warning deemed
15 by Congress to be adequate to warn the public of any relationship between smoking and health,
16 including the risk of lung cancer. Reynolds further states that, given the long standing common
17 knowledge of the risks of smoking, warnings were not necessary nor required prior to the effective
18 date of the Cigarette Labeling Act of 1966. There has been a longstanding awareness and belief of
19 the alleged health risks associated with smoking and of the characteristics of cigarette smoking
20 behavior, including the fact that some people at least at certain times have difficulty quitting.

21 130. Reynolds admits that it had duties imposed by applicable law and that Reynolds
22 complied with those duties. Reynolds denies that its cigarettes caused or contributed to the injuries
23 alleged and denies the remaining allegations contained in paragraph 130.

24 131. Reynolds denies that its cigarettes caused or contributed to the injuries alleged and
25 denies the remaining allegations contained in paragraph 131.

26 132. Paragraph 132 does not require an answer because it asserts incorrect legal
27 conclusions, rather than stating factual allegations. To the extent that any answer is required, except
28 as otherwise expressly admitted elsewhere herein, Reynolds denies the remaining allegations

1 contained in paragraph 132.

2 133. Reynolds denies that paragraph 133 fairly or accurately characterizes the state of
3 knowledge concerning smoking and health over time. Reynolds admits that there has been
4 longstanding awareness of the health risks associated with smoking. Reynolds states that it, like the
5 public at large, has been aware of information regarding the potential health risks associated with
6 cigarette smoking since Reynolds began manufacturing cigarettes in 1913. Since the early 1950s,
7 publicity attending claims of chronic disease risks associated with smoking has dramatically
8 increased. Further, since at least the mid-1950s, Reynolds monitored the publicly available scientific
9 and medical literature relating to smoking and health. Further responding, Reynolds states that its
10 views pertaining to smoking and health, including addiction, evolved over time. For example,
11 concerning lung cancer, Reynolds states that in 2000, Reynolds expressed the view that it
12 manufactures products that have significant and inherent health risks for a number of serious
13 diseases, including lung cancer, and may contribute to causing these diseases in some individuals.
14 Today, it is Reynolds' position that "Cigarette smoking is a leading preventable cause of death.
15 Quitting cigarette smoking significantly decreases the risk for lung cancer, heart disease, chronic
16 bronchitis, emphysema and other serious diseases and conditions." Reynolds denies the remaining
17 allegations contained in paragraph 133.

18 134. Paragraph 134 does not require an answer because it asserts incorrect legal
19 conclusions, rather than stating factual allegations. To the extent that any answer is required,
20 Reynolds denies that Plaintiffs have any cause of action against Reynolds, denies that Plaintiffs are
21 entitled to judgment against, or any relief whatsoever from, Reynolds in this action, and denies the
22 remaining allegations contained in paragraph 134.

23 135. Paragraph 135 does not require an answer because it asserts incorrect legal
24 conclusions, rather than stating factual allegations. To the extent that any answer is required,
25 Reynolds denies that Plaintiffs have any cause of action against Reynolds, denies that Plaintiffs are
26 entitled to judgment against, or any relief whatsoever from, Reynolds in this action, and denies the
27 remaining allegations contained in paragraph 135.

28 136. Paragraph 136 does not require an answer because it asserts incorrect legal

1 conclusions, rather than stating factual allegations. To the extent that any answer is required,
2 Reynolds denies that Plaintiffs have any cause of action against Reynolds, denies that Plaintiffs are
3 entitled to judgment against, or any relief whatsoever from, Reynolds in this action, and denies the
4 remaining allegations contained in paragraph 136.

5 137. Reynolds denies that it engaged in the conduct alleged in the Second Amended
6 Complaint and denies the remaining allegations of paragraph 137.

7 138. Reynolds denies that it engaged in the conduct alleged in the Second Amended
8 Complaint. Reynolds also denies that Plaintiffs have any cause of action against Reynolds, denies
9 that Plaintiffs are entitled to judgment against, or any relief whatsoever from, Reynolds in this
10 action, and denies the remaining allegations contained in paragraph 138.

11 139. Reynolds denies that it engaged in the conduct alleged in the Second Amended
12 Complaint. Reynolds also denies that Plaintiffs have any cause of action against Reynolds, denies
13 that Plaintiffs are entitled to judgment against, or any relief whatsoever from, Reynolds in this
14 action, and denies the remaining allegations contained in paragraph 139.

15 140. Reynolds denies that Plaintiffs have any cause of action against Reynolds, denies that
16 Plaintiffs are entitled to judgment against, or any relief whatsoever from, Reynolds in this action,
17 and denies the remaining allegations contained in paragraph 140.

18 **SECOND CLAIM FOR RELIEF**

19 **(NEGLIGENCE)**

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

22 141. Reynolds incorporates by this reference its responses to the allegations repeated and
23 re-alleged by Plaintiffs in this paragraph as if fully restated herein.

24 142. Reynolds denies that Plaintiffs are entitled to judgment against, or any relief
25 whatsoever from, Reynolds in this action, and denies the remaining allegations contained in
26 paragraph 142 that apply to Reynolds. Reynolds is without knowledge or information sufficient to
27 form a belief as to the truth or falsity of the remaining allegations contained in paragraph 142 and,
28 on that basis, denies those allegations.

1 143. Reynolds admits that it had duties imposed by applicable law and that Reynolds
2 complied with those duties. Reynolds denies the remaining allegations contained in paragraph 143.

3 144. Reynolds is without knowledge or information sufficient to form a belief as to the
4 truth of the allegations contained in paragraph 144 concerning the products that Plaintiffs' Decedent
5 allegedly "was exposed to and did inhale smoke from" and, accordingly, denies the same. Reynolds
6 denies the remaining allegations contained in paragraph 144.

7 145. Reynolds is without knowledge or information sufficient to form a belief as to the
8 truth of the allegations contained in paragraph 145 concerning the products that Plaintiffs' Decedent
9 allegedly was "exposed to" and/or her alleged injuries or death and, accordingly, denies the same.
10 Reynolds denies the remaining allegations contained in paragraph 145.

11 146. Paragraph 146 does not require an answer because it asserts incorrect legal
12 conclusions, rather than stating factual allegations. To the extent that any answer is required
13 Reynolds denies the allegations in paragraph 146, including each of its subparagraphs.

14 147. Reynolds denies the allegations contained in paragraph 147. Reynolds states that all
15 packages of cigarettes manufactured by it for sale or distribution in the United States since January
16 1, 1966 (and all advertising for such cigarettes since March 30, 1972) have borne a warning deemed
17 by Congress to be adequate to warn the public of any relationship between smoking and health,
18 including the risk of lung cancer. Reynolds further states that, given the long standing common
19 knowledge of the risks of smoking, warnings were not necessary nor required prior to the effective
20 date of the Cigarette Labeling Act of 1966. There has been a longstanding awareness and belief of
21 the alleged health risks associated with smoking and of the characteristics of cigarette smoking
22 behavior, including the fact that some people at least at certain times have difficulty quitting.

23 148. Reynolds admits that it had duties imposed by applicable law and that Reynolds
24 complied with those duties. Reynolds denies that its cigarettes caused or contributed to the injuries
25 alleged and denies the remaining allegations contained in paragraph 148.

26 149. Reynolds is without knowledge or information sufficient to form a belief as to the
27 truth of the allegations contained in paragraph 149 concerning the products that Plaintiffs' Decedent
28 allegedly "was exposed to," and/or her alleged injuries and, accordingly, denies the same. Reynolds

1 denies the remaining allegations contained in paragraph 149.

2 150. Reynolds denies that its cigarettes caused or contributed to the injuries alleged and
3 denies the remaining allegations contained in paragraph 150.

4 151. Paragraph 151 does not require an answer because it asserts incorrect legal
5 conclusions, rather than stating factual allegations. To the extent that any answer is required, except
6 as otherwise expressly admitted elsewhere herein, Reynolds denies the remaining allegations
7 contained in paragraph 151.

8 152. Reynolds denies that paragraph 152 fairly or accurately characterizes the state of
9 knowledge concerning smoking and health over time. Reynolds admits that there has been
10 longstanding awareness of the health risks associated with smoking. Reynolds states that it, like the
11 public at large, has been aware of information regarding the potential health risks associated with
12 cigarette smoking since Reynolds began manufacturing cigarettes in 1913. Since the early 1950s,
13 publicity attending claims of chronic disease risks associated with smoking has dramatically
14 increased. Further, since at least the mid-1950s, Reynolds monitored the publicly available scientific
15 and medical literature relating to smoking and health. Further responding, Reynolds states that its
16 views pertaining to smoking and health, including addiction, evolved over time. For example,
17 concerning lung cancer, Reynolds states that in 2000, Reynolds expressed the view that it
18 manufactures products that have significant and inherent health risks for a number of serious
19 diseases, including lung cancer, and may contribute to causing these diseases in some individuals.
20 Today, it is Reynolds' position that "Cigarette smoking is a leading preventable cause of death.
21 Quitting smoking significantly decreases the risk for lung cancer, heart disease, chronic bronchitis,
22 emphysema and other serious diseases and conditions." Reynolds denies the remaining allegations
23 contained in paragraph 152.

24 153. Paragraph 153 does not require an answer because it asserts incorrect legal
25 conclusions, rather than stating factual allegations. To the extent that any answer is required,
26 Reynolds denies that Plaintiffs have any cause of action against Reynolds, denies that Plaintiffs are
27 entitled to judgment against, or any relief whatsoever from, Reynolds in this action, and denies the
28 remaining allegations contained in paragraph 153.

1 154. Paragraph 154 does not require an answer because it asserts incorrect legal
2 conclusions, rather than stating factual allegations. To the extent that any answer is required,
3 Reynolds denies that Plaintiffs have any cause of action against Reynolds, denies that Plaintiffs are
4 entitled to judgment against, or any relief whatsoever from, Reynolds in this action, and denies the
5 remaining allegations contained in paragraph 154.

6 155. Reynolds denies that it engaged in the conduct alleged in the Second Amended
7 Complaint and denies the remaining allegations of paragraph 155.

8 156. Reynolds denies that it engaged in the conduct alleged in the Second Amended
9 Complaint. Reynolds also denies that Plaintiffs have any cause of action against Reynolds, denies
10 that Plaintiffs are entitled to judgment against, or any relief whatsoever from, Reynolds in this
11 action, and denies the remaining allegations contained in paragraph 156.

12 157. Reynolds denies that it engaged in the conduct alleged in the Second Amended
13 Complaint. Reynolds also denies that Plaintiffs have any cause of action against Reynolds, denies
14 that Plaintiffs are entitled to judgment against, or any relief whatsoever from, Reynolds in this
15 action, and denies the remaining allegations contained in paragraph 157.

16 158. Reynolds denies that Plaintiffs have any cause of action against Reynolds, denies that
17 Plaintiffs are entitled to judgment against, or any relief whatsoever from, Reynolds in this action,
18 and denies the remaining allegations contained in paragraph 158.

19 **THIRD CLAIM FOR RELIEF**

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

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

24 159. Reynolds incorporates by this reference its responses to the allegations repeated and
25 re-alleged by Plaintiffs in this paragraph as if fully restated herein.

26 160. Reynolds admits that Plaintiffs purport to bring a claim for wrongful death. Reynolds
27 denies that Plaintiffs have any cause of action against Reynolds, denies that Plaintiffs are entitled to
28 judgment against, or any relief whatsoever from, Reynolds in this action, and denies the remaining
allegations contained in paragraph 160.

1 161. Reynolds is without knowledge or information sufficient to form a belief as to the
2 truth of the allegations contained in paragraph 161 and, on that basis, denies those allegations.

3 162. Reynolds is without knowledge or information sufficient to form a belief as to the
4 truth of the allegations contained in paragraph 162 and, on that basis, denies those allegations.

5 163. Reynolds is without knowledge or information sufficient to form a belief as to the
6 truth of the allegations contained in paragraph 163 and, on that basis, denies those allegations.

7 164. Reynolds admits that Plaintiffs purport to bring a claim pursuant to NRS 41.085(4).
8 Reynolds denies that Plaintiffs have any cause of action against Reynolds, denies that Plaintiffs are
9 entitled to judgment against, or any relief whatsoever from, Reynolds in this action, and denies the
10 remaining allegations contained in paragraph 164 that apply to Reynolds. Reynolds is without
11 knowledge or information sufficient to form a belief as to the truth or falsity of the remaining
12 allegations contained in paragraph 164 and, on that basis, denies those allegations.

13 165. Reynolds is without knowledge or information sufficient to form a belief as to the
14 truth or falsity of the allegations contained in paragraph 165 and, on that basis, denies those
15 allegations.

16 166. Reynolds admits that Plaintiffs purport to bring a claim pursuant to NRS 41.085(5).
17 Reynolds denies that Plaintiffs have any cause of action against Reynolds, denies that Plaintiffs are
18 entitled to judgment against, or any relief whatsoever from, Reynolds in this action, and denies the
19 remaining allegations contained in paragraph 166 that apply to Reynolds. Reynolds is without
20 knowledge or information sufficient to form a belief as to the truth or falsity of the remaining
21 allegations contained in paragraph 166 and, on that basis, denies those allegations.

22 167. Reynolds admits that it manufactured and distributed cigarettes for resale to adult
23 smokers throughout the United States, including the State of Nevada. Reynolds denies the
24 remaining allegations contained in paragraph 167.

25 168. Reynolds is without knowledge or information sufficient to form a belief as to the
26 truth or falsity of the allegations contained in paragraph 168 concerning the products sold or used by
27 Plaintiffs' Decedent and, on that basis, denies those allegations. Except as expressly admitted
28 elsewhere herein, Reynolds denies the remaining allegations contained in paragraph 168.

1 169. Except as expressly admitted elsewhere herein, Reynolds denies the allegations
2 contained in paragraph 169. To the extent the allegations of paragraph 169 are directed toward other
3 Defendants, Reynolds is without knowledge or information sufficient to form a belief as to truth of
4 those remaining allegations contained in paragraph 169 and, on that basis, denies those allegations.

5 170. Reynolds admits that its cigarettes were expected to reach adult smokers without
6 substantial change in the condition in which they were produced, manufactured, sold and marketed.
7 Reynolds is without knowledge or information sufficient to form a belief as to the truth of the
8 allegations contained in paragraph 170 concerning the condition in which its products were “within
9 the possession” the Plaintiffs’ Decedent and, accordingly, denies the same. Reynolds denies the
10 remaining allegations contained in paragraph 170.

11 171. Reynolds denies the allegations contained in paragraph 171.

12 172. Reynolds denies the allegations contained in paragraph 172.

13 173. Reynolds denies the allegations contained in paragraph 173.

14 174. Reynolds denies that its cigarettes were defective or unreasonably dangerous.
15 Responding to subparagraphs o. through s., Reynolds admits that at all times since January 1, 1966,
16 it has complied with the Federal Cigarette Labeling and Advertising Act; Reynolds further admits
17 that all packs of cigarettes manufactured by it for sale or distribution in the United States since
18 January 1, 1966 (and all advertising for such cigarettes since approximately 1972) have borne the
19 warning(s) set forth in that Act, to wit: Reynolds admits that beginning October 12, 1985 a system of
20 four rotating labels has been utilized. These warnings are:

21 **Surgeon General’s Warning: Smoking causes lung cancer, heart disease,**
22 **emphysema, and may complicate pregnancy.**

23 **Surgeon General’s Warning: Quitting smoking now greatly reduces serious**
24 **risks to your health.**

25 **Surgeon General’s Warning: Smoking by pregnant women may result in**
26 **fetal injury, premature birth, and low birth weight.**

27 **Surgeon General’s Warning: Cigarette smoke contains carbon monoxide.**

28 Further responding, Reynolds denies that it had a duty to warn prior to January 1, 1966, and
admits that at all times since January 1, 1966, it has complied with the Federal Cigarette Labeling

1 and Advertising Act. In addition, Reynolds states that there has been a long-standing awareness and
2 belief of the alleged health risks associated with smoking and of the characteristics of cigarette
3 smoking behavior, including the fact that some people at least at certain times have difficulty
4 quitting; that in 1957 the Surgeon General of the United States and the Director of the National
5 Cancer Institute testified before Congress that no warning was necessary; that the framers of the
6 Restatement (Second) of Torts wrote in 1962 and confirmed in 1964 that cigarette smoking is not
7 unreasonably dangerous and that with respect to such products, there is no duty to warn; and that in
8 1964 the American Medical Association wrote to the Federal Trade Commission stating "With
9 respect to cigarets [sic], cautionary labeling cannot be anticipated to serve the public interest with
10 any particular degree of success. The health hazards of excessive smoking have been well-
11 publicized for more than 10 years and are common knowledge. Labeling will not alert even the
12 young cigaret [sic] smoker of any risks of which he is not already aware. . . ."; Reynolds denies the
13 remaining allegations contained in paragraph 174, including subparagraphs a. through s.

14 175. Reynolds is without knowledge or information sufficient to form a belief as to the
15 truth or falsity of the allegations contained in paragraph 175 concerning the cigarette products that
16 Plaintiffs' Decedent "exposed to, breathed smoke from" and, on that basis, denies those allegations.
17 Reynolds denies that its cigarettes are or were "defective and unreasonably dangerous" and denies
18 the remaining allegations contained in paragraph 175.

19 176. Reynolds denies the allegations contained in paragraph 176.

20 177. Reynolds is without knowledge or information sufficient to form a belief as to the
21 truth or falsity of the allegations contained in paragraph 177 concerning Plaintiffs' Decedent and, on
22 that basis, denies those allegations. Reynolds denies the remaining allegations contained in
23 paragraph 177.

24 178. Paragraph 178 does not require an answer because it asserts incorrect legal
25 conclusions, rather than stating factual allegations. To the extent that any answer is required,
26 Reynolds admits that Plaintiffs purport to bring a claim pursuant to NRS 41.085(4). Reynolds
27 denies that Plaintiffs have any cause of action against Reynolds, denies that Plaintiffs are entitled to
28 judgment against, or any relief whatsoever from, Reynolds in this action, and denies the remaining

1 allegations contained in paragraph 178.

2 179. Paragraph 179 does not require an answer because it asserts incorrect legal
3 conclusions, rather than stating factual allegations. To the extent that any answer is required,
4 Reynolds denies that Plaintiffs have any cause of action against Reynolds, denies that Plaintiffs are
5 entitled to judgment against, or any relief whatsoever from, Reynolds in this action, and denies the
6 remaining allegations contained in paragraph 179.

7 180. Paragraph 180 does not require an answer because it asserts incorrect legal
8 conclusions, rather than stating factual allegations. To the extent that any answer is required,
9 Reynolds denies that Plaintiffs have any cause of action against Reynolds, denies that Plaintiffs are
10 entitled to judgment against, or any relief whatsoever from, Reynolds in this action, and denies the
11 remaining allegations contained in paragraph 180.

12 181. Reynolds denies that it engaged in the conduct alleged in the Second Amended
13 Complaint and denies the remaining allegations contained in paragraph 181.

14 182. Reynolds denies that it engaged in the conduct alleged in the Second Amended
15 Complaint. Reynolds also denies that Plaintiffs have any cause of action against Reynolds, denies
16 that Plaintiffs are entitled to judgment against, or any relief whatsoever from, Reynolds in this
17 action, and denies the remaining allegations contained in paragraph 182.

18 183. Reynolds denies that it engaged in the conduct alleged in the Second Amended
19 Complaint. Reynolds also denies that Plaintiffs have any cause of action against Reynolds, denies
20 that Plaintiffs are entitled to judgment against, or any relief whatsoever from, Reynolds in this
21 action, and denies the remaining allegations contained in paragraph 183.

22 184. Reynolds denies that Plaintiffs have any cause of action against Reynolds, denies that
23 Plaintiffs are entitled to judgment against, or any relief whatsoever from, Reynolds in this action,
24 and denies the remaining allegations contained in paragraph 184.

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FOURTH CLAIM FOR RELIEF
(STRICT PRODUCTS LIABILITY)

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

185. Reynolds incorporates by this reference its responses to the allegations repeated and re-alleged by Plaintiffs in this paragraph as if fully restated herein.

186. Reynolds denies that Plaintiffs are entitled to judgment against, or any relief whatsoever from, Reynolds in this action, and denies the remaining allegations contained in paragraph 186 that apply to Reynolds. Reynolds is without knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations contained in paragraph 186 and, on that basis, denies those allegations.

187. Reynolds admits that it manufactured and distributed cigarettes for resale to adult smokers throughout the United States, including the State of Nevada. Reynolds denies the remaining allegations contained in paragraph 187.

188. Reynolds is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 188 concerning the products sold to or used by Plaintiffs' Decedent and, on that basis, denies those allegations. Except as expressly admitted elsewhere herein, Reynolds denies the remaining allegations contained in paragraph 188.

189. Except as expressly admitted elsewhere herein, Reynolds denies the remaining allegations contained in paragraph 189. To the extent the allegations of paragraph 189 are directed toward other Defendants, Reynolds is without knowledge or information sufficient to form a belief as to truth of those remaining allegations contained in paragraph 189 and, on that basis, denies those allegations.

190. Reynolds admits that its cigarettes were expected to reach adult smokers without substantial change in the condition in which they were produced, manufactured, sold and marketed. Reynolds is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 190 concerning the condition in which its products were "within the possession" the Plaintiffs' Decedent and, accordingly, denies the same. Reynolds denies the