

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. 33**

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1 truth or falsity of the allegations contained in paragraph 304 concerning what Plaintiffs' Decedent
2 allegedly "heard" and, on that basis, denies those allegations. Reynolds denies making false or
3 misleading statements and denies the remaining allegations contained in paragraph 304.

4 305. Reynolds denies "concealing and/or suppress[ing]" information and denies the
5 remaining allegations contained in paragraph 305.

6 306. Paragraph 306 does not require an answer because it asserts incorrect legal
7 conclusions, rather than stating factual allegations. To the extent that any answer is required,
8 Reynolds denies making "false promises" to the Plaintiffs' Decedent and denies the remaining
9 allegations contained in paragraph 306, including each of its subparagraphs.

10 307. Paragraph 307 does not require an answer because it asserts incorrect legal
11 conclusions, rather than stating factual allegations. To the extent that any answer is required,
12 Reynolds denies that Plaintiffs have any cause of action against Reynolds, denies that Plaintiffs are
13 entitled to judgment against, or any relief whatsoever from, Reynolds in this action, and denies the
14 remaining allegations contained in paragraph 307.

15 308. Paragraph 308 does not require an answer because it asserts incorrect legal
16 conclusions, rather than stating factual allegations. To the extent that any answer is required,
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 308.

20 309. Paragraph 309 does not require an answer because it asserts incorrect legal
21 conclusions, rather than stating factual allegations. To the extent that any answer is required,
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 309.

25 310. Reynolds denies that it engaged in the conduct alleged in the Second Amended
26 Complaint and denies the remaining allegations of paragraph 310.

27 311. Reynolds denies that it engaged in the conduct alleged in the Second Amended
28 Complaint. Reynolds also denies that Plaintiffs have any cause of action against Reynolds, denies

1 that Plaintiffs are entitled to judgment against, or any relief whatsoever from, Reynolds in this
2 action, and denies the remaining allegations contained in paragraph 311.

3 312. Reynolds denies that it engaged in the conduct alleged in the Second Amended
4 Complaint. Reynolds also denies that Plaintiffs have any cause of action against Reynolds, denies
5 that Plaintiffs are entitled to judgment against, or any relief whatsoever from, Reynolds in this
6 action, and denies the remaining allegations contained in paragraph 312.

7 313. Reynolds denies that Plaintiffs have any cause of action against Reynolds, denies that
8 Plaintiffs are entitled to judgment against, or any relief whatsoever from, Reynolds in this action,
9 and denies the remaining allegations contained in paragraph 313.

10 **EIGHTH CLAIM FOR RELIEF**
11 **(FRAUDULENT CONCEALMENT)**

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

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

16 315. Reynolds denies that Plaintiffs are entitled to judgment against, or any relief
17 whatsoever from, Reynolds in this action, and denies the remaining allegations contained in
18 paragraph 315 that apply to Reynolds. Reynolds is without knowledge or information sufficient to
19 form a belief as to the truth or falsity of the remaining allegations contained in paragraph 315 and,
20 on that basis, denies those allegations.

21 316. Reynolds denies the allegations contained in paragraph 316.

22 317. Reynolds denies the allegations contained in paragraph 317.

23 320. Reynolds denies that it engaged in the conduct alleged in the Second Amended
24 Complaint and denies the remaining allegations contained in paragraph 320.

25 321. Reynolds states that the document purportedly quoted in subparagraph h. is protected
26 from disclosure by the attorney-client privilege, the work product doctrine and/or the joint defense or
27 the joint interest privilege, and that it is therefore improper for Plaintiffs to have referred to and
28 quoted this document in the Second Amended Complaint. Further responding, Reynolds denies the

1 allegations contained in paragraph 321, including each of its subparagraphs.

2 322. Reynolds denies the allegations contained in paragraph 322, including each of its
3 subparagraphs.

4 323. Reynolds is without knowledge or information sufficient to form a belief as to the
5 existence, authenticity, content, or context of the unidentified “media campaigns, mailings . . . and
6 testimony” referenced in paragraph 323 and, accordingly, denies the allegations relating thereto.
7 Reynolds denies the remaining allegations contained in paragraph 323.

8 324. Reynolds denies the allegations contained in paragraph 324.

9 325. Reynolds states that paragraph 325g. quotes accurately but out of context from
10 Reynolds’ advertisements that were published in 1985 in various magazines and newspapers. The
11 full and precise content of the advertisements may be ascertained from the statements themselves.
12 Reynolds states that the remaining subparagraphs are not directed to Reynolds and do not require an
13 answer. Reynolds denies the remaining allegations contained in paragraph 325, including each of its
14 subparagraphs.

15 326. Reynolds is without knowledge or information sufficient to form a belief as to the
16 existence, authenticity, content, or context of the unidentified statements referenced in paragraph
17 326 and, accordingly, denies the allegations relating thereto. Reynolds denies the remaining
18 allegations contained in paragraph 326.

19 327. Reynolds is without knowledge or information sufficient to form a belief as to the
20 existence, authenticity, content, or context of the unidentified press releases and statements
21 referenced in paragraph 327 and, accordingly, denies the allegations relating thereto. Reynolds
22 denies the remaining allegations contained in paragraph 327.

23 328. Reynolds is without knowledge or information sufficient to form a belief as to the
24 existence, authenticity, content, or context of the unidentified statements referenced in paragraph
25 328 and, accordingly, denies the allegations relating thereto. Reynolds denies the remaining
26 allegations contained in paragraph 328.

27 329. Reynolds denies that the allegations contained in paragraph 329 fairly or accurately
28 characterize the substance of Reynolds’ defense to smoking and health litigation. Reynolds admits

1 that smokers can and do quit smoking. Reynolds denies the remaining allegations contained in
2 paragraph 329.

3 330. Reynolds admits that, consistent with applicable law, it has claimed and continues to
4 claim that certain documents are protected by the attorney-client privilege and/or other applicable
5 privileges or protections. Reynolds further admits that it has withheld such documents from
6 production in litigation in which production has been called for and has listed the withheld
7 documents on privilege logs in accordance with applicable law and rules of procedure. Reynolds
8 states that it has complied with all court orders requiring the production of documents as to which it
9 has asserted privilege. Reynolds denies the remaining allegations contained in paragraph 330.

10 331. Reynolds denies that the allegations contained in paragraph 331 fairly or accurately
11 characterize the substance of Reynolds' defense to smoking and health litigation and denies the
12 remaining allegations contained in paragraph 331.

13 332. Reynolds is without knowledge or information sufficient to form a belief as to the
14 truth of the allegations contained in paragraph 332 concerning what the Plaintiffs' Decedent "heard,
15 read, and relied upon" and, accordingly, denies the same. Reynolds denies the remaining allegations
16 contained in paragraph 332.

17 a. Reynolds admits that in 1984 it published an editorial-type statement entitled "Can
18 We Have an Open Debate About Smoking?" in certain publications. Reynolds states
19 that the complete and precise content of this statement can be ascertained from the
20 statement itself but denies that it is fairly or accurately characterized in paragraph
21 332a. Except as expressly admitted, Reynolds denies the remaining allegations
22 contained in paragraph 332a.

23 c.-d. Reynolds states that paragraphs 332c.-332d. apparently quote certain statements made
24 by Edward Horrigan, then-chairman of Reynolds, on a February 2, 1984 broadcast of
25 the television program "Nightline." Reynolds also states that these statements are
26 taken out of context and that Mr. Horrigan's appearance speaks for itself. Reynolds
27 denies the remaining allegations contained in paragraphs 332c.-332d.

28 e. Reynolds states that paragraph 332e. appears to be an excerpt taken out of context

1 from the congressional testimony of Mr. Edward A. Horrigan, Jr. Reynolds states
2 that the complete and precise content of Mr. Horrigan's testimony can be ascertained
3 from the testimony itself, but denies that Mr. Horrigan's testimony is fairly or
4 accurately characterized in subparagraph 332e. Reynolds denies the remaining
5 allegations contained in paragraph 332e.

6 f. Reynolds admits that the Surgeon General issued a report on smoking and health in
7 1988. Reynolds states the full and precise content of which may be ascertained from
8 the report itself, but denies that it is fairly or accurately characterized in paragraph
9 332f. Except as expressly admitted elsewhere herein, Reynolds denies the remaining
10 allegations contained in paragraph 332f.

11 g. Paragraph 332g. is not directed toward Reynolds and, accordingly, no answer from
12 Reynolds is required. To the extent that an answer may be deemed required,
13 Reynolds denies any allegations contained in paragraph 332g. that may be directed to
14 Reynolds.

15 333. Reynolds denies the existence of, and its participation in, any alleged conspiracy,
16 denies making false statements and/or misrepresentations, and denies the remaining allegations
17 contained in paragraph 333.

18 334. Reynolds denies making "false and misleading marketing and advertisements."
19 Reynolds is without knowledge or information sufficient to form a belief as to the truth or falsity of
20 the allegations contained in paragraph 334 concerning the Plaintiffs' Decedent's smoking history
21 and/or alleged injuries and, on that basis, denies those allegations. Reynolds admits that the selected
22 phrase quoted in paragraph 334 appeared at some point in time in certain advertisements for Camel
23 brand cigarettes. Reynolds denies that the advertisement is fairly or accurately characterized in
24 paragraph 334 and states that the complete and precise content of the advertisement can be
25 ascertained from the advertisements itself. Reynolds denies the remaining allegations contained in
26 paragraph 334 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 334 that
28 apply to other Defendants and, on that basis, denies those allegations.

1 335. Reynolds is without knowledge or information sufficient to form a belief as to the
2 truth of the remaining allegations contained in paragraph 335 concerning what the Plaintiffs'
3 Decedent "heard" and, accordingly, denies the same. Reynolds denies making "false or misleading
4 statements" and denies the remaining allegations contained in paragraph 335.

5 336. Paragraph 336 does not require an answer because it asserts incorrect legal
6 conclusions, rather than stating factual allegations. To the extent that any answer is required,
7 Reynolds is without knowledge or information sufficient to form a belief as to the unidentified
8 "statements" referenced in paragraph 336 and, accordingly, denies the allegations relating thereto.
9 Reynolds denies the remaining allegations contained in paragraph 336.

10 337. Reynolds is without knowledge or information sufficient to form a belief as to the
11 truth or falsity of the allegations contained in paragraph 337 concerning Plaintiffs' Decedent's
12 smoking history and, on that basis, denies those allegations. Reynolds denies the remaining
13 allegations contained in paragraph 337.

14 338. Paragraph 338 does not require an answer because it asserts incorrect legal
15 conclusions, rather than stating factual allegations. To the extent that any answer is required,
16 Reynolds is without knowledge or information sufficient to form a belief as to the unidentified and
17 testimony referenced in paragraph 338 and, accordingly, denies the allegations relating thereto.
18 Reynolds denies the remaining allegations contained in paragraph 338.

19 339. Reynolds is without knowledge or information sufficient to form a belief as to the
20 truth or falsity of the allegations contained in paragraph 339 concerning what Plaintiffs' Decedent
21 allegedly "heard" and, on that basis, denies those allegations. Reynolds denies making false or
22 misleading statements and denies the remaining allegations contained in paragraph 339.

23 340. Reynolds denies "concealing and/or suppress[ing]" information and denies the
24 remaining allegations contained in paragraph 340.

25 341. Paragraph 341 does not require an answer because it asserts incorrect legal
26 conclusions, rather than stating factual allegations. To the extent that any answer is required,
27 Reynolds denies making "false promises" to the Plaintiffs' Decedent and denies the remaining
28 allegations contained in paragraph 341, including each of its subparagraphs.

343. Paragraph 343 does not require an answer because it asserts incorrect legal conclusions, rather than stating factual allegations. To the extent that any answer is required, Reynolds denies that Plaintiffs have any cause of action against 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 343.

344. Reynolds denies that it engaged in the conduct alleged in the Second Amended Complaint and denies the remaining allegations of paragraph 344.

345. Reynolds denies that it engaged in the conduct alleged in the Second Amended Complaint. Reynolds also denies that Plaintiffs have any cause of action against 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 345.

346. Reynolds denies that it engaged in the conduct alleged in the Second Amended Complaint. Reynolds also denies that Plaintiffs have any cause of action against 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 346.

347. Reynolds denies that Plaintiffs have any cause of action against 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 347.

NINTH CLAIM FOR RELIEF

(WRONGFUL DEATH – CIVIL CONSPIRACY)

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

348. Reynolds incorporates by this reference its responses to the allegations repeated and

1 re-alleged by Plaintiffs in this paragraph as if fully restated herein.

2 349. Reynolds admits that Plaintiffs purport to bring a claim for wrongful death. Reynolds
3 denies that Plaintiffs have any cause of action against Reynolds, denies that Plaintiffs are entitled to
4 judgment against, or any relief whatsoever from, Reynolds in this action, and denies the remaining
5 allegations contained in paragraph 349.

6 350. Reynolds is without knowledge or information sufficient to form a belief as to the
7 truth of the allegations contained in paragraph 350 and, on that basis, denies those allegations.

8 351. Reynolds is without knowledge or information sufficient to form a belief as to the
9 truth of the allegations contained in paragraph 351 and, on that basis, denies those allegations.

10 352. Reynolds is without knowledge or information sufficient to form a belief as to the
11 truth of the allegations contained in paragraph 352 and, on that basis, denies those allegations.

12 353. 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 353 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 353 and, on that basis, denies those allegations.

18 354. Reynolds is without knowledge or information sufficient to form a belief as to the
19 truth or falsity of the allegations contained in paragraph 354 and, on that basis, denies those
20 allegations.

21 355. Reynolds admits that Plaintiffs purport to bring a claim pursuant to NRS 41.085(5).
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 355 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 355 and, on that basis, denies those allegations.

27 356. Reynolds denies the existence of, and its participation in, any alleged conspiracy,
28 Reynolds admits that it made various statements pertaining the smoking and health, including

1 addiction, but denies that those statements are fairly or accurately characterized in paragraph 356.
2 Reynolds denies the remaining allegations contained in paragraph 356, including each of its
3 subparagraphs.

4 357. Reynolds denies the existence of, and its participation in, any alleged conspiracy and
5 denies the remaining allegations contained in paragraph 357, including each of its subparagraphs.

6 358. Reynolds denies the existence of, and its participation in, any alleged conspiracy and
7 denies the remaining allegations contained in paragraph 358.

8 359. Reynolds denies the allegations contained in paragraph 359.

9 360. Reynolds is without knowledge or information sufficient to form a belief as to the
10 truth or falsity of the allegations contained in paragraph 360 concerning what Plaintiffs' Decedent
11 allegedly "heard" and, on that basis, denies those allegations. Reynolds denies the remaining
12 allegations contained in paragraph 360.

13 361. Reynolds states that Plaintiffs have failed to define, and the scientific community has
14 been unable to achieve a consensus on, what constitutes a "safe" or "safer" cigarette. Reynolds
15 denies the existence of, and its participation in, any alleged conspiracy and denies the remaining
16 allegations contained in paragraph 361.

17 362. Reynolds denies the existence of, and its participation in, any alleged conspiracy and
18 denies the remaining allegations contained in paragraph 362.

19 a. Reynolds denies the allegations contained in paragraph 362a. that apply to Reynolds.
20 Reynolds is without knowledge or information sufficient to form a belief as to the
21 truth or falsity of the remaining allegations contained in paragraph 362a. that apply to
22 other Defendants and, on that basis, denies those allegations.

23 b. Reynolds denies the allegations contained in paragraph 362b. that apply to Reynolds.
24 Reynolds is without knowledge or information sufficient to form a belief as to the
25 truth or falsity of the remaining allegations contained in paragraph 362b. that apply to
26 other Defendants and, on that basis, denies those allegations.

27 c. Reynolds denies the allegations contained in paragraph 362c, including
28 subparagraphs 362c.i. through 362c.ii. that apply to Reynolds. Reynolds is without

1 knowledge or information sufficient to form a belief as to the existence, authenticity,
2 content, or context of the remaining unidentified "White Papers" referenced in
3 paragraph 362c.ii. and, accordingly, denies the allegations relating thereto. Reynolds
4 is without knowledge or information sufficient to form a belief as to the truth or
5 falsity of the remaining allegations contained in paragraph 362c. that apply to other
6 Defendants and, on that basis, denies those allegations.

7 d. Reynolds denies the allegations contained in paragraph 362d. that apply to Reynolds.
8 Reynolds is without knowledge or information sufficient to form a belief as to the
9 truth or falsity of the remaining allegations contained in paragraph 362d. that apply to
10 other Defendants and, on that basis, denies those allegations.

11 i. Reynolds admits that an article written by Stanley Frank entitled "To Smoke
12 or Not to Smoke, That is the Still the Question" appeared in various
13 magazines. Reynolds states that this article speaks for itself, but denies that it
14 is fairly or accurately characterized in paragraph 362d.i. Reynolds states that
15 the allegations contained in paragraph 362d.i. purport to selectively quote,
16 improperly characterize, and/or reference portions of the district court's
17 opinion in United States v. Philip Morris USA, Inc. Reynolds states that the
18 opinion speaks for itself but denies that it is fairly, accurately, or appropriately
19 characterized in paragraph 362d.i. Except as expressly admitted, Reynolds
20 denies the allegations in paragraph 362d.i.

21 ii. Reynolds admits that Joseph Cullman, then-chairman of Philip Morris,
22 appeared on "Face the Nation" on January 3, 1971. Reynolds states that this
23 broadcast and the complete statement of Joseph Cullman speaks for itself.
24 Reynolds lacks knowledge or information sufficient to form a belief of the
25 truth of the remaining allegations contained in paragraph 362d.ii. and, on that
26 basis, denies those allegations.

27 e. Reynolds denies the existence of, or its participating in, any alleged conspiracy and
28 denies the remaining allegations contained in paragraph 362e. 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 362e. that apply to other Defendants and, on that basis, denies those allegations.

- i. Reynolds denies the existence of, or its participating in, any alleged conspiracy. Reynolds is without knowledge or information sufficient to form a belief as to the existence, authenticity, content, or context of the unidentified statement referenced in paragraph 362e.i. and, accordingly, denies the allegations relating thereto.
- ii. Reynolds denies the existence of, or its participating in, any alleged conspiracy. Reynolds is informed and believes that selected excerpts from a document prepared in or around 1972 by Fred Panzer are quoted accurately, although out of context, in paragraph 362e.ii. Reynolds states that the complete and precise content of the referenced document can be ascertained from the document itself, but denies that it is fairly or accurately characterized in paragraph 362e.ii. Reynolds denies the remaining allegations contained in paragraph 362e.ii.
- iii. Reynolds states that the allegation contained in paragraph 362e.iii., including its subparagraphs, purports to selectively quote a Brown & Williamson Tobacco Company document. Reynolds states that the complete text and/or content of the document may be ascertained from the document itself but, denies that it is fairly or accurately characterized. Reynolds denies the remaining allegations contained in paragraph 362e.iii.
- iv. Reynolds admits upon information and belief that Anne Browder was employed by the Tobacco Institute and on occasion appeared on television programs. Reynolds states that the complete and precise content of Ms. Browder's statement can be ascertained from the statement itself, but denies that it is fairly or accurately characterized in paragraph 362e.iv. Reynolds denies the remaining allegations contained in paragraph 362e.iv.

1 v. Reynolds states that the allegations contained in paragraph 362e.v. purport to
2 selectively quote, improperly characterize, and/or reference portions of the
3 district court's opinion in United States v. Philip Morris USA, Inc. Reynolds
4 states that the opinion speaks for itself but denies that it is fairly, accurately, or
5 appropriately characterized in paragraph 362e.v. Reynolds also states that the
6 document in the third sentence of paragraph 362e.v. is protected from
7 disclosure by the attorney-client privilege, the work product doctrine, and/or
8 the joint defense or the joint interest privilege, and that it is therefore improper
9 for Plaintiffs to have referred to this documents in the Second Amended
10 Complaint. Reynolds denies the remaining allegations of paragraph 362e.v. to
11 the extent they are directed to Reynolds. To the extent the allegations of
12 paragraph 362e.v. are directed toward other Defendants, Reynolds is without
13 knowledge or information sufficient to form a belief as to truth of those
14 remaining allegations contained in paragraph 362e.v. and, on that basis, denies
15 those allegations.

16 f. Reynolds denies the allegations contained in paragraph 362f. that apply to Reynolds.
17 Reynolds is without knowledge or information sufficient to form a belief as to the
18 truth or falsity of the remaining allegations contained in paragraph 362f. that apply to
19 other Defendants and, on that basis, denies those allegations.

20 g. Reynolds denies the allegations contained in paragraph 362g. that apply to Reynolds.
21 Reynolds is without knowledge or information sufficient to form a belief as to the
22 truth or falsity of the remaining allegations contained in paragraph 362g. that apply to
23 other Defendants and, on that basis, denies those allegations.

24 363. Reynolds denies the allegations contained in paragraph 363 that apply to Reynolds.
25 Reynolds is without knowledge or information sufficient to form a belief as to the truth or falsity of
26 the remaining allegations contained in paragraph 363 that apply to other Defendants and, on that
27 basis, denies those allegations.
28

1 364. Reynolds states the allegations in paragraph 364 are not directed toward Reynolds
2 and, accordingly, no answer from Reynolds is required. To the extent that an answer may be
3 deemed required, Reynolds is without knowledge or information sufficient to form a belief as to the
4 truth of the allegations contained in paragraph 364 and, accordingly, denies the same.

5 365. Reynolds states the allegations in paragraph 365 are not directed toward Reynolds
6 and, accordingly, no answer from Reynolds is required. To the extent that an answer may be
7 deemed required, Reynolds denies the existence of, or its participating in, any alleged conspiracy
8 and denies the remaining allegations contained in paragraph 365.

9 366. Reynolds states the allegations in paragraph 366 are not directed toward Reynolds
10 and, accordingly, no answer from Reynolds is required. To the extent that an answer may be
11 deemed required, Reynolds is without knowledge or information sufficient to form a belief as to the
12 truth or falsity of the allegations contained in paragraph 366 concerning what the Plaintiffs'
13 Decedent, "was exposed to" and, on that basis, denies those allegations. Reynolds is without
14 knowledge or information sufficient to form a belief as to the truth of the remaining allegations
15 contained in paragraph 366 and, accordingly, denies the same.

16 367. Reynolds states the allegations in paragraph 367 are not directed toward Reynolds
17 and, accordingly, no answer from Reynolds is required. To the extent that an answer may be
18 deemed required, Reynolds is without knowledge or information sufficient to form a belief as to the
19 truth or falsity of the allegations contained in paragraph 367 concerning the Plaintiffs' Decedent's
20 smoking history and, on that basis, denies those allegations. Reynolds is without knowledge or
21 information sufficient to form a belief as to the truth of the remaining allegations contained in
22 paragraph 367 and, accordingly, denies the same.

23 368. Paragraph 368 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 368.

28

1 369. Paragraph 369 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 369.

6 370. Paragraph 370 does not require an answer because it asserts incorrect legal
7 conclusions, rather than stating factual allegations. To the extent that any answer is required,
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 370.

11 371. Reynolds denies that it engaged in the conduct alleged in the Second Amended
12 Complaint and denies the remaining allegations of paragraph 371.

13 372. Reynolds denies that it engaged in the conduct alleged in the Second Amended
14 Complaint. Reynolds also denies that Plaintiffs have any cause of action against Reynolds, denies
15 that Plaintiffs are entitled to judgment against, or any relief whatsoever from, Reynolds in this
16 action, and denies the remaining allegations contained in paragraph 372.

17 373. Reynolds denies that it engaged in the conduct alleged in the Second Amended
18 Complaint. Reynolds also denies that Plaintiffs have any cause of action against Reynolds, denies
19 that Plaintiffs are entitled to judgment against, or any relief whatsoever from, Reynolds in this
20 action, and denies the remaining allegations contained in paragraph 373.

21 374. Reynolds denies that Plaintiffs have any cause of action against Reynolds, denies that
22 Plaintiffs are entitled to judgment against, or any relief whatsoever from, Reynolds in this action,
23 and denies the remaining allegations contained in paragraph 374.

24 **TENTH CLAIM FOR RELIEF**

25 **(CIVIL CONSPIRACY)**

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

28 375. Reynolds incorporates by this reference its responses to the allegations repeated and

1 re-alleged by Plaintiffs in this paragraph as if fully restated herein.

2 376. Reynolds denies that Plaintiffs are entitled to judgment against, or any relief
3 whatsoever from, Reynolds in this action, and denies the remaining allegations contained in
4 paragraph 376 that apply to Reynolds. Reynolds is without knowledge or information sufficient to
5 form a belief as to the truth or falsity of the remaining allegations contained in paragraph 376 and,
6 on that basis, denies those allegations.

7 377. Reynolds denies the existence of, and its participation in, any alleged conspiracy,
8 Reynolds admits that it made various statements pertaining the smoking and health, including
9 addiction, but denies that those statements are fairly or accurately characterized in paragraph 377.
10 Reynolds denies the remaining allegations contained in paragraph 377, including each of its
11 subparagraphs.

12 378. Reynolds denies the existence of, and its participation in, any alleged conspiracy and
13 denies the remaining allegations contained in paragraph 378, including each of its subparagraphs.

14 379. Reynolds denies the existence of, and its participation in, any alleged conspiracy and
15 denies the remaining allegations contained in paragraph 379.

16 380. Reynolds denies the allegations contained in paragraph 380.

17 381. Reynolds is without knowledge or information sufficient to form a belief as to the
18 truth or falsity of the allegations contained in paragraph 381 concerning what Plaintiffs' Decedent
19 allegedly "heard" and, on that basis, denies those allegations. Reynolds denies the remaining
20 allegations contained in paragraph 381.

21 382. Reynolds states that Plaintiffs have failed to define, and the scientific community has
22 been unable to achieve a consensus on, what constitutes a "safe" or "safer" cigarette. Reynolds
23 denies the existence of, and its participation in, any alleged conspiracy and denies the remaining
24 allegations contained in paragraph 382.

25 383. Reynolds denies the existence of, and its participation in, any alleged conspiracy and
26 denies the remaining allegations contained in paragraph 383.

27 a. Reynolds denies the allegations contained in paragraph 383a. that apply to Reynolds.

28 Reynolds is without knowledge or information sufficient to form a belief as to the

1 truth or falsity of the remaining allegations contained in paragraph 383a. that apply to
2 other Defendants and, on that basis, denies those allegations.

3 b. Reynolds denies the allegations contained in paragraph 383b. that apply to Reynolds.
4 Reynolds is without knowledge or information sufficient to form a belief as to the
5 truth or falsity of the remaining allegations contained in paragraph 383b. that apply to
6 other Defendants and, on that basis, denies those allegations.

7 c. Reynolds denies the allegations contained in paragraph 383c, including
8 subparagraphs 383c.i. through 383c.ii. that apply to Reynolds. Reynolds is without
9 knowledge or information sufficient to form a belief as to the existence, authenticity,
10 content, or context of the remaining unidentified "White Papers" referenced in
11 paragraph 383c.ii. and, accordingly, denies the allegations relating thereto. Reynolds
12 is without knowledge or information sufficient to form a belief as to the truth or
13 falsity of the remaining allegations contained in paragraph 383c. that apply to other
14 Defendants and, on that basis, denies those allegations.

15 d. Reynolds denies the allegations contained in paragraph 383d. that apply to Reynolds.
16 Reynolds is without knowledge or information sufficient to form a belief as to the
17 truth or falsity of the remaining allegations contained in paragraph 383d. that apply to
18 other Defendants and, on that basis, denies those allegations.

19 i. Reynolds admits that an article written by Stanley Frank entitled "To Smoke
20 or Not to Smoke, That is the Still the Question" appeared in various
21 magazines. Reynolds states that this article speaks for itself, but denies that it
22 is fairly or accurately characterized in paragraph 383d.i. Reynolds states that
23 the allegations contained in paragraph 383d.i. purport to selectively quote,
24 improperly characterize, and/or reference portions of the district court's
25 opinion in United States v. Philip Morris USA, Inc. Reynolds states that the
26 opinion speaks for itself but denies that it is fairly, accurately, or appropriately
27 characterized in paragraph 383d.i. Except as expressly admitted, Reynolds
28 denies the allegations in paragraph 383d.i.

- 1 ii. Reynolds admits that Joseph Cullman, then-chairman of Philip Morris,
2 appeared on “Face the Nation” on January 3, 1971. Reynolds states that this
3 broadcast and the complete statement of Joseph Cullman speaks for itself.
4 Reynolds lacks knowledge or information sufficient to form a belief of the
5 truth of the remaining allegations contained in paragraph 383d.ii. and, on that
6 basis, denies those allegations.
- 7 e. Reynolds denies the existence of, or its participating in, any alleged conspiracy and
8 denies the remaining allegations contained in paragraph 383e. that apply to Reynolds.
9 Reynolds is without knowledge or information sufficient to form a belief as to the
10 truth or falsity of the remaining allegations contained in paragraph 383e. that apply to
11 other Defendants and, on that basis, denies those allegations.
- 12 i. Reynolds denies the existence of, or its participating in, any alleged
13 conspiracy. Reynolds is without knowledge or information sufficient to form
14 a belief as to the existence, authenticity, content, or context of the unidentified
15 statement referenced in paragraph 383e.i. and, accordingly, denies the
16 allegations relating thereto.
- 17 ii. Reynolds denies the existence of, or its participating in, any alleged
18 conspiracy. Reynolds is informed and believes that selected excerpts from a
19 document prepared in or around 1972 by Fred Panzer are quoted accurately,
20 although out of context, in paragraph 383e.ii. Reynolds states that the
21 complete and precise content of the referenced document can be ascertained
22 from the document itself, but denies that it is fairly or accurately characterized
23 in paragraph 383e.ii. Reynolds denies the remaining allegations contained in
24 paragraph 383e.ii.
- 25 iii. Reynolds states that the allegation contained in paragraph 383e.iii., including
26 its subparagraphs, purports to selectively quote a Brown & Williamson
27 Tobacco Company document. Reynolds states that the complete text and/or
28 content of the document may be ascertained from the document itself but,

denies that it is fairly or accurately characterized. Reynolds denies the remaining allegations contained in paragraph 383e.iii.

- iv. Reynolds admits upon information and belief that Anne Browder was employed by the Tobacco Institute and on occasion appeared on television programs. Reynolds states that the complete and precise content of Ms. Browder's statement can be ascertained from the statement itself, but denies that it is fairly or accurately characterized in paragraph 383e.iv. Reynolds denies the remaining allegations contained in paragraph 383e.iv.
- v. Reynolds states that the allegations contained in paragraph 383e.v. purport to selectively quote, improperly characterize, and/or reference portions of the district court's opinion in *United States v. Philip Morris USA, Inc.* Reynolds states that the opinion speaks for itself but denies that it is fairly, accurately, or appropriately characterized in paragraph 383e.v. Reynolds also states that the document in the third sentence of paragraph 383e.v. is protected from disclosure by the attorney-client privilege, the work product doctrine, and/or the joint defense or the joint interest privilege, and that it is therefore improper for Plaintiffs to have referred to this documents in the Second Amended Complaint. Reynolds denies the remaining allegations of paragraph 383e.v. to the extent they are directed to Reynolds. To the extent the allegations of paragraph 383e.v. 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 383e.v. and, on that basis, denies those allegations.
- f. Reynolds denies the allegations contained in paragraph 383f. 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 383f. that apply to other Defendants and, on that basis, denies those allegations.
- g. Reynolds denies the allegations contained in paragraph 383g. 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 383g. that apply to other Defendants and, on that basis, denies those allegations.

384. Reynolds states the allegations in paragraph 384 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 without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 384 and, accordingly, denies the same.

385. Reynolds states the allegations in paragraph 385 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 without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 385 and, accordingly, denies the same.

386. Reynolds states the allegations in paragraph 386 are not directed toward Reynolds and, accordingly, no answer from Reynolds is required. To the extent that an answer may be deemed required, Reynolds denies the existence of, or its participating in, any alleged conspiracy and denies the remaining allegations contained in paragraph 386.

387. Reynolds states the allegations in paragraph 387 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 without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 387 concerning what the Plaintiffs' Decedent, "was exposed to" and, on that basis, denies those allegations. Reynolds is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 387 and, accordingly, denies the same.

388. Reynolds states the allegations in paragraph 388 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 without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 388 concerning the Plaintiffs' Decedent's smoking history and, on that basis, denies those allegations. Reynolds is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in