

In the Supreme Court of Nevada

PHILIP MORRIS USA INC., a foreign corporation,

Petitioner,

vs.

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

Respondents,

and

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

Real Parties in Interest

Electronically Filed
Jun 02 2022 10:00 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

Case No. _____

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

**PHILIP MORRIS USA INC.'S PETITION FOR
WRIT OF MANDAMUS OR, ALTERNATIVELY, PROHIBITION – APPENDIX
VOL. 35**

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THIRTY-NINTH AFFIRMATIVE DEFENSE

The monetary relief sought, which is intended in part to punish Reynolds, is barred under the Eighth Amendment of the United States Constitution as well as cognate provisions of the Nevada Constitution found at Article 1, Section 6 as the imposition of an excessive fine.

FORTIETH AFFIRMATIVE DEFENSE

Plaintiffs' claims for punitive damages are barred absent the safeguards guaranteed by the Fourth, Fifth, Sixth, and Fourteenth Amendments to the United States Constitution and the comparable provisions of the Nevada Constitution in that these claims invoke or authorize proceedings and remedies which, though nominally civil, are in reality so punitive in purpose and effect that they transform the relief that Plaintiffs seek into a criminal penalty.

FORTY-FIRST AFFIRMATIVE DEFENSE

Plaintiffs' claims for punitive damages cannot be sustained because an award of punitive damages under Nevada law would violate Reynolds' due process and equal protection rights guaranteed by the Fifth and Fourteenth Amendments of the United States Constitution and Reynolds' due process rights under Article 1, Sections 8 and 15 of the Nevada Constitution.

FORTY-SECOND AFFIRMATIVE DEFENSE

Plaintiffs' claims for punitive damages against Reynolds cannot be sustained because an award of punitive damages in this case, combined with any prior, contemporaneous or subsequent judgments or settlements against Reynolds that include punitive damages arising out of the same design, development, manufacture, distribution, marketing, sale or use of Reynolds' tobacco products, would be impermissible multiple punishment in violation of the due process and equal protection rights guaranteed by the Fifth and Fourteenth Amendments to the United States Constitution and the comparable provisions of the Nevada Constitution.

FORTY-THIRD AFFIRMATIVE DEFENSE

Any award of punitive damages that is disproportionate to the amount of actual damages that does not bear a reasonable relationship to actual damages and that does not correlate to the actual cause of any injury violates Reynolds' rights under the Due Process clause of the Fourteenth Amendment to the United States Constitution and the comparable provisions of the Nevada

1 Constitution.

2 **FORTY-FOURTH AFFIRMATIVE DEFENSE**

3 Plaintiffs' claim for punitive damages cannot be sustained because an award of punitive
4 damages under Nevada law by a jury that (1) is not provided constitutionally adequate standards of
5 sufficient clarity for determining the appropriate imposition of, and the appropriate size of, a
6 punitive damages award; (2) is not adequately instructed on the limits of punitive damages imposed
7 by the applicable principles of deterrence and punishment; (3) is not expressly prohibited from
8 awarding punitive damages, or determining the amount of an award of punitive damages, in whole
9 or in part on the basis of invidiously discriminatory characteristics, including without limitation the
10 residence, wealth, and corporate status of Reynolds; (4) is permitted to award punitive damages
11 under a standard for determining liability for punitive damages that is vague and arbitrary and does
12 not define with sufficient clarity the conduct or mental state that makes punitive damages
13 permissible; (5) is not properly instructed regarding Plaintiffs' burden of proof with respect to each
14 and every element of a claim for punitive damages; and (6) is not subject to trial court and appellate
15 judicial review for reasonableness and furtherance of legitimate purposes on the basis of
16 constitutionally adequate and objective standards, would violate Reynolds' due process and equal
17 protection rights guaranteed by the Fifth and Fourteenth Amendments to the United States
18 Constitution and applicable provisions of the Nevada Constitution, and would be improper under the
19 common law and public policy of Nevada.

20 **FORTY-FIFTH AFFIRMATIVE DEFENSE**

21 To the extent that the laws of other jurisdictions apply, Reynolds invokes each and every
22 constitution defense available to it under the Constitutions (or similar charters) of each of the 50
23 states, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and
24 possessions. This specifically includes, but is not limited to, provisions relating to due process,
25 access to the courts, freedom of speech, freedom of association, freedom to petition the government
26 for redress of grievances, and limitations on compensatory and punitive damages.

27 **FORTY-SIXTH AFFIRMATIVE DEFENSE**

28 Any affirmative defenses pled by any other Defendant and not pled by Reynolds are

incorporated herein to the extent they do not conflict with Reynolds' affirmative defenses.

FORTY-SEVENTH AFFIRMATIVE DEFENSE

Reynolds reserves the right to assert and rely on such other defenses as may become available or apparent during the course of discovery and to amend its Answer to assert such additional defenses.

WHEREFORE, Reynolds respectfully requests and prays as follows:

1. That Plaintiffs take nothing by their Second Amended Complaint;
2. That this action be dismissed with prejudice as to Reynolds;
3. That Reynolds recover its costs of suit, including reasonable attorneys' fees; and
4. For such other relief as the Court deems just and proper.

JURY DEMAND

Reynolds demands a trial by jury of all claims triable as of right by jury.

DATED this 31st day of January, 2022.

BAILEY ♦ KENNEDY

By: /s/ Joseph A. Liebman

DENNIS L. KENNEDY

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JERRY'S NUGGET

CERTIFICATE OF SERVICE

I certify that I am an employee of BAILEY❖KENNEDY and that on the 31st day of January, 2022, service of the foregoing **ANSWER, DEFENSES AND JURY DEMAND OF DEFENDANT R. J. REYNOLDS TOBACCO COMPANY TO PLAINTIFFS' SECOND AMENDED COMPLAINT** was made by mandatory electronic service through the Eighth Judicial District Court's electronic filing system and/or by depositing a true and correct copy in the U.S. Mail, first class postage prepaid, and addressed to the following at their last known address:

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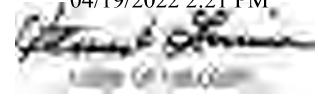
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DISTRICT COURT

CLARK COUNTY, NEVADA

DOLLY ROWAN, as Special Administrator of
the Estate of NOREEN THOMPSON, NAVONA
COLLISON, as an individual, and RUSSELL
THOMPSON, as an Individual,

Plaintiffs,

vs.

PHILIP MORRIS USA, INC., a foreign
corporation; R.J. REYNOLDS TOBACCO
COMPANY, a foreign corporation, individually,
and as successor-by-merger to LORILLARD
TOBACCO COMPANY and as successor-in-
interest to the United States tobacco business of
BROWN & WILLIAMSON TOBACCO
CORPORATION, which is the successor-by-
merger to THE AMERICAN TOBACCO
COMPANY; LIGGETT GROUP, LLC., a
foreign limited liability company; and ASM
NATIONWIDE CORPORATION d/b/a
SILVERADO SMOKES & CIGARS, a domestic
corporation; and LV SINGHS INC. d/b/a
SMOKES & VAPORS, a domestic corporation;
DOES 1-X; and ROE BUSINESS ENTITIES

CASE NO. A-20-811091-C

DEPT. NO. V

**ORDER GRANTING PLAINTIFFS'
MOTION TO RECONSIDER ORDER
GRANTING DEFENDANT PHILIP
MORRIS USA INC.'S MOTION TO
DISMISS PLAINTIFFS' AMENDED
COMPLAINT UNDER NRCP 12(b)(5)**

Date of Hearing: January 18, 2022

Time of Hearing: 10:30 a.m.

XI-XX, inclusive,

Defendants.

The Court heard oral argument on Plaintiffs' motion for reconsideration on January 18, 2022. After hearing the oral arguments, the Court took the matter under advisement. After carefully considering the evidence and arguments submitted, and good cause appearing, the COURT FINDS and ORDERS as follows:

Factual and Procedural Background

1. Per the September 8, 2021 Order, the Court granted Defendant Philip Morris USA, Inc.'s (PMU) Motion to Dismiss based on the finding that decedent admitted that she never used PMU's product and, thus, PMU did not owe any duty to decedent. Furthermore, the civil conspiracy claim was dismissed as it is a derivative claim. Last, the claim for violations of the Deceptive Trade Practices Act (NRS 598.0903) was dismissed since the underlying unlawful objective was dismissed.
2. On September 23, 2021, Plaintiff timely filed a motion to reconsider.

Relevant Law

3. EDCR 2.24(a) states, "No motions once heard and disposed of may be renewed in the same cause, nor may the same matters therein embraced be reheard, unless by leave of the court granted upon motion therefor, after notice of such motion to the adverse parties." A district court may reconsider a previously decided issue if substantially different evidence is subsequently introduced or the decision is clearly erroneous. *Masonry & Tile Contractors Ass'n of S. Nevada v. Jolley, Urga & Wirth, Ltd.*, 113 Nev. 737, 941 P.2d 486 (1997). "Only in very rare instances in which new issues of fact or law are raised supporting a ruling contrary to the ruling already reached should a motion for rehearing be granted." *Moore v. City of Las Vegas*, 92 Nev. 402, 405, 551 P.2d 244, 246 (1976). "Rehearings are not granted as a matter of right and are not allowed for the purpose of reargument, unless there is reasonable probability that the court may have arrived at an erroneous conclusion." *Geller v. McCown*, 64 Nev. 102, 108, 178 P.2d 380, 381 (1947). "Points or contentions not raised in the original

hearing cannot be maintained or considered on rehearing." *Achrem v. Expressway Plaza Ltd.*, 112 Nev. 737, 742, 917 P.2d 447, 450 (1996).

4. Under NRCP 54(b), the Court has the right to reconsider the prior order, which adjudicates the rights of less than all the parties until it enters a judgment adjudicating the rights of all the parties.

Findings and Conclusions

5. The Court FINDS and CONCLUDES that the September 8, 2021 order is clearly erroneous. Plaintiff's claims against PMU center around the allegation that it conspired with other cigarette manufacturers to deceive decedent and the public about the dangers to the public, and in doing so, violated the Nevada Deceptive Trade Practices Act (NDTPA). Plaintiff does not dispute that decedent never used PMU's product. To make a viable claim under NDTPA, under NRS 41.600 and *Picus v. Wal-Mart Stores*, 256 F.R.D. 651, 658 (D. Nev. 2009), Plaintiff must show (a) an act of consumer fraud by the defendant, (b) caused, and (c) damage to decedent. Consumer fraud under NDTPA is a remedial statutory scheme and it must be construed liberally. It is intended to be easier to establish than common law fraud. *Poole v. Nevada Auto Dealership Investments, LLC*, 135 Nev. 280, 286-87, 449 P.3d 479, 485 (Ct. App. 2019) and *Betsinger v. D.R. Horton, Inc.*, 126 Nev. 162, 165, 232 P.3d 433, 435 (2010). Here, PMU mainly relies on common law fraud cases, which have much more stringent requirements. Plaintiff in this case can arguably show that decedent was misled by false public statements made by a tobacco manufacturer, or groups created by them, which included PMU. As a result of this misrepresentation, Plaintiff can arguably show that decedent used tobacco, which resulted in harm to decedent. Thus, the ruling in *Fairway Chevrolet Co. v. Kelley*, 134 Nev. 935, 429 P.3d 663 (2018) is distinguishable as Plaintiff can demonstrate harm. There is no requirement that stated that product purchase or use is a requirement under NDPTA.
6. The Court FINDS and CONCLUDES that as to the civil conspiracy claims, it is a derivative claim based on NDPTA, and since NDPTA should survive, these claims should also survive.

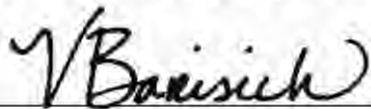
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ORDERS

7. The Court ORDERS that Plaintiff's motion shall be GRANTED

IT IS SO ORDERED.

Dated this 19th day of April, 2022



9C9 F15 F8E0 71D1
Veronica M. Barisich
District Court Judge

Respectfully Submitted by:
Dated this 14th day of April 2022.

CLAGGETT & SYKES LAW FIRM

/s/ Sean K. Claggett

Sean K. Claggett, Esq.
Nevada Bar No. 008407
4101 Meadows Lane, Suite 100
Las Vegas, Nevada 89107
Attorneys for Plaintiffs

Reviewed as to Form and Content:
Dated this 14th day of April 2022.

WEINBERG, WHEELER, HUDGINS,
GUNN & DIAL, LLC

/s/ Howard J. Russell

Howard J. Russell, Esq.
6385 S Rainbow Blvd., Ste. 400
Las Vegas, Nevada 89118
Attorneys for Defendant Philip Morris USA Inc.

Moises Garcia

From: Heinz, Lindsey (SHB) <LHEINZ@shb.com>
Sent: Thursday, April 14, 2022 12:59 PM
To: Fan Li; 'Roberts, Lee'
Cc: Spencer Diamond; JLiebman@baileykennedy.com; 'Dennis Kennedy'; Kelly Anne Luther (KLuther@kasowitz.com); Jorgensen, J. Christopher; Kristian Toimil; Moises Garcia
Subject: RE: Thompson Mtn to Reconsider - Draft Order -- Please review and approve today

Follow Up Flag: Follow up
Flag Status: Flagged

Thank you, Fan. PM approves.

Lindsey K. Heinz | Shook, Hardy & Bacon L.L.P.
2555 Grand Boulevard, Kansas City, MO 64108
T: 816.559.2681 | lhein@shb.com | [bio](#)

From: Fan Li <fli@kulaw.com>
Sent: Thursday, April 14, 2022 1:41 PM
To: 'Roberts, Lee' <LRoberts@wwhgd.com>; Heinz, Lindsey (SHB) <LHEINZ@shb.com>
Cc: Spencer Diamond <SDiamond@KSLAW.com>; JLiebman@baileykennedy.com; 'Dennis Kennedy' <DKennedy@baileykennedy.com>; Kelly Anne Luther (KLuther@kasowitz.com) <KLuther@kasowitz.com>; Jorgensen, J. Christopher <CJorgensen@lewisroca.com>; Kristian Toimil <Kristian@kulaw.com>; Moises Garcia <MGarcia@claggettlaw.com>
Subject: Thompson Mtn to Reconsider - Draft Order -- Please review and approve today

EXTERNAL

Good afternoon,
Would you please review the attached draft order today and let Kristian and Moises know when you approve?
Thank you,
Fan

Kelley | Uustal
TRIAL ATTORNEYS

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1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA
4

5
6 Noreen Thompson, Plaintiff(s) | CASE NO: A-20-811091-C
7 vs. | DEPT. NO. Department 5
8 Philip Morris USA Inc,
9 Defendant(s)

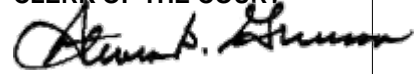
10
11 **AUTOMATED CERTIFICATE OF SERVICE**

12 This automated certificate of service was generated by the Eighth Judicial District
13 Court. The foregoing Order was served via the court's electronic eFile system to all
recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 4/19/2022

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19 Kansas City, MO 64108
20 (816) 474-6550

21 *Attorneys for Defendant Philip Morris USA Inc.*

22 **DISTRICT COURT**
23 **CLARK COUNTY, NEVADA**

24 DOLLY ROWAN, as an Individual, as Special
25 Administrator of the Estate of NOREEN
26 THOMPSON, NAVONA COLLISON, as an
27 Individual, and RUSSELL THOMPSON, as an
28 Individual,

Plaintiffs,

vs.

PHILIP MORRIS USA INC., a foreign
corporation; R.J. REYNOLDS TOBACCO
COMPANY, a foreign corporation,
individually, and as successor-by-merger to
LORILLARD TOBACCO COMPANY and as
successor-in-interest to the United States
tobacco business of BROWN &
WILLIAMSON TOBACCO CORPORATION,
which is the successor-by-merger to THE
AMERICAN TOBACCO COMPANY;
LIGGETT GROUP, LLC., a foreign
corporation; QUICK STOP MARKET, LLC, a

Case No.: A-20-811091-C
Dept. No.: V

**PHILIP MORRIS USA INC.'S ANSWER
TO PLAINTIFFS' SECOND AMENDED
COMPLAINT**



1 domestic limited liability company; JOE'S
2 BAR, INC., a domestic corporation; THE
3 POKER PALACE, a domestic corporation;
4 SILVER NUGGET GAMING, LLC d/b/a
5 SILVER NUGGET CASINO, a domestic
6 limited liability company, JERRY'S NUGGET,
a domestic corporation; and DOES I-X; and
ROE BUSINESS ENTITIES XI-XX, inclusive,

Defendants.

Defendant Philip Morris USA Inc. ("Philip Morris USA") responds to Plaintiffs' Second Amended Complaint ("Complaint") as follows:

PRELIMINARY STATEMENT

This Complaint improperly mixes factual averments with argumentative rhetoric so as to make admissions or denials of such averments difficult or impossible. Further, much of the Complaint consists of a selective recitation of historical facts and/or rumors, much of which is both irrelevant and inflammatory in tone and content. Finally, many of the allegations in the Complaint are overbroad, vague, or conclusory and include terms that are undefined and that are susceptible to different meanings. Accordingly, by way of a general response, all allegations are denied unless specifically admitted, and any factual averment admitted is admitted only as to the specific facts and not as to any conclusions, characterizations, implications, or speculations that are contained in the averment or in the Complaint as a whole.

The Complaint also contains many purported quotations from a number of sources, some identified, some not. Plaintiffs do not provide copies of the documents from which quotations were taken, which has impaired Philip Morris USA's ability to confirm or deny the accuracy of the quotations in the Complaint as compared to the original text. Philip Morris USA, therefore, does not admit the authenticity of any documents from which the quotations were taken, and reserves the right to challenge the accuracy of the quotations (either as quoted or in the context of material not quoted). Furthermore, with reference to all quotations, citations to documents, or any such averments that might be offered into evidence, Philip Morris USA specifically reserves its right to object to the jury being read the Complaint pursuant to NRS 16.090(1), to any use of such averments or the Complaint as a whole in evidence, or for any purpose whatsoever.

To the extent these quotations originate in documents protected by the attorney-client privilege, the work product doctrine, the joint defense privilege, and/or the common interest privilege, Philip Morris USA states that it is improper for Plaintiffs to have referred to and quoted from such documents in the Complaint and Philip Morris USA reserves its right to assert such privileges and to move to strike such references.

Philip Morris USA further submits that the use of headings throughout the Complaint is improper and, therefore, no response to them is required. To the extent a response is required and to the extent that such headings contain allegations directed toward Philip Morris USA, Philip Morris USA denies those allegations.

These comments and objections are incorporated, to the extent appropriate, into each numbered paragraph of this Answer.

1. Paragraph 1 asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations are directed toward Philip Morris USA, Philip Morris USA admits that Plaintiffs purport to seek damages that exceed \$15,000.00, but denies that Plaintiffs are entitled to the relief requested in Paragraph 1, or any relief whatsoever. Philip Morris USA also admits that it has designed, manufactured, advertised, and marketed its cigarettes in the United States and that it has distributed and sold its cigarettes to its direct customers for ultimate resale to consumers of legal age for purchasing cigarettes throughout the United States, including the State of Nevada. Philip Morris USA denies the remaining allegations of Paragraph 1 to the extent they are directed toward Philip Morris USA. To the extent the allegations of Paragraph 1 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

2. Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 2 and, therefore, denies the same.

3. Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 3 and, therefore, denies the same.

///



1 4. Philip Morris USA is without knowledge or information sufficient to form a belief
2 as to the truth of the allegations of Paragraph 4 and, therefore, denies the same.

3 5. Philip Morris USA states that it is unable to respond to the allegations of
4 Paragraph 5 in any meaningful manner because the phrases “at all times relevant herein” and “all
5 times relevant to this action” are not defined in Plaintiffs’ Complaint. To the extent a response is
6 required, Philip Morris USA admits that it is a Virginia corporation with its principal place of
7 business in Virginia, and that it is authorized to do and does business in the State of Nevada.
8 Philip Morris USA also admits that it has designed, manufactured, advertised, and marketed its
9 cigarettes in the United States and that it has distributed and sold its cigarettes to its direct
10 customers for ultimate resale to consumers of legal age for purchasing cigarettes throughout the
11 United States, including the State of Nevada. Philip Morris USA denies the remaining
12 allegations of Paragraph 5.

13 6. The allegations of Paragraph 6 are not directed toward Philip Morris USA, and,
14 therefore, no response is required. To the extent a response is required, Philip Morris USA is
15 informed and believes that R.J. Reynolds Tobacco Company is a North Carolina corporation.
16 Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth
17 of the remaining allegations of Paragraph 6 and, therefore, denies the same.

18 7. The allegations of Paragraph 7 are not directed toward Philip Morris USA, and,
19 therefore, no response is required. To the extent a response is required, Philip Morris USA is
20 without knowledge or information sufficient to form a belief as to the truth of the allegations of
21 Paragraph 7 and, therefore, denies the same.

22 8. The allegations of Paragraph 8 are not directed toward Philip Morris USA, and,
23 therefore, no response is required. To the extent a response is required, Philip Morris USA is
24 informed and believes that Liggett Group LLC is a Delaware limited liability company. Philip
25 Morris USA is without knowledge or information sufficient to form a belief as to the truth of the
26 remaining allegations of Paragraph 8 and, therefore, denies the same.

27 9. To the extent the allegations of Paragraph 9 are directed toward Philip Morris
28 USA, Philip Morris USA admits that, in 1954, it participated with other cigarette manufacturers



1 in the formation of the Tobacco Industry Research Committee (“TIRC”) and that, in or around
2 1964, the TIRC changed its name to The Council for Tobacco Research - U. S. A., Inc. (“CTR”).
3 Philip Morris USA denies the remaining allegations of Paragraph 9 to the extent they are
4 directed toward Philip Morris USA. To the extent the allegations of Paragraph 9 are directed
5 toward other Defendants, Philip Morris USA is without knowledge or information sufficient to
6 form a belief as to the truth of those allegations and, therefore, denies the same.

7 10. To the extent the allegations of Paragraph 10 are directed toward Philip Morris
8 USA, Philip Morris USA admits that, in 1958, it participated with other cigarette manufacturers
9 in the formation of the Tobacco Institute, Inc. (“Tobacco Institute”). Philip Morris USA denies
10 the remaining allegations of Paragraph 10 to the extent they are directed toward Philip Morris
11 USA. To the extent the allegations of Paragraph 10 are directed toward other Defendants, Philip
12 Morris USA is without knowledge or information sufficient to form a belief as to the truth of
13 those allegations and, therefore, denies the same.

14 11. The allegations of Paragraph 11 are not directed toward Philip Morris USA, and,
15 therefore, no response is required. To the extent a response is required, Philip Morris USA is
16 without knowledge or information sufficient to form a belief as to the truth of the allegations of
17 Paragraph 11 and, therefore, denies the same.

18 12. The allegations of Paragraph 12 are not directed toward Philip Morris USA, and,
19 therefore, no response is required. To the extent a response is required, Philip Morris USA is
20 without knowledge or information sufficient to form a belief as to the truth of the allegations of
21 Paragraph 12 and, therefore, denies the same.

22 13. The allegations of Paragraph 13 are not directed toward Philip Morris USA, and,
23 therefore, no response is required. To the extent a response is required, Philip Morris USA is
24 without knowledge or information sufficient to form a belief as to the truth of the allegations of
25 Paragraph 13 and, therefore, denies the same.

26 14. The allegations of Paragraph 14 are not directed toward Philip Morris USA, and,
27 therefore, no response is required. To the extent a response is required, Philip Morris USA is
28 without knowledge or information sufficient to form a belief as to the truth of the allegations of

Paragraph 14 and, therefore, denies the same.

15. The allegations of Paragraph 15 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 15 and, therefore, denies the same.

16. Paragraph 16 asserts legal conclusions to which no response is required. Philip Morris USA further states that it is unable to respond to the allegations of Paragraph 16 in any meaningful manner because the phrase “at all times material” is not defined in Plaintiffs’ Complaint. To the extent a response is required and to the extent the allegations of Paragraph 16 are directed toward Philip Morris USA, Philip Morris USA admits that it has designed, manufactured, advertised, and marketed its cigarettes in the United States and that it has distributed and sold its cigarettes to its direct customers for ultimate resale to consumers of legal age for purchasing cigarettes throughout the United States, including the State of Nevada. Philip Morris USA denies the remaining allegations of Paragraph 16 to the extent they are directed toward Philip Morris USA. To the extent the allegations of Paragraph 16 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

17. The allegations of Paragraph 17 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 17 and, therefore, denies the same.

18. The allegations of Paragraph 18 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 18 and, therefore, denies the same.

19. Paragraph 19 asserts legal conclusions to which no response is required. To the extent a response is required, Philip Morris USA denies the allegations of Paragraph 19.

20. Philip Morris USA restates, realleges, and incorporates by reference its responses



1 to all prior allegations of the Complaint as if fully set forth herein.

2 21. The allegations of Paragraph 21 are not directed toward Philip Morris USA, and,
3 therefore, no response is required. To the extent a response is required, Philip Morris USA is
4 without knowledge or information sufficient to form a belief as to the truth of the allegations of
5 Paragraph 21 and, therefore, denies the same.

6 22. The allegations of Paragraph 22 are not directed toward Philip Morris USA, and,
7 therefore, no response is required. To the extent a response is required, Philip Morris USA is
8 without knowledge or information sufficient to form a belief as to the truth of the allegations of
9 Paragraph 22 and, therefore, denies the same.

10 23. The allegations of Paragraph 23 are not directed toward Philip Morris USA, and,
11 therefore, no response is required. To the extent a response is required, Philip Morris USA is
12 without knowledge or information sufficient to form a belief as to the truth of the allegations of
13 Paragraph 23 and, therefore, denies the same.

14 24. The allegations of Paragraph 24 are not directed toward Philip Morris USA, and,
15 therefore, no response is required. To the extent a response is required, Philip Morris USA is
16 without knowledge or information sufficient to form a belief as to the truth of the allegations of
17 Paragraph 24 and, therefore, denies the same.

18 25. The allegations of Paragraph 25 are not directed toward Philip Morris USA, and,
19 therefore, no response is required. To the extent a response is required, Philip Morris USA is
20 without knowledge or information sufficient to form a belief as to the truth of the allegations of
21 Paragraph 25 and, therefore, denies the same.

22 26. The allegations of Paragraph 26 are not directed toward Philip Morris USA, and,
23 therefore, no response is required. To the extent a response is required, Philip Morris USA is
24 without knowledge or information sufficient to form a belief as to the truth of the allegations of
25 Paragraph 26 and, therefore, denies the same.

26 27. The allegations of Paragraph 27 are not directed toward Philip Morris USA, and,
27 therefore, no response is required. To the extent a response is required, Philip Morris USA is
28 without knowledge or information sufficient to form a belief as to the truth of the allegations of

Paragraph 27 and, therefore, denies the same.

28. The allegations of Paragraph 28 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 28 and, therefore, denies the same.

29. The allegations of Paragraph 29 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 29 and, therefore, denies the same.

30. The allegations of Paragraph 30 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 30 and, therefore, denies the same.

31. Paragraph 31 asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 31 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 31. To the extent the allegations of Paragraph 31 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

32. Paragraph 32 asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 32 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 32. To the extent the allegations of Paragraph 32 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

33. Paragraph 33 asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 33 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 33. To the extent the

allegations of Paragraph 33 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

34. To the extent the allegations of Paragraph 34 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 34. To the extent the allegations of Paragraph 34 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

35. Paragraph 35 asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 35 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 35. To the extent the allegations of Paragraph 35 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

36. Paragraph 36 asserts legal conclusions to which no response is required. Philip Morris USA further states that it is unable to respond to the allegations of Paragraph 36 in any meaningful manner because the phrase “[a]t all times material” is not defined in Plaintiffs’ Complaint. To the extent a response is required and to the extent the allegations of Paragraph 36 are directed toward Philip Morris USA, Philip Morris USA admits that cigarette smoking causes lung cancer and other serious diseases in smokers. Philip Morris USA also admits that cigarette smoking is addictive and that nicotine in cigarette smoke is addictive. Philip Morris USA further admits that it can be very difficult to quit smoking, but this should not deter smokers who want to quit from doing so. Philip Morris USA denies the remaining allegations of Paragraph 36 to the extent they are directed toward Philip Morris USA. To the extent the allegations of Paragraph 36 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

37. Paragraph 37 asserts legal conclusions to which no response is required. To the

1 extent a response is required and to the extent the allegations of Paragraph 37 are directed toward
2 Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 37. To the extent the
3 allegations of Paragraph 37 are directed toward other Defendants, Philip Morris USA is without
4 knowledge or information sufficient to form a belief as to the truth of those allegations and,
5 therefore, denies the same.

6 38. Philip Morris USA admits that the allegations in Paragraph 38 purport to
7 selectively quote, paraphrase, and/or reference certain statistics from unidentified sources, but
8 denies that the alleged statistics are quoted, referenced, and/or paraphrased accurately, in context,
9 or in their entirety, denies Plaintiffs' characterization of the alleged statistics, and denies
10 Plaintiffs' innuendo and implication regarding the content or meaning of the alleged statistics.
11 Philip Morris USA states that the alleged statistics speak for themselves. Philip Morris USA
12 denies the remaining allegations of Paragraph 38.

13 39. Philip Morris USA admits that the allegations in Paragraph 39 purport to
14 selectively quote, paraphrase, and/or reference certain statistics from unidentified sources, but
15 denies that the alleged statistics are quoted, referenced, and/or paraphrased accurately, in context,
16 or in their entirety, denies Plaintiffs' characterization of the alleged statistics, and denies
17 Plaintiffs' innuendo and implication regarding the content or meaning of the alleged statistics.
18 Philip Morris USA states that the alleged statistics speak for themselves. Philip Morris USA
19 denies the remaining allegations of Paragraph 39.

20 40. To the extent the allegations of Paragraph 40 are directed toward Philip Morris
21 USA, Philip Morris USA denies the allegations of Paragraph 40. To the extent the allegations of
22 Paragraph 40 are directed toward other Defendants, Philip Morris USA is without knowledge or
23 information sufficient to form a belief as to the truth of those allegations and, therefore, denies
24 the same.

25 41. Philip Morris USA admits that the allegations in Paragraph 41 purport to
26 selectively quote, paraphrase, and/or reference certain statistics from unidentified sources, but
27 denies that the alleged statistics are quoted, referenced, and/or paraphrased accurately, in context,
28 or in their entirety, denies Plaintiffs' characterization of the alleged statistics, and denies

Plaintiffs' innuendo and implication regarding the content or meaning of the alleged statistics. Philip Morris USA states that the alleged statistics speak for themselves. Philip Morris USA denies the remaining allegations of Paragraph 41.

42. Philip Morris USA admits that the allegations in Paragraph 42 purport to selectively quote, paraphrase, and/or reference certain statistics from unidentified sources, but denies that the alleged statistics are quoted, referenced, and/or paraphrased accurately, in context, or in their entirety, denies Plaintiffs' characterization of the alleged statistics, and denies Plaintiffs' innuendo and implication regarding the content or meaning of the alleged statistics. Philip Morris USA states that the alleged statistics speak for themselves. Philip Morris USA denies the remaining allegations of Paragraph 42.

43. The allegations of Paragraph 43 are so vague and ambiguous that Philip Morris USA is unable to form a meaningful response. To the extent a response is required, Philip Morris USA denies the allegations of Paragraph 43.

44. To the extent the allegations of Paragraph 44 are directed toward Philip Morris USA, Philip Morris USA admits that the allegations of Paragraph 44 purport to selectively quote, reference, and/or paraphrase certain alleged documents and/or statements, but denies that the alleged documents and/or statements are quoted, referenced, and/or paraphrased in context or in their entirety, denies Plaintiffs' characterization of the alleged documents and/or statements, and denies Plaintiffs' innuendo and implication regarding the content or meaning of the alleged documents and/or statements. Philip Morris USA states that the alleged documents and/or statements speak for themselves. Philip Morris USA denies the remaining allegations of Paragraph 44 to the extent they are directed toward Philip Morris USA. To the extent the allegations of Paragraph 44 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

45. To the extent the allegations of Paragraph 45 are directed toward Philip Morris USA, Philip Morris USA admits that the allegations of Paragraph 45 purport to selectively quote, reference, and/or paraphrase certain alleged documents and/or statements, but denies that the

alleged documents and/or statements are quoted, referenced, and/or paraphrased in context or in their entirety, denies Plaintiffs' characterization of the alleged documents and/or statements, and denies Plaintiffs' innuendo and implication regarding the content or meaning of the alleged documents and/or statements. Philip Morris USA states that the alleged documents and/or statements speak for themselves. Philip Morris USA denies the remaining allegations of Paragraph 45 to the extent they are directed toward Philip Morris USA. To the extent the allegations of Paragraph 45 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

46. To the extent the allegations of Paragraph 46 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 46. To the extent the allegations of Paragraph 46 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

47. To the extent the allegations of Paragraph 47 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 47. To the extent the allegations of Paragraph 47 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

48. To the extent the allegations of Paragraph 48 are directed toward Philip Morris USA, Philip Morris USA admits that the allegations of Paragraph 48 purport to selectively quote, reference, and/or paraphrase certain alleged documents and/or statements, but denies that the alleged documents and/or statements are quoted, referenced, and/or paraphrased in context or in their entirety, denies Plaintiffs' characterization of the alleged documents and/or statements, and denies Plaintiffs' innuendo and implication regarding the content or meaning of the alleged documents and/or statements. Philip Morris USA states that the alleged documents and/or statements speak for themselves. Philip Morris USA denies the remaining allegations of Paragraph 48 to the extent they are directed toward Philip Morris USA. To the extent the

allegations of Paragraph 48 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

49. To the extent the allegations of Paragraph 49 are directed toward Philip Morris USA, Philip Morris USA admits that then-executives of Philip Morris USA and several other cigarette manufacturers met at the Plaza Hotel on December 15, 1953, and that representatives of Hill & Knowlton, a public relations agency, were also present. Philip Morris USA denies Plaintiffs' characterization of this meeting and denies Plaintiffs' innuendo and implication regarding this meeting. Philip Morris USA denies the remaining allegations of Paragraph 49 to the extent they are directed toward Philip Morris USA. To the extent the allegations of Paragraph 49 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

50. To the extent the allegations of Paragraph 50 are directed toward Philip Morris USA, Philip Morris USA admits that the allegations of Paragraph 50 purport to selectively quote, reference, and/or paraphrase certain alleged documents and/or statements, but denies that the alleged documents and/or statements are quoted, referenced, and/or paraphrased in context or in their entirety, denies Plaintiffs' characterization of the alleged documents and/or statements, and denies Plaintiffs' innuendo and implication regarding the content or meaning of the alleged documents and/or statements. Philip Morris USA states that the alleged documents and/or statements speak for themselves. Philip Morris USA denies the remaining allegations of Paragraph 50 to the extent they are directed toward Philip Morris USA. To the extent the allegations of Paragraph 50 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

51. To the extent the allegations of Paragraph 51 are directed toward Philip Morris USA, Philip Morris USA admits that, in 1954, it participated with other cigarette manufacturers in the formation of the TIRC and that, in or around 1964, the TIRC changed its name to CTR.



Philip Morris USA denies the remaining allegations of Paragraph 51 to the extent they are directed toward Philip Morris USA. To the extent the allegations of Paragraph 51 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

52. Philip Morris USA admits that, in 1954, it participated with other cigarette manufacturers in the formation of the TIRC. Philip Morris USA further admits that the stated purpose for the formation of the TIRC was, in part, to provide aid and assistance to the research effort into the question of cigarette smoking and health. Philip Morris USA denies the remaining allegations of Paragraph 52.

53. Philip Morris USA admits that it was a sponsor of “A Frank Statement to Cigarette Smokers” (“Frank Statement”), which was published on January 4, 1954, and that the purpose of the Frank Statement was to announce the formation and purpose of the TIRC. Philip Morris USA denies the remaining allegations of Paragraph 53.

54. Philip Morris USA admits that it was a sponsor of the Frank Statement. Philip Morris USA states that the Frank Statement speaks for itself. Philip Morris USA denies the remaining allegations of Paragraph 54.

55. To the extent the allegations of Paragraph 55 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 55. To the extent the allegations of Paragraph 55 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

56. To the extent the allegations of Paragraph 56 are directed toward Philip Morris USA, Philip Morris USA admits that the allegations of Paragraph 56 purport to selectively quote, reference, and/or paraphrase the Frank Statement. Philip Morris USA states that the Frank Statement speaks for itself. Philip Morris USA denies the remaining allegations of Paragraph 56 to the extent they are directed toward Philip Morris USA. To the extent the allegations of Paragraph 56 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies

the same.

57. To the extent the allegations of Paragraph 57 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 57. To the extent the allegations of Paragraph 57 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

58. To the extent the allegations of Paragraph 58 are directed toward Philip Morris USA, Philip Morris USA admits that the allegations of Paragraph 58 purport to selectively quote, reference, and/or paraphrase certain alleged documents and/or statements, but denies that the alleged documents and/or statements are quoted, referenced, and/or paraphrased in context or in their entirety, denies Plaintiffs' characterization of the alleged documents and/or statements, and denies Plaintiffs' innuendo and implication regarding the content or meaning of the alleged documents and/or statements. Philip Morris USA states that the alleged documents and/or statements speak for themselves. Philip Morris USA denies the remaining allegations of Paragraph 58 to the extent they are directed toward Philip Morris USA. To the extent the allegations of Paragraph 58 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

59. To the extent the allegations of Paragraph 59 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 59. To the extent the allegations of Paragraph 59 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

60. To the extent the allegations of Paragraph 60 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 60. To the extent the allegations of Paragraph 60 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

61. To the extent the allegations of Paragraph 61 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 61. To the extent the allegations of Paragraph 61 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

62. The allegations of Paragraph 62 are so vague and ambiguous that Philip Morris USA is unable to form a meaningful response. To the extent a response is required, Philip Morris USA denies the allegations of Paragraph 62.

63. To the extent the allegations of Paragraph 63 are directed toward Philip Morris USA, Philip Morris USA admits that the allegations of Paragraph 63 purport to selectively quote, reference, and/or paraphrase certain alleged documents and/or statements, but denies that the alleged documents and/or statements are quoted, referenced, and/or paraphrased in context or in their entirety, denies Plaintiffs' characterization of the alleged documents and/or statements, and denies Plaintiffs' innuendo and implication regarding the content or meaning of the alleged documents and/or statements. Philip Morris USA states that the alleged documents and/or statements speak for themselves. Philip Morris USA denies the remaining allegations of Paragraph 63 to the extent they are directed toward Philip Morris USA. To the extent the allegations of Paragraph 63 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

64. Philip Morris USA admits that the allegations of Paragraph 64 purport to selectively quote, reference, and/or paraphrase the 1964 Surgeon General's Report, but denies that the Report is quoted, referenced, and/or paraphrased in context or in its entirety, denies Plaintiffs' characterization of the Report, and denies Plaintiffs' innuendo and implication regarding the content or meaning of the Report. Philip Morris USA states that the 1964 Surgeon General's Report speaks for itself. Philip Morris USA denies the remaining allegations of Paragraph 64.

65. To the extent the allegations of Paragraph 65 are directed toward Philip Morris

USA, Philip Morris USA denies the allegations of Paragraph 65. To the extent the allegations of Paragraph 65 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

66. To the extent the allegations of Paragraph 66 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 66. To the extent the allegations of Paragraph 66 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

67. To the extent the allegations of Paragraph 67 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 67. To the extent the allegations of Paragraph 67 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

68. To the extent the allegations of Paragraph 68 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 68. To the extent the allegations of Paragraph 68 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

69. To the extent the allegations of Paragraph 69 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 69. To the extent the allegations of Paragraph 69 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

70. Philip Morris USA admits that on January 1, 1966, the Federal Cigarette Labeling and Advertising Act, codified as amended at 15 U.S.C. §§ 1331-1341, became effective. This statute, from its effective date through the present, has required cigarette manufacturers to place congressionally-prescribed warnings on every package of cigarettes sold in the United States

and, since March 30, 1972, in cigarette advertising. As originally mandated by Congress, the warning labels provided: "Caution: Cigarette Smoking May Be Hazardous To Your Health." Philip Morris USA states that it has fully complied therewith. Philip Morris USA denies the remaining allegations of Paragraph 70.

71. To the extent the allegations of Paragraph 71 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 71. To the extent the allegations of Paragraph 71 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

72. To the extent the allegations of Paragraph 72 are directed toward Philip Morris USA, Philip Morris USA admits that the allegations of Paragraph 72 purport to selectively quote, reference, and/or paraphrase certain alleged documents and/or statements, but denies that the alleged documents and/or statements are quoted, referenced, and/or paraphrased in context or in their entirety, denies Plaintiffs' characterization of the alleged documents and/or statements, and denies Plaintiffs' innuendo and implication regarding the content or meaning of the alleged documents and/or statements. Philip Morris USA states that the alleged documents and/or statements speak for themselves. Philip Morris USA denies the remaining allegations of Paragraph 72 to the extent they are directed toward Philip Morris USA. To the extent the allegations of Paragraph 72 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

73. To the extent the allegations of Paragraph 73 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 73. To the extent the allegations of Paragraph 73 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

74. To the extent the allegations of Paragraph 74 are directed toward Philip Morris USA, Philip Morris USA admits that the allegations of Paragraph 74 purport to selectively quote,

reference, and/or paraphrase certain alleged documents and/or statements, but denies that the alleged documents and/or statements are quoted, referenced, and/or paraphrased in context or in their entirety, denies Plaintiffs' characterization of the alleged documents and/or statements, and denies Plaintiffs' innuendo and implication regarding the content or meaning of the alleged documents and/or statements. Philip Morris USA states that the alleged documents and/or statements speak for themselves. Philip Morris USA denies the remaining allegations of Paragraph 74 to the extent they are directed toward Philip Morris USA. To the extent the allegations of Paragraph 74 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

75. To the extent the allegations of Paragraph 75 are directed toward Philip Morris USA, Philip Morris USA admits that the allegations of Paragraph 75 purport to selectively quote, reference, and/or paraphrase certain alleged documents and/or statements, but denies that the alleged documents and/or statements are quoted, referenced, and/or paraphrased in context or in their entirety, denies Plaintiffs' characterization of the alleged documents and/or statements, and denies Plaintiffs' innuendo and implication regarding the content or meaning of the alleged documents and/or statements. Philip Morris USA states that the alleged documents and/or statements speak for themselves. Philip Morris USA denies the remaining allegations of Paragraph 75 to the extent they are directed toward Philip Morris USA. To the extent the allegations of Paragraph 75 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

76. To the extent the allegations of Paragraph 76 are directed toward Philip Morris USA, Philip Morris USA admits that the allegations of Paragraph 76 purport to selectively quote, reference, and/or paraphrase certain alleged documents and/or statements, but denies that the alleged documents and/or statements are quoted, referenced, and/or paraphrased in context or in their entirety, denies Plaintiffs' characterization of the alleged documents and/or statements, and denies Plaintiffs' innuendo and implication regarding the content or meaning of the alleged

documents and/or statements. Philip Morris USA states that the alleged documents and/or statements speak for themselves. Philip Morris USA denies the remaining allegations of Paragraph 76 to the extent they are directed toward Philip Morris USA. To the extent the allegations of Paragraph 76 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

77. The allegations of Paragraph 77 are so vague and ambiguous that Philip Morris USA is unable to form a meaningful response. To the extent a response is required, Philip Morris USA denies the allegations of Paragraph 77.

78. The allegations of Paragraph 78 are so vague and ambiguous that Philip Morris USA is unable to form a meaningful response. To the extent a response is required, Philip Morris USA denies the allegations of Paragraph 78.

79. The allegations of Paragraph 79 are so vague and ambiguous that Philip Morris USA is unable to form a meaningful response. To the extent a response is required, Philip Morris USA denies the allegations of Paragraph 79.

80. To the extent the allegations of Paragraph 80 are directed toward Philip Morris USA, Philip Morris USA states that it does not direct, and has never directed, its cigarette advertising or marketing to persons under the legal age for purchasing cigarettes in the United States. Philip Morris USA admits that the allegations of Paragraph 80 purport to selectively quote, reference, and/or paraphrase certain alleged documents and/or statements, but denies that the alleged documents and/or statements are quoted, referenced, and/or paraphrased in context or in their entirety, denies Plaintiffs' characterization of the alleged documents and/or statements, and denies Plaintiffs' innuendo and implication regarding the content or meaning of the alleged documents and/or statements. Philip Morris USA states that the alleged documents and/or statements speak for themselves. Philip Morris USA denies the remaining allegations of Paragraph 80 to the extent they are directed toward Philip Morris USA. To the extent the allegations of Paragraph 80 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and,

therefore, denies the same.

81. To the extent the allegations of Paragraph 81 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 81. To the extent the allegations of Paragraph 81 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

82. Philip Morris USA admits that the allegations in Paragraph 82 purport to selectively quote, paraphrase, and/or reference certain statistics from unidentified sources, but denies that the alleged statistics are quoted, referenced, and/or paraphrased accurately, in context, or in their entirety, denies Plaintiffs' characterization of the alleged statistics, and denies Plaintiffs' innuendo and implication regarding the content or meaning of the alleged statistics. Philip Morris USA states that the alleged statistics speak for themselves. Philip Morris USA denies the remaining allegations of Paragraph 82.

83. To the extent the allegations of Paragraph 83 are directed toward Philip Morris USA, Philip Morris USA admits that, like practically all other consumer product manufacturers, it has lawfully advertised and continues to lawfully advertise in order to promote the sale of its cigarettes to existing smokers of legal age for purchasing cigarettes. Philip Morris USA denies the remaining allegations of Paragraph 83 to the extent they are directed toward Philip Morris USA. To the extent the allegations of Paragraph 83 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

84. To the extent the allegations of Paragraph 84 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 84. To the extent the allegations of Paragraph 84 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

85. Philip Morris USA admits that on January 1, 1966, the Federal Cigarette Labeling and Advertising Act, codified as amended at 15 U.S.C. §§ 1331-1341, became effective. This



statute, from its effective date through the present, has required cigarette manufacturers to place congressionally-prescribed warnings on every package of cigarettes sold in the United States and, since March 30, 1972, in cigarette advertising. Philip Morris USA further states that the current language, a system of four rotating labels, was adopted in 1984, and Congress mandated that they appear on every cigarette package, carton, and advertisement (except for outdoor billboard advertising, which contained a similar set of required rotating warnings until billboard advertising was discontinued in 1999). These labels read as follows:

1. SURGEON GENERAL'S WARNING: Smoking Causes Lung Cancer, Heart Disease, Emphysema, And May Complicate Pregnancy.
2. SURGEON GENERAL'S WARNING: Quitting Smoking Now Greatly Reduces Serious Risks To Your Health.
3. SURGEON GENERAL'S WARNING: Smoking By Pregnant Women May Result In Fetal Injury, Premature Birth, And Low Birth Weight.
4. SURGEON GENERAL'S WARNING: Cigarette Smoke Contains Carbon Monoxide.

Philip Morris USA states that it has fully complied therewith. Philip Morris USA denies the remaining allegations of Paragraph 85.

86. To the extent the allegations of Paragraph 86 are directed toward Philip Morris USA, Philip Morris USA admits that the allegations of Paragraph 86 purport to selectively quote, reference, and/or paraphrase certain alleged documents and/or statements, but denies that the alleged documents and/or statements are quoted, referenced, and/or paraphrased in context or in their entirety, denies Plaintiffs' characterization of the alleged documents and/or statements, and denies Plaintiffs' innuendo and implication regarding the content or meaning of the alleged documents and/or statements. Philip Morris USA states that the alleged documents and/or statements speak for themselves. Philip Morris USA denies the remaining allegations of Paragraph 86 to the extent they are directed toward Philip Morris USA. To the extent the allegations of Paragraph 86 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and,

therefore, denies the same.

87. Philip Morris USA admits that the allegations of Paragraph 87 purport to selectively quote, reference, and/or paraphrase the 1988 Surgeon General's Report, but denies that the Report is quoted, referenced, and/or paraphrased in context or in its entirety, denies Plaintiffs' characterization of the Report, and denies Plaintiffs' innuendo and implication regarding the content or meaning of the Report. Philip Morris USA states that the 1988 Surgeon General's Report speaks for itself. Philip Morris USA denies the remaining allegations of Paragraph 87.

88. To the extent the allegations of Paragraph 88 are directed toward Philip Morris USA, Philip Morris USA admits that the allegations of Paragraph 88 purport to selectively quote, reference, and/or paraphrase certain alleged documents and/or statements, but denies that the alleged documents and/or statements are quoted, referenced, and/or paraphrased in context or in their entirety, denies Plaintiffs' characterization of the alleged documents and/or statements, and denies Plaintiffs' innuendo and implication regarding the content or meaning of the alleged documents and/or statements. Philip Morris USA states that the alleged documents and/or statements speak for themselves. Philip Morris USA denies the remaining allegations of Paragraph 88 to the extent they are directed toward Philip Morris USA. To the extent the allegations of Paragraph 88 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

89. To the extent the allegations of Paragraph 89 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 89. To the extent the allegations of Paragraph 89 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

90. To the extent the allegations of Paragraph 90 are directed toward Philip Morris USA, Philip Morris USA admits that its then-CEO and President, William I. Campbell, testified before Congress on April 14, 1994, as did certain other cigarette company officers. Philip

Morris USA further states that the testimony of William I. Campbell and certain other cigarette company officers can be ascertained from the hearing record. Philip Morris USA denies the remaining allegations of Paragraph 90 to the extent they are directed toward Philip Morris USA. To the extent the allegations of Paragraph 90 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

91. To the extent the allegations of Paragraph 91 are directed toward Philip Morris USA, Philip Morris USA admits that the allegations of Paragraph 91 purport to selectively quote, reference, and/or paraphrase certain alleged documents and/or statements, but denies that the alleged documents and/or statements are quoted, referenced, and/or paraphrased in context or in their entirety, denies Plaintiffs' characterization of the alleged documents and/or statements, and denies Plaintiffs' innuendo and implication regarding the content or meaning of the alleged documents and/or statements. Philip Morris USA states that the alleged documents and/or statements speak for themselves. Philip Morris USA denies the remaining allegations of Paragraph 91 to the extent they are directed toward Philip Morris USA. To the extent the allegations of Paragraph 91 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

92. Paragraph 92 asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 92 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 92. To the extent the allegations of Paragraph 92 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

93. Paragraph 93 asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 93 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 93. To the extent the allegations of Paragraph 93 are directed toward other Defendants, Philip Morris USA is without

knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

94. To the extent the allegations of Paragraph 94 are directed toward Philip Morris USA, Philip Morris USA states that on or about January 12, 1999, Philip Morris USA entered into an agreement with Liggett Group, Inc. (“Liggett”) under the terms of which Philip Morris USA purchased the L&M, Chesterfield, and Lark cigarette trademarks, trade names, trade dress, service marks, registration, and registration applications in the United States. Philip Morris USA states that after it purchased the L&M, Chesterfield, and Lark cigarette trademarks, trade names, trade dress, service marks, registration, and registration applications from Liggett, the phrase “Smoking is Addictive” was not placed on the packages of the cigarettes Philip Morris USA sold to its direct customers under those trademarks. Philip Morris USA further states that it has at all times complied with the Federal Cigarette Labeling and Advertising Act. Philip Morris USA denies the remaining allegations of Paragraph 94 to the extent they are directed toward Philip Morris USA. To the extent the allegations of Paragraph 94 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

95. To the extent the allegations of Paragraph 95 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 95. To the extent the allegations of Paragraph 95 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

96. To the extent the allegations of Paragraph 96 are directed toward Philip Morris USA, Philip Morris USA admits that the allegations of Paragraph 96 purport to selectively quote, reference, and/or paraphrase certain alleged “onserts,” but denies that the “onserts” are quoted, referenced, and/or paraphrased in context or in their entirety, denies Plaintiffs’ characterization of the “onserts,” and denies Plaintiffs’ innuendo and implication regarding the content or meaning of the “onserts.” Philip Morris USA states that the “onserts” speak for themselves. Philip Morris USA denies the remaining allegations of Paragraph 96 to the extent they are

1 directed toward Philip Morris USA. To the extent the allegations of Paragraph 96 are directed
2 toward other Defendants, Philip Morris USA is without knowledge or information sufficient to
3 form a belief as to the truth of those allegations and, therefore, denies the same.

4 97. The allegations of Paragraph 97 are so vague and ambiguous that Philip Morris
5 USA is unable to form a meaningful response. To the extent a response is required, Philip
6 Morris USA denies the allegations of Paragraph 97.

7 98. To the extent the allegations of Paragraph 98 are directed toward Philip Morris
8 USA, Philip Morris USA denies the allegations of Paragraph 98. To the extent the allegations of
9 Paragraph 98 are directed toward other Defendants, Philip Morris USA is without knowledge or
10 information sufficient to form a belief as to the truth of those allegations and, therefore, denies
11 the same.

12 99. To the extent the allegations of Paragraph 99 are directed toward Philip Morris
13 USA, Philip Morris USA denies the allegations of Paragraph 99. To the extent the allegations of
14 Paragraph 99 are directed toward other Defendants, Philip Morris USA is without knowledge or
15 information sufficient to form a belief as to the truth of those allegations and, therefore, denies
16 the same.

17 100. To the extent the allegations of Paragraph 100 are directed toward Philip Morris
18 USA, Philip Morris USA denies the allegations of Paragraph 100. To the extent the allegations
19 of Paragraph 100 are directed toward other Defendants, Philip Morris USA is without knowledge
20 or information sufficient to form a belief as to the truth of those allegations and, therefore, denies
21 the same.

22 101. To the extent the allegations of Paragraph 101 are directed toward Philip Morris
23 USA, Philip Morris USA denies the allegations of Paragraph 101. To the extent the allegations
24 of Paragraph 101 are directed toward other Defendants, Philip Morris USA is without knowledge
25 or information sufficient to form a belief as to the truth of those allegations and, therefore, denies
26 the same.

27 102. Paragraph 102 asserts legal conclusions to which no response is required. To the
28 extent a response is required and to the extent the allegations of Paragraph 102 are directed

1 toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 102. To the
2 extent the allegations of Paragraph 102 are directed toward other Defendants, Philip Morris USA
3 is without knowledge or information sufficient to form a belief as to the truth of those allegations
4 and, therefore, denies the same.

5 103. Paragraph 103 asserts legal conclusions to which no response is required. To the
6 extent a response is required and to the extent the allegations of Paragraph 103 are directed
7 toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 103. To the
8 extent the allegations of Paragraph 103 are directed toward other Defendants, Philip Morris USA
9 is without knowledge or information sufficient to form a belief as to the truth of those allegations
10 and, therefore, denies the same.

11 104. Paragraph 104 asserts legal conclusions to which no response is required. To the
12 extent a response is required and to the extent the allegations of Paragraph 104 are directed
13 toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 104. To the
14 extent the allegations of Paragraph 104 are directed toward other Defendants, Philip Morris USA
15 is without knowledge or information sufficient to form a belief as to the truth of those allegations
16 and, therefore, denies the same.

17 105. To the extent the allegations of Paragraph 105 are directed toward Philip Morris
18 USA, Philip Morris USA denies the allegations of Paragraph 105. To the extent the allegations
19 of Paragraph 105 are directed toward other Defendants, Philip Morris USA is without knowledge
20 or information sufficient to form a belief as to the truth of those allegations and, therefore, denies
21 the same.

22 106. To the extent the allegations of Paragraph 106 are directed toward Philip Morris
23 USA, Philip Morris USA denies the allegations of Paragraph 106. To the extent the allegations
24 of Paragraph 106 are directed toward other Defendants, Philip Morris USA is without knowledge
25 or information sufficient to form a belief as to the truth of those allegations and, therefore, denies
26 the same.

27 107. To the extent the allegations of Paragraph 107 are directed toward Philip Morris
28 USA, Philip Morris USA denies the allegations of Paragraph 107. To the extent the allegations

of Paragraph 107 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

108. Paragraph 108 asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 108 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 108. To the extent the allegations of Paragraph 108 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

109. Paragraph 109 asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 109 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 109. To the extent the allegations of Paragraph 109 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

110. Paragraph 110 asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 110 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 110. To the extent the allegations of Paragraph 110 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

111. To the extent the allegations of Paragraph 111 are directed toward Philip Morris USA, Philip Morris USA admits that, over the years, it has retained outside counsel to represent its interests. Philip Morris USA denies the remaining allegations of Paragraph 111 to the extent they are directed toward Philip Morris USA. To the extent the allegations of Paragraph 111 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

112. Paragraph 112 asserts legal conclusions to which no response is required. To the

1 extent a response is required and to the extent the allegations of Paragraph 112 are directed
2 toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 112. To the
3 extent the allegations of Paragraph 112 are directed toward other Defendants, Philip Morris USA
4 is without knowledge or information sufficient to form a belief as to the truth of those allegations
5 and, therefore, denies the same.

6 113. Paragraph 113 asserts legal conclusions to which no response is required. To the
7 extent a response is required and to the extent the allegations of Paragraph 113 are directed
8 toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 113. To the
9 extent the allegations of Paragraph 113 are directed toward other Defendants, Philip Morris USA
10 is without knowledge or information sufficient to form a belief as to the truth of those allegations
11 and, therefore, denies the same.

12 114. To the extent the allegations of Paragraph 114 are directed toward Philip Morris
13 USA, Philip Morris USA denies the allegations of Paragraph 114. To the extent the allegations
14 of Paragraph 114 are directed toward other Defendants, Philip Morris USA is without knowledge
15 or information sufficient to form a belief as to the truth of those allegations and, therefore, denies
16 the same.

17 115. To the extent the allegations of Paragraph 115 are directed toward Philip Morris
18 USA, Philip Morris USA denies the allegations of Paragraph 115. To the extent the allegations
19 of Paragraph 115 are directed toward other Defendants, Philip Morris USA is without knowledge
20 or information sufficient to form a belief as to the truth of those allegations and, therefore, denies
21 the same.

22 116. Paragraph 116 asserts legal conclusions to which no response is required. To the
23 extent a response is required and to the extent the allegations of Paragraph 116 are directed
24 toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 116. To the
25 extent the allegations of Paragraph 116 are directed toward other Defendants, Philip Morris USA
26 is without knowledge or information sufficient to form a belief as to the truth of those allegations
27 and, therefore, denies the same.

28 117. The allegations of Paragraph 117 are not directed toward Philip Morris USA, and,

therefore, no response is required. To the extent a response is required, Philip Morris USA restates, realleges, and incorporates by reference its responses to all prior allegations of the Complaint as if fully set forth herein.

118. The allegations of Paragraph 118 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 118 and, therefore, denies the same.

119. The allegations of Paragraph 119 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 119 and, therefore, denies the same.

120. The allegations of Paragraph 120 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 120 and, therefore, denies the same.

121. The allegations of Paragraph 121 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 121 and, therefore, denies the same.

122. The allegations of Paragraph 122 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 122 and, therefore, denies the same.

123. The allegations of Paragraph 123 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 123 and, therefore, denies the same.

124. The allegations of Paragraph 124 are not directed toward Philip Morris USA, and,



1 therefore, no response is required. To the extent a response is required, Philip Morris USA is
2 without knowledge or information sufficient to form a belief as to the truth of the allegations of
3 Paragraph 124 and, therefore, denies the same.

4 125. The allegations of Paragraph 125 are not directed toward Philip Morris USA, and,
5 therefore, no response is required. To the extent a response is required, Philip Morris USA is
6 without knowledge or information sufficient to form a belief as to the truth of the allegations of
7 Paragraph 125 and, therefore, denies the same.

8 126. The allegations of Paragraph 126 are not directed toward Philip Morris USA, and,
9 therefore, no response is required. To the extent a response is required, Philip Morris USA is
10 without knowledge or information sufficient to form a belief as to the truth of the allegations of
11 Paragraph 126 and, therefore, denies the same.

12 127. The allegations of Paragraph 127 are not directed toward Philip Morris USA, and,
13 therefore, no response is required. To the extent a response is required, Philip Morris USA is
14 without knowledge or information sufficient to form a belief as to the truth of the allegations of
15 Paragraph 127 and, therefore, denies the same.

16 128. The allegations of Paragraph 128 are not directed toward Philip Morris USA, and,
17 therefore, no response is required. To the extent a response is required, Philip Morris USA is
18 without knowledge or information sufficient to form a belief as to the truth of the allegations of
19 Paragraph 128 and, therefore, denies the same.

20 129. The allegations of Paragraph 129 are not directed toward Philip Morris USA, and,
21 therefore, no response is required. To the extent a response is required, Philip Morris USA is
22 without knowledge or information sufficient to form a belief as to the truth of the allegations of
23 Paragraph 129 and, therefore, denies the same.

24 130. The allegations of Paragraph 130 are not directed toward Philip Morris USA, and,
25 therefore, no response is required. To the extent a response is required, Philip Morris USA is
26 without knowledge or information sufficient to form a belief as to the truth of the allegations of
27 Paragraph 130 and, therefore, denies the same.

28 131. The allegations of Paragraph 131 are not directed toward Philip Morris USA, and,



1 therefore, no response is required. To the extent a response is required, Philip Morris USA is
2 without knowledge or information sufficient to form a belief as to the truth of the allegations of
3 Paragraph 131 and, therefore, denies the same.

4 132. The allegations of Paragraph 132 are not directed toward Philip Morris USA, and,
5 therefore, no response is required. To the extent a response is required, Philip Morris USA is
6 without knowledge or information sufficient to form a belief as to the truth of the allegations of
7 Paragraph 132 and, therefore, denies the same.

8 133. The allegations of Paragraph 133 are not directed toward Philip Morris USA, and,
9 therefore, no response is required. To the extent a response is required, Philip Morris USA is
10 without knowledge or information sufficient to form a belief as to the truth of the allegations of
11 Paragraph 133 and, therefore, denies the same.

12 134. The allegations of Paragraph 134 are not directed toward Philip Morris USA, and,
13 therefore, no response is required. To the extent a response is required, Philip Morris USA is
14 without knowledge or information sufficient to form a belief as to the truth of the allegations of
15 Paragraph 134 and, therefore, denies the same.

16 135. The allegations of Paragraph 135 are not directed toward Philip Morris USA, and,
17 therefore, no response is required. To the extent a response is required, Philip Morris USA is
18 without knowledge or information sufficient to form a belief as to the truth of the allegations of
19 Paragraph 135 and, therefore, denies the same.

20 136. The allegations of Paragraph 136 are not directed toward Philip Morris USA, and,
21 therefore, no response is required. To the extent a response is required, Philip Morris USA is
22 without knowledge or information sufficient to form a belief as to the truth of the allegations of
23 Paragraph 136 and, therefore, denies the same.

24 137. The allegations of Paragraph 137 are not directed toward Philip Morris USA, and,
25 therefore, no response is required. To the extent a response is required, Philip Morris USA is
26 without knowledge or information sufficient to form a belief as to the truth of the allegations of
27 Paragraph 137 and, therefore, denies the same.

28 ///



1 138. The allegations of Paragraph 138 are not directed toward Philip Morris USA, and,
2 therefore, no response is required. To the extent a response is required, Philip Morris USA is
3 without knowledge or information sufficient to form a belief as to the truth of the allegations of
4 Paragraph 138 and, therefore, denies the same.

5 139. The allegations of Paragraph 139 are not directed toward Philip Morris USA, and,
6 therefore, no response is required. To the extent a response is required, Philip Morris USA is
7 without knowledge or information sufficient to form a belief as to the truth of the allegations of
8 Paragraph 139 and, therefore, denies the same.

9 140. The allegations of Paragraph 140 are not directed toward Philip Morris USA, and,
10 therefore, no response is required. To the extent a response is required, Philip Morris USA is
11 without knowledge or information sufficient to form a belief as to the truth of the allegations of
12 Paragraph 140 and, therefore, denies the same.

13 141. The allegations of Paragraph 141 are not directed toward Philip Morris USA, and,
14 therefore, no response is required. To the extent a response is required, Philip Morris USA
15 restates, realleges, and incorporates by reference its responses to all prior allegations of the
16 Complaint as if fully set forth herein.

17 142. The allegations of Paragraph 142 are not directed toward Philip Morris USA, and,
18 therefore, no response is required. To the extent a response is required, Philip Morris USA is
19 without knowledge or information sufficient to form a belief as to the truth of the allegations of
20 Paragraph 142 and, therefore, denies the same.

21 143. The allegations of Paragraph 143 are not directed toward Philip Morris USA, and,
22 therefore, no response is required. To the extent a response is required, Philip Morris USA is
23 without knowledge or information sufficient to form a belief as to the truth of the allegations of
24 Paragraph 143 and, therefore, denies the same.

25 144. The allegations of Paragraph 144 are not directed toward Philip Morris USA, and,
26 therefore, no response is required. To the extent a response is required, Philip Morris USA is
27 without knowledge or information sufficient to form a belief as to the truth of the allegations of
28 Paragraph 144 and, therefore, denies the same.

1 145. The allegations of Paragraph 145 are not directed toward Philip Morris USA, and,
2 therefore, no response is required. To the extent a response is required, Philip Morris USA is
3 without knowledge or information sufficient to form a belief as to the truth of the allegations of
4 Paragraph 145 and, therefore, denies the same.

5 146. The allegations of Paragraph 146 are not directed toward Philip Morris USA, and,
6 therefore, no response is required. To the extent a response is required, Philip Morris USA is
7 without knowledge or information sufficient to form a belief as to the truth of the allegations of
8 Paragraph 146 and, therefore, denies the same.

9 147. The allegations of Paragraph 147 are not directed toward Philip Morris USA, and,
10 therefore, no response is required. To the extent a response is required, Philip Morris USA is
11 without knowledge or information sufficient to form a belief as to the truth of the allegations of
12 Paragraph 147 and, therefore, denies the same.

13 148. The allegations of Paragraph 148 are not directed toward Philip Morris USA, and,
14 therefore, no response is required. To the extent a response is required, Philip Morris USA is
15 without knowledge or information sufficient to form a belief as to the truth of the allegations of
16 Paragraph 148 and, therefore, denies the same.

17 149. The allegations of Paragraph 149 are not directed toward Philip Morris USA, and,
18 therefore, no response is required. To the extent a response is required, Philip Morris USA is
19 without knowledge or information sufficient to form a belief as to the truth of the allegations of
20 Paragraph 149 and, therefore, denies the same.

21 150. The allegations of Paragraph 150 are not directed toward Philip Morris USA, and,
22 therefore, no response is required. To the extent a response is required, Philip Morris USA is
23 without knowledge or information sufficient to form a belief as to the truth of the allegations of
24 Paragraph 150 and, therefore, denies the same.

25 151. The allegations of Paragraph 151 are not directed toward Philip Morris USA, and,
26 therefore, no response is required. To the extent a response is required, Philip Morris USA is
27 without knowledge or information sufficient to form a belief as to the truth of the allegations of
28 Paragraph 151 and, therefore, denies the same.



1 152. The allegations of Paragraph 152 are not directed toward Philip Morris USA, and,
2 therefore, no response is required. To the extent a response is required, Philip Morris USA is
3 without knowledge or information sufficient to form a belief as to the truth of the allegations of
4 Paragraph 152 and, therefore, denies the same.

5 153. The allegations of Paragraph 153 are not directed toward Philip Morris USA, and,
6 therefore, no response is required. To the extent a response is required, Philip Morris USA is
7 without knowledge or information sufficient to form a belief as to the truth of the allegations of
8 Paragraph 153 and, therefore, denies the same.

9 154. The allegations of Paragraph 154 are not directed toward Philip Morris USA, and,
10 therefore, no response is required. To the extent a response is required, Philip Morris USA is
11 without knowledge or information sufficient to form a belief as to the truth of the allegations of
12 Paragraph 154 and, therefore, denies the same.

13 155. The allegations of Paragraph 155 are not directed toward Philip Morris USA, and,
14 therefore, no response is required. To the extent a response is required, Philip Morris USA is
15 without knowledge or information sufficient to form a belief as to the truth of the allegations of
16 Paragraph 155 and, therefore, denies the same.

17 156. The allegations of Paragraph 156 are not directed toward Philip Morris USA, and,
18 therefore, no response is required. To the extent a response is required, Philip Morris USA is
19 without knowledge or information sufficient to form a belief as to the truth of the allegations of
20 Paragraph 156 and, therefore, denies the same.

21 157. The allegations of Paragraph 157 are not directed toward Philip Morris USA, and,
22 therefore, no response is required. To the extent a response is required, Philip Morris USA is
23 without knowledge or information sufficient to form a belief as to the truth of the allegations of
24 Paragraph 157 and, therefore, denies the same.

25 158. The allegations of Paragraph 158 are not directed toward Philip Morris USA, and,
26 therefore, no response is required. To the extent a response is required, Philip Morris USA is
27 without knowledge or information sufficient to form a belief as to the truth of the allegations of
28 Paragraph 158 and, therefore, denies the same.



1 159. The allegations of Paragraph 159 are not directed toward Philip Morris USA, and,
2 therefore, no response is required. To the extent a response is required, Philip Morris USA
3 restates, realleges, and incorporates by reference its responses to all prior allegations of the
4 Complaint as if fully set forth herein.

5 160. The allegations of Paragraph 160 are not directed toward Philip Morris USA, and,
6 therefore, no response is required. To the extent a response is required, Philip Morris USA is
7 without knowledge or information sufficient to form a belief as to the truth of the allegations of
8 Paragraph 160 and, therefore, denies the same.

9 161. The allegations of Paragraph 161 are not directed toward Philip Morris USA, and,
10 therefore, no response is required. To the extent a response is required, Philip Morris USA is
11 without knowledge or information sufficient to form a belief as to the truth of the allegations of
12 Paragraph 161 and, therefore, denies the same.

13 162. The allegations of Paragraph 162 are not directed toward Philip Morris USA, and,
14 therefore, no response is required. To the extent a response is required, Philip Morris USA is
15 without knowledge or information sufficient to form a belief as to the truth of the allegations of
16 Paragraph 162 and, therefore, denies the same.

17 163. The allegations of Paragraph 163 are not directed toward Philip Morris USA, and,
18 therefore, no response is required. To the extent a response is required, Philip Morris USA is
19 without knowledge or information sufficient to form a belief as to the truth of the allegations of
20 Paragraph 163 and, therefore, denies the same.

21 164. The allegations of Paragraph 164 are not directed toward Philip Morris USA, and,
22 therefore, no response is required. To the extent a response is required, Philip Morris USA is
23 without knowledge or information sufficient to form a belief as to the truth of the allegations of
24 Paragraph 164 and, therefore, denies the same.

25 165. The allegations of Paragraph 165 are not directed toward Philip Morris USA, and,
26 therefore, no response is required. To the extent a response is required, Philip Morris USA is
27 without knowledge or information sufficient to form a belief as to the truth of the allegations of
28 Paragraph 165 and, therefore, denies the same.



1 166. The allegations of Paragraph 166 are not directed toward Philip Morris USA, and,
2 therefore, no response is required. To the extent a response is required, Philip Morris USA is
3 without knowledge or information sufficient to form a belief as to the truth of the allegations of
4 Paragraph 166 and, therefore, denies the same.

5 167. The allegations of Paragraph 167 are not directed toward Philip Morris USA, and,
6 therefore, no response is required. To the extent a response is required, Philip Morris USA is
7 without knowledge or information sufficient to form a belief as to the truth of the allegations of
8 Paragraph 167 and, therefore, denies the same.

9 168. The allegations of Paragraph 168 are not directed toward Philip Morris USA, and,
10 therefore, no response is required. To the extent a response is required, Philip Morris USA is
11 without knowledge or information sufficient to form a belief as to the truth of the allegations of
12 Paragraph 168 and, therefore, denies the same.

13 169. The allegations of Paragraph 169 are not directed toward Philip Morris USA, and,
14 therefore, no response is required. To the extent a response is required, Philip Morris USA is
15 without knowledge or information sufficient to form a belief as to the truth of the allegations of
16 Paragraph 169 and, therefore, denies the same.

17 170. The allegations of Paragraph 170 are not directed toward Philip Morris USA, and,
18 therefore, no response is required. To the extent a response is required, Philip Morris USA is
19 without knowledge or information sufficient to form a belief as to the truth of the allegations of
20 Paragraph 170 and, therefore, denies the same.

21 171. The allegations of Paragraph 171 are not directed toward Philip Morris USA, and,
22 therefore, no response is required. To the extent a response is required, Philip Morris USA is
23 without knowledge or information sufficient to form a belief as to the truth of the allegations of
24 Paragraph 171 and, therefore, denies the same.

25 172. The allegations of Paragraph 172 are not directed toward Philip Morris USA, and,
26 therefore, no response is required. To the extent a response is required, Philip Morris USA is
27 without knowledge or information sufficient to form a belief as to the truth of the allegations of
28 Paragraph 172 and, therefore, denies the same.



1 173. The allegations of Paragraph 173 are not directed toward Philip Morris USA, and,
2 therefore, no response is required. To the extent a response is required, Philip Morris USA is
3 without knowledge or information sufficient to form a belief as to the truth of the allegations of
4 Paragraph 173 and, therefore, denies the same.

5 174. The allegations of Paragraph 174 are not directed toward Philip Morris USA, and,
6 therefore, no response is required. To the extent a response is required, Philip Morris USA is
7 without knowledge or information sufficient to form a belief as to the truth of the allegations of
8 Paragraph 174 and, therefore, denies the same.

9 175. The allegations of Paragraph 175 are not directed toward Philip Morris USA, and,
10 therefore, no response is required. To the extent a response is required, Philip Morris USA is
11 without knowledge or information sufficient to form a belief as to the truth of the allegations of
12 Paragraph 175 and, therefore, denies the same.

13 176. The allegations of Paragraph 176 are not directed toward Philip Morris USA, and,
14 therefore, no response is required. To the extent a response is required, Philip Morris USA is
15 without knowledge or information sufficient to form a belief as to the truth of the allegations of
16 Paragraph 176 and, therefore, denies the same.

17 177. The allegations of Paragraph 177 are not directed toward Philip Morris USA, and,
18 therefore, no response is required. To the extent a response is required, Philip Morris USA is
19 without knowledge or information sufficient to form a belief as to the truth of the allegations of
20 Paragraph 177 and, therefore, denies the same.

21 178. The allegations of Paragraph 178 are not directed toward Philip Morris USA, and,
22 therefore, no response is required. To the extent a response is required, Philip Morris USA is
23 without knowledge or information sufficient to form a belief as to the truth of the allegations of
24 Paragraph 178 and, therefore, denies the same.

25 179. The allegations of Paragraph 179 are not directed toward Philip Morris USA, and,
26 therefore, no response is required. To the extent a response is required, Philip Morris USA is
27 without knowledge or information sufficient to form a belief as to the truth of the allegations of
28 Paragraph 179 and, therefore, denies the same.



1 180. The allegations of Paragraph 180 are not directed toward Philip Morris USA, and,
2 therefore, no response is required. To the extent a response is required, Philip Morris USA is
3 without knowledge or information sufficient to form a belief as to the truth of the allegations of
4 Paragraph 180 and, therefore, denies the same.

5 181. The allegations of Paragraph 181 are not directed toward Philip Morris USA, and,
6 therefore, no response is required. To the extent a response is required, Philip Morris USA is
7 without knowledge or information sufficient to form a belief as to the truth of the allegations of
8 Paragraph 181 and, therefore, denies the same.

9 182. The allegations of Paragraph 182 are not directed toward Philip Morris USA, and,
10 therefore, no response is required. To the extent a response is required, Philip Morris USA is
11 without knowledge or information sufficient to form a belief as to the truth of the allegations of
12 Paragraph 182 and, therefore, denies the same.

13 183. The allegations of Paragraph 183 are not directed toward Philip Morris USA, and,
14 therefore, no response is required. To the extent a response is required, Philip Morris USA is
15 without knowledge or information sufficient to form a belief as to the truth of the allegations of
16 Paragraph 183 and, therefore, denies the same.

17 184. The allegations of Paragraph 184 are not directed toward Philip Morris USA, and,
18 therefore, no response is required. To the extent a response is required, Philip Morris USA is
19 without knowledge or information sufficient to form a belief as to the truth of the allegations of
20 Paragraph 184 and, therefore, denies the same.

21 185. The allegations of Paragraph 185 are not directed toward Philip Morris USA, and,
22 therefore, no response is required. To the extent a response is required, Philip Morris USA
23 restates, realleges, and incorporates by reference its responses to all prior allegations of the
24 Complaint as if fully set forth herein.

25 186. The allegations of Paragraph 186 are not directed toward Philip Morris USA, and,
26 therefore, no response is required. To the extent a response is required, Philip Morris USA is
27 without knowledge or information sufficient to form a belief as to the truth of the allegations of
28 Paragraph 186 and, therefore, denies the same.



1 187. The allegations of Paragraph 187 are not directed toward Philip Morris USA, and,
2 therefore, no response is required. To the extent a response is required, Philip Morris USA is
3 without knowledge or information sufficient to form a belief as to the truth of the allegations of
4 Paragraph 187 and, therefore, denies the same.

5 188. The allegations of Paragraph 188 are not directed toward Philip Morris USA, and,
6 therefore, no response is required. To the extent a response is required, Philip Morris USA is
7 without knowledge or information sufficient to form a belief as to the truth of the allegations of
8 Paragraph 184 and, therefore, denies the same.

9 189. The allegations of Paragraph 189 are not directed toward Philip Morris USA, and,
10 therefore, no response is required. To the extent a response is required, Philip Morris USA is
11 without knowledge or information sufficient to form a belief as to the truth of the allegations of
12 Paragraph 189 and, therefore, denies the same.

13 190. The allegations of Paragraph 190 are not directed toward Philip Morris USA, and,
14 therefore, no response is required. To the extent a response is required, Philip Morris USA is
15 without knowledge or information sufficient to form a belief as to the truth of the allegations of
16 Paragraph 190 and, therefore, denies the same.

17 191. The allegations of Paragraph 191 are not directed toward Philip Morris USA, and,
18 therefore, no response is required. To the extent a response is required, Philip Morris USA is
19 without knowledge or information sufficient to form a belief as to the truth of the allegations of
20 Paragraph 191 and, therefore, denies the same.

21 192. The allegations of Paragraph 192 are not directed toward Philip Morris USA, and,
22 therefore, no response is required. To the extent a response is required, Philip Morris USA is
23 without knowledge or information sufficient to form a belief as to the truth of the allegations of
24 Paragraph 192 and, therefore, denies the same.

25 193. The allegations of Paragraph 193 are not directed toward Philip Morris USA, and,
26 therefore, no response is required. To the extent a response is required, Philip Morris USA is
27 without knowledge or information sufficient to form a belief as to the truth of the allegations of
28 Paragraph 193 and, therefore, denies the same.



1 194. The allegations of Paragraph 194 are not directed toward Philip Morris USA, and,
2 therefore, no response is required. To the extent a response is required, Philip Morris USA is
3 without knowledge or information sufficient to form a belief as to the truth of the allegations of
4 Paragraph 194 and, therefore, denies the same.

5 195. The allegations of Paragraph 195 are not directed toward Philip Morris USA, and,
6 therefore, no response is required. To the extent a response is required, Philip Morris USA is
7 without knowledge or information sufficient to form a belief as to the truth of the allegations of
8 Paragraph 195 and, therefore, denies the same.

9 196. The allegations of Paragraph 196 are not directed toward Philip Morris USA, and,
10 therefore, no response is required. To the extent a response is required, Philip Morris USA is
11 without knowledge or information sufficient to form a belief as to the truth of the allegations of
12 Paragraph 196 and, therefore, denies the same.

13 197. The allegations of Paragraph 197 are not directed toward Philip Morris USA, and,
14 therefore, no response is required. To the extent a response is required, Philip Morris USA is
15 without knowledge or information sufficient to form a belief as to the truth of the allegations of
16 Paragraph 197 and, therefore, denies the same.

17 198. The allegations of Paragraph 198 are not directed toward Philip Morris USA, and,
18 therefore, no response is required. To the extent a response is required, Philip Morris USA is
19 without knowledge or information sufficient to form a belief as to the truth of the allegations of
20 Paragraph 198 and, therefore, denies the same.

21 199. The allegations of Paragraph 199 are not directed toward Philip Morris USA, and,
22 therefore, no response is required. To the extent a response is required, Philip Morris USA is
23 without knowledge or information sufficient to form a belief as to the truth of the allegations of
24 Paragraph 199 and, therefore, denies the same.

25 200. The allegations of Paragraph 200 are not directed toward Philip Morris USA, and,
26 therefore, no response is required. To the extent a response is required, Philip Morris USA is
27 without knowledge or information sufficient to form a belief as to the truth of the allegations of
28 Paragraph 200 and, therefore, denies the same.



1 201. The allegations of Paragraph 201 are not directed toward Philip Morris USA, and,
2 therefore, no response is required. To the extent a response is required, Philip Morris USA is
3 without knowledge or information sufficient to form a belief as to the truth of the allegations of
4 Paragraph 201 and, therefore, denies the same.

5 202. The allegations of Paragraph 202 are not directed toward Philip Morris USA, and,
6 therefore, no response is required. To the extent a response is required, Philip Morris USA is
7 without knowledge or information sufficient to form a belief as to the truth of the allegations of
8 Paragraph 202 and, therefore, denies the same.

9 203. The allegations of Paragraph 203 are not directed toward Philip Morris USA, and,
10 therefore, no response is required. To the extent a response is required, Philip Morris USA is
11 without knowledge or information sufficient to form a belief as to the truth of the allegations of
12 Paragraph 203 and, therefore, denies the same.

13 204. The allegations of Paragraph 204 are not directed toward Philip Morris USA, and,
14 therefore, no response is required. To the extent a response is required, Philip Morris USA
15 restates, realleges, and incorporates by reference its responses to all prior allegations of the
16 Complaint as if fully set forth herein.

17 205. The allegations of Paragraph 205 are not directed toward Philip Morris USA, and,
18 therefore, no response is required. To the extent a response is required, Philip Morris USA is
19 without knowledge or information sufficient to form a belief as to the truth of the allegations of
20 Paragraph 205 and, therefore, denies the same.

21 206. The allegations of Paragraph 206 are not directed toward Philip Morris USA, and,
22 therefore, no response is required. To the extent a response is required, Philip Morris USA is
23 without knowledge or information sufficient to form a belief as to the truth of the allegations of
24 Paragraph 206 and, therefore, denies the same.

25 207. The allegations of Paragraph 207 are not directed toward Philip Morris USA, and,
26 therefore, no response is required. To the extent a response is required, Philip Morris USA is
27 without knowledge or information sufficient to form a belief as to the truth of the allegations of
28 Paragraph 207 and, therefore, denies the same.



1 208. The allegations of Paragraph 208 are not directed toward Philip Morris USA, and,
2 therefore, no response is required. To the extent a response is required, Philip Morris USA is
3 without knowledge or information sufficient to form a belief as to the truth of the allegations of
4 Paragraph 208 and, therefore, denies the same.

5 209. The allegations of Paragraph 209 are not directed toward Philip Morris USA, and,
6 therefore, no response is required. To the extent a response is required, Philip Morris USA is
7 without knowledge or information sufficient to form a belief as to the truth of the allegations of
8 Paragraph 209 and, therefore, denies the same.

9 210. The allegations of Paragraph 210 are not directed toward Philip Morris USA, and,
10 therefore, no response is required. To the extent a response is required, Philip Morris USA is
11 without knowledge or information sufficient to form a belief as to the truth of the allegations of
12 Paragraph 210 and, therefore, denies the same.

13 211. The allegations of Paragraph 211 are not directed toward Philip Morris USA, and,
14 therefore, no response is required. To the extent a response is required, Philip Morris USA is
15 without knowledge or information sufficient to form a belief as to the truth of the allegations of
16 Paragraph 211 and, therefore, denies the same.

17 212. The allegations of Paragraph 212 are not directed toward Philip Morris USA, and,
18 therefore, no response is required. Paragraph 212 also asserts legal conclusions to which no
19 response is required. To the extent a response is required and to the extent the allegations of
20 Paragraph 212 are directed toward Philip Morris USA, Philip Morris USA denies the allegations
21 of Paragraph 212. To the extent the allegations of Paragraph 212 are directed toward other
22 Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief
23 as to the truth of those allegations and, therefore, denies the same.

24 213. The allegations of Paragraph 213 are not directed toward Philip Morris USA, and,
25 therefore, no response is required. Paragraph 213 also asserts legal conclusions to which no
26 response is required. To the extent a response is required and to the extent the allegations of
27 Paragraph 213 are directed toward Philip Morris USA, Philip Morris USA denies the allegations
28 of Paragraph 213. To the extent the allegations of Paragraph 213 are directed toward other

Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

214. The allegations of Paragraph 214 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 214 and, therefore, denies the same.

215. The allegations of Paragraph 215 are not directed toward Philip Morris USA, and, therefore, no response is required. Paragraph 215 also asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 215 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 215. To the extent the allegations of Paragraph 215 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

216. The allegations of Paragraph 216 are not directed toward Philip Morris USA, and, therefore, no response is required. Paragraph 216 also asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 216 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 216. To the extent the allegations of Paragraph 216 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

217. The allegations of Paragraph 217 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 217 and, therefore, denies the same.

218. The allegations of Paragraph 218 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required and to the extent the allegations of Paragraph 218 are directed toward Philip Morris USA, Philip Morris USA admits that the allegations of Paragraph 218 purport to selectively quote, reference, and/or paraphrase

certain alleged documents and/or statements, but denies that the alleged documents and/or statements are quoted, referenced, and/or paraphrased in context or in their entirety, denies Plaintiffs' characterization of the alleged documents and/or statements, and denies Plaintiffs' innuendo and implication regarding the content or meaning of the alleged documents and/or statements. Philip Morris USA states that the alleged documents and/or statements speak for themselves. Philip Morris USA denies the remaining allegations of Paragraph 218 to the extent they are directed toward Philip Morris USA. To the extent the allegations of Paragraph 218 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

219. The allegations of Paragraph 219 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 219 and, therefore, denies the same.

220. The allegations of Paragraph 220 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required and to the extent the allegations of Paragraph 220 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 220. To the extent the allegations of Paragraph 220 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

221. The allegations of Paragraph 221 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required and to the extent the allegations of Paragraph 221 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 221. To the extent the allegations of Paragraph 221 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

222. The allegations of Paragraph 222 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required and to the extent the allegations of Paragraph 222 are directed toward Philip Morris USA, Philip Morris USA denies

the allegations of Paragraph 222. To the extent the allegations of Paragraph 222 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

223. The allegations of Paragraph 223 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required and to the extent the allegations of Paragraph 223 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 223. To the extent the allegations of Paragraph 223 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

224. The allegations of Paragraph 224 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required and to the extent the allegations of Paragraph 224 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 224. To the extent the allegations of Paragraph 224 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

225. The allegations of Paragraph 225 are not directed toward Philip Morris USA, and, therefore, no response is required. Paragraph 225 also asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 225 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 225. To the extent the allegations of Paragraph 225 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

226. The allegations of Paragraph 226 are not directed toward Philip Morris USA, and, therefore, no response is required. Paragraph 226 also asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 226 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 226. To the extent the allegations of Paragraph 226 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief

as to the truth of those allegations and, therefore, denies the same.

227. The allegations of Paragraph 227 are not directed toward Philip Morris USA, and, therefore, no response is required. Paragraph 227 also asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 227 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 227. To the extent the allegations of Paragraph 227 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

228. The allegations of Paragraph 228 are not directed toward Philip Morris USA, and, therefore, no response is required. Paragraph 228 also asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 228 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 228. To the extent the allegations of Paragraph 228 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

229. The allegations of Paragraph 229 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 229 and, therefore, denies the same.

230. The allegations of Paragraph 230 are not directed toward Philip Morris USA, and, therefore, no response is required. Paragraph 230 also asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 230 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 230. To the extent the allegations of Paragraph 230 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

231. The allegations of Paragraph 231 are not directed toward Philip Morris USA, and, therefore, no response is required. Paragraph 231 also asserts legal conclusions to which no

1 response is required. To the extent a response is required and to the extent the allegations of
2 Paragraph 231 are directed toward Philip Morris USA, Philip Morris USA denies the allegations
3 of Paragraph 231. To the extent the allegations of Paragraph 231 are directed toward other
4 Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief
5 as to the truth of those allegations and, therefore, denies the same.

6 232. The allegations of Paragraph 232 are not directed toward Philip Morris USA, and,
7 therefore, no response is required. To the extent a response is required, Philip Morris USA is
8 without knowledge or information sufficient to form a belief as to the truth of the allegations of
9 Paragraph 232 and, therefore, denies the same.

10 233. The allegations of Paragraph 233 are not directed toward Philip Morris USA, and,
11 therefore, no response is required. Paragraph 233 also asserts legal conclusions to which no
12 response is required. To the extent a response is required and to the extent the allegations of
13 Paragraph 233 are directed toward Philip Morris USA, Philip Morris USA denies the allegations
14 of Paragraph 233. To the extent the allegations of Paragraph 233 are directed toward other
15 Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief
16 as to the truth of those allegations and, therefore, denies the same.

17 234. The allegations of Paragraph 234 are not directed toward Philip Morris USA, and,
18 therefore, no response is required. To the extent a response is required, Philip Morris USA is
19 without knowledge or information sufficient to form a belief as to the truth of the allegations of
20 Paragraph 234 and, therefore, denies the same.

21 235. The allegations of Paragraph 235 are not directed toward Philip Morris USA, and,
22 therefore, no response is required. To the extent a response is required, Philip Morris USA is
23 without knowledge or information sufficient to form a belief as to the truth of the allegations of
24 Paragraph 235 and, therefore, denies the same.

25 236. The allegations of Paragraph 236 are not directed toward Philip Morris USA, and,
26 therefore, no response is required. To the extent a response is required, Philip Morris USA is
27 without knowledge or information sufficient to form a belief as to the truth of the allegations of
28 Paragraph 236 and, therefore, denies the same.



237. The allegations of Paragraph 237 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 237 and, therefore, denies the same.

238. The allegations of Paragraph 238 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 238 and, therefore, denies the same.

239. The allegations of Paragraph 239 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 239 and, therefore, denies the same.

240. The allegations of Paragraph 240 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 240 and, therefore, denies the same.

241. The allegations of Paragraph 241 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 241 and, therefore, denies the same.

242. The allegations of Paragraph 242 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 242 and, therefore, denies the same.

243. The allegations of Paragraph 243 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA restates, realleges, and incorporates by reference its responses to all prior allegations of the Complaint as if fully set forth herein.

244. The allegations of Paragraph 244 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 244 and, therefore, denies the same.

245. The allegations of Paragraph 245 are not directed toward Philip Morris USA, and, therefore, no response is required. Paragraph 245 also asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 245 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 245. To the extent the allegations of Paragraph 245 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

246. The allegations of Paragraph 246 are not directed toward Philip Morris USA, and, therefore, no response is required. Paragraph 246 also asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 246 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 246. To the extent the allegations of Paragraph 246 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

247. The allegations of Paragraph 247 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 247 and, therefore, denies the same.

248. The allegations of Paragraph 248 are not directed toward Philip Morris USA, and, therefore, no response is required. Paragraph 248 also asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 248 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 248. To the extent the allegations of Paragraph 248 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief

as to the truth of those allegations and, therefore, denies the same.

249. The allegations of Paragraph 249 are not directed toward Philip Morris USA, and, therefore, no response is required. Paragraph 249 also asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 249 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 249. To the extent the allegations of Paragraph 249 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

250. The allegations of Paragraph 250 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 250 and, therefore, denies the same.

251. The allegations of Paragraph 251 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required and to the extent the allegations of Paragraph 251 are directed toward Philip Morris USA, Philip Morris USA admits that the allegations of Paragraph 251 purport to selectively quote, reference, and/or paraphrase certain alleged documents and/or statements, but denies that the alleged documents and/or statements are quoted, referenced, and/or paraphrased in context or in their entirety, denies Plaintiffs' characterization of the alleged documents and/or statements, and denies Plaintiffs' innuendo and implication regarding the content or meaning of the alleged documents and/or statements. Philip Morris USA states that the alleged documents and/or statements speak for themselves. Philip Morris USA denies the remaining allegations of Paragraph 251 to the extent they are directed toward Philip Morris USA. To the extent the allegations of Paragraph 251 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

252. The allegations of Paragraph 252 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of

Paragraph 252 and, therefore, denies the same.

253. The allegations of Paragraph 253 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required and to the extent the allegations of Paragraph 253 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 253. To the extent the allegations of Paragraph 253 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

254. The allegations of Paragraph 254 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required and to the extent the allegations of Paragraph 254 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 254. To the extent the allegations of Paragraph 254 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

255. The allegations of Paragraph 255 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required and to the extent the allegations of Paragraph 255 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 255. To the extent the allegations of Paragraph 255 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

256. The allegations of Paragraph 256 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required and to the extent the allegations of Paragraph 256 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 256. To the extent the allegations of Paragraph 256 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

257. The allegations of Paragraph 257 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required and to the extent the allegations of Paragraph 257 are directed toward Philip Morris USA, Philip Morris USA denies

the allegations of Paragraph 257. To the extent the allegations of Paragraph 257 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

258. The allegations of Paragraph 258 are not directed toward Philip Morris USA, and, therefore, no response is required. Paragraph 258 also asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 258 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 258. To the extent the allegations of Paragraph 258 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

259. The allegations of Paragraph 259 are not directed toward Philip Morris USA, and, therefore, no response is required. Paragraph 259 also asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 259 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 259. To the extent the allegations of Paragraph 259 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

260. The allegations of Paragraph 260 are not directed toward Philip Morris USA, and, therefore, no response is required. Paragraph 260 also asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 260 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 260. To the extent the allegations of Paragraph 260 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

261. The allegations of Paragraph 261 are not directed toward Philip Morris USA, and, therefore, no response is required. Paragraph 261 also asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 261 are directed toward Philip Morris USA, Philip Morris USA denies the allegations

of Paragraph 261. To the extent the allegations of Paragraph 261 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

262. The allegations of Paragraph 262 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 262 and, therefore, denies the same.

263. The allegations of Paragraph 263 are not directed toward Philip Morris USA, and, therefore, no response is required. Paragraph 263 also asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 263 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 263. To the extent the allegations of Paragraph 263 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

264. The allegations of Paragraph 264 are not directed toward Philip Morris USA, and, therefore, no response is required. Paragraph 264 also asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 264 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 264. To the extent the allegations of Paragraph 264 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

265. The allegations of Paragraph 265 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 265 and, therefore, denies the same.

266. The allegations of Paragraph 266 are not directed toward Philip Morris USA, and, therefore, no response is required. Paragraph 266 also asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of

Paragraph 266 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 266. To the extent the allegations of Paragraph 266 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

267. The allegations of Paragraph 267 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 267 and, therefore, denies the same.

268. The allegations of Paragraph 268 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 268 and, therefore, denies the same.

269. The allegations of Paragraph 269 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 269 and, therefore, denies the same.

270. The allegations of Paragraph 270 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 270 and, therefore, denies the same.

271. The allegations of Paragraph 271 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 271 and, therefore, denies the same.

272. The allegations of Paragraph 272 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 272 and, therefore, denies the same.



1 273. The allegations of Paragraph 273 are not directed toward Philip Morris USA, and,
2 therefore, no response is required. To the extent a response is required, Philip Morris USA is
3 without knowledge or information sufficient to form a belief as to the truth of the allegations of
4 Paragraph 273 and, therefore, denies the same.

5 274. The allegations of Paragraph 274 are not directed toward Philip Morris USA, and,
6 therefore, no response is required. To the extent a response is required, Philip Morris USA is
7 without knowledge or information sufficient to form a belief as to the truth of the allegations of
8 Paragraph 274 and, therefore, denies the same.

9 275. The allegations of Paragraph 275 are not directed toward Philip Morris USA, and,
10 therefore, no response is required. To the extent a response is required, Philip Morris USA
11 restates, realleges, and incorporates by reference its responses to all prior allegations of the
12 Complaint as if fully set forth herein.

13 276. The allegations of Paragraph 276 are not directed toward Philip Morris USA, and,
14 therefore, no response is required. To the extent a response is required, Philip Morris USA is
15 without knowledge or information sufficient to form a belief as to the truth of the allegations of
16 Paragraph 276 and, therefore, denies the same.

17 277. The allegations of Paragraph 277 are not directed toward Philip Morris USA, and,
18 therefore, no response is required. To the extent a response is required, Philip Morris USA is
19 without knowledge or information sufficient to form a belief as to the truth of the allegations of
20 Paragraph 277 and, therefore, denies the same.

21 278. The allegations of Paragraph 278 are not directed toward Philip Morris USA, and,
22 therefore, no response is required. To the extent a response is required, Philip Morris USA is
23 without knowledge or information sufficient to form a belief as to the truth of the allegations of
24 Paragraph 278 and, therefore, denies the same.

25 279. The allegations of Paragraph 279 are not directed toward Philip Morris USA, and,
26 therefore, no response is required. To the extent a response is required, Philip Morris USA is
27 without knowledge or information sufficient to form a belief as to the truth of the allegations of
28 Paragraph 279 and, therefore, denies the same.



1 280. The allegations of Paragraph 280 are not directed toward Philip Morris USA, and,
2 therefore, no response is required. To the extent a response is required, Philip Morris USA is
3 without knowledge or information sufficient to form a belief as to the truth of the allegations of
4 Paragraph 280 and, therefore, denies the same.

5 281. The allegations of Paragraph 281 are not directed toward Philip Morris USA, and,
6 therefore, no response is required. To the extent a response is required, Philip Morris USA is
7 without knowledge or information sufficient to form a belief as to the truth of the allegations of
8 Paragraph 281 and, therefore, denies the same.

9 282. The allegations of Paragraph 282 are not directed toward Philip Morris USA, and,
10 therefore, no response is required. To the extent a response is required, Philip Morris USA is
11 without knowledge or information sufficient to form a belief as to the truth of the allegations of
12 Paragraph 282 and, therefore, denies the same.

13 283. The allegations of Paragraph 283 are not directed toward Philip Morris USA, and,
14 therefore, no response is required. Paragraph 283 also asserts legal conclusions to which no
15 response is required. To the extent a response is required and to the extent the allegations of
16 Paragraph 283 are directed toward Philip Morris USA, Philip Morris USA denies the allegations
17 of Paragraph 283. To the extent the allegations of Paragraph 283 are directed toward other
18 Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief
19 as to the truth of those allegations and, therefore, denies the same.

20 284. The allegations of Paragraph 284 are not directed toward Philip Morris USA, and,
21 therefore, no response is required. Paragraph 284 also asserts legal conclusions to which no
22 response is required. To the extent a response is required and to the extent the allegations of
23 Paragraph 284 are directed toward Philip Morris USA, Philip Morris USA denies the allegations
24 of Paragraph 284. To the extent the allegations of Paragraph 284 are directed toward other
25 Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief
26 as to the truth of those allegations and, therefore, denies the same.

27 285. The allegations of Paragraph 285 are not directed toward Philip Morris USA, and,
28 therefore, no response is required. Paragraph 285 also asserts legal conclusions to which no

response is required. To the extent a response is required and to the extent the allegations of Paragraph 285 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 285. To the extent the allegations of Paragraph 285 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

286. The allegations of Paragraph 286 are not directed toward Philip Morris USA, and, therefore, no response is required. Paragraph 286 also asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 286 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 286. To the extent the allegations of Paragraph 286 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

287. The allegations of Paragraph 287 are not directed toward Philip Morris USA, and, therefore, no response is required. Paragraph 287 also asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 287 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 287. To the extent the allegations of Paragraph 287 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

288. The allegations of Paragraph 288 are not directed toward Philip Morris USA, and, therefore, no response is required. Paragraph 288 also asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 288 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 288. To the extent the allegations of Paragraph 288 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

289. The allegations of Paragraph 289 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA is

1 without knowledge or information sufficient to form a belief as to the truth of the allegations of
2 Paragraph 289 and, therefore, denies the same.

3 290. The allegations of Paragraph 290 are not directed toward Philip Morris USA, and,
4 therefore, no response is required. To the extent a response is required and to the extent the
5 allegations of Paragraph 290 are directed toward Philip Morris USA, Philip Morris USA admits
6 that the allegations of Paragraph 290 purport to selectively quote, reference, and/or paraphrase
7 certain alleged documents and/or statements, but denies that the alleged documents and/or
8 statements are quoted, referenced, and/or paraphrased in context or in their entirety, denies
9 Plaintiffs' characterization of the alleged documents and/or statements, and denies Plaintiffs'
10 innuendo and implication regarding the content or meaning of the alleged documents and/or
11 statements. Philip Morris USA states that the alleged documents and/or statements speak for
12 themselves. Philip Morris USA denies the remaining allegations of Paragraph 290 to the extent
13 they are directed toward Philip Morris USA. To the extent the allegations of Paragraph 290 are
14 directed toward other Defendants, Philip Morris USA is without knowledge or information
15 sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

16 291. The allegations of Paragraph 291 are not directed toward Philip Morris USA, and,
17 therefore, no response is required. To the extent a response is required, Philip Morris USA is
18 without knowledge or information sufficient to form a belief as to the truth of the allegations of
19 Paragraph 291 and, therefore, denies the same.

20 292. The allegations of Paragraph 292 are not directed toward Philip Morris USA, and,
21 therefore, no response is required. To the extent a response is required and to the extent the
22 allegations of Paragraph 292 are directed toward Philip Morris USA, Philip Morris USA denies
23 the allegations of Paragraph 292. To the extent the allegations of Paragraph 292 are directed
24 toward other Defendants, Philip Morris USA is without knowledge or information sufficient to
25 form a belief as to the truth of those allegations and, therefore, denies the same.

26 293. The allegations of Paragraph 293 are not directed toward Philip Morris USA, and,
27 therefore, no response is required. To the extent a response is required and to the extent the
28 allegations of Paragraph 293 are directed toward Philip Morris USA, Philip Morris USA denies

the allegations of Paragraph 293. To the extent the allegations of Paragraph 293 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

294. The allegations of Paragraph 294 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required and to the extent the allegations of Paragraph 294 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 294. To the extent the allegations of Paragraph 294 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

295. The allegations of Paragraph 295 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required and to the extent the allegations of Paragraph 295 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 295. To the extent the allegations of Paragraph 295 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

296. The allegations of Paragraph 296 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required and to the extent the allegations of Paragraph 296 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 296. To the extent the allegations of Paragraph 296 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

297. The allegations of Paragraph 297 are not directed toward Philip Morris USA, and, therefore, no response is required. Paragraph 297 also asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 297 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 297. To the extent the allegations of Paragraph 297 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

1 298. The allegations of Paragraph 298 are not directed toward Philip Morris USA, and,
2 therefore, no response is required. Paragraph 298 also asserts legal conclusions to which no
3 response is required. To the extent a response is required and to the extent the allegations of
4 Paragraph 298 are directed toward Philip Morris USA, Philip Morris USA denies the allegations
5 of Paragraph 298. To the extent the allegations of Paragraph 298 are directed toward other
6 Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief
7 as to the truth of those allegations and, therefore, denies the same.

8 299. The allegations of Paragraph 299 are not directed toward Philip Morris USA, and,
9 therefore, no response is required. Paragraph 299 also asserts legal conclusions to which no
10 response is required. To the extent a response is required and to the extent the allegations of
11 Paragraph 299 are directed toward Philip Morris USA, Philip Morris USA denies the allegations
12 of Paragraph 299. To the extent the allegations of Paragraph 299 are directed toward other
13 Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief
14 as to the truth of those allegations and, therefore, denies the same.

15 300. The allegations of Paragraph 300 are not directed toward Philip Morris USA, and,
16 therefore, no response is required. Paragraph 300 also asserts legal conclusions to which no
17 response is required. To the extent a response is required and to the extent the allegations of
18 Paragraph 300 are directed toward Philip Morris USA, Philip Morris USA denies the allegations
19 of Paragraph 300. To the extent the allegations of Paragraph 300 are directed toward other
20 Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief
21 as to the truth of those allegations and, therefore, denies the same.

22 301. The allegations of Paragraph 301 are not directed toward Philip Morris USA, and,
23 therefore, no response is required. Paragraph 301 also asserts legal conclusions to which no
24 response is required. To the extent a response is required and to the extent the allegations of
25 Paragraph 301 are directed toward Philip Morris USA, Philip Morris USA denies the allegations
26 of Paragraph 301. To the extent the allegations of Paragraph 301 are directed toward other
27 Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief
28 as to the truth of those allegations and, therefore, denies the same.

302. The allegations of Paragraph 302 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 302 and, therefore, denies the same.

303. The allegations of Paragraph 303 are not directed toward Philip Morris USA, and, therefore, no response is required. Paragraph 303 also asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 303 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 303. To the extent the allegations of Paragraph 303 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

304. The allegations of Paragraph 304 are not directed toward Philip Morris USA, and, therefore, no response is required. Paragraph 304 also asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 304 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 304. To the extent the allegations of Paragraph 304 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

305. The allegations of Paragraph 305 are not directed toward Philip Morris USA, and, therefore, no response is required. Paragraph 305 also asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 305 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 305. To the extent the allegations of Paragraph 305 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

306. The allegations of Paragraph 306 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of



Paragraph 306 and, therefore, denies the same.

307. The allegations of Paragraph 307 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 307 and, therefore, denies the same.

308. The allegations of Paragraph 308 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 308 and, therefore, denies the same.

309. The allegations of Paragraph 309 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 309 and, therefore, denies the same.

310. The allegations of Paragraph 310 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 310 and, therefore, denies the same.

311. The allegations of Paragraph 311 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 311 and, therefore, denies the same.

312. The allegations of Paragraph 312 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 312 and, therefore, denies the same.

313. The allegations of Paragraph 313 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of

Paragraph 313 and, therefore, denies the same.

314. The allegations of Paragraph 314 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA restates, realleges, and incorporates by reference its responses to all prior allegations of the Complaint as if fully set forth herein.

315. The allegations of Paragraph 315 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 315 and, therefore, denies the same.

316. The allegations of Paragraph 316 are not directed toward Philip Morris USA, and, therefore, no response is required. Paragraph 316 also asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 316 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 316. To the extent the allegations of Paragraph 316 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

317. The allegations of Paragraph 317 are not directed toward Philip Morris USA, and, therefore, no response is required. Paragraph 317 also asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 317 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 317. To the extent the allegations of Paragraph 317 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

320. The allegations of Paragraph 320¹ are not directed toward Philip Morris USA, and, therefore, no response is required. Paragraph 320 also asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of

¹ Plaintiffs have misnumbered the remaining paragraphs in this Complaint. To avoid confusion, Philip Morris USA will use the numbering as it appears in the Complaint.

Paragraph 320 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 320. To the extent the allegations of Paragraph 320 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

321. The allegations of Paragraph 321 are not directed toward Philip Morris USA, and, therefore, no response is required. Paragraph 321 also asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 321 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 321. To the extent the allegations of Paragraph 321 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

322. The allegations of Paragraph 322 are not directed toward Philip Morris USA, and, therefore, no response is required. Paragraph 322 also asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 322 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 322. To the extent the allegations of Paragraph 322 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

323. The allegations of Paragraph 323 are not directed toward Philip Morris USA, and, therefore, no response is required. Paragraph 323 also asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 323 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 323. To the extent the allegations of Paragraph 323 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

324. The allegations of Paragraph 324 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of

Paragraph 324 and, therefore, denies the same.

325. The allegations of Paragraph 325 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required and to the extent the allegations of Paragraph 325 are directed toward Philip Morris USA, Philip Morris USA admits that the allegations of Paragraph 325 purport to selectively quote, reference, and/or paraphrase certain alleged documents and/or statements, but denies that the alleged documents and/or statements are quoted, referenced, and/or paraphrased in context or in their entirety, denies Plaintiffs' characterization of the alleged documents and/or statements, and denies Plaintiffs' innuendo and implication regarding the content or meaning of the alleged documents and/or statements. Philip Morris USA states that the alleged documents and/or statements speak for themselves. Philip Morris USA denies the remaining allegations of Paragraph 325 to the extent they are directed toward Philip Morris USA. To the extent the allegations of Paragraph 325 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

326. The allegations of Paragraph 326 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 326 and, therefore, denies the same.

327. The allegations of Paragraph 327 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required and to the extent the allegations of Paragraph 327 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 327. To the extent the allegations of Paragraph 327 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

328. The allegations of Paragraph 328 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required and to the extent the allegations of Paragraph 328 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 328. To the extent the allegations of Paragraph 328 are directed

1 toward other Defendants, Philip Morris USA is without knowledge or information sufficient to
2 form a belief as to the truth of those allegations and, therefore, denies the same.

3 329. The allegations of Paragraph 329 are not directed toward Philip Morris USA, and,
4 therefore, no response is required. To the extent a response is required and to the extent the
5 allegations of Paragraph 329 are directed toward Philip Morris USA, Philip Morris USA denies
6 the allegations of Paragraph 329. To the extent the allegations of Paragraph 329 are directed
7 toward other Defendants, Philip Morris USA is without knowledge or information sufficient to
8 form a belief as to the truth of those allegations and, therefore, denies the same.

9 330. The allegations of Paragraph 330 are not directed toward Philip Morris USA, and,
10 therefore, no response is required. To the extent a response is required and to the extent the
11 allegations of Paragraph 330 are directed toward Philip Morris USA, Philip Morris USA denies
12 the allegations of Paragraph 330. To the extent the allegations of Paragraph 330 are directed
13 toward other Defendants, Philip Morris USA is without knowledge or information sufficient to
14 form a belief as to the truth of those allegations and, therefore, denies the same.

15 331. The allegations of Paragraph 331 are not directed toward Philip Morris USA, and,
16 therefore, no response is required. To the extent a response is required and to the extent the
17 allegations of Paragraph 331 are directed toward Philip Morris USA, Philip Morris USA denies
18 the allegations of Paragraph 331. To the extent the allegations of Paragraph 331 are directed
19 toward other Defendants, Philip Morris USA is without knowledge or information sufficient to
20 form a belief as to the truth of those allegations and, therefore, denies the same.

21 332. The allegations of Paragraph 332 are not directed toward Philip Morris USA, and,
22 therefore, no response is required. Paragraph 332 also asserts legal conclusions to which no
23 response is required. To the extent a response is required and to the extent the allegations of
24 Paragraph 332 are directed toward Philip Morris USA, Philip Morris USA denies the allegations
25 of Paragraph 332. To the extent the allegations of Paragraph 332 are directed toward other
26 Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief
27 as to the truth of those allegations and, therefore, denies the same.

28 333. The allegations of Paragraph 333 are not directed toward Philip Morris USA, and,

1 therefore, no response is required. Paragraph 333 also asserts legal conclusions to which no
2 response is required. To the extent a response is required and to the extent the allegations of
3 Paragraph 333 are directed toward Philip Morris USA, Philip Morris USA denies the allegations
4 of Paragraph 333. To the extent the allegations of Paragraph 333 are directed toward other
5 Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief
6 as to the truth of those allegations and, therefore, denies the same.

7 334. The allegations of Paragraph 334 are not directed toward Philip Morris USA, and,
8 therefore, no response is required. Paragraph 334 also asserts legal conclusions to which no
9 response is required. To the extent a response is required and to the extent the allegations of
10 Paragraph 334 are directed toward Philip Morris USA, Philip Morris USA denies the allegations
11 of Paragraph 334. To the extent the allegations of Paragraph 334 are directed toward other
12 Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief
13 as to the truth of those allegations and, therefore, denies the same.

14 335. The allegations of Paragraph 335 are not directed toward Philip Morris USA, and,
15 therefore, no response is required. Paragraph 335 also asserts legal conclusions to which no
16 response is required. To the extent a response is required and to the extent the allegations of
17 Paragraph 335 are directed toward Philip Morris USA, Philip Morris USA denies the allegations
18 of Paragraph 335. To the extent the allegations of Paragraph 335 are directed toward other
19 Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief
20 as to the truth of those allegations and, therefore, denies the same.

21 336. The allegations of Paragraph 336 are not directed toward Philip Morris USA, and,
22 therefore, no response is required. Paragraph 336 also asserts legal conclusions to which no
23 response is required. To the extent a response is required and to the extent the allegations of
24 Paragraph 336 are directed toward Philip Morris USA, Philip Morris USA denies the allegations
25 of Paragraph 336. To the extent the allegations of Paragraph 336 are directed toward other
26 Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief
27 as to the truth of those allegations and, therefore, denies the same.

28 337. The allegations of Paragraph 337 are not directed toward Philip Morris USA, and,

therefore, no response is required. To the extent a response is required, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 337 and, therefore, denies the same.

338. The allegations of Paragraph 338 are not directed toward Philip Morris USA, and, therefore, no response is required. Paragraph 338 also asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 338 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 338. To the extent the allegations of Paragraph 338 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

339. The allegations of Paragraph 339 are not directed toward Philip Morris USA, and, therefore, no response is required. Paragraph 339 also asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 339 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 339. To the extent the allegations of Paragraph 339 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

340. The allegations of Paragraph 340 are not directed toward Philip Morris USA, and, therefore, no response is required. Paragraph 340 also asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 340 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 340. To the extent the allegations of Paragraph 340 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

341. The allegations of Paragraph 341 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 341 and, therefore, denies the same.



1 342. The allegations of Paragraph 342 are not directed toward Philip Morris USA, and,
2 therefore, no response is required. To the extent a response is required, Philip Morris USA is
3 without knowledge or information sufficient to form a belief as to the truth of the allegations of
4 Paragraph 342 and, therefore, denies the same.

5 343. The allegations of Paragraph 343 are not directed toward Philip Morris USA, and,
6 therefore, no response is required. To the extent a response is required, Philip Morris USA is
7 without knowledge or information sufficient to form a belief as to the truth of the allegations of
8 Paragraph 343 and, therefore, denies the same.

9 344. The allegations of Paragraph 344 are not directed toward Philip Morris USA, and,
10 therefore, no response is required. To the extent a response is required, Philip Morris USA is
11 without knowledge or information sufficient to form a belief as to the truth of the allegations of
12 Paragraph 344 and, therefore, denies the same.

13 345. The allegations of Paragraph 345 are not directed toward Philip Morris USA, and,
14 therefore, no response is required. To the extent a response is required, Philip Morris USA is
15 without knowledge or information sufficient to form a belief as to the truth of the allegations of
16 Paragraph 345 and, therefore, denies the same.

17 346. The allegations of Paragraph 346 are not directed toward Philip Morris USA, and,
18 therefore, no response is required. To the extent a response is required, Philip Morris USA is
19 without knowledge or information sufficient to form a belief as to the truth of the allegations of
20 Paragraph 346 and, therefore, denies the same.

21 347. The allegations of Paragraph 347 are not directed toward Philip Morris USA, and,
22 therefore, no response is required. To the extent a response is required, Philip Morris USA is
23 without knowledge or information sufficient to form a belief as to the truth of the allegations of
24 Paragraph 347 and, therefore, denies the same.

25 348. Philip Morris USA restates, realleges, and incorporates by reference its responses
26 to all prior paragraphs of the Complaint as if fully set forth herein.

27 349. To the extent the allegations of Paragraph 349 are directed toward Philip Morris
28 USA, Philip Morris USA admits that Plaintiffs purport to bring this action for damages, but

denies that Plaintiffs are entitled to the relief requested in this Complaint or any relief whatsoever. Philip Morris USA denies the remaining allegations of Paragraph 349 to the extent they are directed toward Philip Morris USA. To the extent the allegations of Paragraph 349 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

350. Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 350 and, therefore, denies the same.

351. Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 351 and, therefore, denies the same.

352. Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 352 and, therefore, denies the same.

353. To the extent the allegations of Paragraph 353 are directed toward Philip Morris USA, Philip Morris USA admits that Plaintiffs purport to bring this action for damages, but denies that Plaintiffs are entitled to the relief requested in this Complaint or any relief whatsoever. Philip Morris USA denies the remaining allegations of Paragraph 353 to the extent they are directed toward Philip Morris USA. To the extent the allegations of Paragraph 353 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

354. Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 354 and, therefore, denies the same.

355. To the extent the allegations of Paragraph 355 are directed toward Philip Morris USA, Philip Morris USA admits that Plaintiff purports to bring this action for damages, but denies that Plaintiff is entitled to the relief requested in this Complaint or any relief whatsoever. Philip Morris USA denies the remaining allegations of Paragraph 355 to the extent they are directed toward Philip Morris USA. To the extent the allegations of Paragraph 355 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

356. Paragraph 356 asserts legal conclusions to which no response is required. To the

1 extent a response is required and to the extent the allegations of Paragraph 356 are directed
2 toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 356. To the
3 extent the allegations of Paragraph 356 are directed toward other Defendants, Philip Morris USA
4 is without knowledge or information sufficient to form a belief as to the truth of those allegations
5 and, therefore, denies the same.

6 357. Paragraph 357 asserts legal conclusions to which no response is required. To the
7 extent a response is required and to the extent the allegations of Paragraph 357 are directed
8 toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 357. To the
9 extent the allegations of Paragraph 357 are directed toward other Defendants, Philip Morris USA
10 is without knowledge or information sufficient to form a belief as to the truth of those allegations
11 and, therefore, denies the same.

12 358. Paragraph 358 asserts legal conclusions to which no response is required. To the
13 extent a response is required and to the extent the allegations of Paragraph 358 are directed
14 toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 358. To the
15 extent the allegations of Paragraph 358 are directed toward other Defendants, Philip Morris USA
16 is without knowledge or information sufficient to form a belief as to the truth of those allegations
17 and, therefore, denies the same.

18 359. Paragraph 359 asserts legal conclusions to which no response is required. To the
19 extent a response is required and to the extent the allegations of Paragraph 359 are directed
20 toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 359. To the
21 extent the allegations of Paragraph 359 are directed toward other Defendants, Philip Morris USA
22 is without knowledge or information sufficient to form a belief as to the truth of those allegations
23 and, therefore, denies the same.

24 360. Paragraph 360 asserts legal conclusions to which no response is required. To the
25 extent a response is required and to the extent the allegations of Paragraph 360 are directed
26 toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 360. To the
27 extent the allegations of Paragraph 360 are directed toward other Defendants, Philip Morris USA
28 is without knowledge or information sufficient to form a belief as to the truth of those allegations

and, therefore, denies the same.

361. Paragraph 361 asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 361 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 361. To the extent the allegations of Paragraph 361 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

362. Paragraph 362 asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 362 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 362. To the extent the allegations of Paragraph 362 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

363. Paragraph 363 asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 363 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 363. To the extent the allegations of Paragraph 363 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

364. Paragraph 364 asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 364 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 364. To the extent the allegations of Paragraph 364 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

365. Paragraph 365 asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 365 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 365. To the

1 extent the allegations of Paragraph 365 are directed toward other Defendants, Philip Morris USA
2 is without knowledge or information sufficient to form a belief as to the truth of those allegations
3 and, therefore, denies the same.

4 366. Paragraph 366 asserts legal conclusions to which no response is required. To the
5 extent a response is required and to the extent the allegations of Paragraph 366 are directed
6 toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 366. To the
7 extent the allegations of Paragraph 366 are directed toward other Defendants, Philip Morris USA
8 is without knowledge or information sufficient to form a belief as to the truth of those allegations
9 and, therefore, denies the same.

10 367. Paragraph 367 asserts legal conclusions to which no response is required. To the
11 extent a response is required and to the extent the allegations of Paragraph 367 are directed
12 toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 367. To the
13 extent the allegations of Paragraph 367 are directed toward other Defendants, Philip Morris USA
14 is without knowledge or information sufficient to form a belief as to the truth of those allegations
15 and, therefore, denies the same.

16 368. Paragraph 368 asserts legal conclusions to which no response is required. To the
17 extent a response is required and to the extent the allegations of Paragraph 368 are directed
18 toward Philip Morris USA, Philip Morris USA admits that Plaintiffs purport to seek damages
19 that exceed \$15,000.00, but denies that Plaintiffs are entitled to the relief requested in this
20 Complaint or any relief whatsoever. Philip Morris USA denies the remaining allegations of
21 Paragraph 368 to the extent they are directed toward Philip Morris USA. To the extent the
22 allegations of Paragraph 368 are directed toward other Defendants, Philip Morris USA is without
23 knowledge or information sufficient to form a belief as to the truth of those allegations and,
24 therefore, denies the same.

25 369. Paragraph 369 asserts legal conclusions to which no response is required. To the
26 extent a response is required and to the extent the allegations of Paragraph 369 are directed
27 toward Philip Morris USA, Philip Morris USA admits that Plaintiffs purport to seek damages
28 that exceed \$15,000.00, but denies that Plaintiffs are entitled to the relief requested in Paragraph

369, or any relief whatsoever. Philip Morris USA denies the remaining allegations of Paragraph 369 to the extent they are directed toward Philip Morris USA. To the extent the allegations of Paragraph 369 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

370. Paragraph 370 asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 370 are directed toward Philip Morris USA, Philip Morris USA admits that Plaintiff purports to seek damages that exceed \$15,000.00, but denies that Plaintiff is entitled to the relief requested in Paragraph 370, or any relief whatsoever. Philip Morris USA denies the remaining allegations of Paragraph 370 to the extent they are directed toward Philip Morris USA. To the extent the allegations of Paragraph 370 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

371. Paragraph 371 asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 371 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 371. To the extent the allegations of Paragraph 371 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

372. Paragraph 372 asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 372 are directed toward Philip Morris USA, Philip Morris USA admits that Plaintiff purports to bring this action for exemplary and punitive damages, but denies that Plaintiff is entitled to the relief requested in this Complaint or any relief whatsoever. Philip Morris USA denies the remaining allegations of Paragraph 372 to the extent they are directed toward Philip Morris USA. To the extent the allegations of Paragraph 372 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and,



1 therefore, denies the same.

2 373. Paragraph 373 asserts legal conclusions to which no response is required. To the
3 extent a response is required and to the extent the allegations of Paragraph 373 are directed
4 toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 373. To the
5 extent the allegations of Paragraph 373 are directed toward other Defendants, Philip Morris USA
6 is without knowledge or information sufficient to form a belief as to the truth of those allegations
7 and, therefore, denies the same.

8 374. Paragraph 374 asserts legal conclusions to which no response is required. To the
9 extent a response is required and to the extent the allegations of Paragraph 374 are directed
10 toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 374. To the
11 extent the allegations of Paragraph 374 are directed toward other Defendants, Philip Morris USA
12 is without knowledge or information sufficient to form a belief as to the truth of those allegations
13 and, therefore, denies the same.

14 375. Philip Morris USA restates, realleges, and incorporates by reference its responses
15 to all prior paragraphs of the Complaint as if fully set forth herein.

16 376. To the extent the allegations of Paragraph 376 are directed toward Philip Morris
17 USA, Philip Morris USA admits that Plaintiff purports to bring this action for damages, but
18 denies that Plaintiff is entitled to the relief requested in this Complaint or any relief whatsoever.
19 Philip Morris USA denies the remaining allegations of Paragraph 376 to the extent they are
20 directed toward Philip Morris USA. To the extent the allegations of Paragraph 376 are directed
21 toward other Defendants, Philip Morris USA is without knowledge or information sufficient to
22 form a belief as to the truth of those allegations and, therefore, denies the same.

23 377. Paragraph 377 asserts legal conclusions to which no response is required. To the
24 extent a response is required and to the extent the allegations of Paragraph 377 are directed
25 toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 377. To the
26 extent the allegations of Paragraph 377 are directed toward other Defendants, Philip Morris USA
27 is without knowledge or information sufficient to form a belief as to the truth of those allegations
28 and, therefore, denies the same.

1 378. Paragraph 378 asserts legal conclusions to which no response is required. To the
2 extent a response is required and to the extent the allegations of Paragraph 378 are directed
3 toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 378. To the
4 extent the allegations of Paragraph 378 are directed toward other Defendants, Philip Morris USA
5 is without knowledge or information sufficient to form a belief as to the truth of those allegations
6 and, therefore, denies the same.

7 379. Paragraph 379 asserts legal conclusions to which no response is required. To the
8 extent a response is required and to the extent the allegations of Paragraph 379 are directed
9 toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 379. To the
10 extent the allegations of Paragraph 379 are directed toward other Defendants, Philip Morris USA
11 is without knowledge or information sufficient to form a belief as to the truth of those allegations
12 and, therefore, denies the same.

13 380. Paragraph 380 asserts legal conclusions to which no response is required. To the
14 extent a response is required and to the extent the allegations of Paragraph 380 are directed
15 toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 380. To the
16 extent the allegations of Paragraph 380 are directed toward other Defendants, Philip Morris USA
17 is without knowledge or information sufficient to form a belief as to the truth of those allegations
18 and, therefore, denies the same.

19 381. Paragraph 381 asserts legal conclusions to which no response is required. To the
20 extent a response is required and to the extent the allegations of Paragraph 381 are directed
21 toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 381. To the
22 extent the allegations of Paragraph 381 are directed toward other Defendants, Philip Morris USA
23 is without knowledge or information sufficient to form a belief as to the truth of those allegations
24 and, therefore, denies the same.

25 382. Paragraph 382 asserts legal conclusions to which no response is required. To the
26 extent a response is required and to the extent the allegations of Paragraph 382 are directed
27 toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 382. To the
28 extent the allegations of Paragraph 382 are directed toward other Defendants, Philip Morris USA

is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

383. Paragraph 383 asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 383 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 383. To the extent the allegations of Paragraph 383 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

384. Paragraph 384 asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 384 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 384. To the extent the allegations of Paragraph 384 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

385. Paragraph 385 asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 385 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 385. To the extent the allegations of Paragraph 385 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

386. Paragraph 386 asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 386 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 386. To the extent the allegations of Paragraph 386 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

387. Paragraph 387 asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 387 are directed

toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 387. To the extent the allegations of Paragraph 387 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

388. Paragraph 388 asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 388 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 388. To the extent the allegations of Paragraph 388 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

389. Paragraph 389 asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 389 are directed toward Philip Morris USA, Philip Morris USA admits that Plaintiff purports to seek damages that exceed \$15,000.00, but denies that Plaintiff is entitled to the relief requested in this Complaint or any relief whatsoever. Philip Morris USA denies the remaining allegations of Paragraph 389 to the extent they are directed toward Philip Morris USA. To the extent the allegations of Paragraph 389 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

390. Paragraph 390 asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 390 are directed toward Philip Morris USA, Philip Morris USA admits that Plaintiff purports to seek damages that exceed \$15,000.00, but denies that Plaintiff is entitled to the relief requested in Paragraph 390, or any relief whatsoever. Philip Morris USA denies the remaining allegations of Paragraph 390 to the extent they are directed toward Philip Morris USA. To the extent the allegations of Paragraph 390 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

391. Paragraph 391 asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 391 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 391. To the extent the allegations of Paragraph 391 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

392. Paragraph 392 asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 392 are directed toward Philip Morris USA, Philip Morris USA admits that Plaintiff purports to bring this action for exemplary and punitive damages, but denies that Plaintiff is entitled to the relief requested in this Complaint or any relief whatsoever. Philip Morris USA denies the remaining allegations of Paragraph 392 to the extent they are directed toward Philip Morris USA. To the extent the allegations of Paragraph 392 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

393. Paragraph 393 asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 393 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 393. To the extent the allegations of Paragraph 393 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

394. Paragraph 394 asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 394 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 394. To the extent the allegations of Paragraph 394 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

395. Philip Morris USA restates, realleges, and incorporates by reference its responses

to all prior paragraphs of the Complaint as if fully set forth herein.

396. To the extent the allegations of Paragraph 396 are directed toward Philip Morris USA, Philip Morris USA admits that Plaintiffs purport to bring this action for damages, but denies that Plaintiffs are entitled to the relief requested in this Complaint or any relief whatsoever. Philip Morris USA denies the remaining allegations of Paragraph 396 to the extent they are directed toward Philip Morris USA. To the extent the allegations of Paragraph 396 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

397. Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 397 and, therefore, denies the same.

398. Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 398 and, therefore, denies the same.

399. Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 399 and, therefore, denies the same.

400. To the extent the allegations of Paragraph 400 are directed toward Philip Morris USA, Philip Morris USA admits that Plaintiffs purport to bring this action for damages, but denies that Plaintiffs are entitled to the relief requested in this Complaint or any relief whatsoever. Philip Morris USA denies the remaining allegations of Paragraph 400 to the extent they are directed toward Philip Morris USA. To the extent the allegations of Paragraph 400 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

401. Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 401 and, therefore, denies the same.

402. To the extent the allegations of Paragraph 402 are directed toward Philip Morris USA, Philip Morris USA admits that Plaintiff purports to bring this action for damages, but denies that Plaintiff is entitled to the relief requested in this Complaint or any relief whatsoever. Philip Morris USA denies the remaining allegations of Paragraph 402 to the extent they are directed toward Philip Morris USA. To the extent the allegations of Paragraph 402 are directed

toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

403. Philip Morris USA states that it is unable to respond to the allegations of Paragraph 403 in any meaningful manner because the phrase “[a]t all times relevant herein” is not defined in Plaintiffs’ Complaint. To the extent a response is required, Philip Morris USA admits that Plaintiffs purport to seek damages under the Nevada Deceptive Trade Practices Act, but denies that Plaintiffs are entitled to the relief requested in Paragraph 403, or any relief whatsoever. Philip Morris USA denies the remaining allegations of Paragraph 403.

404. Paragraph 404 asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 404 are directed toward Philip Morris USA, Philip Morris USA admits that Plaintiffs purport to seek damages under the Nevada Deceptive Trade Practices Act, but denies that Plaintiffs are entitled to the relief requested in Paragraph 404, or any relief whatsoever. Philip Morris USA denies the remaining allegations of Paragraph 404 to the extent they are directed toward Philip Morris USA. To the extent the allegations of Paragraph 404 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

405. Paragraph 405 asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 405 are directed toward Philip Morris USA, Philip Morris USA admits that Plaintiffs purport to seek damages under the Nevada Deceptive Trade Practices Act, but denies that Plaintiffs are entitled to the relief requested in Paragraph 405, or any relief whatsoever. Philip Morris USA denies the remaining allegations of Paragraph 405 to the extent they are directed toward Philip Morris USA. To the extent the allegations of Paragraph 405 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

406. Philip Morris USA admits that the allegations of Paragraph 406 purport to selectively quote, reference, and/or paraphrase certain provisions of the Nevada Deceptive Trade

Practices Act, but denies that the statute is quoted, referenced, and/or paraphrased in context or in its entirety. Philip Morris USA states that the statute speaks for itself. Philip Morris denies that Plaintiffs are entitled to the relief requested in Paragraph 406, or any relief whatsoever. Philip Morris USA denies the remaining allegations of Paragraph 406.

407. Paragraph 407 asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 407 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 407. To the extent the allegations of Paragraph 407 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

408. Paragraph 408 asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 408 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 408. To the extent the allegations of Paragraph 408 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

409. Paragraph 409 asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 409 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 409. To the extent the allegations of Paragraph 409 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

410. Paragraph 410 asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 410 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 410. To the extent the allegations of Paragraph 410 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

1 411. Paragraph 411 asserts legal conclusions to which no response is required. To the
2 extent a response is required and to the extent the allegations of Paragraph 411 are directed
3 toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 411. To the
4 extent the allegations of Paragraph 411 are directed toward other Defendants, Philip Morris USA
5 is without knowledge or information sufficient to form a belief as to the truth of those allegations
6 and, therefore, denies the same.

7 412. Paragraph 412 asserts legal conclusions to which no response is required. To the
8 extent a response is required and to the extent the allegations of Paragraph 412 are directed
9 toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 412. To the
10 extent the allegations of Paragraph 412 are directed toward other Defendants, Philip Morris USA
11 is without knowledge or information sufficient to form a belief as to the truth of those allegations
12 and, therefore, denies the same.

13 413. Paragraph 413 asserts legal conclusions to which no response is required. To the
14 extent a response is required and to the extent the allegations of Paragraph 413 are directed
15 toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 413. To the
16 extent the allegations of Paragraph 413 are directed toward other Defendants, Philip Morris USA
17 is without knowledge or information sufficient to form a belief as to the truth of those allegations
18 and, therefore, denies the same.

19 414. Paragraph 414 asserts legal conclusions to which no response is required. To the
20 extent a response is required and to the extent the allegations of Paragraph 414 are directed
21 toward Philip Morris USA, Philip Morris USA admits that Plaintiffs purport to seek damages
22 that exceed \$15,000.00, but denies that Plaintiffs are entitled to the relief requested in this
23 Complaint or any relief whatsoever. Philip Morris USA denies the remaining allegations of
24 Paragraph 414 to the extent they are directed toward Philip Morris USA. To the extent the
25 allegations of Paragraph 414 are directed toward other Defendants, Philip Morris USA is without
26 knowledge or information sufficient to form a belief as to the truth of those allegations and,
27 therefore, denies the same.

28 ///

415. Paragraph 415 asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 415 are directed toward Philip Morris USA, Philip Morris USA admits that Plaintiffs purport to seek damages that exceed \$15,000.00, but denies that Plaintiffs are entitled to the relief requested in Paragraph 415, or any relief whatsoever. Philip Morris USA denies the remaining allegations of Paragraph 415 to the extent they are directed toward Philip Morris USA. To the extent the allegations of Paragraph 415 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

416. Paragraph 416 asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 416 are directed toward Philip Morris USA, Philip Morris USA admits that Plaintiff purports to seek damages that exceed \$15,000.00, but denies that Plaintiff is entitled to the relief requested in Paragraph 416, or any relief whatsoever. Philip Morris USA denies the remaining allegations of Paragraph 416 to the extent they are directed toward Philip Morris USA. To the extent the allegations of Paragraph 416 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

417. Paragraph 417 asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 417 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 417. To the extent the allegations of Paragraph 417 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

418. Paragraph 418 asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 418 are directed toward Philip Morris USA, Philip Morris USA admits that Plaintiff purports to bring this action for exemplary and punitive damages, but denies that Plaintiff is entitled to the relief requested in

1 this Complaint or any relief whatsoever. Philip Morris USA denies the remaining allegations of
2 Paragraph 418 to the extent they are directed toward Philip Morris USA. To the extent the
3 allegations of Paragraph 418 are directed toward other Defendants, Philip Morris USA is without
4 knowledge or information sufficient to form a belief as to the truth of those allegations and,
5 therefore, denies the same.

6 419. Paragraph 419 asserts legal conclusions to which no response is required. To the
7 extent a response is required and to the extent the allegations of Paragraph 419 are directed
8 toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 419. To the
9 extent the allegations of Paragraph 419 are directed toward other Defendants, Philip Morris USA
10 is without knowledge or information sufficient to form a belief as to the truth of those allegations
11 and, therefore, denies the same.

12 420. Paragraph 420 asserts legal conclusions to which no response is required. To the
13 extent a response is required and to the extent the allegations of Paragraph 420 are directed
14 toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 420. To the
15 extent the allegations of Paragraph 420 are directed toward other Defendants, Philip Morris USA
16 is without knowledge or information sufficient to form a belief as to the truth of those allegations
17 and, therefore, denies the same.

18 421. Philip Morris USA restates, realleges, and incorporates by reference its responses
19 to all prior paragraphs of the Complaint as if fully set forth herein.

20 422. To the extent the allegations of Paragraph 422 are directed toward Philip Morris
21 USA, Philip Morris USA admits that Plaintiff purports to bring this action for damages, but
22 denies that Plaintiff is entitled to the relief requested in this Complaint or any relief whatsoever.
23 Philip Morris USA denies the remaining allegations of Paragraph 422 to the extent they are
24 directed toward Philip Morris USA. To the extent the allegations of Paragraph 422 are directed
25 toward other Defendants, Philip Morris USA is without knowledge or information sufficient to
26 form a belief as to the truth of those allegations and, therefore, denies the same.

27 423. Philip Morris USA states that it is unable to respond to the allegations of
28 Paragraph 423 in any meaningful manner because the phrase “[a]t all times relevant herein” is



1 not defined in Plaintiffs' Complaint. To the extent a response is required, Philip Morris USA
2 admits that Plaintiff purports to seek damages under the Nevada Deceptive Trade Practices Act,
3 but denies that Plaintiff is entitled to the relief requested in Paragraph 423, or any relief
4 whatsoever. Philip Morris USA denies the remaining allegations of Paragraph 423.

5 424. Paragraph 424 asserts legal conclusions to which no response is required. To the
6 extent a response is required and to the extent the allegations of Paragraph 424 are directed
7 toward Philip Morris USA, Philip Morris USA admits that Plaintiff purports to seek damages
8 under the Nevada Deceptive Trade Practices Act, but denies that Plaintiff is entitled to the relief
9 requested in Paragraph 424, or any relief whatsoever. Philip Morris USA denies the remaining
10 allegations of Paragraph 424 to the extent they are directed toward Philip Morris USA. To the
11 extent the allegations of Paragraph 424 are directed toward other Defendants, Philip Morris USA
12 is without knowledge or information sufficient to form a belief as to the truth of those allegations
13 and, therefore, denies the same.

14 425. Paragraph 425 asserts legal conclusions to which no response is required. To the
15 extent a response is required and to the extent the allegations of Paragraph 425 are directed
16 toward Philip Morris USA, Philip Morris USA admits that Plaintiff purports to seek damages
17 under the Nevada Deceptive Trade Practices Act, but denies that Plaintiff is entitled to the relief
18 requested in Paragraph 425, or any relief whatsoever. Philip Morris USA denies the remaining
19 allegations of Paragraph 425 to the extent they are directed toward Philip Morris USA. To the
20 extent the allegations of Paragraph 425 are directed toward other Defendants, Philip Morris USA
21 is without knowledge or information sufficient to form a belief as to the truth of those allegations
22 and, therefore, denies the same.

23 426. Philip Morris USA admits that the allegations of Paragraph 426 purport to
24 selectively quote, reference, and/or paraphrase certain provisions of the Nevada Deceptive Trade
25 Practices Act, but denies that the statute is quoted, referenced, and/or paraphrased in context or
26 in its entirety. Philip Morris USA states that the statute speaks for itself. Philip Morris denies
27 that Plaintiff is entitled to the relief requested in Paragraph 426, or any relief whatsoever. Philip
28 Morris USA denies the remaining allegations of Paragraph 426.



1 427. Paragraph 427 asserts legal conclusions to which no response is required. To the
2 extent a response is required and to the extent the allegations of Paragraph 427 are directed
3 toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 427. To the
4 extent the allegations of Paragraph 427 are directed toward other Defendants, Philip Morris USA
5 is without knowledge or information sufficient to form a belief as to the truth of those allegations
6 and, therefore, denies the same.

7 428. Paragraph 428 asserts legal conclusions to which no response is required. To the
8 extent a response is required and to the extent the allegations of Paragraph 428 are directed
9 toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 428. To the
10 extent the allegations of Paragraph 428 are directed toward other Defendants, Philip Morris USA
11 is without knowledge or information sufficient to form a belief as to the truth of those allegations
12 and, therefore, denies the same.

13 429. Paragraph 429 asserts legal conclusions to which no response is required. To the
14 extent a response is required and to the extent the allegations of Paragraph 429 are directed
15 toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 429. To the
16 extent the allegations of Paragraph 429 are directed toward other Defendants, Philip Morris USA
17 is without knowledge or information sufficient to form a belief as to the truth of those allegations
18 and, therefore, denies the same.

19 430. Paragraph 430 asserts legal conclusions to which no response is required. To the
20 extent a response is required and to the extent the allegations of Paragraph 430 are directed
21 toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 430. To the
22 extent the allegations of Paragraph 430 are directed toward other Defendants, Philip Morris USA
23 is without knowledge or information sufficient to form a belief as to the truth of those allegations
24 and, therefore, denies the same.

25 431. Paragraph 431 asserts legal conclusions to which no response is required. To the
26 extent a response is required and to the extent the allegations of Paragraph 431 are directed
27 toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 431. To the
28 extent the allegations of Paragraph 431 are directed toward other Defendants, Philip Morris USA

is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

432. Paragraph 432 asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 432 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 432. To the extent the allegations of Paragraph 432 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

433. Paragraph 433 asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 433 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 433. To the extent the allegations of Paragraph 433 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

434. Paragraph 434 asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 434 are directed toward Philip Morris USA, Philip Morris USA admits that Plaintiff purports to seek damages that exceed \$15,000.00, but denies that Plaintiff is entitled to the relief requested in this Complaint or any relief whatsoever. Philip Morris USA denies the remaining allegations of Paragraph 434 to the extent they are directed toward Philip Morris USA. To the extent the allegations of Paragraph 434 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

435. Paragraph 435 asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 435 are directed toward Philip Morris USA, Philip Morris USA admits that Plaintiff purports to seek damages that exceed \$15,000.00, but denies that Plaintiff is entitled to the relief requested in Paragraph 435, or any relief whatsoever. Philip Morris USA denies the remaining allegations of Paragraph

435 to the extent they are directed toward Philip Morris USA. To the extent the allegations of Paragraph 435 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

436. Paragraph 436 asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 436 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 436. To the extent the allegations of Paragraph 436 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

437. Paragraph 437 asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 437 are directed toward Philip Morris USA, Philip Morris USA admits that Plaintiff purports to bring this action for exemplary and punitive damages, but denies that Plaintiff is entitled to the relief requested in this Complaint or any relief whatsoever. Philip Morris USA denies the remaining allegations of Paragraph 437 to the extent they are directed toward Philip Morris USA. To the extent the allegations of Paragraph 437 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

438. Paragraph 438 asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 438 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 438. To the extent the allegations of Paragraph 438 are directed toward other Defendants, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of those allegations and, therefore, denies the same.

439. Paragraph 439 asserts legal conclusions to which no response is required. To the extent a response is required and to the extent the allegations of Paragraph 439 are directed toward Philip Morris USA, Philip Morris USA denies the allegations of Paragraph 439. To the



1 extent the allegations of Paragraph 439 are directed toward other Defendants, Philip Morris USA
2 is without knowledge or information sufficient to form a belief as to the truth of those allegations
3 and, therefore, denies the same.

4 440. The allegations of Paragraph 440 are not directed toward Philip Morris USA, and,
5 therefore, no response is required. To the extent a response is required, Philip Morris USA
6 restates, realleges, and incorporates by reference its responses to all prior allegations of the
7 Complaint as if fully set forth herein.

8 441. The allegations of Paragraph 441 are not directed toward Philip Morris USA, and,
9 therefore, no response is required. To the extent a response is required, Philip Morris USA is
10 without knowledge or information sufficient to form a belief as to the truth of the allegations of
11 Paragraph 441 and, therefore, denies the same.

12 442. The allegations of Paragraph 442 are not directed toward Philip Morris USA, and,
13 therefore, no response is required. To the extent a response is required, Philip Morris USA is
14 without knowledge or information sufficient to form a belief as to the truth of the allegations of
15 Paragraph 442 and, therefore, denies the same.

16 443. The allegations of Paragraph 443 are not directed toward Philip Morris USA, and,
17 therefore, no response is required. To the extent a response is required, Philip Morris USA is
18 without knowledge or information sufficient to form a belief as to the truth of the allegations of
19 Paragraph 443 and, therefore, denies the same.

20 444. The allegations of Paragraph 444 are not directed toward Philip Morris USA, and,
21 therefore, no response is required. To the extent a response is required, Philip Morris USA is
22 without knowledge or information sufficient to form a belief as to the truth of the allegations of
23 Paragraph 444 and, therefore, denies the same.

24 445. The allegations of Paragraph 445 are not directed toward Philip Morris USA, and,
25 therefore, no response is required. To the extent a response is required, Philip Morris USA is
26 without knowledge or information sufficient to form a belief as to the truth of the allegations of
27 Paragraph 445 and, therefore, denies the same.

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1 446. The allegations of Paragraph 446 are not directed toward Philip Morris USA, and,
2 therefore, no response is required. To the extent a response is required, Philip Morris USA is
3 without knowledge or information sufficient to form a belief as to the truth of the allegations of
4 Paragraph 446 and, therefore, denies the same.

5 447. The allegations of Paragraph 447 are not directed toward Philip Morris USA, and,
6 therefore, no response is required. To the extent a response is required, Philip Morris USA is
7 without knowledge or information sufficient to form a belief as to the truth of the allegations of
8 Paragraph 447 and, therefore, denies the same.

9 448. The allegations of Paragraph 448 are not directed toward Philip Morris USA, and,
10 therefore, no response is required. To the extent a response is required, Philip Morris USA is
11 without knowledge or information sufficient to form a belief as to the truth of the allegations of
12 Paragraph 448 and, therefore, denies the same.

13 449. The allegations of Paragraph 449 are not directed toward Philip Morris USA, and,
14 therefore, no response is required. To the extent a response is required, Philip Morris USA is
15 without knowledge or information sufficient to form a belief as to the truth of the allegations of
16 Paragraph 449 and, therefore, denies the same.

17 450. The allegations of Paragraph 450 are not directed toward Philip Morris USA, and,
18 therefore, no response is required. To the extent a response is required, Philip Morris USA is
19 without knowledge or information sufficient to form a belief as to the truth of the allegations of
20 Paragraph 450 and, therefore, denies the same.

21 451. The allegations of Paragraph 451 are not directed toward Philip Morris USA, and,
22 therefore, no response is required. To the extent a response is required, Philip Morris USA
23 denies the allegations of Paragraph 451.

24 452. The allegations of Paragraph 452 are not directed toward Philip Morris USA, and,
25 therefore, no response is required. To the extent a response is required, Philip Morris USA
26 denies the allegations of Paragraph 452.

27 453. The allegations of Paragraph 453 are not directed toward Philip Morris USA, and,
28 therefore, no response is required. To the extent a response is required, Philip Morris USA



1 denies the allegations of Paragraph 453.

2 454. The allegations of Paragraph 454 are not directed toward Philip Morris USA, and,
3 therefore, no response is required. To the extent a response is required, Philip Morris USA
4 denies the allegations of Paragraph 454.

5 455. The allegations of Paragraph 455 are not directed toward Philip Morris USA, and,
6 therefore, no response is required. To the extent a response is required, Philip Morris USA
7 denies the allegations of Paragraph 455.

8 456. The allegations of Paragraph 456 are not directed toward Philip Morris USA, and,
9 therefore, no response is required. To the extent a response is required, Philip Morris USA
10 denies the allegations of Paragraph 456.

11 457. The allegations of Paragraph 457 are not directed toward Philip Morris USA, and,
12 therefore, no response is required. To the extent a response is required, Philip Morris USA
13 denies the allegations of Paragraph 457.

14 458. The allegations of Paragraph 458 are not directed toward Philip Morris USA, and,
15 therefore, no response is required. To the extent a response is required, Philip Morris USA
16 denies the allegations of Paragraph 458.

17 459. The allegations of Paragraph 459 are not directed toward Philip Morris USA, and,
18 therefore, no response is required. To the extent a response is required, Philip Morris USA
19 denies the allegations of Paragraph 459.

20 460. The allegations of Paragraph 460 are not directed toward Philip Morris USA, and,
21 therefore, no response is required. To the extent a response is required, Philip Morris USA
22 denies the allegations of Paragraph 460.

23 461. The allegations of Paragraph 461 are not directed toward Philip Morris USA, and,
24 therefore, no response is required. To the extent a response is required, Philip Morris USA
25 denies the allegations of Paragraph 461.

26 462. The allegations of Paragraph 462 are not directed toward Philip Morris USA, and,
27 therefore, no response is required. To the extent a response is required, Philip Morris USA
28 restates, realleges, and incorporates by reference its responses to all prior allegations of the



Complaint as if fully set forth herein.

463. The allegations of Paragraph 463 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 463 and, therefore, denies the same.

464. The allegations of Paragraph 464 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 464 and, therefore, denies the same.

465. The allegations of Paragraph 465 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 465 and, therefore, denies the same.

466. The allegations of Paragraph 466 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 466 and, therefore, denies the same.

467. The allegations of Paragraph 467 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA denies the allegations of Paragraph 467.

468. The allegations of Paragraph 468 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA denies the allegations of Paragraph 468.

469. The allegations of Paragraph 469 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA denies the allegations of Paragraph 469.

470. The allegations of Paragraph 470 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA

denies the allegations of Paragraph 470.

471. The allegations of Paragraph 471 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA denies the allegations of Paragraph 471.

472. The allegations of Paragraph 472 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA denies the allegations of Paragraph 472.

473. The allegations of Paragraph 473 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA denies the allegations of Paragraph 473.

474. The allegations of Paragraph 474 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA denies the allegations of Paragraph 474.

475. The allegations of Paragraph 475 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA denies the allegations of Paragraph 475.

476. The allegations of Paragraph 476 are not directed toward Philip Morris USA, and, therefore, no response is required. To the extent a response is required, Philip Morris USA denies the allegations of Paragraph 476.

Philip Morris USA denies that Plaintiffs are entitled to the relief requested in the unnumbered WHEREFORE paragraph, or any relief whatsoever.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Plaintiffs' Complaint, and each count thereof, fails to state a cause of action upon which relief can be granted against Philip Morris USA.

SECOND AFFIRMATIVE DEFENSE

Plaintiffs' claims against Philip Morris USA, if any, are barred, in whole or in part, by the applicable statutes of limitations, statutes of repose, and/or the doctrines of laches, waiver, *res*

1 *judicata*, claim preclusion, and estoppel.

2 **THIRD AFFIRMATIVE DEFENSE**

3 The Court lacks personal jurisdiction over Philip Morris USA with regard to some or all
4 of Plaintiffs' claims.

5 **FOURTH AFFIRMATIVE DEFENSE**

6 If Plaintiffs and/or Plaintiffs' decedent have sustained any injuries or incurred any
7 damages, which alleged injuries and damages are denied, such alleged injuries and damages
8 were the result of intervening or superseding events, factors, occurrences, or conditions, which
9 were in no way caused by Philip Morris USA and for which Philip Morris USA is not
10 responsible and liable.

11 **FIFTH AFFIRMATIVE DEFENSE**

12 If Plaintiffs and/or Plaintiffs' decedent have sustained any injuries or incurred any
13 damages, which alleged injuries and damages are denied, such alleged injuries and damages
14 were caused, in whole or in part, by the acts, wrongs, or omissions of persons other than
15 Plaintiffs and/or Plaintiffs' decedent or Philip Morris USA and for which Philip Morris USA is
16 not responsible and liable.

17 **SIXTH AFFIRMATIVE DEFENSE**

18 Plaintiffs' claims are barred to the extent Plaintiffs seek to impose liability retroactively
19 for conduct that was not actionable at the time it occurred.

20 **SEVENTH AFFIRMATIVE DEFENSE**

21 Philip Morris USA is entitled to set-off, should any damages be awarded against it, in the
22 amount of damages or settlement amounts recovered by Plaintiffs and/or Plaintiffs' decedent
23 with respect to the same alleged injuries.

24 **EIGHTH AFFIRMATIVE DEFENSE**

25 Plaintiffs' claims are barred, in whole or in part, because Plaintiffs and/or Plaintiffs'
26 decedent failed to mitigate any injuries and damages they allegedly suffered.

27 **NINTH AFFIRMATIVE DEFENSE**

28 Plaintiffs' claims are barred, in whole or in part, because they violate Philip Morris



1 USA's rights under the First Amendment to the United States Constitution and cognate
2 provisions of the Nevada Constitution, which protect the rights to freedom of speech, to petition
3 the government, and to freedom of association.

4 **TENTH AFFIRMATIVE DEFENSE**

5 Plaintiffs' claims are barred, in whole or in part, by the Supremacy Clause of the United
6 States Constitution, art. VI, § 2, because those claims are preempted and/or precluded by federal
7 law, including, but not limited to, the Federal Cigarette Labeling and Advertising Act, 15 U.S.C.
8 §§ 1331 *et seq.*, and the Federal Trade Commission's policies and regulations regarding the
9 cigarette industry.

10 **ELEVENTH AFFIRMATIVE DEFENSE**

11 Plaintiffs' claims are barred, in whole or in part, by the Supremacy Clause of the United
12 States Constitution, art. VI, § 2, because those claims are preempted and/or precluded by federal
13 law. Specifically, under the doctrine of conflict preemption, because Congress has specifically
14 foreclosed the removal of tobacco products from the market, any claims of liability based solely
15 on Philip Morris USA's manufacture, marketing, and sale of cigarettes are preempted.

16 **TWELFTH AFFIRMATIVE DEFENSE**

17 Plaintiffs' claims are barred, in whole or in part, by the First Amendment to the United
18 States Constitution, and by the *Noerr-Pennington* Doctrine, to the extent that such claims are
19 premised, in whole or in part, on alleged statements or conduct in judicial, legislative, or
20 administrative proceedings of any kind or at any level of government.

21 **THIRTEENTH AFFIRMATIVE DEFENSE**

22 Plaintiffs' claims are barred, in whole or in part, because they violate the Due Process
23 provisions of the Fifth Amendment and § 1 of the Fourteenth Amendment to the United States
24 Constitution, as well as cognate provisions of the Nevada Constitution, to the extent that they
25 seek to deprive Philip Morris USA of procedural and substantive safeguards, including
26 traditional defenses to liability.

27 **FOURTEENTH AFFIRMATIVE DEFENSE**

28 Plaintiffs' claims are barred, in whole or in part, by Plaintiffs' and/or Plaintiffs'



decedent's comparative negligence, fault, responsibility, or want of due care, including Plaintiffs' decedent's choice to smoke. Plaintiffs are, therefore, barred from any recovery, or any recoverable damages must be reduced in proportion to the amount of negligence attributable to Plaintiffs and/or Plaintiffs' decedent.

FIFTEENTH AFFIRMATIVE DEFENSE

If Plaintiffs and/or Plaintiffs' decedent were injured or damaged, which alleged injuries and damages are denied, such alleged injuries and damages were caused solely or proximately by the acts, wrongs, or omissions of Plaintiffs and/or Plaintiffs' decedent, by preexisting conditions, or by forces, and/or things over which Philip Morris USA had no control and for which Philip Morris USA is not responsible and not liable.

SIXTEENTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred, in whole or in part, by the doctrine of assumption of the risk.

SEVENTEENTH AFFIRMATIVE DEFENSE

The law of the State of Nevada and the Due Process Clause of the Fourteenth Amendment to the United States Constitution forbid punishing Philip Morris USA simply for lawfully selling a legal product.

EIGHTEENTH AFFIRMATIVE DEFENSE

The preemption provisions of the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. §§ 1331 *et seq.*, as well as implied congressional preemption, preclude punishment for that portion of the conduct alleged in the Complaint that post dated July 1, 1969, alleging any kind of failure to warn of cigarettes' danger, "neutralization" of congressionally mandated warning labels, or marketing cigarettes to particular (adult) demographic groups.

NINETEENTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred to the extent Plaintiffs' and/or Plaintiffs' decedent's alleged injuries were caused, in whole or in part, by Plaintiffs' decedent's "unreasonable use" of cigarettes.

TWENTIETH AFFIRMATIVE DEFENSE

While denying at all times that any cigarettes manufactured by Philip Morris USA caused

or contributed to the injuries and damages alleged in the Complaint, Philip Morris USA avers that Plaintiffs' decedent was warned or otherwise made aware of the alleged dangers of cigarette smoking and, further, that any such dangers, to the extent they existed, were not beyond those which would have been contemplated by an ordinary consumer of the cigarettes. Plaintiffs, therefore, are barred from any recovery on the claims asserted.

TWENTY-FIRST AFFIRMATIVE DEFENSE

To the extent Plaintiffs' claims are based on an alleged duty to disclose the risks associated with cigarette smoking, such claims are barred because such risks, to the extent they exist, are and always have been commonly known.

TWENTY-SECOND AFFIRMATIVE DEFENSE

In the event that Plaintiffs establish liability on the part of Philip Morris USA, which liability Philip Morris USA specifically denies, any alleged injuries or damages were caused in whole or in part by the negligence of Plaintiffs and/or Plaintiffs' decedent, thereby barring Plaintiffs' recovery in whole or in part.

TWENTY-THIRD AFFIRMATIVE DEFENSE

Plaintiffs' fraudulent misrepresentation, fraudulent concealment, and civil conspiracy claims and/or allegations are barred because Plaintiffs have failed to plead fraudulent misrepresentation, fraudulent concealment, and civil conspiracy with particularity, as required by the Nevada Rules of Civil Procedure and Nevada law, and must be dismissed for failure to state a claim upon which relief may be granted.

TWENTY-FOURTH AFFIRMATIVE DEFENSE

Plaintiffs lack either standing or capacity, or both, to bring some or all of the claims alleged in the Complaint.

TWENTY-FIFTH AFFIRMATIVE DEFENSE

Plaintiffs' conspiracy claims are barred by the absence of any specific intent, conscious agreement, or common design or purpose on the part of Philip Morris USA to join with other Defendants to injure Plaintiffs and/or Plaintiffs' decedent.

///



TWENTY-SIXTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred, in whole or in part, because Philip Morris USA's advertisements for its cigarettes comply, and always have complied, with all applicable regulations of the Federal Trade Commission.

TWENTY-SEVENTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred, in whole or in part, because the alleged conduct of Philip Morris USA was undertaken in good faith for valid business purposes.

TWENTY-EIGHTH AFFIRMATIVE DEFENSE

Plaintiffs' claim for punitive damages cannot be sustained because an award of punitive damages under Nevada law by a jury that (1) is not provided constitutionally adequate standards of sufficient clarity for determining the appropriate imposition of, and the appropriate size of, a punitive damages award; (2) is not adequately instructed on the limits of punitive damages imposed by the applicable principles of deterrence and punishment; (3) is not expressly prohibited from awarding punitive damages, or determining the amount of an award of punitive damages, in whole or in part on the basis of invidiously discriminatory characteristics, including without limitation the residence, wealth, and corporate status of Philip Morris USA; (4) is permitted to award punitive damages under a standard for determining liability for punitive damages that is vague and arbitrary and does not define with sufficient clarity the conduct or mental state that makes punitive damages permissible; (5) is not properly instructed regarding Plaintiffs' burden of proof with respect to each and every element of a claim for punitive damages; and (6) is not subject to trial court and appellate judicial review for reasonableness and furtherance of legitimate purposes on the basis of constitutionally adequate and objective standards, would violate Philip Morris USA's due process and equal protection rights guaranteed by the Fifth and Fourteenth Amendments to the United States Constitution and applicable provisions of the Nevada Constitution, and would be improper under the common law and public policy of Nevada.

TWENTY-NINTH AFFIRMATIVE DEFENSE

Plaintiffs' claim for punitive damages cannot be sustained because Nevada law regarding



1 the standards for determining liability for and the amount of punitive damages fails to give Philip
2 Morris USA prior notice of the conduct for which punitive damages may be imposed and the
3 severity of the penalty that may be imposed and is void for vagueness in violation of Philip
4 Morris USA's due process rights guaranteed by the Fifth and Fourteenth Amendments to the
5 United States Constitution and applicable provisions of the Nevada Constitution, and would be
6 improper under the common law and public policy of the State of Nevada.

7 **THIRTIETH AFFIRMATIVE DEFENSE**

8 Plaintiffs' claim for punitive damages against Philip Morris USA cannot be sustained,
9 because an award of punitive damages under Nevada law, subject to no predetermined limit,
10 such as a maximum multiple of compensatory damages, or a maximum amount on the amount of
11 punitive damages that may be imposed, would violate Philip Morris USA's due process rights
12 guaranteed by the Fifth and Fourteenth Amendments to the United States Constitution and
13 applicable provisions of the Nevada Constitution; would violate Philip Morris USA's right not to
14 be subjected to an excessive award in violation of the Eighth Amendment to the United States
15 Constitution and applicable provisions of the Nevada Constitution; and would be improper under
16 the common law and public policy of the State of Nevada.

17 **THIRTY-FIRST AFFIRMATIVE DEFENSE**

18 Plaintiffs' claim for punitive damages against Philip Morris USA cannot be sustained,
19 because an award of punitive damages in this case, combined with any prior, contemporaneous,
20 or subsequent judgments against Philip Morris USA for punitive damages arising out of the
21 design, development, manufacture, distribution, supply, marketing, sale, and/or use of Philip
22 Morris USA's cigarettes, would constitute impermissible multiple punishments for the same
23 wrong, in violation of Philip Morris USA's due process and equal protection rights guaranteed
24 by the Fifth and Fourteenth Amendments to the United States Constitution and applicable
25 provisions of the Nevada Constitution, and would constitute double jeopardy in violation of the
26 common law and statutory law of the State of Nevada.

27 **THIRTY-SECOND AFFIRMATIVE DEFENSE**

28 Plaintiffs' claim for punitive damages against Philip Morris USA cannot be sustained,

because any award of punitive damages under Nevada law without the apportionment of the award separately and severally between or among the alleged joint tortfeasors, as determined by the alleged percentage of the wrong committed by each alleged tortfeasor, would violate Philip Morris USA's due process and equal protection rights guaranteed by the Fifth and Fourteenth Amendments to the United States Constitution and applicable provisions of the Nevada Constitution, and would be improper under the common law and public policy of the State of Nevada.

THIRTY-THIRD AFFIRMATIVE DEFENSE

Plaintiffs' claim for punitive damages against Philip Morris USA cannot be sustained, because any award of punitive damages under Nevada law, which would be penal in nature, without according Philip Morris USA the same protections that are accorded to all criminal defendants, including the protection against unreasonable searches and seizures, self-incrimination, and the right to confront adverse witnesses, a speedy trial, and the effective assistance of counsel, would violate Philip Morris USA's rights guaranteed by the Fourth, Fifth, and Sixth Amendments, as incorporated into the Fourteenth Amendment to the United States Constitution, and applicable provisions of the Nevada Constitution, and would be improper under the common law and public policy of the State of Nevada.

THIRTY-FOURTH AFFIRMATIVE DEFENSE

Plaintiffs' claims against Philip Morris USA for punitive damages cannot be sustained because any award of punitive damages under a process that fails to bifurcate the issue of entitlement to punitive damages from the remaining issues would violate Philip Morris USA's due process rights guaranteed by the Fifth and Fourteenth Amendments to the United States Constitution and applicable provisions of the Nevada Constitution, and would be improper under the common law, statutory law, and public policy of the Nevada.

THIRTY-FIFTH AFFIRMATIVE DEFENSE

No punishment may be imposed for conduct that cannot form the basis for an underlying claim for liability, including, but not limited to, conduct that occurred outside the applicable statutes of limitation and repose. Imposition of punitive damages under such circumstances



1 would violate Philip Morris USA's procedural and substantive due process rights and equal
2 protection rights under the Fifth and Fourteenth Amendments to the United States Constitution
3 and Philip Morris USA's due process and equal protection rights under cognate provisions of the
4 Nevada Constitution, and would be improper under the common law and public policies of the
5 United States Constitution and the Nevada.

6 **THIRTY-SIXTH AFFIRMATIVE DEFENSE**

7 Plaintiffs' claims, including for punitive damages, are barred, in whole or in part, by the
8 doctrines of *res judicata* and estoppel.

9 **THIRTY-SEVENTH AFFIRMATIVE DEFENSE**

10 Plaintiffs' claims against Philip Morris USA for punitive damages cannot be sustained
11 because recovery based on the asserted claims is barred under the law of the State of Nevada.

12 **THIRTY-EIGHTH AFFIRMATIVE DEFENSE**

13 Plaintiffs' claims against Philip Morris USA for punitive damages cannot be sustained for
14 more than three times the amount of compensatory damages because the exception to the cap
15 contained in NRS 42.005(1)(a) for a "manufacturer, distributor or seller of a defective product"
16 denies Philip Morris USA equal protection of the laws; discriminates against Philip Morris USA
17 without a rational basis; and is designed to disproportionately target out of state defendants with
18 higher punitive damage awards.

19 **THIRTY-NINTH AFFIRMATIVE DEFENSE**

20 Plaintiffs' claims are barred, in whole or in part, because one or more of the claims does
21 not survive the death of Plaintiffs' decedent.

22 **FORTIETH AFFIRMATIVE DEFENSE**

23 Any affirmative defenses pled by any other Defendant and not pled by Philip Morris
24 USA are incorporated herein to the extent they do not conflict with Philip Morris USA's
25 affirmative defenses.

26 **FORTY-FIRST AFFIRMATIVE DEFENSE**

27 Philip Morris USA hereby gives notice that it intends to rely upon any other defense that
28 may become available or appear during the discovery proceedings in this case and hereby



reserves its right to amend its Answer to assert any such defenses.

FORTY-SECOND AFFIRMATIVE DEFENSE

Philip Morris USA intends to rely upon and reserves its right to assert other and related defenses, as may become available in the event of a determination that this action, or some part hereof, is governed by the substantive law of a state other than Nevada.

JURY DEMAND

Philip Morris USA hereby demands a trial by jury on all issues.

PRAYER FOR RELIEF

WHEREFORE, Philip Morris USA respectfully requests and prays as follows:

1. That Plaintiffs take nothing by their Complaint;
2. That this action be dismissed with prejudice as to Philip Morris USA;
3. That Philip Morris USA recover its costs of suit, including reasonable attorneys' fees; and
4. For such other relief as the Court deems just and proper.

Dated this 3rd day of May, 2022.

WEINBERG, WHEELER, HUDGINS,
GUNN & DIAL, LLC

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CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of May, 2022, a true and correct copy of the foregoing **PHILIP MORRIS USA INC.'S ANSWER TO PLAINTIFFS' SECOND AMENDED COMPLAINT** was electronically filed and served on counsel through the Court's electronic service system pursuant to Administrative Order 14-2 and N.E.F.C.R. 9, via the electronic mail addresses noted below, unless service by another method is stated or noted:

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1

DISTRICT COURT

2

CLARK COUNTY, NEVADA

3

DOLLY ROWAN, as Special)

Administrator of the Estate of)

4

NOREEN THOMPSON,)

Plaintiff,)

5

vs.) Case No.

) A-20-811091-C

6

PHILIP MORRIS USA INC., a foreign)

corporation; R. J. REYNOLDS TOBACCO)

7

COMPANY, a foreign corporation,)

individually, and as successor-by-)

8

merger to LORILLARD TOBACCO COMPANY)

and as successor-in-interest to the)

9

United States tobacco business of)

BROWN & WILLIAMSON TOBACCO)

10

CORPORATION, which is the)

successor-by-merger to THE AMERICAN)

11

TOBACCO COMPANY; LIGGETT GROUP,)

LLC, a foreign corporation; QUICK)

12

STOP MARKET, LLC, a domestic)

limited liability company; JOES)

13

BAR, INC., a domestic corporation;)

THE POKER PALACE, a domestic)

14

corporation; SILVER NUGGET GAMING,)

LLC d/b/a SILVER NUGGET CASINO, a)

15

domestic limited liability company,)

JERRY'S NUGGET, a domestic)

16

corporation; and DOES 1-X; and ROE)

BUSINESS ENTITIES XI-XX, inclusive,)

17

Defendants.)

18

19

DEPOSITION OF DOLLY ROWAN

20

VOLUME I

21

Taken on Monday, December 6, 2021

22

By a Certified Stenographer

23

At 8:57 a.m.

24

Las Vegas, Nevada

25

Reported by: HOLLY LARSEN, CCR 680, CA CSR 12170

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1 Q. Let me ask you this:

2 So you are here testifying as the
3 representative of your mother's estate.

4 Do you understand that?

5 A. Yes.

6 Q. And your mother, prior to her passing,
7 filed a lawsuit against a number of companies
8 related to her cigarette smoking.

9 Do you understand that?

10 A. Yes.

11 Q. Did she ever speak with you as to why she
12 decided to file that lawsuit?

13 A. She was angry. She was angry that she was
14 dying. I'm sorry.

15 Q. I understand. If you need to take a break
16 at any time, let me know.

17 A. She was just so angry that she was dying.
18 She didn't want to die. And she knew then it was
19 about the cigarettes, and that all those years she
20 believed she was safe because she smoked filtered
21 and smoked lights because all the advertisements,
22 all the testimonies on the news always said they
23 were safe and there's no link to cancer. Yet her
24 doctor told her 99.9 percent of her death was due to
25 cigarette smoking. I should say her cancer that led

1 to her death.

2 Q. Now, you said your mother said she was
3 angry because for years -- let me rephrase.

4 Your mother told you she was angry? Were
5 those her words?

6 A. Yeah. She was just mad that she was dying;
7 that she no longer would be with us. Her father
8 lived to be a hundred, so she thought she would be
9 around a while.

10 Q. Did she ever tell you when it was that she
11 learned that smoking could be harmful to anyone's
12 health?

13 A. I think in the '90s we started talking
14 about that, because there was all those mixed
15 messages. And the kids were getting older. But she
16 would always argue with us that "I smoked my whole
17 life and I'm not sick." So she just always thought
18 it was safe. That's what she always believed. And
19 she would tell us, "Because I smoke filter
20 lights ..."

21 Q. Did she change her view that she smoked
22 all her life and was not sick when she was
23 diagnosed with, for example, emphysema or COPD in
24 the early 2000s?

25 A. Yeah, I don't know when -- but the day, the

1 something different.

2 Q. Let me ask you this:

3 Sitting here today, the two brands of
4 cigarettes you personally recall seeing your mother
5 smoke were Viceroy and Pyramid; correct?

6 A. And then at the very end my brother said
7 there was a Pall Mall that she smoked. At the very
8 end. Pall Mall Lights.

9 Q. Do you have any recollection of her smoking
10 Pall Mall Lights?

11 A. It seems like one time at the end. Because
12 she asked me to go get her cigarettes. I always
13 refused to buy cigarettes. So that's the one time.

14 Q. Did she ask you to get Pall Malls?

15 A. Yeah.

16 Q. Do you remember, were they any specific --

17 A. Just Pall Mall Lights.

18 Q. And did you go get them?

19 A. Yeah. Yes, I did.

20 Q. Do you remember where you went to get them?

21 A. I think it was the local store around the
22 corner from my brother's.

23 Q. Do you remember what the package looked
24 like?

25 A. No, I really don't.

1 Q. Do you remember what the package of
2 Viceroy's looked like that your mother and father
3 smoked?

4 A. Just that they were white and they had that
5 little circle. I think there was a star maybe.

6 Q. Do you remember the packages changing in
7 appearance over time of the Viceroy's your mother
8 smoked?

9 A. No, I don't.

10 Q. So it was white with a circle. Do you
11 remember what color the circle was?

12 A. I could guess, but I'm not sure.

13 MS. WALD: Don't guess.

14 BY MS. HENNINGER:

15 Q. Don't guess.

16 A. Okay.

17 Q. The Pyramids, do you remember what the
18 package looked like of the Pyramids?

19 A. They were just white. White with blue, I
20 think.

21 Q. Did the packages of Pyramids that your
22 mother smoked ever change over time, that you
23 recall?

24 A. No. I'm sorry.

25 Q. Other than the one pack of Pall Mall Lights

1 that you purchased for your mother, do you have any
2 recollection of her smoking Pall Mall Lights other
3 than that time?

4 A. No. Just what my brother told me.

5 Q. I'm going to get to that in a second.
6 First let me start with the first cigarette brand
7 you named, Viceroy.

8 Do you have any idea how long your mother
9 smoked Viceroy's?

10 A. When I spoke to my mom over the years, she
11 had said she initially started with Camel for about
12 a year when she was a kid, and then she switched to
13 Viceroy filters because they were safe, according to
14 all the ads and commercials back in the day.

15 And then I think when she lived in the
16 trailer at some point in the late '80s or '90s, I
17 think that's when she switched to the Pyramid Lights
18 again, because they were supposed to be safe.

19 Q. Let's make sure I understand this.

20 So it's your understanding --

21 A. Uh-huh.

22 Q. This is how we figure out what people --
23 what brands they smoked.

24 A. Right.

25 Q. Your understanding is that she smoked

1 Camels when she initially started smoking for about
2 a year?

3 A. Right. Because she would steal cigarettes
4 from her father.

5 Q. That was the person who smoked Camel?

6 A. Yeah.

7 Q. Did she ever tell you if the Camels that
8 she stole from her father were filtered or
9 unfiltered?

10 A. They were nonfiltered.

11 Q. So she would steal -- I use the word
12 "steal."

13 A. Yeah, she'd sneak them.

14 Q. People say borrow and I'm like, You're
15 never giving that cigarette back.

16 So she would take her father's cigarettes
17 without him knowing, as a kid?

18 A. Yes.

19 Q. And those were Camel unfiltered?

20 A. Yes.

21 Q. That went on for approximately one year?

22 A. Right.

23 Q. Then I understand your testimony is she
24 told you she switched to the Viceroy filters at that
25 time?

1 School. That's all.

2 Q. Do you know if she did any of her other
3 schooling, other than high school, in Nevada?

4 A. To my knowledge, only high school.

5 Q. Do you know if she was already smoking when
6 she moved to Nevada in high school or if she had --

7 A. She had to have been, yeah. She had to
8 have been smoking already.

9 Q. So it's your understanding she started
10 smoking before she was in high school?

11 A. She was 14, so I don't know what age that
12 is.

13 Q. Now, how do you know she was 14?

14 A. Because she kept saying, "I've been smoking
15 since I was 14, and I'm fine."

16 Q. For example, in the '90s, when you started
17 talking with her about her smoking, she would
18 respond that she had been smoking --

19 A. Yes, yes. That was her defense. Yes. All
20 the time.

21 Q. Did she ever talk to you about anything
22 about how she started to smoke? For example, who
23 she might have been with, that kind of thing?

24 A. I'm thinking, if I recall correctly, she
25 snuck out with her friends, stealing her dad's

1 know, when she was a little child or growing up or,
2 you know, the ages of 10 to 15 to 20, ever talk to
3 you about what advertising was like when she was
4 growing up, for cigarettes?

5 A. I don't know about before her age of 14
6 about cigarettes. I just know that she had no idea
7 that there was anything wrong with cigarettes when
8 she started. And she had been smoking for some
9 time. They just smoked everywhere. They smoked in
10 the stores. They smoked in the movie theater. It
11 was just her way of life.

12 Q. Did she tell you that she did not know --
13 that she had no idea there was anything wrong with
14 cigarettes when she started?

15 A. Yeah. It seems like she had that
16 conversation with us after the emphysema was
17 diagnosed. It was like everything changed after
18 that. She just really believed that she was never
19 going to be sick. Because she smoked for so long,
20 and she had no health issue. From cigarettes, at
21 least.

22 Q. Did your mom understand that smoking could
23 be dangerous to some people's health before she was
24 diagnosed with COPD or emphysema?

25 MS. WALD: Object to form.

1

DISTRICT COURT

2

CLARK COUNTY, NEVADA

3

DOLLY ROWAN, as Special)
Administrator of the Estate of)
NOREEN THOMPSON, NAVONA COLLISON,)
as an individual; and RUSSELL)
THOMPSON, as an individual,)
Plaintiff,)

6

vs.

)Case No.

)A-20-8119091-C

7

PHILIP MORRIS USA INC., a foreign)
corporation; R. J. REYNOLDS TOBACCO)
COMPANY, a foreign corporation,)
individually, and as successor-by-)
merger to LORILLARD TOBACCO COMPANY)
and as successor-in-interest to the)
United States tobacco business of)
BROWN & WILLIAMSON TOBACCO)
CORPORATION, which is the)
successor-by-merger to THE AMERICAN)
TOBACCO COMPANY; LIGGETT GROUP,)
LLC, a foreign corporation; QUICK)
STOP MARKET, LLC, a domestic)
limited liability company; JOES)
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,)
JERRY'S NUGGET, a domestic)
corporation; and DOES 1-X; and ROE)
BUSINESS ENTITIES XI-XX, inclusive,)
Defendants.)

19

20

DEPOSITION OF RUSSELL THOMPSON

21

Taken on Thursday, February 17, 2022

22

By a Certified Stenographer

23

At 8:57 a.m.

24

Las Vegas, Nevada

25

Reported by: HOLLY LARSEN, CCR 680, CA CSR 12170

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954.522.6601

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9 BY: URSULA M. HENNINGER, ESQ.
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Charlotte, North Carolina 28202
704.503.2631

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11 For Liggett Group, LLC:
12 (Via Videoconference)

13 KASOWITZ BENSON TORRES LLC
14 BY: KELLY ANNE LUTHER, ESQ.
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Miami, Florida 33131
786.587.1045

15

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25

1 mother's diagnosis with lung cancer?

2 A. I tried to slow down. When she was trying,
3 you know, I tried to hide it from her because I
4 didn't want to encourage her to keep doing it.
5 Yeah, I tried to slow down a little bit.

6 Q. Before your mother switched to Pyramid
7 Lights, what brand of cigarettes did she smoke?

8 A. Viceroy.

9 Q. Do you know how long she had been smoking
10 Viceroy's?

11 A. She was doing that when I was old enough to
12 remember them.

13 Q. Fair enough. That's what I'm trying to get
14 at.

15 Sitting here today you can tell me and the
16 jury that you remember three brands of cigarettes
17 that your mother smoked?

18 A. Because I smoked them.

19 Q. And we have Viceroy; correct?

20 A. Uh-huh.

21 Q. We have Pyramid Lights; correct?

22 A. Yes.

23 Q. And then Pall Mall Lights; correct?

24 A. Yes.

25 Q. Any other brands that you recall your

1 mother smoking besides those three?

2 A. Every now and then, when they didn't
3 have -- they're low on Pyramids or something, maybe
4 a Doral here and there. But that was her main
5 go-to.

6 Q. That's exactly what I'm asking as far as,
7 like, brands.

8 When you would go to a store, she would ask
9 for a Viceroy or a Pyramid Light or a Pall Mall
10 Light versus --

11 A. Depending on the time, yes. Yes.

12 Q. I get that sometimes either you're out of
13 cigarettes or you bum somebody's cigarettes. But
14 I'm talking about a regular brand.

15 So those are the three regular brands?

16 A. That was hers, yeah.

17 Q. Did she ever at any point in her life tell
18 you when she started smoking Viceroy's?

19 A. 14.

20 Q. That's when she started smoking; right?

21 A. Yes.

22 Q. Did she ever tell you when she started
23 smoking Viceroy's?

24 A. Not Viceroy's.

25 Q. So she told you she started smoking at 14?

1 A. '18.

2 Q. -- '18 or '19?

3 I think it was April 2019 that she was told
4 she had small-cell cancer.

5 A. Yeah.

6 Q. Then she passed away not the following
7 April, but the following June. So a year and a
8 couple months; correct?

9 A. I thought it was like September 2018,
10 Christmas -- she lived two Christmases, so it might
11 have been end of 2018.

12 Q. Let me make sure I'm clear.

13 The doctors discovered an area in
14 your mother's lungs that they raised concern about
15 in 2018?

16 A. Yes.

17 Q. But they didn't know it was cancer until
18 your mother finally got the biopsy in 2019?

19 A. Yeah.

20 Q. When your mother first moved in with you,
21 was she still smoking the pack and a half to two
22 packs per day?

23 A. Oh, yeah.

24 Q. At what point was it that she got down to
25 something less than a pack and a half to two packs

1 per day when she was living with you?

2 A. After she was told she had small cell.

3 Then she started cutting down to a pack. Then it
4 went to 15, 10. Then down to 5. Then she finally
5 beat it.

6 Q. Do you remember how long it was that she
7 beat it before she passed away?

8 A. I think she had like eight months.

9 Q. You did say that. I apologize. That's
10 part of the problem with taking a bunch of
11 depositions back to back; you get confused as to who
12 said what. I apologize. I already asked you that.

13 When your mother was cutting back on her
14 smoking -- let me rephrase.

15 When you would come home on trips and you
16 would see your mother with an e-cigarette or the
17 patches, was there any difference in her
18 personality, or was she the same personality when
19 she was trying to quit smoking?

20 MS. WALD: Form.

21 THE WITNESS: She was edgy. Short-fused.
22 I'd want to turn around and go back. That's not
23 right.

24 Yeah, she was real edgy, short-fused.

25 ///

1

DISTRICT COURT

2

CLARK COUNTY, NEVADA

3

DOLLY ROWAN, as Special)

Administrator of the Estate of)

4

NOREEN THOMPSON, NAVONA COLLISON,)

as an individual; and RUSSELL)

5

THOMPSON, as an individual,)

6

Plaintiff,)

vs.)

7

)Case No.

)A-20-8119091-C

8

PHILIP MORRIS USA, INC. a foreign)

corporation; R. J. REYNOLDS TOBACCO)

9

COMPANY, a foreign corporation,)

individually, and as successor-by-)

10

merger to LORILLARD TOBACCO COMPANY)

and as successor-in-interest to the)

11

United States tobacco business of)

BROWN & WILLIAMSON TOBACCO)

12

CORPORATION, which is the)

successor-by-merger to THE AMERICAN)

13

TOBACCO COMPANY; LIGGETT GROUP,)

LLC, a foreign corporation; QUICK)

14

STOP MARKET, LLC, a domestic)

limited liability company; JOES)

15

BAR, INC., a domestic corporation;)

THE POKER PALACE, a domestic)

16

corporation; SILVER NUGGET GAMING,)

LLC d/b/a SILVER NUGGET CASINO, a)

17

domestic limited liability company,)

JERRY'S NUGGET, a domestic)

18

corporation; and DOES I-X; and ROE)

BUSINESS ENTITIES XI-XX, inclusive,)

19

Defendants.)

20

DEPOSITION OF NAVONA COLLISON

21

Taken on Tuesday, February 15, 2022

22

By a Certified Stenographer

23

At 9:03 a.m.

24

Las Vegas, Nevada

25

Reported by: HOLLY LARSEN, CCR 680, CA CSR 12170

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(Via Videoconference)

12 KASOWITZ BENSON TORRES LLP
13 BY: KELLY ANNE LUTHER, ESQ.
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786.587.1045

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25

1 he stop smoking around your mother?

2 A. I don't recall ever saying, no.

3 Q. Your mother and father smoked the same
4 brand of cigarettes; correct?

5 A. Honestly, I just remember my mom smoking
6 Viceroy. I remember that as a kid, because I stole
7 a pack and smoked a whole pack. I was in my teens.
8 And I got sick, and I never did it again. I said,
9 "Ugh," threw up for days. They were Viceroy.
10 That's how I remember the Viceroy.

11 I remember the Pyramid Lights because that
12 was in the '90s. She switched over. That's why I
13 remember that. That's the period of time she
14 switched over to smoke lights because she thought
15 they were safer.

16 Those are the only two I remember. So I
17 don't know what my father smoked.

18 Q. You don't have any recollection of what he
19 smoked?

20 A. No.

21 Q. Do you have any knowledge -- let me
22 rephrase.

23 You said you stole a pack of your mother's
24 Viceroy's when you were a kid. Was that in
25 elementary?

1 **ORDR**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5 YVONNE CLARK, individually, and as
6 Personal Representative of the Estate of
7 CLEVELAND CLARK, individually,

8 Plaintiffs,

9 vs.

10 PHILIP MORRIS USA, INC., a foreign
11 corporation; R.J. REYNOLDS TOBACCO
12 COMPANY, a foreign corporation,
13 individually, and as successor-by-merger to
14 LORILLARD TOBACCO COMPANY
15 and as successor-in-interest to the United
16 States tobacco business of BROWN &
17 WILLIAMSON TOBACCO
18 CORPORATION, which is the successor
19 by-merger to THE AMERICAN
20 TOBACCO COMPANY; LIGGETT
21 GROUP, LLC., a foreign corporation,
22 LAKHVIR HIRA d/b/a JOHN'S SMOKE
23 SHOP; SURJIT SINGH a/k/a RICKY
24 SINGH, individually and as Executor of the
25 Estate of HARJINDER S. HIRA d/b/a
26 JOHN SMOKE SHOP & GIFT SHOP; and
27 M J SMOKE SHOP +, LLC, a domestic
28 limited liability corporation, d/b/a SMOKE
SHOP +

Defendants.

CASE NO: A-19-802987-C

DEPT NO: VIII

22
23 **ORDER DENYING DEFENDANTS PHILIP MORRIS USA INC.'S AND LIGGETT**
24 **GROUP LLC'S MOTION TO DISMISS PLAINTIFF'S SECOND AMENDED**
25 **COMPLAINT**

26 This matter came on for hearing before the Court on March 9, 2021. The Court,
27 having considered Defendants' Motion, the Opposition, and Reply thereto, and hearing the
28 oral arguments of counsel, hereby finds as follows:

//

1 NRCP 8(a) requires a complaint to contain a short and plain statement of the claim
2 showing that the pleader is entitled to relief. The Nevada Supreme Court has interpreted that,
3 so long as the pleading gives fair notice of the nature and basis of the claim, a pleading of
4 conclusions is sufficient. *Crucil v. Carson City*, 95 Nev. 583, 585, 600 P.2d 216, 217 (1979).
5 NRCP 9 sets out additional requirements for pleading special matters such as fraud.

6 A motion to dismiss a complaint pursuant to NRCP 12(b)(5) is rigorously reviewed,
7 with all alleged facts in the complaint presumed true and all inferences drawn in favor of the
8 plaintiff. See *Fitzgerald v. Mobile Billboards, LLC*, 134 Nev., Adv. Op. 30, 416 P.3d 209,
9 210 (2018). A complaint should not be dismissed unless “it appears beyond a doubt that [the
10 plaintiff] could prove no set of facts, which, if true, would entitle [him] to relief.” *Id.* at 210-
11 11 (alterations in original) (quoting *Buzz Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224,
12 228, 181 P.3d 670, 672 (2008)).

13 Plaintiff asserts that Defendants caused Mr. Clark to begin and continue smoking by
14 concealing information about the dangers of smoking. Of specific import in this case, the
15 allegations are that all of the tobacco companies acted together to keep the harmful effects of
16 cigarette smoking from the public, and absent all of the companies acting together, no one
17 company could have succeeded in keeping this information from the public.

18 Defendants Phillip Morris and Liggett argue that they cannot be held liable because
19 Mr. Clark never smoked any cigarettes manufactured by these Defendants.¹ Specifically,
20 Defendants Liggett and Phillip Morris argue that it has been conclusively established that
21 Mr. Clark only smoked KOOL Brand cigarettes, which were manufactured by R.J. Reynolds.

22 At the hearing, the parties asked the Court to read the following cases: *Chavers v.*
23 *Gatke Corp.*, 107 Cal. App. 4th 606 (2003), *as modified* (Apr. 25, 2003); *Moretti v. Wyeth,*
24 *Inc.*, No. 2:08-CV-00396-JCMGWF, 2009 WL 749532, at *4 (D. Nev. Mar. 20, 2009); and
25 *Poole v. Nevada Auto Dealership Invs., LLC*, 135 Nev. 280, 449 P.3d 479 (Nev. App. 2019).

26 //

27 _____
28 ¹ The Court notes the split of authority within the Eight Judicial District Court regarding this argument.
Judge Bluth found that use was unnecessary to prevail in A807657, whereas Judge Early granted a motion
to dismiss based on the same argument in A807650 (however, this decision is currently the subject of an
appeal with the Nevada Supreme Court).

1 The Court has reviewed the foregoing cases as well as multiple cases from other
2 jurisdictions that have dealt with the exact factual issue in this case. Based on a
3 comprehensive review of those cases, and for the reasons set forth below, the Court **DENIES**
4 Defendants' Motion.

- 5 1. Defendants Liggett Group, LLC and Phillip Morris USA, Inc. seek dismissal of
6 the following claims: Violation of Nevada Deceptive Trade Practices Act and civil
7 conspiracy.
- 8 2. The allegations in the Complaint against Phillip Morris and Liggett are not
9 predicated solely on Plaintiff's use of cigarettes, but rather on the marketing
10 campaign embarked upon by all Defendants, including Liggett and Phillip Morris
11 to allegedly deceive the public, including the Plaintiff, about the true nature of
12 cigarettes.
- 13 3. The *Chavers* (manufacturers of friction brake pads), *Moretti* (manufacturers of
14 drugs), and *Poole* (deceptive trade practices of a certified pre-owned truck) cases
15 Defendants asked the Court to review and rely upon are distinguishable from the
16 instant case.

17 ***I. Deceptive Trade Practices Claim***

- 18 4. NRS 41.600(1) allows any person to bring an action for a deceptive trade practice
19 as defined pursuant to the Nevada Deceptive Trade Practices Act ("NDTPA")
20 NRS 598.0915 to 598.0925.
- 21 5. NRS 598.0915 provides multiple bases upon which a person can be found to have
22 engaged in a deceptive trade practice.
- 23 6. Specifically relevant is NRS 598.0915(5), which provides in pertinent part as
24 follows:

25 A person engages in a "deceptive trade practice" if, in the course of his or
26 her business or occupation, he or she... [k]nowingly makes a false
27 representation as to the characteristics, ingredients, uses, benefits,
28 alterations or quantities of goods or services for sale or lease or a false
representation as to the sponsorship, approval, status, affiliation or
connection of a person therewith.

- 1 7. NRS 41.600(1) allows any person to bring an action for a deceptive trade practice
2 as defined pursuant to the Nevada Deceptive Trade Practices Act (“NDTPA”)
3 NRS 598.0915 to 598.0925.
- 4 8. Plaintiff’s Second Amended Complaint sets out with particularity specific
5 deceptive trade practices that all of the Defendants engaged in and specifically
6 alleges that Defendants made false representations as to the characteristics,
7 alterations, and ingredients in cigarettes. *See, e.g.*, Second Amended Complaint,
8 Paragraphs 180; 369 a-p.
- 9 9. Reading the allegations in the light most favorable to Plaintiff, and taking them as
10 true, the Court cannot say Plaintiff will be unable at the time of trial to establish a
11 factual basis, which, if true, would entitle Plaintiff to relief.

12 ***II. Civil Conspiracy Claim***

- 13 10. Civil conspiracy liability may attach where two or more persons undertake some
14 concerted action with the intent to commit an unlawful objective, not necessarily
15 a tort. *Vandalay Enterprises, Inc. v. Herrin*, 133 Nev. 1086, 390 P.3d 959 (2017).
16 Civil Conspiracy is a derivative claim in Nevada.
- 17 11. Plaintiff’s Civil Conspiracy claim alleges that Defendants unlawfully agreed to
18 conceal and/or omit and did in fact omit and/or conceal, the health hazards of
19 smoking with the intention that smokers and the public would rely on this
20 information to their detriment.
- 21 12. Plaintiff’s allegations in support of the civil conspiracy claim are premised on
22 both violations of the NDTPA and the separate allegations of fraud; both were
23 pled with particularity. The marketing efforts used by Defendants, combined with
24 the assertion that Defendants created a false perception and misled the public
25 regarding the health concerns related to cigarettes, meet the requirements of NRC
26 8 and 9. *See, e.g.*, Second Amended Complaint, Paragraphs 334, 335, 339-341;
27 348, 352-354.

28 //

13. This Court's review of the smoking related cases that allege fraudulent concealment and conspiracy to commit fraud, lead to the inescapable conclusion that to prevail on these claims, a Plaintiff must show that he or she detrimentally relied on the statements made by the manufacturers of cigarettes in connection with their agreement to conceal or omit material information concerning the health effects or addictive nature of cigarettes See *R.J Reynolds Tobacco Co. v. Hamilton*, WL 509654, at *4 (Fla. Dist. Ct. App. Feb 10, 2021) (in order for Plaintiff to prevail on his conspiracy to commit fraud by concealment claim, he was required to prove that Mrs. Hamilton detrimentally relied on an act or statement made in furtherance of RJR's agreement to conceal or omit material information concerning the health effects or addictive nature of cigarettes); *R.J. Reynolds Tobacco Co. v. Martin*, 53 So. 3d 1060, 1069–70 (Fla. Dist. Ct. App. 2010) (the record contains abundant evidence from which the jury could infer Mr. Martin's reliance on pervasive misleading advertising campaigns for the Lucky Strike brand in particular and for cigarettes in general, and on the false controversy created by the tobacco industry during the years he smoked aimed at creating doubt among smokers that cigarettes were hazardous to health); *Bullock v. Philip Morris USA, Inc.*, 159 Cal.App.4th 655, 71 Cal.Rptr.3d 775, 792 (2008) (plaintiff was not required to prove actual reliance on tobacco company's specific misrepresentation where there was evidence that the company sustained a broad-based public campaign for many years disseminating misleading information and creating a controversy over the adverse health effects of smoking intending that current and potential smokers would rely on the misinformation); *Burton v. R.J. Reynolds Tobacco Co.*, 208 F.Supp.2d 1187, 1203 (D.Kan.2002) (jury could infer plaintiff's reliance where evidence showed RJR and co-conspirators "represented to the public that they would take it upon themselves to investigate and determine whether there were health consequences of smoking," but despite evidence of

//

1 cigarettes' harmful effects RJR “engaged in a publicity campaign telling the public
2 that whether there were negative health consequences from smoking remains an
3 ‘open question.’”).

4 14. Plaintiff has alleged with particularity that he detrimentally relied on the claims of
5 the Defendants to both begin and continue smoking. *See, e.g.,* Second Amended
6 Complaint, Paragraphs 210-219.

7 15. At this stage of the litigation, reading the allegations in the light most favorable to
8 Plaintiff, and taking them as true, the Court cannot say Plaintiff will be unable at
9 the time of trial to establish a factual basis, which, if true, would entitle Plaintiff to
10 relief.

11 **BASED ON THE FOREGOING,**

12 **IT IS HEREBY ORDERED** that Defendants Phillip Morris’ and Liggett’s Motion to
13 Dismiss Plaintiff’s IX, X, XI, and XII claims for relief contained in Plaintiff’s Second
14 Amended Complaint is hereby DENIED.

15
16 Dated this 20th day of April, 2021

17 
18 _____

19 9D9 D3E 0A70 6602
20 Jessica K. Peterson
21 District Court Judge
22
23
24
25
26
27
28

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 Estate of Cleveland Clark,
7 Plaintiff(s)

CASE NO: A-19-802987-C

8 vs.

DEPT. NO. Department 8

9 Philip Morris USA Inc,
10 Defendant(s)

11 **AUTOMATED CERTIFICATE OF SERVICE**

12
13 This automated certificate of service was generated by the Eighth Judicial District
14 Court. The foregoing Order was served via the court's electronic eFile system to all
recipients registered for e-Service on the above entitled case as listed below:

15 Service Date: 4/20/2021

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15	Kelly Luther	kluther@kasowitz.com
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24		
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28		

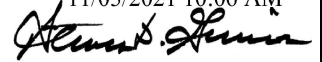
1 Spencer Diamond SDiamond@kslaw.com

2 Maxine Rosenberg Mrosenberg@wwhgd.com

3 Andrea Nayeri anayeri@shb.com

4
5 If indicated below, a copy of the above mentioned filings were also served by mail
6 via United States Postal Service, postage prepaid, to the parties listed below at their last
7 known addresses on 4/21/2021

8 Ursula Henninger King & Spalding
9 Attn: Ursula M. Henninger
10 300 S. Tryon Street
11 Charlotte, NC, 28202
12
13
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27
28


CLERK OF THE COURT

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DISTRICT COURT

CLARK COUNTY, NEVADA

SANDRA CAMACHO, individually, and
ANTHONY CAMACHO, individually,

Plaintiffs,

vs.

PHILIP MORRIS USA, INC., a foreign
corporation; R.J. REYNOLDS TOBACCO
COMPANY, a foreign corporation, individually,
and as successor-by-merger to LORILLARD
TOBACCO COMPANY and as successor-in-
interest to the United States tobacco business of
BROWN & WILLIAMSON TOBACCO
CORPORATION, which is the successor-by-
merger to THE AMERICAN TOBACCO
COMPANY; LIGGETT GROUP, LLC., a
foreign limited liability company; and ASM
NATIONWIDE CORPORATION d/b/a
SILVERADO SMOKES & CIGARS, a domestic
corporation; and LV SINGHS INC. d/b/a

CASE NO. A-19-807650-C

DEPT. NO. IV

**ORDER GRANTING PLAINTIFFS'
MOTION TO RECONSIDER ORDER
GRANTING DEFENDANT R.J.
REYNOLDS TOBACCO COMPANY'S
MOTION TO DISMISS PLAINTIFFS'
AMENDED COMPLAINT UNDER
NRCP 12(b)(5)**

SMOKES & VAPORS, a domestic corporation;
DOES 1-X; and ROE BUSINESS ENTITIES
XI-XX, inclusive,

Defendants.

Date of Hearing: September 23, 2021

Time of Hearing: 9:00 a.m.

The Court, having reviewed (1) Plaintiffs' Motion to Reconsider Order Granting R.J. Reynolds Tobacco Company's Motion to Dismiss Plaintiffs' Amended Complaint Under NRCP 12(b)(5) (filed on May 25, 2021); (2) Defendant R.J. Reynolds Tobacco Company's ("R.J. Reynolds") Opposition (filed on June 22, 2021); and (3) Plaintiffs' Reply (filed on August 3, 2021), and having heard the argument of counsel at the time of the hearing on September 23, 2021, hereby ORDERS as follows:

1. Plaintiffs' Motion to Reconsider is hereby GRANTED.

2. The effect of this Order is that Plaintiffs' claims for (1) violation of the Nevada Deceptive Trade Practices Act ("NDTPA") and (2) civil conspiracy against R.J. Reynolds are hereby reinstated.

3. The Court first notes that according to NRCP 54(b), it has the right to reconsider the prior Order Granting Defendant R.J. Reynolds Tobacco Company's Motion to Dismiss Plaintiffs' Amended Complaint Under NRCP 12(b)(5) (filed on August 27, 2020). *See, e.g., In re Manhattan W. Mechanic's Lien Litig.*, 131 Nev. 702, 707 n.3, 359 P.3d 125, 128 n.3 (2015) ("[The petitioner] argues that the district court erred in reconsidering the motion. [The petitioner's] argument is without merit because NRCP 54(b) permits the district court to revise a judgment that adjudicates the rights of less than all the parties until it enters judgment adjudicating the rights of all the parties.").

4. The prior August 27, 2020, Order Granting Defendant R.J. Reynolds Tobacco Company's Motion to Dismiss is clearly erroneous for several reasons:

a. Plaintiffs' claim for violation of the NDTPA is based upon the plain language of the several statutory provisions. Yet, the prior August 27, 2020, Order erroneously adds language to the statutory requirements of the NDTPA by requiring Plaintiffs to "purchase or use" an R.J. Reynolds' product. Ord. at 2. The prior August 27, 2020, Order also erroneously required Plaintiffs to have a "legal relationship" with R.J. Reynolds. These requirements

1 improperly exceed the statutory requirements of NRS 41.600 and NRS Chapter 598. *See,*
2 *e.g.,* NRS 598.0915; NRS 598.094. *See S. Nev. Homebuilders Ass’n v. Clark Cty.*, 121 Nev.
3 446, 451, 117 P.3d 171, 174 (2005) (“[I]t is not the business of this court to fill in alleged
4 legislative omissions based on conjecture as to what the legislature would or should have
5 done.”). Thus, the Court grants reconsideration and concludes that Plaintiffs have properly
6 alleged a claim for violation of the NDTPA against R.J. Reynolds to survive a challenge under
7 NRCP 12(b)(5).

8 b. The Court’s construction of NRS 41.600 and NRS Chapter 598 in granting
9 reconsideration is consistent with the Supreme Court’s clarification in *Betsinger v. D.R.*
10 *Horton, Inc.*, 126 Nev. 162, 232 P.3d 433 (2010) that an NDTPA claim is easier to establish
11 than common law fraud. The Court of Appeals also more recently confirmed, “Because the
12 NDTPA is a remedial statutory scheme,” this Court should “afford [it] liberal construction to
13 accomplish its beneficial intent.” *Poole v. Nevada Auto Dealership Investments, LLC*, 135
14 Nev. 280, 286–287, 449 P.3d 479, 485 (Ct. App. 2019) (citing *Welfare Div. of State Dep’t of*
15 *Health, Welfare & Rehab. v. Washoe Cty. Welfare Dep’t*, 88 Nev. 635, 637 (1972)). Thus,
16 the Court concludes that Plaintiffs have standing and have sufficiently alleged a claim for
17 violation of the NDTPA against R.J. Reynolds to survive a challenge under NRCP 12(b)(5).

18 c. Since the Court has reinstated Plaintiffs’ claim for violation of the NDTPA
19 against R.J. Reynolds, this claim provides the necessary predicate for the Court to also
20 reinstate Plaintiffs’ conspiracy claim against R.J. Reynolds. In Nevada, “an underlying cause
21 of action for fraud is a necessary predicate to a cause of action for conspiracy to defraud.”
22 *Jordan v. State ex rel. Dept. of Motor Vehicles & Pub. Safety*, 121 Nev. 44, 75, 110 P.3d 30,
23 51 (2005), *abrogated on other grounds by Buzz Stew, LLC v. City of N. Las Vegas*, 124 Nev.
24 224, 228 n.6, 181 P.3d 670, 672 n.6 (2008).

25 5. On the issue of discovery, the Court notes that there is an upcoming jury trial date of
26 August 1, 2022. Despite R.J. Reynolds’ offer at the hearing that it could participate in discovery as
27 a non-party (viewing itself as dismissed under the prior August 27, 2020, Order), the Court does not
28 have the authority to compel a non-party to participate in discovery. Thus, as a practical matter, if

the Court were to leave R.J. Reynolds dismissed under the erroneous August 27, 2020, Order, the discovery in this case would have to be duplicated upon the reinstatement of Plaintiffs' claims against R.J. Reynolds. Thus, the Court's decision to grant Plaintiffs' motion to reconsider and reinstate Plaintiffs' claims against R.J. Reynolds more fully supports judicial economy than R.J. Reynolds' offer to voluntarily participate in discovery, while remaining dismissed from the case. Now that Plaintiffs' claims against R.J. Reynolds are reinstated, R.J. Reynolds can participate in discovery as a party to this litigation.

IT IS SO ORDERED.

Dated this 3rd day of November, 2021



3F8 F16 93CB E87D
Nadia Krall
District Court Judge

Respectfully Submitted by:
Dated this 2nd day of November 2021.

CLAGGETT & SYKES LAW FIRM

/s/ Sean K. Claggett

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Reviewed as to Form and Content:
Dated this ____ day of ____ 2021.

BAILEY KENNEDY

Submitting Competing Order

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1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

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6 Sandra Camacho, Plaintiff(s) CASE NO: A-19-807650-C
7 vs. DEPT. NO. Department 4
8 Philip Morris USA Inc,
9 Defendant(s)

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11 **AUTOMATED CERTIFICATE OF SERVICE**

12 This automated certificate of service was generated by the Eighth Judicial District
13 Court. The foregoing Order was served via the court's electronic eFile system to all
14 recipients registered for e-Service on the above entitled case as listed below:

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