

IN THE SUPREME COURT OF THE STATE OF NEVADA

SANDRA CAMACHO; AND ANTHONY  
CAMACHO,

Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT COURT OF  
THE STATE OF NEVADA, IN AND FOR THE  
COUNTY OF CLARK; AND THE HONORABLE  
NADIA KRALL, DISTRICT JUDGE,

Respondents,

and

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; and ASM NATIONWIDE  
CORPORATION d/b/a SILVERADO SMOKES &  
CIGARS, a domestic corporation; LV SINGHS  
NC. d/b/a SMOKES & VAPORS, a domestic  
corporation,

Real Parties in Interest.

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## **CHAPTER 4**

### **TRENDS IN PUBLIC BELIEFS, ATTITUDES, AND OPINIONS ABOUT SMOKING**

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## Introduction

This Chapter analyzes trends in public beliefs, attitudes, and opinions about smoking. It is divided into three sections. The first describes trends in public beliefs regarding the health effects of smoking, the second describes trends in public attitudes about smokers and smoking, and the third describes trends in public opinion about smoking policies.

At the outset, it is important to define and clarify the important terms used in this Chapter. Terms such as knowledge, awareness, opinions, beliefs, and attitudes have commonsense meanings to the lay person, but more complex meanings to the social scientist. For example, Allport (1935) reviewed many definitions of attitude and constructed his own comprehensive definition: "An attitude is a mental or neural state of readiness, organized through experience, exerting a directive or dynamic influence upon the individual's response to all objects and situations with which it is related." Entire books have been devoted to the science of defining and measuring public attitudes, opinions, and beliefs (e.g., Oskamp 1977).

For sections two and three of this Chapter, which deal with attitudes and opinions, the commonplace understanding of these terms will suffice. For the first section, however, which covers beliefs about health effects, a more careful approach is warranted. This Section generally follows the construct described by Fishbein (1977), which embraces three levels of belief:

1. Level 1 (awareness): A person may believe that "the Surgeon General has determined that cigarette smoking is dangerous to health."
2. Level 2 (general acceptance): A person may believe that "cigarette smoking is dangerous to health."
3. Level 3 (personalized acceptance): A person may believe that "my cigarette smoking is dangerous to my health."

Most of the survey data presented in the first section address Level 2 beliefs. At times, the term public knowledge is used to refer to public beliefs (Level 2 beliefs at the population level). There are few data regarding Level 1 beliefs; consequently, use of the terms awareness and public awareness is generally avoided. Data pertinent to Level 3 beliefs are available from a few surveys in three forms: (1) questions asking whether smoking "is harmful to your health"; (2) questions asking whether respondents are "concerned" about the effects of smoking on their health; and (3) questions asking whether respondents believe that they are less likely, as likely, or more likely than other people to be adversely affected by smoking. These levels of beliefs are discussed in more depth later in this Chapter.

## Data Sources

The information presented in this Chapter is derived from three principal sources:

1. Nationally representative surveys conducted by the U.S. Public Health Service from 1964-87, including the Adult Use of Tobacco Surveys (AUTSs) (1964, 1966, 1970, 1975, 1986) and the National Health Interview Surveys (NHISs) (1985, 1987). The NHIS questions were part of the Health Promotion and Dis-

ease Prevention Supplement in 1985 and the Cancer Control Supplement in 1987. The surveys for 1964-75 used, for the most part, the same methods and questionnaire wording. Different methods and questionnaires were used in subsequent surveys.

2. Nationally representative surveys conducted by private organizations, such as Gallup and Roper, and sponsored by various organizations.
3. National surveys of population *subgroups* or local surveys. These surveys were used, for the most part, only when nationally representative data were unavailable.

Data from these surveys are presented in several tables throughout this Chapter, each of which addresses beliefs or opinions about a particular smoking-related scientific fact or policy. When one of the primary data sources (e.g., the AUTS) is not included in a table, it is because the relevant question was not asked in the survey or survey year or because the data were not available.

Preliminary first-quarter estimates from the Cancer Control Supplement to the 1987 NHIS are provided in some tables (unpublished data, National Cancer Institute). These data are unweighted. When available, year-end weighted data are cited; in all cases, these figures are very similar to the first-quarter estimates.

The surveys used in this Chapter and in Chapter 5 are described in the Appendix to this Chapter. Table 1 provides basic information about the survey methodology. The amounts of information provided for the different surveys vary because certain

**TABLE 1.—Methodology of surveys**

| Survey                   | Survey firm                           | Sample size | Age (years) | Response rate (%) | Mode <sup>a</sup>             |
|--------------------------|---------------------------------------|-------------|-------------|-------------------|-------------------------------|
| AUTS 1964                | National Analysts                     | 5,794       | ≥21         | 76                | P                             |
| AUTS 1966                | National Analysts<br>Opinion Research | 5,768       |             | 72                | P<br>T <sup>b</sup>           |
| AUTS 1970                | Chilton                               | 5,200       | ≥21         |                   | P(9% <sup>c</sup> )<br>T(91%) |
| AUTS 1975                | Chilton                               | 12,000      |             |                   | T(96%)<br>P(4% <sup>c</sup> ) |
| Roper 1978               | Roper                                 | 2,511       |             |                   | P                             |
| NHIS 1985                | Census Bureau                         | 33,630      | ≥18         | 90                | P                             |
| AUTS 1986                | Westat                                | 13,031      | ≥17         | 74                | T                             |
| AMA 1986                 | Kane, Parsons                         | 1,500       |             |                   | T                             |
| AMA 1987                 | Kane, Parsons                         | 1,500       |             |                   | T                             |
| MTF <sup>d</sup> 1975–87 | University of Michigan                |             | 18          |                   | Q                             |

<sup>a</sup>P, personal interview; T, telephone interview; Q, self-administered questionnaire.

<sup>b</sup>Nonrespondents to personal interviews.

<sup>c</sup>Nontelephone households.

<sup>d</sup>Monitoring the Future Project, survey of high school seniors.

methodological details were available for some surveys but not for others. Additional information on the methodology of these surveys has been published elsewhere (Massey et al. 1987).

### Issues in Comparing Surveys

When assessing trends from different surveys conducted at different times by different organizations, it is important to consider the following caveats. The response to each specific question depends upon multiple factors, including the mode of data collection (e.g., in person versus telephone), the sociodemographic representativeness of the sample, the exact wording of the question (e.g., bold, direct-sounding questions versus conservative-sounding statements), the type of response allowed or requested (e.g., open- versus closed-ended questions), the order of questions within the survey, and the content and nature of the rest of the survey (e.g., a survey specifically addressing smoking versus another of a general topic). Even minor changes in the survey methods or questionnaire wording may lead to markedly discrepant results for a specific question.

Additional precautions exist when interpreting surveys that assess public knowledge. When asked a knowledge question, respondents may attempt to answer it “correctly” in order to please the interviewer. The Health Promotion and Disease Prevention Supplement to the 1985 NHIS sheds light on this question. In this survey (NCHS 1986), respondents were asked whether smoking increases the risk of developing cataracts and gall bladder disease—two conditions not associated with smoking. The extent to which these types of questions (sometimes called “red herrings”) are answered in the affirmative (and thus incorrectly) may reflect the respondents’ general tendency to respond in the affirmative. More than 85 percent of respondents reported that smoking causes emphysema, chronic bronchitis, and laryngeal, esophageal, and lung cancer; however, 11 percent and 16 percent reported that smoking causes gallstones and cataracts, respectively. The responses indicating a connection between smoking and cataracts or gall bladder disease may represent misinformed beliefs or a bias from attempting to answer knowledge questions “correctly.” There are other possible explanations, however. For instance, these responses (as well as other “correct” responses) may represent inferences that respondents have made, in some cases regarding questions they have never thought about. In these cases, some persons may be inclined to infer a connection between a known risk behavior and any disease outcome.

In the case of questions about public knowledge (e.g., “Do you think that smoking is or is not a cause of lung cancer?”), the “don’t know” response should be included in the denominator when calculating the proportion of the population that believes a particular fact. This process was used for calculating unpublished data presented below.

When two surveys produce unexpected or discrepant results, a close inspection of the methods often explains the findings. Two examples involve surveys of public opinion about smoking policies. In one case, two separate national surveys conducted in 1986 regarding support for a ban on cigarette advertising provided apparently discrepant results (American Medical Association (AMA) 1986). A careful review of the questionnaire wording revealed marked differences in the remarks made just prior to each question. In a survey conducted for AMA, respondents were first informed about



the AMA's support of a policy to ban advertising--67 percent subsequently responded that they were in favor of such a ban. In contrast, in a survey conducted for the American Cancer Society (ACS), the American Heart Association (AHA), and the American Lung Association (ALA), respondents were first informed that "some people feel that as long as cigarettes are legal, cigarette advertising should be permitted. Others feel that cigarette advertising should not be permitted." Thirty-three percent subsequently responded that cigarette companies should not be permitted to advertise in newspapers and magazines.

There are at least three reasons these questions might be expected to evoke different responses. First, the wording prior to each question may have biased the respondents--one to align with the sponsoring agency's policy and the other to consider the legal implications of such a ban. Second, the first survey asked whether cigarette advertising should *be banned* while the second asked whether cigarette advertising should be *permitted*. To the extent that some respondents may have a general inclination to answer in the affirmative, such wording differences could influence the results. Third, the word "ban" may have negative connotations for some respondents. Two national surveys (including one sponsored by AMA) conducted 1 year later, which provided no introductory comments, found that 49 percent of adults (Gallup 1987a) and 55 percent of adults (Harvey and Shubat 1987) were in favor of a ban on tobacco advertising (see Table 31).

A second example involves two surveys conducted in Michigan in 1986 regarding public opinion on smoking in public places (Perlstadt and Holmes 1987). A survey sponsored by the affiliates of ALA and AHA in Michigan revealed that 82 percent of adults favored restrictions on smoking in public places. In contrast, a survey conducted 2 months later and sponsored by the Michigan Tobacco and Candy Distributors and Vendors Association indicated that 82 percent of the public thought the legislature should refrain from further legislation restricting smoking. After assessing the survey methods and questionnaires, the Michigan Department of Public Health concluded that markedly different questionnaire wording and survey methods accounted for the discrepant results.

To assist in the interpretation of the data presented in this Report, data sources are described in Table 1 and in the Appendix to this Chapter, and the exact (or approximate) question wording and response choices are provided as a footnote to each table when available. Response choices, when obvious, are often omitted (e.g., simple yes-no questions). Although the same question wording may be used in different surveys, other factors may have important effects on the responses. The reader should therefore interpret with caution observed differences and trends presented in this Chapter because many of the potential factors that may affect responses are not known.

## Trends in Public Beliefs About the Health Effects of Smoking

### Overview

The health consequences of smoking are well documented and widely acknowledged in the scientific literature (see Chapter 2 in this Report). In 1964, the Surgeon General's Advisory Committee on Smoking and Health, after an extensive review of the literature, reported that cigarette smoking was causally associated with lung and laryngeal cancer in men, was the most important cause of chronic bronchitis, and was associated with esophageal cancer, bladder cancer, coronary artery disease, emphysema, peptic ulcer, and low-birthweight babies (US PHS 1964).

During the 25-year period since 1964, subsequent reports of the Surgeon General have updated and extended the findings of the Advisory Committee. The purpose of this Section is to determine the extent to which this information has been disseminated to and accepted by the U.S. public. Public knowledge of the health risks of smoking can be considered under three broad categories: whether smoking is harmful to health in general and whether smokers perceive *themselves* to be at risk from smoking, as well as the magnitude of risk from smoking and how this compares to other health risks. Because health concerns and risks among adolescents differ from those of adults, we have addressed surveys of their knowledge under a separate heading.

For each specific known health risk noted, the section below includes: (1) a description of the known medical or scientific facts; that is, a brief summary of the information known about the health risk (see Chapter 2 for a more detailed description of the information about health risks), (2) a report on the trends in the public's knowledge of this fact (if available), and (3) a brief description of the current status of knowledge with respect to smoking status. This Section concludes with a summary of the important gains in knowledge, the gaps that remain, the factors that may promote or interfere with change, and the relationship between these trends and the 1990 Health Objectives for the Nation.

In a few cases, published studies have analyzed public knowledge or beliefs by sociodemographic groupings (NCHS 1988; Folsom et al. 1988; Fox et al. 1987; Shopland and Brown 1987; Dolecek et al. 1986). Because these analyses were available only occasionally, and because some of these studies did not control for smoking status, sociodemographic correlation data are not presented below. Because smoking rates and socioeconomic status are inversely correlated (Chapter 5), differences in public knowledge or beliefs according to smoking status may reflect differences in socioeconomic status.

### Is Cigarette Smoking Harmful to Smokers in General?

In 1964, 81 percent of adults strongly or mildly agreed that smoking is harmful to health (Table 2). An identical series of questions asked in the AUTSs from 1964-75 demonstrated an increase in this belief to 90 percent of adults. Public knowledge on this question increased during this period among current smokers (70 to 81 percent), as well as among never smokers (89 to 95 percent).

TABLE 2.--Trends in public knowledge about smoking and health

| Survey               | Year | Reference     | Cigarette smoking is harmful to health<br>(percentage who agree by smoking status) |                |               |                 |            |
|----------------------|------|---------------|--|----------------|---------------|-----------------|------------|
|                      |      |               | Current smokers  | Former smokers | Never smokers | All non-smokers | All adults |
| 1. AUTS <sup>a</sup> | 1964 | US DHEW 1969  | 70   | 91             | 89            | 89              | 81         |
| 2. AUTS <sup>a</sup> | 1966 | US DHEW 1969  | 78   | 89             | 89            | 89              | 85         |
| 3. AUTS <sup>a</sup> | 1970 | US DHEW 1973  | 79   | 92             | 92            | 92              | 87         |
| 4. AUTS <sup>a</sup> | 1975 | US DHEW 1976a | 81   | 95             | 95            | 95              | 90         |

<sup>a</sup>Percentages include those who “strongly agree” or “mildly agree.”  
NOTE: Actual questions:  
1. Smoking cigarettes is harmful to health (strongly agree, mildly agree, no opinion, mildly disagree, strongly disagree).  
2. Cigarette smoking is harmful to health (strongly agree, mildly agree, no opinion, mildly disagree, strongly disagree).  
3-4. Smoking Cigarettes is harmful to health (strongly agree, mildly agree, no opinion/don’t know, mildly disagree, strongly disagree).

**TABLE 3.--Trends in public beliefs regarding the relative hazards of different cigarette brands, 1970, 1975, 1986**

|   | Percentage of current smokers |      |      |
|---|-------------------------------|------|------|
|   | 1970                          | 1975 | 1986 |
| Some kinds of cigarettes are probably more hazardous to health than others <sup>a</sup> |                               |      |      |
| Kind I smoke probably more hazardous than others <sup>a</sup>                           | (6)                           | (10) | (8)  |
| Kind I smoke probably less hazardous than others <sup>a</sup>                           | (25)                          | (25) | (21) |
| Kind I smoke probably about the same as others <sup>a</sup>                             | (14)                          | (14) | (13) |
| Don't know  | (2)                           | (2)  | (2)  |
| Subtotal  | 47                            | 51   | 45   |
| All cigarettes are probably about equally hazardous <sup>a</sup>                        | 43                            | 41   | 50   |
| Cigarettes are probably not hazardous to health at all                                  | 4                             | 5    | 2    |
| Don't know or not stated if some are hazardous  | 6                             | 4    | 3    |
| Total   | 100                           | 100  | 100  |

<sup>a</sup>The word "probably" was not used in the 1986 AUTS. The wording in the three surveys was otherwise similar.

SOURCE: AUTSs 1970, 1975, 1986 (US DHEW 1973, 1976a: US DHHS, in press).

Although smokers and nonsmokers acknowledge the health risks from smoking, certain types of smoking (such as light smoking or smoking low-tar cigarettes) or smoking for a limited period of time may be perceived as less hazardous. In general, there are few data to assess the degree to which these beliefs are held. According to the AUTSs in 1970, 1975, and 1986, 45 to 50 percent of current smokers believed that "some kinds of cigarettes are probably more hazardous than others," 40 to 50 percent believed that "all cigarettes are probably about equally hazardous," and 5 percent or less believed that "cigarettes are probably not hazardous to health at all" (Table 3). More specific data are reviewed below.

#### Heavy Versus Light Smoking

A large body of evidence has shown that light smoking, that is, 1 to 9 cigarettes per day, is associated with a significantly increased risk of overall morbidity and mortality from lung cancer, chronic obstructive pulmonary disease (COPD), heart disease, and other smoking-related diseases compared with never smoking (US DHEW 1979a; US DHHS 1982, 1983, 1984).

Between 1970 and 1978, national surveys conducted by the Roper Organization addressed beliefs regarding the health risks of heavy versus light smoking (FTC 1981). Respondents were asked how hazardous smoking is and were given three possible responses: any amount, only heavy smoking, and not hazardous. In 1970, 45 percent of respondents considered only heavy smoking to be hazardous (Table 4); by 1978, 31

**TABLE 4.—Trends in public knowledge about the health hazards of smoking**

| Survey   | Year | Reference         | What amount of smoking is hazardous to health? <sup>a,b</sup><br>(percentage who responded for each amount) |                       |                  |                     |
|----------|------|-------------------|---|-----------------------|------------------|---------------------|
|          |      |                   | Any<br>amount   | Only heavy<br>smoking | Not<br>hazardous | Don't<br>know       |
| 1. Roper | 1970 | Roper 1978        | 47  | 45                    | 5                | 3                   |
| 2. Roper | 1972 | Roper 1978        | 48  | 42                    | 6                | 4                   |
| 3. Roper | 1974 | Roper 1978        | 54  | 39                    | 4                | 3                   |
| 4. Roper | 1976 | Roper 1978        | 54  | 38                    | 4                | 4                   |
| 5. Roper | 1978 | Roper 1978        | 61  | 31                    | 5                | 4                   |
| 6. AUTS  | 1986 | US DHHS, in press | 72  | 20                    |                  | 5 (current smokers) |
|          |      |                   | 81  | 13                    |                  | 4 (former smokers)  |
|          |      |                   | 85  | 11                    |                  | 4 (never smokers)   |

<sup>a</sup>Respondents were allowed to choose only one answer. The "not hazardous" response was not available for the AUTS.

<sup>b</sup>Percentages of responses in Roper surveys refer to all respondents; in AUTS 1986, percentages represent current, former, and never smokers, respectively.

NOTE: Actual questions:

1-5. How hazardous is smoking? (any amount, only heavy smoking, not hazardous, don't know)

6. Do you think that only heavy smoking is hazardous or that any smoking is hazardous? (only heavy smoking, any smoking, don't know)

percent considered only heavy smoking to be hazardous. Corresponding increases occurred in those responding “any amount.”

The 1986 AUTS posed a similar question but did not offer “not hazardous” as a possible response (Table 4). It showed that most respondents, given the two choices of “any amount” or “only heavy smoking,” chose the former (85, 81, and 72 percent of never, former, and current smokers, respectively).

When asked, “How many cigarettes a day do you think a person would have to smoke before it would affect their (sic) health?” 49 percent of current smokers and 40 percent of never smokers cited 10 or more (Table 5), thus failing to recognize light smoking as a health risk. Twenty percent of current smokers cited 25 or more cigarettes as the minimum number necessary for adverse health effects (Table 5), which is identical to the proportion of current smokers who indicated, in response to the prior question, that only heavy smoking is hazardous to health (Table 4).

#### Tar Yield

Studies have shown that smoking filtered lower tar cigarettes reduces the risk of lung cancer compared with smoking unfiltered higher tar cigarettes. However, there is no conclusive evidence that the lower yield cigarettes are associated with reduced risk of overall mortality, cancers other than lung, COPD, or heart disease. Moreover, compensatory smoking behavior in response to lower nicotine intake might actually increase the intake of tobacco smoke toxins in some individuals (US DHHS 1981).

Very few surveys have assessed the perceived harmfulness of low-tar cigarettes versus high-tar cigarettes or never smoking. In the 1980 Roper Survey (FTC 1981), respondents were presented with the following false statement: “It has been proven that smoking low-tar, low-nicotine cigarettes does not significantly increase a person’s risk of disease over that of a nonsmoker.” Nine percent of smokers said they “know it’s true,” 27 percent said they “think it’s true,” and 32 percent said they did not know if it was true or not. The complicated wording of this question and use of the word “proven” make interpretation of these results difficult. Different results may have been obtained using a question such as, “Do you believe that smoking low-tar cigarettes is or is not harmful to health?”

The 1980 Roper survey also asked respondents their beliefs about the following statement: “Even if a woman smokes low tar, low nicotine cigarettes during pregnancy, she still significantly increases her risk of losing the baby before or during birth.” Forty-three percent of all respondents and 37 percent of smokers said they “know it’s true” or “think it’s true” (unpublished data, FTC).

The 1987 NHIS asked respondents if they believed that “People who smoke low tar and nicotine cigarettes are less likely to get cancer than people who smoke high tar and nicotine cigarettes.” A total of 30 percent agreed with the statement whereas 50 percent disagreed (year-end data).

Folsom and associates (1988) surveyed 1,252 blacks (aged 35 to 74 years) and 1,870 whites in the metropolitan Minneapolis/St. Paul area during 1985-86. Respondents were presented with the following statement: “If ‘tar’ and nicotine were removed from cigarettes, there would be no other chemicals in tobacco smoke that cause disease.”

**TABLE 5.—Public knowledge about the health hazards of smoking in relation to daily cigarette consumption, 1986**

|                 | How many cigarettes a day you think a person would have to smoke before it would affect their health? <sup>a</sup><br>(percentage indicating the following number of cigarettes per day) |     |     |       |       |       |     | Don't know |
|-----------------|--|-----|-----|-------|-------|-------|-----|------------|
|                 | 1  | 2-4 | 5-9 | 10-14 | 15-24 | 25-39 | ≥40 |            |
| Current smokers | 14   | 4   | 8   | 12    | 17    | 3     | 17  | 25         |
| Former smokers  | 17   | 6   | 10  | 13    | 19    | 2     | 9   | 22         |
| Never smokers   | 21   | 9   | 10  | 11    | 19    | 1     | 9   | 20         |

<sup>a</sup>The question was open ended. Responses were grouped in the categories 1-9, 10-24, and ≥25 cigarettes per day to conform to the common definitions of light, moderate, and heavy smoking.  
 SOURCE: AUTS 1986 (US DHHS, in press).

The percentages of those correctly identifying this statement as false were 59 percent of black men, 76 percent of white men, 42 percent of black women, and 60 percent of white women. Those who considered the statement to be true may believe low-tar and -nicotine cigarettes to be less hazardous.

#### Duration of Smoking

Overall mortality ratios for smokers compared with nonsmokers increase with the duration of smoking. Overall mortality rates among smokers are slightly above the rates of nonsmokers for the first 5 to 15 years of smoking but then increase more rapidly as the years of smoking increase (US DHEW 1979a). Mortality ratios for lung cancer, coronary heart disease (CHD), and COPD increase with decreasing age of initiation (US DHHS 1982, 1983, 1984). An increased risk of morbidity (e.g., as measured by days of hospitalization, bed disability, and work lost) among smokers may occur much earlier than increases in mortality ratios.

The 1964 AUTS asked respondents, "How many cigarettes a day for how many years might make a cigarette smoker more likely to get lung cancer?" Most of those who considered smoking to be a cause of lung cancer believed that smoking would increase the risk of lung cancer only after at least 10 years of smoking (regardless of the number of cigarettes smoked per day) (Table 6).

The 1986 AUTS asked respondents, "How long would a person have to smoke (number) of cigarettes each day before it would affect their (sic) health?" The number of cigarettes used in this question was the number identified by the respondent (in the previous question) as that which "a person would have to smoke before it would affect their (sic) health" (see Table 5). A majority of respondents in all smoking categories believed that smoking 10 or fewer years would affect a person's health. A higher percentage of never smokers (36 percent) than current smokers (23 percent) believed that smoking less than 1 year would affect a person's health. Correspondingly, a slightly higher percentage of current smokers (10 percent) than never smokers (5 percent) believed that health effects would occur only after at least 15 years of smoking (Table 7).

The wording in these two questions from the 1964 and 1986 AUTSs is substantially different, making any comparison difficult. In particular, the 1986 question may have favored responses indicating a shorter duration of smoking by referring to general effects on health (which could be interpreted as nothing more than a cough) whereas the 1964 question asked about the risk of lung cancer.

#### Does Cigarette Smoking Cause:

##### *Lung Cancer?*

Lung cancer, first correlated with smoking more than 50 years ago, is the single largest contributor to the total cancer death rate (US DHHS 1982). Lung cancer alone accounted for an estimated 139,000 (28 percent) of the estimated 494,000 total cancer deaths in the United States in 1988 (ACS 1988a). It is estimated that cigarette smoking



**TABLE 6.—Public beliefs about the health effects of smoking in relation to duration of smoking, 1964**

|                 | How many cigarettes a day for how many years might make a cigarette smoker more likely to get lung cancer? <sup>a</sup><br>(percentage indicating the following number of years <sup>b</sup> ) |       |       |     |                          | Smokers not more likely to get lung cancer |
|-----------------|--|-------|-------|-----|--------------------------|--|
|                 | ≤9   | 10–19 | 20–29 | ≥30 | Don't know/<br>no answer |  |
| Current smokers | 10   | 12    | 12    | 11  | 10                       | 43   |
| Former smokers  | 17   | 17    | 16    | 14  | 14                       | 22   |
| Never smokers   | 17   | 16    | 10    | 13  | 19                       | 24   |

<sup>a</sup>Asked only of those who indicated in the previous survey question that smokers are more likely than nonsmokers to develop lung cancer. The denominators for these percentages include all respondents.

<sup>b</sup>Regardless of number of cigarettes per day.

SOURCE: AUTS 1964 (US DHEW 1969).

**TABLE 7.--Public beliefs about the health effects of smoking in relation to duration of smoking, 1986**

|                 | How long would a person have to smoke (number) cigarette <sup>a</sup> each day before it would affect their health?<br>(percentage indicating the following years of smoking) |     |     |      |       |     |       | Don't<br>know |
|-----------------|---|-----|-----|------|-------|-----|-------|---------------|
|                 | <1  | 1-2 | 3-5 | 6-10 | 11-15 | >15 | Never |               |
| Current smokers | 23  | 15  | 10  | 8    | 3     | 10  | 0.6   | 30            |
| Former smokers  | 24  | 13  | 13  | 10   | 3     | 9   | 0.4   | 29            |
| Never smokers   | 36  | 16  | 10  | 6    | 2     | 5   | 0.1   | 25            |

<sup>a</sup>The number of cigarettes used in this question was the number identified by the respondent (in the previous survey question) as that which "a person would have to smoke before it would affect their health." (See Table 6).

SOURCE: AUTS 1986 (US DHHS, in press).

causes approximately 90 percent of lung cancer deaths in men and 80 percent in women (see Chapter 3).

Surveys have addressed public knowledge about the relationship between smoking and lung cancer since 1954. In 1954, fewer than half of adults (41 percent) thought that smoking is one of the causes of lung cancer (Table 8). Since that time, public knowledge of the association between smoking and lung cancer has increased steadily. By 1964, a majority of adults (66 percent) believed that smoking causes lung cancer; surveys in 1985, 1986, and 1987 showed that this proportion had increased to between 87 and 95 percent.

#### *Heart Disease?*

The 1964 Report of the Surgeon General's Advisory Committee identified an association between smoking and CHD, although it did not consider the available data to be sufficient to establish a causal relationship (US PHS 1964). Since that time, evidence from numerous investigations has established cigarette smoking as the most important modifiable risk factor for CHD in the United States (US DHHS 1983). Cigarette smoking increases the risk of death from CHD approximately threefold in persons less than 65 years old and is responsible for 40 to 45 percent of CHD deaths in this age group (Chapter 3).

Public beliefs that smoking is associated with the risk of CHD have steadily increased since 1964, when fewer than half of adults (40 percent) thought that smokers were more likely than nonsmokers to develop heart disease (Table 9). Surveys in 1985, 1986, and 1987 showed that 77 to 90 percent of adults believed that smoking increases the risk of developing heart disease. Each of these recent surveys showed that current smokers were less likely to have this belief than former and never smokers.

In 1986, current smokers were less likely to acknowledge a relationship between smoking and heart disease (71 percent) than were former smokers (84 percent) and never smokers (80 percent).

#### *Chronic Obstructive Pulmonary Disease?*

The 1964 Report of the Surgeon General's Advisory Committee identified cigarette smoking as the most important cause of chronic bronchitis (US PHS 1964). Today, cigarette smoking has been identified as the major cause of chronic bronchitis and emphysema in the United States. Eighty to eighty-five percent of deaths from COPD are attributed to cigarette smoking (Chapter 3; also see US DHHS 1984).

Since 1964, the public belief that smoking is associated with an increased risk of COPD has increased. In 1964, half of adults (50 percent) thought that smokers were more likely to get chronic bronchitis and emphysema (Table 10). By 1986, most adults thought that cigarette smokers were more likely than nonsmokers to develop chronic bronchitis (81 percent) and emphysema (89 percent). The preliminary first-quarter 1987 NHIS estimates were similar.

In three surveys that asked identical questions regarding emphysema and chronic bronchitis (NHISs 1985 and 1987, AUTS 1986), there were consistent slightly higher proportions who believed that smoking is associated with emphysema compared with chronic bronchitis.

In 1986, smokers were less likely to acknowledge an association between smoking and chronic bronchitis (73 percent) than were former smokers (84 percent) and never

**TABLE 8--Trends in public knowledge about smoking and lung cancer**

| Survey     | Year        | Reference    | Cigarette smoking causes lung cancer<br>(percentage who agree by smoking status) |                   |                  |                   |               |
|------------|-------------|--------------|--|-------------------|------------------|-------------------|---------------|
|            |             |              | Current<br>smokers   | Former<br>smokers | Never<br>smokers | All<br>nonsmokers | All<br>adults |
| 1. Gallup  | 1954        | Gallup 1981  |  |                   |                  |                   | 41            |
| 2. Gallup  | 1957        | Gallup 1981  |  |                   |                  |                   | 50            |
| 3. Gallup  | 1958        | Gallup 1981  |  |                   |                  |                   | 44            |
| 4. AUTS    | 1964        | US DHEW 1969 | 53   | 75                | 75               | 75                | 66            |
| 5. AUTS    | 1966        | US DHEW 1969 | 57   | 79                | 70               | 72                | 66            |
| 6. Gallup  | <b>1969</b> | Gallup 1981  |  |                   |                  |                   | 71            |
| 7. Gallup  | 1971        | Gallup 1981  |  |                   |                  |                   | 71            |
| 8. Gallup  | 1977        | Gallup 1981  |  |                   |                  |                   | 81            |
| 9. Gallup  | 1978        | Gallup 1978  | 72   |                   |                  | 87                | 81            |
| 10. Gallup | 1981        | Gallup 1981  | 69   |                   |                  | 91                | 83            |

**TABLE 8.--Continued**

| Survey                | Year | Reference              | Cigarette smoking causes lung cancer<br>(percentage who agree by smoking status) |                   |                  |                   |               |
|-----------------------|------|------------------------|--|-------------------|------------------|-------------------|---------------|
|                       |      |                        | Current<br>smokers   | Former<br>smokers | Never<br>smokers | All<br>nonsmokers | All<br>adults |
| 11. NHIS              | 1985 | NCHS 1986 <sup>a</sup> | 92   | 96                | 96               | 96                | 95            |
| 12. AUTS              | 1986 | US DHHS, in press      | 85   | 94                | 95               | 95                | 92            |
| 13. Gallup            | 1987 | ALA 1987               | 75   | 90                |                  | 94                | 87            |
| 14. NHIS <sup>b</sup> | 1987 |                        | 83   | 92                | 92               |                   | 89            |

<sup>a</sup>And unpublished data.<sup>b</sup>Preliminary first-quarter data (unpublished). Year-end percentage for all adults is 89 percent.

NOTE: Actual questions:

1-3. Do you think that cigarette smoking is or is not one of the causes of lung cancer? (yes, is a cause; no, is not a cause; no opinion)

4-5. Would you say that cigarette smoking is definitely, probably, probably not, or definitely not a major cause of lung cancer, or that you have no opinion either way?\*

6-10. Do you think that cigarette smoking is or is not one of the causes of lung cancer? (yes, is a cause; no, is not a cause; no opinion)

11. Tell me if you think cigarette smoking definitely increases, probably increases, probably does not, or definitely does not increase a person's chances of getting the following problems lung cancer.

12. Do you think a person who smokes is any more likely to get lung cancer than a person who doesn't smoke? (much more likely, somewhat more likely, no, don't know)†

13. Do you think smoking is a cause of lung cancer? (yes, no, don't know)

14. People have differing beliefs about the relationship between smoking and health. Do you believe cigarette smoking is related . . . to lung cancer?

\*Percentages include those who say smoking is "definitely" or "probably" a major cause of lung cancer.

\*\*Percentages include those who believe smoking "definitely" or "probably" increases the risk.

†Percentages include those who believe smokers are "much more likely" or "somewhat more likely" to get lung cancer.

**TABLE 9.--Trends in public knowledge about smoking and heart disease**

| Survey    | Year | Reference         | Smoking cigarettes causes heart disease<br>(percentage who agree by smoking status) |                   |                  |                   |               |
|-----------|------|-------------------|---|-------------------|------------------|-------------------|---------------|
|           |      |                   | Current<br>smokers  | Former<br>smokers | Never<br>smokers | All<br>nonsmokers | All<br>adults |
| 1. AUTS   | 1964 | US DHEW 1969      | 32  | 51                | 44               | 46                | 40            |
| 2. AUTS   | 1966 | US DHEW 1969      | 33  | 53                | 43               | 47                | 42            |
| 3. AUTS   | 1966 | US DHEW 1969      | 46  | 65                | 58               | 60                | 54            |
| 4. Gallup | 1969 | Gallup 1981       |   |                   |                  |                   | 60            |
| 5. Gallup | 1977 | Gallup 1981       |   |                   |                  |                   | 68            |
| 6. Gallup | 1978 | Gallup 1978       | 63  |                   |                  | 72                | 68            |
| 7. Gallup | 1981 | Gallup 1981       | 59  |                   |                  | 82                | 74            |
| 8. NHIS   | 1985 | NCHS 1988         | 88  | 93                | 92               | 92                | 90            |
| 9. AUTS   | 1986 | US DHHS, in press | 71  | 84                | 80               | 81                | 78            |

TABLE 9.--Continued

| Survey                | Year | Reference | Smoking cigarettes causes heart disease<br>(percentage who agree by smoking status) |                   |                  |                   |               |
|-----------------------|------|-----------|---|-------------------|------------------|-------------------|---------------|
|                       |      |           | Current<br>smokers  | Former<br>smokers | Never<br>smokers | All<br>nonsmokers | All<br>adults |
| 10. NHIS <sup>a</sup> | 1987 |           | 73  | 82                | 77               |                   | 77            |

<sup>a</sup>Preliminary first-quarter data (unpublished). Year-end percentage for all adults is 76 percent.

NOTE: Actual questions:

1-2. Do you think the chances of getting coronary heart disease are the same for people who don't smoke cigarettes as they are for people who do smoke cigarettes? Who would be more likely to get it, people who don't smoke cigarettes or people who do smoke cigarettes?

3. Cigarette smokers are more likely to die from heart disease than people who don't smoke cigarettes. (strongly agree, mildly agree, no opinion, mildly disagree, strongly disagree)\*

4-7. Do you think that cigarette smoking is or is not one of the causes of heart disease?

8. Do you think cigarette smoking definitely increases, probably increases, probably does not, or definitely does not increase a person's chances of getting heart disease?<sup>†</sup>

9. Do you think a person who smokes is any more likely to get heart disease than a person who doesn't smoke? (much more likely, somewhat more likely, no, don't know)\*\*

10. People have differing beliefs about the relationship between smoking and health. Do you believe cigarette smoking is related to . . . heart disease?

\*Percentages include those who "strongly agree" or "mildly agree."

<sup>†</sup>Percentages include those who believe that smoking "definitely" or "probably" increases the risk.

\*\*Percentages include those who believe smokers are "much more likely" or "somewhat more likely" to get heart disease.

TABLE 10.--Trends in public knowledge about smoking and emphysema or chronic bronchitis

| Survey  | Year | Reference              | Percentage who agree by smoking status |                |               |                | All adults |
|---|------|------------------------|--|----------------|---------------|----------------|------------|
|   |      |                        | Current smokers                        | Former smokers | Never smokers | All nonsmokers |            |
| <u>Smoking is a cause of emphysema/chronic bronchitis</u> |      |                        |  |                |               |                |            |
| 1. AUTS   | 1964 | US DHEW 1969           | 42                                     | 60             | 55            | 56             | 50         |
| 2. AUTS   | 1966 | US DHEW 1969           | 46                                     | 60             | 52            | 54             | 51         |
| <u>Smoking is a cause of emphysema</u>                    |      |                        |  |                |               |                |            |
| 3. NHIS   | 1985 | NCHS 1986 <sup>b</sup> | 89                                     | 94             | 91            | 92             | 91         |
| 4. AUTS   | 1986 | US DHHS, in press      | 85                                     | 92             | 90            | 91             | 89         |
| 5. Gallup   | 1987 | ALA 1987               | 75                                     | 91             |               | 90             | 85         |
| 6. NHIS <sup>a</sup>                                      | 1987 |                        | 79                                     | 87             | 84            |                | 84         |
| <u>Smoking is a cause of chronic bronchitis</u>           |      |                        |  |                |               |                |            |
| 7. AUTS   | 1966 | US DHEW 1969           | 50                                     | 56             | 65            | 56             | 59         |
| 8. NHIS   | 1985 | NCHS 1986 <sup>b</sup> | 82                                     | 89             | 88            | 88             | 86         |



**TABLE 10.--Continued**

| Survey                | Year | Reference         | Percentage who agree by smoking status |                |               |                | All adults |
|-----------------------|------|-------------------|--|----------------|---------------|----------------|------------|
|                       |      |                   | Current smokers                        | Former smokers | Never smokers | All nonsmokers |            |
| 9. AUTS               | 1986 | US DHHS, in press | 73                                     | 84             | 83            | 84             | 81         |
| 10. NHIS <sup>a</sup> | 1987 |                   | 71                                     | 81             | 79            |                | 77         |

<sup>a</sup>Preliminary first-quarter data (unpublished). Year-end percentages for all adults are 75 percent (chronic bronchitis) and 82 percent (emphysema).

<sup>b</sup>And unpublished data.

NOTE: Actual questions:

1-2. Do you think the chances of getting emphysema and chronic bronchitis are the same for people who don't smoke cigarettes as they are for people who do smoke cigarettes? Who would be more likely to get it, people who don't smoke cigarettes or people who do smoke cigarettes?<sup>9\*</sup>

3. Tell me if you think cigarette smoking definitely increases, probably increases, probably does not, or definitely does not increase a person's chances of getting the following problems. . . emphysema.<sup>†</sup>

4. Do you think a person who smokes is any more likely to get emphysema than a person who doesn't smoke? (much more likely, somewhat more likely, no, don't know)\*\*

5. Do you think that smoking is a cause of emphysema? (yes, no, don't know)

6. Do you believe cigarette smoking is related to emphysema?

7. Cigarette smoking causes chronic bronchitis. (strongly agree, mildly agree, no opinion, mildly disagree, strongly disagree)<sup>‡</sup>

8. Tell me if you think cigarette smoking definitely increases, probably increases, probably does not, or definitely does not increase a person's chances of getting the following problems . . . chronic bronchitis. <sup>†</sup>

9. Do you think a person who smokes is any more likely to get chronic bronchitis than a person who doesn't smoke? (much more likely, somewhat more likely, no, don't know)\*\*

10. People have differing beliefs about the relationship between smoking and health. Do you believe cigarette smoking is related to . . . chronic bronchitis?

\*Percentages are those who believe that smokers are more likely to get emphysema and chronic bronchitis.

<sup>†</sup>Percentages include those who "strongly agree" or "mildly agree."

\*\*Percentages include those who believe smokers are "much more likely" or "somewhat more likely" to get the disease.

<sup>‡</sup>Percentages include those who believe that smoking "definitely" or "probably" increases the risk.

smokers (83 percent). Similarly, smokers were less likely to acknowledge an association between smoking and emphysema (85 percent) than were former smokers (92 percent) and never smokers (90 percent). Similar patterns were seen in the earlier surveys.

#### *Other Cancers?*

*Laryngeal and esophageal cancer:* By 1964, smoking was identified as a cause of laryngeal cancer in men; an association between smoking and cancer of the esophagus was also noted, although the data were not considered sufficient to establish a causal relationship at that time (US PHS 1964). An estimated 75 to 90 percent of laryngeal and esophageal cancer deaths are attributed to smoking, and smokers have mortality rates from these diseases that are approximately 8 to 18 times higher than those of never smokers (Chapter 3).

Since 1977, public beliefs that smoking increases the risk of developing cancer of the larynx and esophagus have not changed substantially (Table 11). In 1977, 79 percent of adults reported that smoking is one of the causes of throat cancer. In 1985, 80 percent of adults thought that smoking increases a person's risk of developing esophageal cancer and 88 percent thought that smoking increases the risk of acquiring laryngeal cancer. Use of different wording to describe the cancer site (throat, laryngeal, esophageal, "mouth and throat") makes comparisons among these surveys difficult.

In 1986, current smokers were less likely to acknowledge a relationship between smoking and laryngeal cancer (82 percent) than were former smokers (91 percent) or never smokers (91 percent). Similar patterns were seen in the earlier surveys and in the preliminary 1987 NHIS data (Table 11).

*Bladder cancer:* The 1964 Report of the Surgeon General's Advisory Committee identified an association between smoking and cancer of the bladder, although the evidence was not considered sufficient to establish a causal relationship (US PHS 1964). Thirty-seven to forty-seven percent of bladder cancer deaths are now attributable to smoking (Chapter 3).

Few data are available on public knowledge about the association between smoking and cancer of the bladder. The 1979 Chilton Survey (Chilton 1980) showed that 25 percent of adult respondents (29 to 31 years of age) believed that "cancer of the bladder (has) been found to be associated with cigarette smoking." In the 1985 NHIS, 36 percent of adults thought that cigarette smoking definitely or probably increases a person's risk of developing bladder cancer. In the 1986 AUTS, 33 percent of adults thought that smokers are more likely than nonsmokers to develop bladder cancer. Current smokers were less likely to acknowledge this relationship (25 percent) than were former smokers (32 percent) and never smokers (38 percent).

#### **What Are the Special Health Risks for Women?**

The special health risks for women include effects of smoking on pregnancy outcome, increased risk of cardiovascular disease (CVD) among smokers who use oral contraceptives, and increased risk of cervical cancer in women who smoke (Chapters 2 and 3). Data exist on public beliefs regarding the first two of these three categories of risk.

**TABLE 11.--Trends in public knowledge about smoking and cancer of the mouth/throat/larynx/esophagus**

| Survey               | Year | Reference              | Smoking causes cancer of the mouth/throat/larynx/esophagus<br>(percentage who agree by smoking status) |                   |                  |                   | All adults |
|----------------------|------|------------------------|--|-------------------|------------------|-------------------|------------|
|                      |      |                        | current<br>smokers   | Former<br>smokers | Never<br>smokers | All<br>nonsmokers |            |
| 1. Gallup            | 1977 | Gallup 1981            |  |                   |                  | 79                |            |
| 2. Gallup            | 1978 | Gallup 1978            | 73   |                   |                  | 82                | 79         |
| 3. Gallup            | 1981 | Gallup 1981            | 69   |                   | 87               | 81                |            |
| 4. NHIS              | 1985 | NCHS 1986 <sup>b</sup> | 83   | 90                | 90               | 90                | 88         |
| 5. NHIS              | 1985 | NCHS 1986 <sup>b</sup> | 75   | 83                | 82               | 82                | 80         |
| 6. AUTS              | 1986 | US DHHS, in press      | 82   | 91                | 91               | 91                | 88         |
| 7. NHIS <sup>a</sup> | 1987 |                        | 73   | 85                | 83               |                   | 80         |

<sup>a</sup>Preliminary first-quarter data (unpublished). Year-end percentage for all adults is 80 percent.

<sup>b</sup>And unpublished data.

NOTE: Actual questions:

1-3. Do you think that cigarette smoking is or is not one of the causes of cancer of the throat?

4-5. Tell me if you think cigarette smoking definitely increases, probably increases, probably does not, or definitely does not increase a person's chances of getting the following problems cancer of the larynx or voice box (question 4) . . . cancer of the esophagus (question 5).\*

6. Do you think a person who smokes is any more likely to get cancer of the larynx or voice box than a person who doesn't smoke?

7. People have differing beliefs about the relationship between smoking and health. Do you believe cigarette smoking is related to cancer of the mouth and throat?

\*Percentages include those who believe that smoking "definitely" or "probably" increases the risk.

### *Effects of Smoking on Pregnancy Outcome*

In 1964, knowledge of the health consequences of smoking during pregnancy mostly concerned the increased risk of low-birthweight babies (US PHS 1964). Considerable evidence has accumulated since that time. In the 1980 Surgeon General's Report, smoking was identified as an important cause of premature births, miscarriages, and stillbirths, as well as low-birthweight babies (US DHHS 1980).

From the data available, it appears that the public has become more knowledgeable about the effects of smoking on premature births. In 1966, 34 percent of adults of *all* ages thought that women who smoke during pregnancy are more likely to have premature babies than women who do not smoke (Table 12). Fox and coworkers (1987) published data on beliefs about the risks of smoking during pregnancy among persons 18 to 44 years of age. By 1985, 70 percent of adults aged *18 to 44 years* thought that smoking during pregnancy definitely or probably increases the chances of premature birth.

Only recent data are available on public knowledge of the effects of smoking on spontaneous abortion (miscarriage), stillbirth, and low birthweight (Table 12). In 1985, 80 percent of adults (aged 18 to 44 years) thought that smoking during pregnancy definitely or probably increases the risk of having a low-birthweight baby; 74 percent of adults thought that smoking definitely or probably increases the risk of miscarriage; and 66 percent of adults thought that smoking during pregnancy definitely or probably increases the risk of stillbirth. The 1987 NHIS showed that 89 percent of respondents believed that smoking during pregnancy "may" harm the baby. The 1966, 1985, and 1987 surveys each showed that current smokers were less likely than nonsmokers to believe that smoking increases the risk of adverse pregnancy outcomes. The Federal Trade Commission (FTC) (1981) reviewed data from a 1979 Chilton survey and a 1980 Roper survey on public beliefs concerning the effects of smoking during pregnancy.

### *Risk of Cardiovascular Disease Among Smokers Who Use Oral Contraceptives*

In 1964, the interactive effect of smoking and oral contraceptive use on the risk of CVD had not been established. The 1977/1978 Surgeon General's Report cited recent studies showing that oral contraceptive use potentiates the harmful effects of smoking on the cardiovascular system (US DHEW 1978). Since 1978, the package inserts for oral contraceptives have described this risk for users (see Chapter 7). It is now known that oral contraceptives or cigarettes, when used alone, increase the risk of heart attacks twofold; however, when used in combination, the increased risk is tenfold (US DHHS 1980). Smoking and oral contraceptive use also appear to interact synergistically to greatly increase the risk of subarachnoid hemorrhage (US DHHS 1983).

No trend data are available on the knowledge of health risks from the combined use of cigarettes and oral contraceptives. In 1985, 62 percent of adults aged 18 to 44 years believed that a woman who both takes oral contraceptives and smokes is more likely to have a stroke (Table 12). Nonsmokers were only slightly more likely than smokers to believe this (65 vs. 59 percent). Women were much more likely to believe this than were men (72 vs. 52 percent). In 1980, 64 percent of women believed that a woman who takes birth control pills further increases her risk of getting a heart attack if she also smokes.

**TABLE 12.--Trends in public knowledge about the special health risks for women who smoke**

| Survey   | Year         | Percentage who agree by smoking status <sup>a</sup> |                |               |                | All adults |
|--|--------------|---|----------------|---------------|----------------|------------|
|  |              | Current smokers                                     | Former smokers | Never smokers | All nonsmokers |            |
| Smoking during pregnancy increases the chances of premature birth                |              |   |                |               |                |            |
| 1. AUTS  | 1966         | 25  | 43             | 34            |                |            |
| 2. NHIS  | 1985 (all)   | 64  | 71             | 75            |                | 70         |
| 2. NHIS  | 1985 (men)   |   |                |               |                | 64         |
| 2. NHIS  | 1985 (women) |   |                |               |                | 76         |
| Smoking during pregnancy increases the chances of stillbirth                     |              |   |                |               |                |            |
| 3. NHIS  | 1985 (all)   | 57  | 67             | 72            |                | 66         |
| 3. NHIS  | 1985 (men)   |   |                |               |                | 63         |
| 3. NHIS  | 1985 (women) |   |                |               |                | 68         |
| Smoking during pregnancy increases the chances of miscarriage                    |              |   |                |               |                |            |
| 4. NHIS  | 1985 (all)   | 66  | 75             | 79            |                | 74         |
| 4. NHIS  | 1985 (men)   |   |                |               |                | 72         |
| 4. NHIS  | 1985 (women) |   |                |               |                | 75         |
| Smoking during pregnancy increases the chances of having a low-birthweight baby  |              |   |                |               |                |            |
| 5. NHIS  | 1985 (all)   | 74  | 82             | 83            |                | 80         |
| 5. NHIS  | 1985 (men)   |   |                |               |                | 74         |
| 5. NHIS  | 1985 (women) |   |                |               |                | 85         |
| A woman taking birth control pills is more likely to have a stroke if she smokes |              |   |                |               |                |            |
| 6. NHIS  | 1985 (all)   | 59  | 67             | 64            | 65             | 62         |
| 6. NHIS  | 1985 (men)   | 48  | 57             | 54            | 55             | 52         |
| 6. NHIS  | 1985 (women) | 70  | 80             | 72            | 74             | 72         |

TABLE 12.--Continued

| Survey  | Year         | Percentage who agree by smoking status |                |               |                |            |
|---|--------------|--|----------------|---------------|----------------|------------|
|   |              | Current smokers                        | Former smokers | Never smokers | All nonsmokers | All adults |
| A woman who takes birth control pills further increases her risk of getting a heart attack if she also smokes |              |  |                |               |                |            |
| 7. Roper  | 1980 (women) |  |                |               |                | 64         |
| Smoking by a pregnant woman may harm the baby   |              |  |                |               |                |            |
| 8. NHIS <sup>b</sup>  | 1987         | 83                                     | 90             | 93            |                | 89         |

a Data for 1966 include all adults (US DHEW 1969). Data for 1985 are from Fox et al. (1987) and NCHS (1986) and include only those people 18 to 44 years of age. Roper data for 1980 are from the FTC (1981).

<sup>b</sup>Preliminary first-quarter data (unpublished). Year-end percentage for all adults is 89 percent.

NOTE: Actual questions:

1. Women who smoke during pregnancy are more likely to have premature babies than women who do not smoke (strongly agree, mildly agree, no opinion, mildly disagree, strongly disagree).\*
2. Does cigarette smoking during pregnancy definitely increase, probably increase, probably not or definitely not increase the chances of premature birth?<sup>†</sup>
3. . . . of stillbirth?<sup>‡</sup>
4. . . . of miscarriage?<sup>‡</sup>
5. . . . of low birthweight of the newborn?<sup>‡</sup>
6. If a woman takes birth control pills, is she more likely to have a stroke if she smokes than if she does not smoke?
7. A woman who takes birth control pills further increases her risk of getting a heart attack if she also smokes (know it's true, don't know if it's true, think it's true. think it's not true, know it's not true).<sup>‡</sup>
8. Smoking by a pregnant woman may harm the baby. (strongly agree, agree, disagree, strongly disagree)\*\*

\*Percentages include those who "strongly agree" or "mildly agree."

<sup>†</sup>Percentages include those who believe that smoking "definitely" or "probably" increases the risk.

<sup>‡</sup>Percentage includes those who "know it's true" or "think it's true."

\*\*Percentages include those who "strongly agree" or "agree."

*Involuntary (Passive) Smoking*

In 1964, the health effects of environmental tobacco smoke (ETS) exposure were not established. Today, ETS has been identified as a cause of disease, including lung cancer, in healthy nonsmokers. In addition, compared with the children of nonsmoking parents, children of parents who smoke have an increased frequency of respiratory infections and slightly lower rates of increase in lung function as the lungs mature (US DHHS 1986a).

From the available data, it appears that the public is more likely to believe that there are health risks from ETS exposure. The percentage of adults who thought that smoking is hazardous to nonsmokers' health increased from 46 percent to 58 percent between 1974 and 1978 (Table 13). By 1986 (AUTS), 81 percent of adults thought that tobacco smoke is harmful for nonsmokers who live or work with smokers. Similarly, in 1987 (ACS 1988b), 81 percent thought that people's smoke is harmful to others nearby. The 1986 and 1987 surveys used wording corresponding to Level 2 (general acceptance) beliefs. The 1987 NHIS used wording corresponding to Level 3 (personalized acceptance) beliefs, but nevertheless obtained the same proportion (81 percent) (Table 13).

In the 1986 AUTS, former and never smokers were more likely to consider ETS to be *generally* harmful to health (82 and 87 percent, respectively), compared with current smokers (69 percent). Similar patterns were seen in the 1987 NHIS and 1988 Gallup survey. In the 1986 AUTS, when nonsmokers were asked whether they considered ETS to be harmful to *their* health, 69 percent responded that they thought so (62 percent of former smokers and 74 percent of never smokers).

*Is Smoking an Addiction?*

In 1964, the Surgeon General's Advisory Committee came to the following conclusion, based on the evidence available at that time: "The tobacco habit should be characterized as an habituation rather than an addiction." The Advisory Committee's Report, however, did note that tobacco use is "reinforced and perpetuated by the pharmacologic actions of nicotine on the central nervous system" (US PHS 1964). The 1979 Surgeon General's Report called smoking "the prototypical substance-abuse dependency" (US DHEW 1979a). The 1988 Surgeon General's Report reaffirmed that conclusion and provided a detailed review of the evidence (US DHHS 1988).

Only limited data are available to assess public knowledge of the addictive nature of tobacco use. In a 1978 survey conducted by the Roper Organization, 50 percent of adults (57 percent of smokers) considered smoking a habit, 29 percent (22 percent of smokers) thought it an addiction, and 17 percent (15 percent of smokers) believed it to be both (Roper 1978).

In a 1986 Gallup poll of 1,046 adults 18 years and older conducted in Canada by household interviews, 76.5 percent of respondents considered "cigarette smoking to be

**TABLE 13.--Trends in public knowledge about the health risks of passive smoking**

| Survey               | Year | Reference         | Smoking is hazardous to nonsmokers' health<br>(percentage who agree by smoking status) |                |               |                | All adults |
|----------------------|------|-------------------|--|----------------|---------------|----------------|------------|
|                      |      |                   | Current smokers  | Former smokers | Never smokers | All nonsmokers |            |
| 1. Roper             | 1974 | Roper 1978        | 30   |                |               | 51             | 46         |
| 2. Roper             | 1976 | Roper 1978        | 38   |                |               | 61             | 52         |
| 3. Roper             | 1978 | Roper 1978        | 40   |                |               | 69             | 58         |
| 4. AUTS <sup>a</sup> | 1986 | US DHHS, in press | 69   | 82             | 87            | 85             | 81         |
| 5. NHIS <sup>b</sup> | 1987 |                   | 68   | 85             | 88            |                | 81         |
| 6. Gallup            | 1987 | ACS 1988b         | 64   | 86             | 89            |                | 81         |

<sup>a</sup>Percentages presented here are slightly lower than those previously published (CDC 1988) because the latter did not include "don't know" responses in the denominator,

<sup>b</sup>Preliminary first-quarter data (unpublished). Year-end percentage for all adults is 81 percent.

NOTE: Actual questions:

1-3. Is smoking hazardous to nonsmokers' health? (probably is hazardous, probably doesn't have any real effect, don't know)

4. Think now for a moment about a nonsmoker who lives or works with smokers . . . . Do you think that exposure to tobacco smoke is harmful or not harmful to the nonsmoker's health?

5. The smoke from someone else's cigarette is harmful to you. (strongly agree, agree, disagree, strongly disagree)\*

6. If people smoke, do you think that it *is* harmful or *is not* harmful to people who are near them? (yes, harmful; no, not harmful; can't say/no opinion)

\*Percentages include those who "strongly agree" or "agree."



like a drug addiction.” Of current smokers, 79.6 answered “yes” to the question, “Do you think you are addicted to cigarettes?” (Canadian Gallup 1986)

### ***Interaction Between Smoking and Other Exposures***

The 1985 Surgeons General’s Report (US DHHS 1985) reviewed evidence regarding the interaction between smoking and a variety of occupational exposures in causing disease. With respect to the interaction between smoking and asbestos, the Report concluded that these two exposures act synergistically to increase the risk of lung cancer. The risk of lung cancer in cigarette-smoking asbestos workers is more than fiftyfold the risk in nonsmokers who have not been exposed to asbestos.

Few data are available on public knowledge of these interactions. The 1980 Roper survey (unpublished data, FTC) asked respondents about their belief concerning the following statement: “If you smoke and have worked with asbestos you are at least 50 times more likely to get lung cancer than if you have done neither.” Seventy-four percent of respondents (and 69 percent of smokers) said that they “know it’s true” or “think it’s true.”

### ***Smokeless Tobacco***

Smokeless tobacco (ST) use leads to increased risk of oral cancer and nicotine addiction (US DHHS 1986c).

No data are available to assess trends in public knowledge of the health risks of ST use. In the 1986 AUTS, 78 percent of adults thought that the use of chewing tobacco is harmful in any way to a person’s health. Similarly, 73 percent thought that the use of snuff is harmful to a person’s health. Current smokers were less likely to know about the health effects of using chewing tobacco and snuff (71 and 66 percent, respectively) compared with former smokers (79 and 75 percent, respectively) and never smokers (81 and 76 percent, respectively).

According to the 1987 NHIS (preliminary first-quarter estimates), 82 percent of adults thought that a relationship exists between chewing tobacco use and mouth and throat cancers. Seventy-seven percent thought that snuff use is related to these cancers (unpublished data, National Cancer Institute).

### ***Personal Health Risks for Smokers***

There have been few attempts to determine smokers’ beliefs regarding their own personal risk. Several Gallup surveys conducted between 1977 and 1987 asked respondents, “Do you think cigarette smoking is or is not harmful to your health?” (Table 14). Data are available for current smokers for the years 1981 and 1985. The proportion of current smokers answering in the affirmative increased from 80 percent in 1981 to 90 percent in 1985. These data, at first glance, suggest that a high percentage of smokers

**TABLE 14.--Trends in public beliefs about one's personal risk from smoking**

| Survey               | Year | Reference   | Cigarette smoking is harmful to YOUR health<br>(percentage who agree by smoking status) |                   |                  |                   | All adults |
|----------------------|------|-------------|---|-------------------|------------------|-------------------|------------|
|                      |      |             | Current<br>smokers  | Former<br>smokers | Never<br>smokers | All<br>nonsmokers |            |
| 1. Gallup            | 1977 | Gallup 1985 |   |                   |                  |                   | 90         |
| 2. Gallup            | 1978 | Gallup 1978 | 83  |                   |                  | 95                | 90         |
| 3. Gallup            | 1981 | Gallup 1985 | 80  |                   |                  | 96                | 90         |
| 4. Gallup            | 1983 | Gallup 1985 |   |                   |                  |                   | 92         |
| 5. Gallup            | 1985 | Gallup 1985 | 90  | 96                |                  | 96                | 94         |
| 6. Gallup            | 1987 | ALA 1987    |   |                   |                  |                   | 94         |
| 7. NHIS <sup>a</sup> | 1987 |             | 55  |                   |                  |                   |            |

<sup>a</sup>Preliminary first-quarter data (unpublished). Year-end percentage is 55 percent.

NOTE: Actual questions:

1-6. Do you think cigarette smoking is or is not harmful to your health?

7. Do you believe your smoking has affected your health in any way?

perceive a personalized risk from smoking. However, nonsmokers were asked to respond to the question, implying that the wording may not be understood by some respondents as referring to truly personalized health risks. Wording such as, “Do you think that *your* cigarette smoking is or is not harmful to your health?” might elicit different responses.

The 1987 NHIS (unpublished data, National Cancer Institute) showed that 55 percent of current smokers answered “yes” to the question, “Do you believe your smoking has affected your health in any way?” The principal reason this percentage is substantially lower than that obtained by the 1985 Gallup survey (90 percent) is probably that the former was likely to be understood as referring to overt symptoms or disease, while the latter was likely to be understood as referring to the risk of harm.

Another approach to measure perceptions of personalized risk has been to ask smokers whether they are “concerned” about the effects of smoking on *their* health. It appears that smokers are more likely today to be concerned that smoking is harmful to their own health. In 1964, 50 percent of current smokers were concerned about the possible effects of smoking on their own health (Table 15); this proportion increased to 75 percent by 1986. However, in 1986, only 18 percent of smokers were *very* concerned about the effects of smoking on their health; 56 percent of smokers were only fairly or slightly concerned; and 24 percent were not at all concerned.

From 1970-86, the percentage of smokers who were very concerned about the possible effects of smoking on their health decreased from 29 to 18 percent, while the percentage who were only slightly concerned increased from 19 to 34 percent. This redistribution within the population of smokers having any concern may have occurred because a much greater proportion of those who were very concerned may have quit smoking during this period; therefore, they would not have been included in subsequent surveys.

A third approach to assess personalized risk, or more correctly, the absence of personalized risk, is to ask smokers if they believe themselves to be at lower risk than other smokers. In 1986, 21 percent of adults thought that the cigarettes they smoked were less hazardous than other cigarettes (Table 3).

Other data pertaining to perceptions of personalized risk from ETS and from smoking among adolescents appear in the sections on Involuntary Smoking (above) and Adolescent Knowledge (below).

### **How Harmful Is Smoking?**

The data presented above reveal that a vast majority of adults agree that smoking is hazardous to health and correctly recognize the conditions that are associated with smoking. However, these data do not address the depth of the public’s understanding regarding the absolute risk of smoking, the relative risks of smoking, the population-attributable risk of smoking, and the risk of smoking in comparison with other risks. A more in-depth understanding of the risks of smoking may be much more important in promoting behavioral change than the more superficial beliefs measured by the data presented above. Unfortunately, only limited data are available to address the public’s in-depth understanding of the risks of smoking.

TABLE 15--Trends in smokers' concern about the effects of smoking on their own health

| Survey  | Year | Concern about the possible effects of cigarette smoking on your health<br>(percentage who responded by level of concern) |                     |                            |                  |                             |
|---------|------|--|---------------------|----------------------------|------------------|-----------------------------|
|         |      | Very<br>concerned  | Fairly<br>concerned | Only slightly<br>concerned | Not<br>concerned | Any<br>concern <sup>a</sup> |
| 1. AUTS | 1964 | 13   | 18                  | 19                         | 50               | 50                          |
| 2. AUTS | 1966 | 12   | 17                  | 18                         | 53               | 47                          |
| 3. AUTS | 1970 | 29   | 22                  | 19                         | 31               | 69                          |
| 4. AUTS | 1975 | 25   | 23                  | 19                         | 32               | 68                          |
| 5. AUTS | 1986 | 18   | 22                  | 34                         | 24               | 75                          |

<sup>a</sup>Very, fairly, or only slightly concerned.  
NOTE: Actual questions:  
1-5. Are you in any way concerned about the possible effects of cigarette smoking on your health?  
SOURCE: US DHEW (1969, 1973, 1976a); US DHHS, in press.

## Absolute Risk

Absolute risks can be described by the proportion of those exposed to a given risk factor who will actually die or develop the particular condition, or by the reduction in life expectancy caused by exposure. As many as one-third of heavy smokers aged 35 years will die before age 85 of diseases caused by their smoking (Mattson, Pollack, Cullen 1987), and 30-year-old smokers will shorten their lives an average of 6 to 8 years if they smoke a pack a day (US DHEW 1979a).

From 1970-78, the proportion of adults who believed that smoking a pack of cigarettes a day made a great deal of difference in longevity increased slightly from 42 to 50 percent (FTC 1981). However, most adults underestimate the impact of smoking on longevity, according to a 1980 Roper survey. In this survey, 30 percent of the population and 41 percent of smokers did not know that a typical 30-year-old smoker shortened his life expectancy *at all* by smoking (FTC 1981). Among those who did know that smoking reduces one's life expectancy, many underestimated the degree to which this is true. On average, nonsmokers underestimated the loss in life expectancy by about 2 years and smokers underestimated it by more than 4 years.

## Relative Risk

Relative risk describes the risk of dying or developing disease for a person exposed to a particular risk factor compared with someone not exposed. For example, male smokers are 22 times more likely and female smokers are 12 times more likely to develop lung cancer compared with nonsmokers of the same sex (Chapter 3).

In the 1980 Roper study, respondents were asked if smokers were specifically 10 times more likely to die from lung cancer (the estimated relative risk derived from the data available at that time); 23 percent of the general population and 39 percent of smokers did not believe this statement. Some of this lack of belief may be due to the use of a specific figure. However, using more general terms, 16 percent of adults and 25 percent of smokers did not think that smokers were "many times" more likely than nonsmokers to develop lung cancer (FTC 1981).

## Attributable Risk and Smoking-Attributable Mortality

Attributable risk refers to that proportion of a disease that can be "attributed" to (or is caused by) a particular risk factor, such as smoking. For example, smoking accounts for about 80 to 90 percent of lung cancer deaths and 80 to 85 percent of deaths from COPD (Chapter 3).

Much of the information regarding the public's understanding of the magnitude of the risks of smoking comes from the Roper survey conducted in 1980. In this survey, 43 percent of adults and 49 percent of smokers did not know that smoking causes *most* of the cases of lung cancer and 22 percent of adults and 27 percent of smokers did not know that smoking even causes *many* cases of lung cancer (FTC 1981). In the 1987 NHIS (unpublished data, National Cancer Institute), 28 percent (preliminary first-quarter estimate) of smokers and 16 percent (year-end figure) of the general population

disagreed with the statement, “Most deaths from lung cancer are caused by cigarette smoking.”

Attributable risk figures can be used to calculate smoking-attributable mortality. The 1979 Surgeon General’s Report (US DHEW 1979a, p. ii) attributed approximately 350,000 deaths each year to cigarette smoking. In 1985, an estimated 390,000 deaths in the United States were attributable to smoking (Chapter 3). In the 1979 Chilton survey, adults aged 29 to 31 years were asked: “In the United States, two million people die each year. About how many of these deaths are probably related to cigarette smoking?” The responses offered by the interviewer, along with the percentages chosen, were: 10,000 deaths, 22 percent; 50,000, 16 percent; 100,000, 16 percent; 300,000, 17 percent; don’t know, 31 percent (Chilton 1980).

#### Comparative Risk

The risk of dying from smoking can be compared with the risk of dying from other behavioral risk factors, such as living under stress, eating high-cholesterol foods, or drinking heavily. The public’s perception of these comparative risks was assessed by Roper surveys from 1970-78 (Table 16). In 1970, living under a lot of tension and stress and not getting regular exercise were considered by more adults to make a great deal of difference in longevity than was smoking a pack of cigarettes daily. In contrast, fewer adults considered regularly eating food high in cholesterol, consuming three or four drinks of liquor a day, or being 20 lb overweight to have an effect on longevity. In 1978, only stress was considered by more adults to make a great deal of difference on longevity.

In 1983, Louis Harris and Associates conducted a national telephone survey of 1,254 randomly selected adults for *Prevention* magazine (Harris 1983). Respondents were asked to rank 24 health and safety factors on a 1-to-10 (low-to-high) scale of importance. A sample of 103 health experts (medical school chairmen of preventive medicine, public health school deans, government officials, journal editors, and others) was also interviewed and was asked to make the same rankings. All of the public’s mean rankings were in the top half of the scale; thus, none of the factors were seen as trivial in importance. “Not smoking” was ranked near the middle, below “keeping water quality acceptable,” “having smoke detectors in the home,” “taking steps to control stress,” and “getting enough vitamins and minerals” (Figure 1). In contrast, the panel of experts ranked “not smoking” at the top of the list (Figure 2).

The 1986 AUTS asked five questions comparing the perceived risk of cigarette smoking with the perceived risk of drinking alcoholic beverages, smoking marijuana, being exposed to air pollution, driving without a seat belt, and being 20 lb overweight (Table 17). In each of the comparisons, never smokers were more likely to disagree than to agree that cigarette smoking is less harmful than the other risks. Only in the case of marijuana smoking are the percentages of those agreeing and disagreeing similar. On the other hand, current smokers were more likely to agree than to disagree that cigarette smoking is less dangerous than marijuana smoking and air pollution.

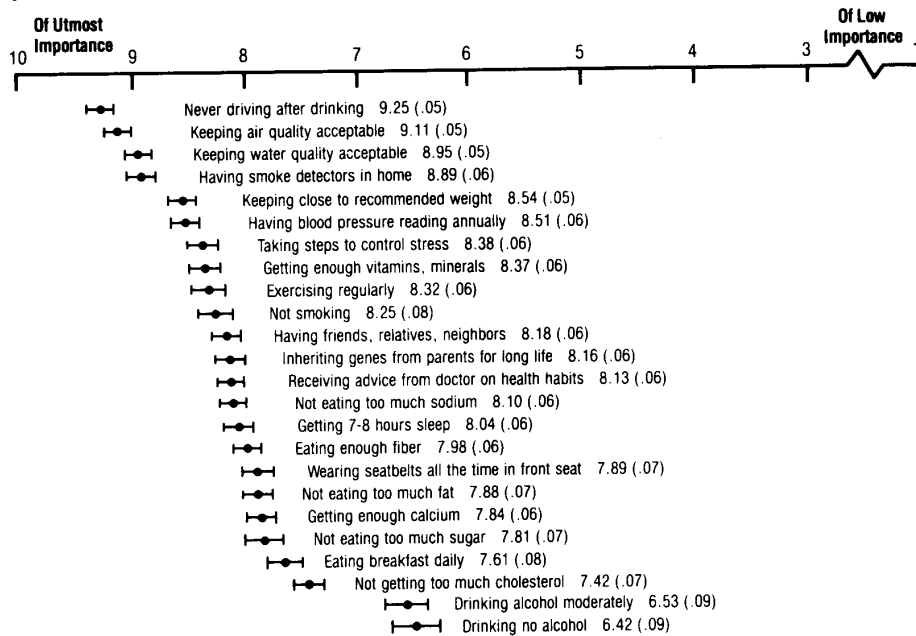
Dolecek and coworkers (1986) surveyed 973 adults in Chicago from a sample of family members of students who participated in AHA’s Chicago Heart Health Cur-

**TABLE 16.--Trends in public knowledge about the health risks of smoking compared to other risks, 1970-78**

| Question   | It makes a great deal of difference in longevity if a person . . .<br>(percentage who agree by year) |      |      |      |      |
|--|--|------|------|------|------|
|  | 1970   | 1972 | 1974 | 1976 | 1978 |
| lives under a lot of tension and stress            | 69   | 72   | 74   | 76   | 74   |
| deesn't get regular exercise                       | 49   | 38   | 38   | 33   | 34   |
| smokes a pack of cigarettes a day                  | 42   | 42   | 44   | 45   | 50   |
| regularly eats a lot of food with high cholesterol | 31   | 34   | 38   | 39   | 43   |
| drinks 3 or 4 highballs a day                      | 29   | 34   | 35   | 37   | 39   |
| is 20 pounds overweight                            | 23   | 26   | 25   | 24   | 24   |

SOURCE: Roper (1978).

Q.: In helping people in general to live a long and healthy life, how would you rate the importance of . . .



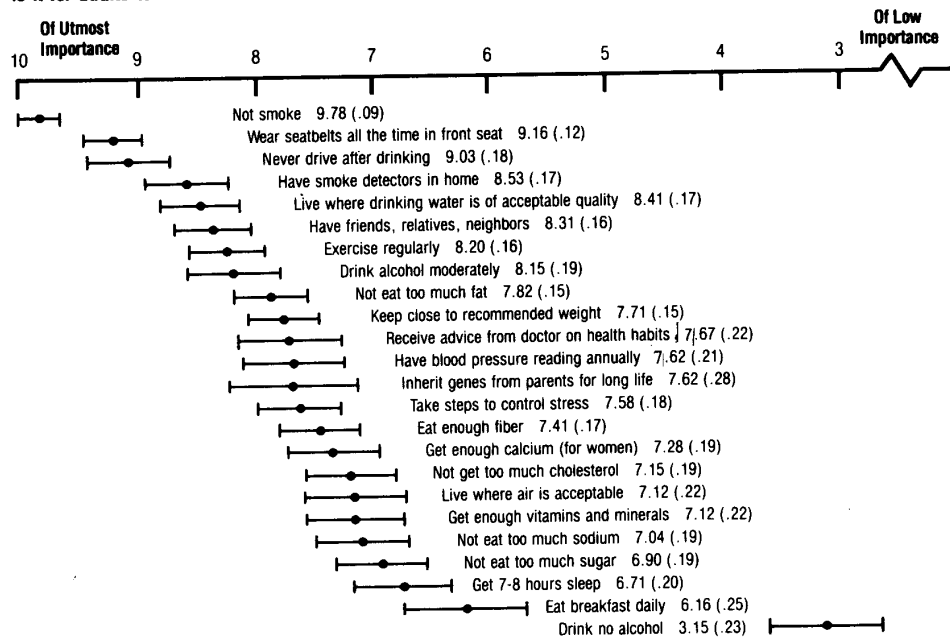
**FIGURE 1.—Adult public's rating of 24 health and safety factors**

NOTE: Shown above is the mean importance rating for each factor given by 1,254 adults using a 1 to 10 scale. Given in parentheses is the standard error of the mean. The 95-percent confidence interval around each mean is graphically displayed as a band or range consisting of  $\pm$  two standard error values.

SOURCE: Harris (1983).



Q.: Thinking about the overall health of the general population, how important is it for adults to . . .



**FIGURE 2.—Experts' rating of 24 health and safety factors**

NOTE: Shown above is the mean importance rating for each factor given by 103 experts using a 1 to 10 scale. Given in parentheses is the standard error of the mean. An indicator of the variability of individual ratings around each mean is graphically displayed as a band or range consisting of  $\pm$  two standard error values.

SOURCE: Harris (1983).

**TABLE 17.--Public knowledge about the harmfulness of cigarette smoking compared with other risks, 1986**

|  | Percentage who agree |                |               | Percentage who disagree |                |               |
|--|----------------------|----------------|---------------|-------------------------|----------------|---------------|
|  | Current smokers      | Former smokers | Never smokers | Current smokers         | Former smokers | Never smokers |
| Moderate use of cigarettes is less harmful to health than moderate use of alcoholic beverages. | 32                   | 21             | 20            | 54                      | 63             | 63            |
| Smoking cigarettes is less harmful to health than smoking marijuana.                           | 48                   | 38             | 37            | 33                      | 34             | 40            |
| Air pollution is a greater health risk than cigarettes.  | 48                   | 30             | 28            | 41                      | 54             | 57            |
| Smoking cigarettes is less dangerous than driving without a seat belt.                         | 36                   | 25             | 26            | 52                      | 58             | 68            |
| Smoking is less harmful than being 20 pounds overweight.                                       | 31                   | 19             | 18            | 59                      | 69             | 71            |

NOTE: Percentages of those who agree include those who "strongly agree" or "somewhat agree." Percentages of those who disagree include those who "strongly disagree" or "somewhat disagree."  
SOURCE: AUTS 1986 (US DHHS, in press).

riculum Program during the 1980-81 school year. Respondents were asked to select the three major risk factors for CVD from a list of nine. The percentage responses for these risk factors were: high blood pressure, 25 percent; overweight, 22 percent; stress/tension/worry, 14 percent; *cigarette smoking*, 13 percent; heredity/family history, 7 percent; eating too much cholesterol (fat), 7 percent; not enough rest/working too hard, 6 percent; not enough exercise, 4 percent; and diabetes, 2 percent.

From 1982-86, Becker and Levine (1987) surveyed 90 adults with no known CHD who were siblings of patients hospitalized for recently documented CHD. Patients and siblings were all less than 60 years old. The siblings were randomized into an assessment group (interviewed within 2 weeks of the index patients' discharge and again 4 months later) and a control group (received only one interview at 4-month followup). Participants were asked in an open-ended question to name factors thought to cause or be associated with CHD. Smoking was identified by 81 percent of the control group (after stress, 91 percent) and was the risk factor most often cited by the assessment group (97 percent).

Folsom and others (1988) conducted two surveys in the metropolitan Minneapolis/St. Paul area during 1985-86. One survey sampled blacks aged 35 to 74 years, while the other sampled a primarily white population. Subjects were asked the open-ended question, "What do you think are the most important causes of cardiovascular diseases (heart attack or stroke)?" The percentage of blacks (total sample size=1,252) who identified smoking as one of the most important causes of CVD was 32 percent; stress/worry (54 percent) and improper diet (45 percent) ranked higher. Among whites (total sample size=1,870), smoking and improper diet were both ranked highest (54 percent).

In a survey conducted in 1987 by the Gallup Organization for ACS, 90 percent of adults reported that smoking cigarettes contributes to a higher risk of cancer. Lower percentages reported that a higher cancer risk is associated with suntan and sunburn (73 percent), alcohol (34 percent), high-fat diet (33 percent), and smoked and nitrite-cured meats (31 percent) (ACS 1988b).

For the studies reviewed above on comparative risk, data stratified by smoking status were available only from the 1986 AUTS.

### **Knowledge Among Adolescents About the Health Risks of Smoking**

Because most regular cigarette smokers begin to smoke before age 21 (Chapter 5), it is important to consider teenagers' knowledge about the health effects of smoking. This knowledge can be addressed in the following categories: (1) general health effects of smoking, (2) personalized risk of smoking-related diseases, (3) risks of smoking compared with other health risks, (4) beliefs about addiction, and (5) health effects of ST use.

#### **General Health Effects**

Since 1975, beliefs among adolescents that cigarette smoking is harmful have increased. National data on knowledge of high school seniors about the health risks of smoking are available from the Monitoring the Future Project (sponsored by the Na-

TABLE 18.--Knowledge about the health risks of smoking among high school seniors, 1975-86, Monitoring the Future Project, National Institute on Drug Abuse

| Survey year | How much do you think people risk harming themselves (physically or in other ways), if they smoke one or more packs of cigarettes per day?<br>(percentage responding in each category) |         |             |               |            |                       |
|-------------|--|---------|-------------|---------------|------------|-----------------------|
|             | Don't know   | No risk | Slight risk | Moderate risk | Great risk | Any risk <sup>a</sup> |
| 1975        | 2  | 3       | 9           | 35            | 51         | 95                    |
| 1976        | 2  | 2       | 9           | 31            | 56         | 96                    |
| 1977        | 2  | 2       | 9           | 29            | 58         | 96                    |
| 1978        | 2  | 2       | 8           | 30            | 59         | 97                    |
| 1979        | 1  | 2       | 7           | 27            | 63         | 97                    |
| 1980        | 1  | 1       | 7           | 27            | 64         | 98                    |
| 1981        | 1  | 1       | 6           | 28            | 63         | 98                    |
| 1982        | 2  | 2       | 7           | 30            | 61         | 97                    |
| 1983        | 1  | 2       | 7           | 29            | 61         | 97                    |
| 1984        | 1  | 2       | 6           | 27            | 64         | 97                    |
| 1985        | 2  | 2       | 6           | 24            | 67         | 97                    |
| 1986        | 1  | 1       | 5           | 26            | 66         | 97                    |

<sup>a</sup>Slight, moderate, or great risk of harm combined.  
SOURCE: Bachman, Johnston, O'Malley (1980a,b, 1981, 1984, 1985, 1987); Johnston and Bachman (1980); Johnston, Bachman, O'Malley (1980a,b, 1982, 1984, 1986).

**TABLE 19.--Perceived harmfulness of drugs among high school seniors, 1986;  
Monitoring the Future Project, National Institute on Drug Abuse**

| How much do you think people risk harming themselves (physically or in other ways), if they...<br>(percentage of people responding) |            |
|---|------------|
|   | Great risk |
| try one or two drinks of an alcoholic beverage (beer, wine, liquor)?  | 5          |
| try marijuana (pot, grass) once or twice?   | 15         |
| take one or two drinks nearly every day?  | 25         |
| smoke marijuana occasionally?   | 25         |
| try amphetamines (uppers, pep pills, bennies, speed) once or twice?   | 25         |
| try barbiturates (downers, goofballs, reds, yellows, etc.) once or twice?   | 25         |
| <b>use smokeless tobacco regularly (chewing tobacco, plug, dipping tobacco, snuff)?</b>   | 26         |
| try cocaine once or twice?  | 34         |
| have five or more drinks once or twice each weekend?  | 39         |
| try LSD once or twice?  | 42         |
| try heroin (smack, horse) once or twice?  | 46         |
| take cocaine occasionally   | 54         |
| <b>smoke one or more packs of cigarettes per day?</b>   | 66         |
| take amphetamines regularly?  | 67         |
| take barbiturates regularly?  | 67         |
| take four or five drinks nearly every day?  | 67         |
| take heroin occasionally?   | 68         |
| smoke marijuana regularly?  | 71         |
| take cocaine regularly?   | 82         |
| take LSD regularly?   | 83         |
| take heroin regularly?  | 87         |

NOTE: Possible responses included great risk, moderate risk, slight risk, no risk, don't know.

SOURCE: Bachman, Johnston, O'Malley (1987).

tional Institute on Drug Abuse) for every year since 1975. Although nearly all teenagers recognize some risk of harm from smoking, the proportion who think that smoking a pack or more a day causes great risk of harm increased from 51 percent in 1975 to 67 percent by 1985 (Table 18).

A 1975 survey (US DHEW 1975a) of teenagers who smoked revealed that many thought that the dangers of smoking were exaggerated for their age group (52 percent of girls; 54 percent of boys); that there was too much talk about things that were bad for them (43 percent of girls; 48 percent of boys); and that air pollution was just as important a cause of lung cancer as cigarettes (67 percent of girls; 51 percent of boys). In 1986, only 16 percent of high school seniors agreed with the statement, "The harmful

effects of cigarettes have been exaggerated” (see Table 24; Bachman, Johnston, O’Malley 1987) (data stratified by smoking status were not published).

#### Personalized Risk

In a survey of 895 students in grades 2 through 12 in 134 public schools in Milwaukee, WI, during the 1979-80 academic year, Leventhal, Glynn, and Fleming (1987) assessed the degree to which the students personalized the health risk from smoking. When asked, “Do you think that smoking can injure or hurt the body?” 98 percent answered affirmatively and were able to accurately name one or more body parts that are adversely affected by smoking. A subsample of 622 subjects (smokers and non-smokers) was asked whether they “would be less likely, about as likely, or more likely to get sick from smoking than other people.” Those answering “less likely” accounted for 47 percent of the smokers but only 36 percent of the nonsmokers, 47 percent of those who intended to become adult smokers versus 36 percent of those who did not intend to become adult smokers, and 41 percent of those from smoking families versus 28 percent of those from nonsmoking families. These findings suggest that although children and adolescents recognize smoking as harmful, they may not personalize the risk. This failure to personalize the perception of risk may play a role in the initiation of smoking.

Some teenagers may minimize or deny their personal risk because of a belief that certain smoking patterns are safe. In the 1974 and 1979 Teenage Smoking Surveys conducted by the Department of Health, Education, and Welfare (US DHEW 1976b, 1979b), about one-quarter of teenagers agreed with the statement, “There’s nothing wrong with smoking cigarettes if you don’t smoke too many.” About one-third agreed with the statement, “Cigarette smoking is harmful only if a person inhales.”

#### Comparative Risk

In the 1979 Chilton Survey (Chilton 1980), teenagers were asked which of the following caused the most deaths during the past year: traffic accidents, fires, cigarette smoking, or drug overdose. Traffic accidents were cited by 44 percent of teenagers, followed by drug overdose (21 percent), cigarette smoking (19 percent), and fires (6 percent).

The High School Seniors Survey includes questions about the risks associated with using a variety of licit and illicit drugs at different levels of intake. In 1986, 66 percent of high school seniors thought that smoking one or more packs of cigarettes per day causes great risk of harming oneself. More students saw great risk in the regular use of marijuana, cocaine, LSD, and heroin (Table 19). In contrast, more teenagers saw great risk in regular smoking compared with trying amphetamines, barbiturates, cocaine, or LSD; in trying or using occasionally marijuana or cocaine; or in trying alcohol, having one to two drinks per day, or having five or more drinks one or two times per week.

The *Weekly Reader* magazine includes a survey twice a year in the periodical, which is distributed throughout the country to more than 10 million children in grades 2

through 9. Surveys are filled out in class by students under a teacher's supervision. The topics addressed are rotated so that the same survey is repeated every 4 years. The Spring 1986 survey covered safety and health (Weekly Reader 1986). Of an estimated 400,000 student responses for grades 2 through 6, 128,000 were randomly chosen for analysis. Although the respondents do not represent a randomly selected sample, results pertaining to tobacco are presented here because of the large sample size and the paucity of data available for young children.

The survey included the following question: "Many people say the following things are harmful for kids to do. How harmful do you think each is for kids your age? (very harmful, somewhat harmful, not harmful) . . . overeating, eating junk food, listening to very loud music, smoking, chewing tobacco, staying up late, failing to get enough exercise." Grade-specific results for students in grades 4 through 6 showed that smoking (90 to 95 percent) and chewing tobacco (80 to 90 percent) were much more likely to be perceived as "very harmful" compared with the other choices, all of which were considered to be "very harmful" by less than 40 percent of respondents (except for loud music, among fourth graders--70 percent). However, these results should be interpreted with caution because of the possibility of sampling bias and the leading nature of the question.

### Addiction

Of particular concern are teenagers who are unaware of the addictive nature of cigarette smoking, and who, therefore, may be tempted to "experiment" with smoking. In the 1974 and 1979 DHEW Teenage Smoking Surveys (US DHEW 1976b, 1979b), about one-quarter of the teenagers agreed with the statement, "Teenagers who smoke regularly can quit for good any time they like." About 60 percent agreed that "It's okay for teenagers to experiment with cigarettes if they quit before it becomes a habit." In the 1979 survey, teenagers were asked, "What would you say is the possibility that 5 years from now you will be a cigarette smoker?" Fifty percent of the current regular smokers (48 percent of boys and 52 percent of girls) answered "definitely not" or "probably not." These findings suggest that a large proportion of new smokers are unaware of or underestimate the addictive nature of smoking.

In 1975, 56 percent of girls aged 13 to 17 years and 62 percent of young women aged 18 to 35 years thought that smoking was as addictive as illegal drugs (US DHEW 1975a).

In the study by Leventhal, Glynn, and Fleming (1987) of 895 students in grades 2 through 12 in Milwaukee, WI, subjects were asked how hard it is for heavy smokers and for light smokers to quit smoking, and how heavy and light smokers feel when they quit. Answers were used to construct a "knowledge of addiction" scale. The investigators found that young people who smoke or who have smoking family members have lower "knowledge of addiction" scores. The authors speculate that these individuals may be "defending against the thought that either they or a parent has an uncontrollable problem."

Information on teenage beliefs concerning the addictiveness of ST use is discussed below.

In 1985, the Office of the Inspector General, Department of Health and Human Services, surveyed a nonrandom sample of 399 students in 11 junior high or middle schools and 20 high schools in 16 States regarding ST use (US DHHS 1986d). ST users were oversampled based on identification of users and nonusers by school officials. The sample was composed of 290 current ST users (73 percent) and 109 nonusers (27 percent). Eighty percent of junior high school users and 92 percent of high school users acknowledged that dipping snuff and chewing tobacco *can be* harmful to a person's health (Table 20). When asked about the extent of physical harm that may result from ST use, however, about half of users believed that there is no risk or only slight risk from regular use. One-third of junior high school users and only 5 percent of high school users thought that ST use may lead to mouth cancer. There was poor understanding of the effects of ST use on gum and dental conditions. One-quarter of junior high school users believed that regular ST use is not addictive, and more than one-third did not know that snuff contains nicotine. In summary, these findings suggest that users are substantially uninformed about the health effects and addictiveness of smokeless tobacco use. However, the degree to which these results can be generalized nationally is limited by the nonrepresentative nature of the sample.

Data from the Monitoring the Future Project showed that in 1986, a total of 59 percent of high school seniors believed that regular ST use poses a great (26 percent) or moderate (33 percent) risk of harm, compared with 36 percent who believed that ST use poses slight (28 percent) or no (8 percent) risk (Bachman, Johnston, O'Malley 1987).

### Constituents of Tobacco Smoke

The estimated number of known compounds in tobacco smoke exceeds 4,000, including some that are pharmacologically active, toxic, mutagenic, carcinogenic, and antigenic (Chapter 2). One of these is carbon monoxide, whose presence in cigarette smoke is cited in one of the four health warnings rotated on cigarette packages and advertisements since 1985 (Chapter 7).

In a 1979 survey conducted by Chilton Research Services for the Federal Trade Commission (FTC 1981), respondents were asked, "Does cigarette smoke contain carbon monoxide?" Fifty-one percent of teenagers (aged 13-18) either did not know (21 percent) or said "no" (29 percent); 45 percent of adults (aged 29-31) either did not know (26 percent) or said "no" (19 percent).

In a 1980 Roper survey (FTC 1981) 53 percent of all respondents and 56 percent of smokers did not know or believe that "Cigarette smoke contains carbon monoxide, which is a dangerous gas."

In the 1986 AUTS, 62 percent of current smokers answered "yes" to the question, "As far as you know, does cigarette smoke contain carbon monoxide?" Thirteen percent said "no," and 25 percent did not know. Former and never smokers were not asked this question.



**TABLE 20.--Beliefs about the health effects of smokeless tobacco (ST) use among 399 junior and senior high school students (percentage who agree) in 16 States, 1986**

|  | Users                                  |                                  | Nonusers          |
|--|--|----------------------------------|-------------------|
|  | Junior high school<br>( <i>N</i> = 76) | High school<br>( <i>N</i> = 214) | ( <i>N</i> = 109) |
| ST use <i>can be</i> harmful                             | 80                                     | 92                               | 97                |
| Risk from ST use   |  |                                  |                   |
| None or slight   | 57                                     | 42                               | 32                |
| Moderate to great  | 43                                     | 58                               | 68                |
| Regular ST use may lead to<br>mouth cancer               | 33                                     | 5                                | 5                 |
| Gum and mouth problems among<br>users are very rare      | 64                                     | 41                               | 33                |
| ST use increases risk of tooth<br>stains, wear, and loss | 24                                     | 11                               | 16                |
| Snuff does not contain nicotine                          | 38                                     | 20                               | 32                |
| Regular ST use is not addictive                          | 25                                     | 15                               | 10                |
| ST use is much more safe than<br>cigarettes              | 81                                     | 81                               | 59                |

NOTE: ST user defined as follows: has dipped or chewed more than 100 times, currently uses daily or at least 3 days per week, dipping at least three times on days of use. Nonuser defined as follows: has never dipped or chewed, or has only tried it a few times or more than a few times but fewer than 100 times.

SOURCE: US DHHS (1986d).

## Health Benefits of Smoking Cessation

The overall mortality ratio of former smokers (compared with never smokers) declines with increasing years of abstinence. According to data reviewed in the 1979 Surgeon General's Report (US DHEW 1979a) from the U.S. Veterans Study and the British Doctors Study, overall mortality rates of former smokers are similar to those of never smokers 15 years after quitting (US DHEW 1979a). With respect to lung cancer mortality, the increased risk diminishes substantially by 5 to 9 years after quitting, but remains above the risk of never smokers for many more years except for those with fewer than 30 years of cigarette smoking (Chapter 2). A reduction in CHD mortality occurs within the first few years after cessation (US DHHS 1983). The risk of COPD mortality decreases eventually after smoking cessation but does not decline to equal that of never smokers, even after 20 years of cessation (US DHHS 1984).

In the 1986 AUTS, respondents were asked how long it takes before former smokers' chances of developing a disease return to normal. Slightly more than half believed that the risks return to normal within 5 years (Table 21). Results were similar when stratified by smoking status.

The 1987 NHIS included questions regarding the health benefits of quitting in terms of specific disease risks. These data were not available for inclusion in this Report.

## Discussion

It has been 25 years since the release of the first Surgeon General's Report on smoking and health. During that time, a major public health effort has been made to educate the public regarding the health consequences of smoking (see Chapters 6-8).

Public knowledge of the health risks of smoking has improved as a result of this massive public health education campaign. The belief that smoking is harmful to health has increased since 1964. In 1964, a majority of adults acknowledged the general health risk of smoking and believed that smoking is a major cause of lung cancer, but a minority believed that smoking increases the risk of COPD, heart disease, and premature birth. By the mid-1980s, a substantial majority of adults (including nonsmokers and smokers) recognized the general health risks of smoking and believed that smoking increases the risk of lung cancer, COPD, and heart disease, and prematurity, low birthweight, miscarriage, and stillbirths.

Knowledge of the risks of exposure to ETS has also increased markedly since 1974; in fact, this high level of belief preceded the release of the 1986 Surgeon General's Report on the health consequences of involuntary smoking.

### Current Gaps in Public Beliefs About the Health Effects of Smoking

Despite the growing level of public knowledge noted above, a substantial *number* of Americans are still uninformed about or do not believe the health risks of smoking. These gaps in knowledge or beliefs are more evident when one considers the proportion of adults who do not acknowledge certain health risks rather than the proportion who do. For example, among smokers--for whom this information is particularly

**TABLE 21.--Public knowledge about the health benefits of smoking cessation in relation to years of abstinence, 1986**

|                 | If someone gives up smoking completely, how long do you think it will take<br>before their chances of developing a disease return to normal?<br>(percentage indicating the following number of years) |     |     |      |       |    |       | Don't<br>know |
|-----------------|---|-----|-----|------|-------|----|-------|---------------|
|                 | <1  | 1-2 | 3-5 | 6-10 | 11-15 | 15 | Never |               |
| Current smokers | 17  | 23  | 16  | 8    | 1     | 1  | 7     | 27            |
| Former smokers  | 14  | 23  | 20  | 8    | 1     | 1  | 7     | 26            |
| Never smokers   | 16  | 23  | 16  | 6    | 1     | 1  | 12    | 25            |

SOURCE: AUTS 1986 (US DHHS, in press).

relevant--10 percent in 1985 did *not* believe that smoking is harmful to health. In 1986, 15 percent did *not* think that a person who smokes is more likely than a person who does not smoke to get lung cancer. Similar proportions of smokers did *not* believe that smokers are more likely to get heart disease (29 percent), chronic bronchitis (27 percent), emphysema (15 percent), and laryngeal cancer (18 percent). These percentages correspond to 8 million to 15 million adult smokers in the United States.

Another gap exists in the public's understanding of the special health risks of women who smoke. Compared with 1964, in 1985 smokers were more than twice as likely to recognize smoking as a cause of premature delivery. However, in 1985, 24 percent of all women (smokers and nonsmokers combined) 18 to 44 years of age did not recognize the risk of prematurity; 15 percent did not recognize the risk of low birthweight; 25 percent did not recognize the risk of miscarriage; and 32 percent did not recognize the risk of stillbirth (Table 12; Fox et al. 1987).

The fact that in 1985 10 percent of smokers did not indicate that smoking is harmful to health (Table 2), despite all efforts designed to impart such information (Chapters 6-8), suggests that this group of smokers may resist accepting any information on the health effects of smoking. This finding has important implications for smoking control efforts and for setting public health objectives. It implies that other techniques besides providing information (e.g., policy incentives--see Chapter 7) are necessary to persuade some smokers to quit. It also suggests that it is unrealistic to set a goal above 90 percent of smokers for public knowledge about any health effect of smoking.

Another gap in public knowledge involves teenagers. Youth may understand that smoking is generally harmful to health, but many may not appreciate the addictive nature of smoking or may deny a personal susceptibility (Leventhal, Glynn, Fleming 1987). In addition, data from one study (US DHHS 1986c) suggest that many ST users are not aware of the health effects and addictiveness of the product.

Fishbein (1977) described three different ways in which individuals may be informed of a given piece of information: (1) they may become aware that the information exists; (2) they may accept the information in general; or (3) they may accept the information at a personalized level. These three ways of being informed correspond to three levels of belief mentioned at the beginning of this Chapter: Level 1 (awareness), Level 2 (general acceptance), and Level 3 (personalized acceptance).

Persons may have knowledge or beliefs at one level, but not at another. For example, some smokers may be aware of the Surgeon General's Reports and accept the general fact that smoking is dangerous, but do not believe that they will be harmed by smoking. The data presented in this Report support this concept. Whereas in 1975 approximately 90 percent of smokers believed that smoking is harmful to health (Table 2), in 1986 only 75 percent were concerned about the effects of smoking on their health (Table 15). The recognition of a general risk but disbelief in a personal risk may result from several factors, including a belief that using low-tar cigarettes (see Table 3), smoking fewer cigarettes daily (see Table 5), or having certain genetic factors eliminates the personal risk.

In order to make a fully informed decision, a person should have complete and accurate Level 3 beliefs about the outcomes of each alternative action (Fishbein 1977). The personalization (perception of the personal relevance) of abstract information has

been shown to be an important aspect of behavior change in general (Mahoney 1974) and of health-related behavior change in particular (Ben-Sira 1982; Schinke and Gilchrist 1984).

#### Factors Interfering With Changes in Knowledge

There is a vast body of literature pertaining to the acquisition of knowledge and the process of learning. Research in this area has identified many factors that enhance or interfere with this acquisition. The brief discussion below does not attempt to provide a comprehensive review of this literature, but rather attempts to identify a few of the more salient factors that may impede the development of accurate beliefs about the health risks of smoking. The importance of beliefs in determining smoking behavior is discussed in Part II of Chapter 5 (sections on Cognition and Decisionmaking).

Informing the public about the health risks of smoking is difficult to accomplish. Risk assessment is a complex discipline, not fully understood by its practitioners, much less the lay public (Slovic 1986). Risk judgments are influenced by the memorability of past events; as a result, any factor that makes a risk memorable—such as a recent disaster or heavy media coverage—seriously distorts the perception of risk. Risks from dramatic and sensational causes of death, such as injuries, homicides, and natural disasters, tend to be greatly overestimated. Risks from undramatic causes, such as bronchitis, emphysema, or cancer, which take one life at a time and which may be more common in nonfatal form, tend to be underestimated (Slovic 1986). News media coverage of health risks has been found to be biased in the same direction, thus contributing to the difficulties of obtaining proper perspective on risks (Slovic 1986).

The fact that perceptions of risk are often inaccurate may indicate the need for warnings and educational programs. Such programs, however, face the obstacle that information based on probability is likely to have less impact on recipients than information based on certainty. For example, the data presented herein indicate that the majority of smokers believe that smoking increases the *chance* of getting lung cancer. However, not all smokers develop lung cancer, and on occasion, a well-publicized case of lung cancer occurs in an individual who never smoked. These “exceptions” may provide smokers with a rationale to continue smoking despite their abstract belief of risk.

In addition to their difficulty with understanding risks, smokers may deny personal risk with respect to health effects of smoking and addiction. Some smokers incorrectly believe that while smoking may be hazardous to others, it is not hazardous to themselves because of the particular type of cigarette they smoke, the amount they smoke, or their family history of disease. Persons who are exposed to a health risk, such as smokers, may attempt to reduce the anxiety generated in the face of that risk by denying the existence or magnitude of the risk, thus making the risk seem so small that it can be safely ignored (Slovic 1986).

Teenagers pose a special challenge for sharing knowledge of the health risks of smoking. As mentioned above and as shown in Table 18, the majority of high school seniors do believe that smoking is generally harmful. However, the fact that the health risks are in the distant future for teenage smokers may make it difficult for them to fully appreciate those risks. In other words, this lag may reduce teenagers’ likelihood to

transform Level 2 beliefs to Level 3 beliefs. This is one reason smoking prevention efforts now tend to emphasize social influence approaches and to deemphasize communication of the long-term health risks of smoking (Chapter 6).

Although empirical evidence is sparse, tobacco industry activities in the form of advertising and promotion, public relations, and lobbying may interfere with public beliefs and personalized acceptance of the health risks of smoking. Because most individuals may not understand *how* smoking causes the diseases with which it is associated, many persons may be vulnerable to information that attempts to cast doubt on such relationships. These industry activities are reviewed in Chapters 6 and 7.

#### The 1990 Health Objectives for the Nation

In 1980, the U.S. Public Health Service established the 1990 Health Objectives for the Nation (US DHHS 1980). A midcourse review of progress toward meeting these objectives was published in 1986 (US DHHS 1986b). These objectives included five goals for public knowledge of the health consequences of smoking:

Objective 1: By 1990, the share of the adult population aware that smoking is one of the major risk factors for heart disease should be increased to at least 85 percent.

Objective 2: By 1990, at least 90 percent of the adult population should be aware that smoking is a major cause of lung cancer, as well as multiple other cancers including laryngeal, esophageal, bladder, and other types.

Objective 3: By 1990, at least 85 percent of the adult population should be aware of the special risk of developing and worsening chronic obstructive lung disease, including bronchitis and emphysema, among smokers.

Objective 4: By 1990, at least 85 percent of women should be aware of the special health risks for women who smoke, including the effect on outcomes of pregnancy and the excess risk of CVD with oral contraceptive use.

Objective 5: By 1990, at least 65 percent of 12-year-olds should be able to identify smoking cigarettes with increased risks of serious disease of the heart and lungs.

For the purposes of these objectives, the term aware was not defined and no distinction was made between Level 1, Level 2, and Level 3 beliefs (see above).

Progress toward meeting the first two objectives cannot be assessed reliably because they refer to smoking as “one of the major risk factors” for heart disease and “a major cause” of lung cancer and other cancers. On the other hand, most surveys have assessed public beliefs about whether smoking increases the risk of or “is related to” heart disease or lung cancer (Tables 8 and 9). As mentioned above, such wording changes can markedly affect results of surveys assessing public beliefs.

The third objective appears to have been met in the case of emphysema and nearly met in the case of chronic bronchitis (Table 10). In 1985, the percentages of adults 18 to 44 years of age who acknowledged the various effects of maternal smoking on the fetus were generally 10 to 20 percentage points below the goals listed in the fourth objective, except that 85 percent of women believed that smoking during pregnancy in-

creases the risk of having a low-birthweight baby (Table 12). The percentage who knew of the interactive effects of smoking and oral contraceptive use on CVD was also below the 1990 goal. No data exist to assess progress toward achieving the fifth objective.

### **Trends in Public Attitudes About Smoking and Smokers**

This Section describes trends in public attitudes about smoking in general and about smokers.

#### **Involuntary Smoking as an Annoyance**

Since 1964, the population has become increasingly annoyed by exposure to ETS. In 1964, less than half of adults (46 percent) thought that it was annoying to be near a person smoking cigarettes (Table 22). Identical questions asked in surveys conducted in 1964, 1966, 1970, and 1975 reveal an increase in the proportion of adults who were annoyed by being near a person who is smoking (from 20 to 35 percent among smokers and from 64 to 77 percent among nonsmokers). By 1986, 42 percent of smokers and 80 percent of nonsmokers reported that they were annoyed by the smoke from another person's cigarette. The 1987 NHIS (preliminary first-quarter data) obtained results similar to those of the 1986 AUTS.

#### **Nonsmokers' Rights**

According to Gallup surveys, the proportion of adults who feel that smokers should refrain from smoking in the presence of nonsmokers increased slightly between 1983 and 1987. In 1983, 69 percent of adults thought that smokers should refrain from smoking in the presence of others (Table 23). By 1987, 77 percent of adults (64 percent of smokers and 86 percent of nonsmokers) thought that smokers should refrain from smoking in front of others.

In the 1987 Gallup survey, respondents were asked where smokers should refrain from smoking when nonsmokers are present. The proportions who believed that smokers should not smoke in the presence of nonsmokers were 62 percent with respect to public places, 34 percent with respect to work, and 19 percent with respect to the home (ALA 1987).

In a 1987 survey conducted for AMA, respondents were asked, "Which do you feel is a more important individual right, the right of smokers to smoke anywhere, or the right of nonsmokers to a smoke-free environment?" Three-quarters of respondents (76 percent) thought that nonsmokers had the right to a smoke-free environment (49 percent of smokers and 86 percent of nonsmokers), compared with 10 percent who thought that smokers had the right to smoke anywhere (25 percent of smokers and 5 percent of nonsmokers) (Harvey and Shubat 1987).

TABLE 22.--Trends in public attitudes about exposure to environmental tobacco smoke

| Survey               | Year | Reference         | It is annoying to be near a person who is smoking cigarettes<br>(percentage who agree by smoking status) |                   |                  |                   |            |
|----------------------|------|-------------------|--|-------------------|------------------|-------------------|------------|
|                      |      |                   | Current<br>smokers   | Former<br>smokers | Never<br>smokers | All<br>nonsmokers | All adults |
| 1. AUTS              | 1964 | US DHEW 1969      | 20   | 49                | 69               | 64                | 46         |
| 2. AUTS              | 1966 | US DHEW 1969      | 26   | 52                | 70               |                   | 48         |
| 3. AUTS              | 1970 | US DHEW 1973      | 34   | 63                | 78               | 73                | 59         |
| 4. AUTS              | 1975 | US DHEW 1976      | 35   | 72                | 79               | 77                | 63         |
| 5. Roper             | 1978 | Roper 1978        | 5  |                   |                  | 60                |            |
| 6. AUTS              | 1986 | US DHHS, in press | 42   | 73                | 83               | 80                | 69         |
| 7. NHIS <sup>a</sup> | 1987 |                   | 34   | 73                | 85               |                   | 67         |

<sup>a</sup>Preliminary first-quarter data (unpublished).  
NOTE: Actual questions:  
1-4. It is annoying to be near a person who is smoking cigarettes. (strongly agree, mildly agree, no opinion, mildly disagree, strongly disagree)\*  
6. Is the smoke from someone else's cigarette very annoying to you, somewhat annoying to you, or not annoying at all?<sup>†</sup>  
7. In general, would you say the smoke from other people's cigarettes is very annoying to you, somewhat annoying to you, or not at all annoying?<sup>†</sup>  
\*Percentages include those who "strongly agree" or "mildly agree."  
<sup>†</sup>Percentages include those who state that smoke from someone else's cigarette is "very annoying" or "somewhat annoying."



**TABLE 23.--Trends in public attitudes about smoking in the presence of nonsmokers**

| Survey               | Year | Reference | Smokers should refrain from smoking in the presence of nonsmokers<br>(percentage who agree by smoking status) |                   |                  |                   |            |
|----------------------|------|-----------|---|-------------------|------------------|-------------------|------------|
|                      |      |           | Current<br>smokers  | Former<br>smokers | Never<br>smokers | All<br>nonsmokers | All adults |
| 1. Gallup            | 1983 | ALA 1987  | 55  | 70                |                  | 82                | 69         |
| 2. Gallup            | 1985 | ALA 1987  | 62  | 78                |                  | 85                | 75         |
| 3. Gallup            | 1987 | ALA 1987  | 64  | 76                |                  | 86                | 77         |
| 4. NHIS <sup>a</sup> | 1987 |           | 65  | 81                | 89               |                   | 80         |

<sup>a</sup>Preliminary first-quarter data (unpublished). Year-end percentage for all adults is 80 percent.  
NOTE: Actual questions:  
1-3. Should smokers refrain from smoking in the presence of nonsmokers? (strongly agree, agree, disagree, strongly disagree, no opinion)\*  
4. If people want to smoke, they should not do so in indoor public places where it might disturb others. (strongly agree, agree, disagree, strongly disagree)\*  
\* Percentages include those who "strongly agree" or "agree."

## **Actions When Smokers Light Up**

Surveys conducted by the Roper Organization in 1974, 1976, and 1978 (Roper 1978) assessed actions of smokers when they are indoors with other people and want a cigarette, and actions of nonsmokers in response. Although these questions technically pertain to smoking behavior, the subject of the next chapter, they are indicators of attitudes toward smoking.

Smokers were asked, "Do you light up a cigarette without really thinking about it, or do you look around and then decide whether it's okay, or do you ask if others would mind, or do you just not smoke?" In 1978, a total of 57 percent either looked around and then decided (27 percent), or asked others (26 percent), or did not smoke (4 percent). Slightly lower total percentages for these three actions were reported in 1976 (55 percent) and 1974 (53 percent). The 1987 NHIS indicated that 21 percent of smokers would light up in a public place, while 26 percent would look around first, 15 percent would ask others, and 31 percent would refrain from smoking.

A total of 58 percent of *nonsmokers* in 1978 said that when someone is smoking indoors, they either ask the smoker to stop smoking (6 percent), indicate disapproval without saying so (10 percent), or try to move away (42 percent). In both 1974 and 1976, the total percentage for these three actions was 53 percent; other possible responses were: "doesn't matter," "enjoy it," "it depends," "and" "don't know." According to the 1987 NHIS, fewer than 5 percent of nonsmokers would ask a smoker in public not to smoke (preliminary first-quarter data).

## **Opinions of Teenagers**

According to recent surveys from the Monitoring the Future Project, most high school seniors think that smokers their age are trying to appear mature and sophisticated, and about half of teenagers think that smoking makes them look insecure (Table 24). Only 5 to 10 percent of respondents thought that smokers look cool, calm, in control; rugged, tough, independent; or mature and sophisticated. Most teenagers prefer to date people who do not smoke. Most also consider smoking a dirty habit and think that becoming a smoker reflects poor judgment. In 1986, 45 percent of teenagers strongly disliked being near people who were smoking while 37 percent did not mind being around people who were smoking. There appears to have been little change in these attitudes from 1981-86

In summary, smokers and nonsmokers, adults and teenagers alike, generally believe that smokers should refrain from smoking in the presence of others and that it is annoying to be near a person who is smoking. In addition, teenagers are more likely to associate smoking and smokers with negative attributes than positive ones.

**TABLE 24.--Trends in attitudes about smoking and smokers among high school seniors, 1981-86, Monitoring the Future Project, National Institute on Drug Abuse**

|  | In my opinion, when a guy my age is smoking a cigarette, it makes him look . .<br>(percentage who agree)  |      |
|--|---|------|
|  | 1981  | 1986 |
| like he's TRYING to appear mature and sophisticated  | 61  | 63   |
| insecure   | 42  | 44   |
| conforming   | 25  | 21   |
| rugged, tough, independent                           | 9   | 10   |
| cool, calm, in control                               | 6   | 6    |
| mature, sophisticated                                | 5   | 5    |
|  | In my opinion, when a girl my age is smoking a cigarette, it makes her look . .<br>(percentage who agree) |      |
|  | 1981  | 1986 |
| like she's TRYING to appear mature and sophisticated | 65  | 65   |
| insecure   | 47  | 50   |
| conforming   | 27  | 22   |
| independent and liberated                            | 11  | 10   |
| mature, sophisticated                                | 7   | 5    |
| cool, calm, in control                               | 6   | 5    |

**TABLE 24.--Continued**

|   | Do you agree or disagree . . .<br>(percentage who agree) |      |
|---|--|------|
|   | 1981   | 1986 |
| I prefer to date people who don't smoke                     | 66   | 71   |
| Smoking is a dirty habit                                    | 66   | 69   |
| I think that becoming a smoker reflects poor judgment       | 57   | 59   |
| I strongly dislike being near people who are smoking        |  | 45   |
| I personally don't mind being around people who are smoking | 38   | 37   |
| The harmful effects of cigarettes have been exaggerated     | 16   | 16   |
| Smokers know how to enjoy life more than nonsmokers         | 3  | 2    |

NOTE: Possible responses included agree, mostly agree, disagree, mostly disagree, neither. Percentages include those who "agree" or "mostly agree."

SOURCE: Johnston, Bachman, O'Malley (1982); Bachman, Johnston, O'Malley (1987).

## **Trends in Public Opinion About Smoking Policies**

### **Overview**

#### **Background**

This Section describes trends in public opinion about smoking policies. Public opinion information is helpful to legislators, public health officials, and other policymakers who often wish to know the degree of public support for an issue under consideration. The results presented in this Section are taken primarily from public opinion polls sponsored by a variety of private health organizations (Appendix).

This Section uses the categorization of policies employed in Chapter 7, including the following categories: (1) smoking restrictions, (2) restrictions on the sale and distribution of cigarettes, (3) policies pertaining to information and education, and (4) economic policies. Each section reviews trends in public opinion toward the policy and briefly describes the current status of opinions toward the policy with respect to the smoking status of the respondents.

#### **Limitations of the Surveys in Assessing Public Opinion About Smoking Policies**

Assessing trends in public opinion regarding smoking policies is more difficult in some ways than assessing trends in public knowledge regarding the health effects of smoking. For instance, surveys that ask about public opinion often refer to the “current” situation. However, the “current” situation may change from year to year and from survey to survey. For example, in 1964, 52 percent of adults thought that smoking should be allowed in fewer places than it was at that time. By 1975, 70 percent of adults thought that smoking should be allowed in fewer places than it was at that time. However, the “current” situation changed from 1964-75, making the survey results difficult to compare. Because smoking was already allowed in fewer places by 1975, the results of the 1975 survey reveal even greater support for limitations on smoking than indicated by the difference in percentages.

### **Restrictions on Smoking**

#### **General**

Between 1964 and 1975, adults increasingly favored restrictions on smoking. In 1964, about half (52 percent) thought that smoking should be allowed in fewer places than it was at that time, compared with 70 percent by 1975 (Table 25). Comparable questions have not been asked to assess more recent trends since 1975. However, in 1986, 50 percent of adults disagreed that there were already enough restrictions on where people can smoke.

**TABLE 25.--Trends in public opinion about restrictions on smoking in public places**

| Survey  | Year | Reference         | Smoking should be allowed in fewer places than it is now<br>(percentage who agree by smoking status)           |                |               |                |            |
|---------|------|-------------------|--|----------------|---------------|----------------|------------|
|         |      |                   | Current smokers  | Former smokers | Never smokers | All nonsmokers | All adults |
| 1. AUTS | 1964 | US DHEW 1969      | 34   | 56             | 68            | 65             | 52         |
| 2. AUTS | 1966 | US DHEW 1969      | 35   | 58             | 67            | 65             | 52         |
| 3. AUTS | 1970 | US DHEW 1973      | 42   | 61             | 68            | 66             | 57         |
| 4. AUTS | 1975 | US DHEW 1976a     | 51   | 77             | 82            | 80             | 70         |
| Survey  | Year | Reference         | There are already enough restrictions on where people can smoke<br>(percentage who DISAGREE by smoking status) |                |               |                |            |
|         |      |                   | Current smokers  | Former smokers | Never smokers | All nonsmokers | All adults |
| 5. AUTS | 1986 | US DHHS, in press | 23   | 53             | 63            | 59             | 50         |

NOTE: Actual questions:

1-4. The smoking of cigarettes should be allowed in fewer places than it is now. (strongly agree, mildly agree, no opinion, mildly disagree, strongly disagree)\*

5. There are already enough restrictions on where people can smoke. (strongly agree, somewhat agree, neutral, somewhat disagree, strongly disagree) †

\*Percentages include those who "strongly agree" or "mildly agree."

†Percentages include those who "strongly disagree" or "somewhat disagree."

## Public Places

Table 26 presents data from five surveys conducted since 1978 that asked about opinions regarding restrictions on smoking in public places. Differences in the wording of the questions make comparisons among the surveys difficult. Two surveys solicited opinions about three mutually exclusive options (total ban on smoking, separate sections for smokers and nonsmokers, and no restrictions at all), two surveys asked for an opinion only about a total ban, and the fifth asked for an opinion only about “no smoking” sections.

The 1978 Gallup survey and the 1987 Harris survey both presented three options. The proportion of respondents favoring *either* a total smoking ban or separate sections was 84 percent in both. However, the percentage favoring a total ban increased from 16 to 23 percent. The 1987 and 1988 Gallup surveys showed that the percentages favoring a total ban were 55 and 60 percent, respectively (69 and 75 percent of nonsmokers, respectively); the option of separate sections was not presented in these surveys (Table 26).

## Workplace

Questions used to assess opinions regarding smoking restrictions in the workplace have varied from year to year. It is not possible, therefore, to identify a clear trend, but the public has consistently shown support for policies that limit smoking in the workplace.

In 1966, 92 percent of adults thought that an employer had a right to tell employees when or where they can smoke while on the job (US DHEW 1969). In 1975, 78 percent of adults thought that management had the right to *prohibit* smoking in a place of business (US DHEW 1976a). By 1985, 87 percent of adults thought that companies should have a policy on smoking (80 percent of current smokers, 92 percent of nonsmokers). Most adults (79 percent) preferred assigning certain areas for smoking and nonsmoking as opposed to totally banning smoking at work (8 percent) (Gallup 1985).

## Airplanes

Since 1978, it appears that more adults favor restricting smoking on airline flights. In a 1978 Gallup survey, 43 percent of adults thought a smoking ban should be imposed on commercial airline flights (Table 27). A 1987 AMA survey reported that 67 percent of adults thought that cigarette smoking should not be allowed on commercial airline flights. A 1987 survey conducted by the American Association for Respiratory Care (AARC) of 33,242 airline passengers in 39 States and 89 airports in the United States yielded similar results (AARC 1987) (Table 27).

According to the 1986 AUTS, 61 percent of respondents (82 percent of never smokers, 69 percent of former smokers, and 14 percent of current smokers) ask to be seated in the no-smoking sections of airplanes, restaurants, and other public places when given a choice (CDC 1988).

**TABLE 26.--Trends in public opinion about restrictions on smoking in public places**

| Survey       | Year | Reference      | Smoking in public places <sup>a</sup> |                                 |                                     |
|--------------|------|----------------|---------------------------------------|---------------------------------|-------------------------------------|
|              |      |                | % favoring<br>total ban               | % favoring<br>separate sections | Total % favoring<br>ban or sections |
| 1. Gallup    | 1978 | Gallup 1978    | 16 (22/8)                             | 68 (67/70)                      | 84 (89/78)                          |
| 2. Lieberman | 1986 | Lieberman 1986 |                                       | 94 (95/93)                      |                                     |
| 3. Harris    | 1987 | Harris 1988    | 23                                    | 61                              | 84                                  |
| 4. Gallup    | 1987 | Gallup 1987a   | 55 (69/25)                            |                                 |                                     |
| 5. Gallup    | 1988 | Gallup 1988b   | 60 (75/26)                            |                                 |                                     |

<sup>a</sup>Percentages in parentheses refer to nonsmokers and current smokers, respectively.

NOTE: Actual questions:

1. In your opinion, which of the policies on this card should be followed with regard to smoking in such places as trains, buses, airplanes, restaurants, and offices? (There should be no restrictions at all on smoking in public places such as these; Special sections for smokers should be set aside in public places such as these; Smoking should not be allowed at all in public places such as these.)
2. Should public places have "no smoking" sections? (yes, no, no opinion)
3. Do you think that laws should prohibit smoking in public places, or should they require separate smoking and nonsmoking sections, or should smoking in public places not be regulated by law?
- 4-5. Would you favor or oppose a complete ban on smoking in all public places?

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TABLE 27.--Trends in public opinion about restrictions on smoking in airplanes

| Survey               | Year | Reference              | Smoking should not be allowed on commercial airline flights<br>( p e r c e n t a g e w h o a g r e e b y s m o k i n g s t a t u s ) |                   |                  |                   |            |
|----------------------|------|------------------------|--|-------------------|------------------|-------------------|------------|
|                      |      |                        | Current<br>smokers   | Former<br>smokers | Never<br>smokers | All<br>nonsmokers | All adults |
| 1. Gallup            | 1978 | Gallup 1978            | 55   |                   |                  | 23                | 43         |
| 2. AMA               | 1987 | Harvey and Shubat 1987 | 40   |                   |                  | 78                | 67         |
| 3. AARC <sup>a</sup> | 1987 | AARC 1987              | 30   |                   |                  | 74                | 64         |

<sup>a</sup>Survey of 33,242 airline passengers conducted in 39 States and 89 airports in the United States.  
NOTE: Actual questions:  
1. Do you think that cigarette smoking on commercial airplanes should or should not be banned completely?\*

2. Do you feel that cigarette smoking should or should not be allowed on commercial airline flights?\*\*\*

\*Percentages are those who believe that cigarette smoking should be banned on flights.  
\*\*\*Percentages are those who believe that cigarette smoking should not be allowed on flights.

## Restaurants

In four surveys, conducted between 1976 and 1987, approximately 20 percent of respondents favored a total ban on smoking in restaurants (Table 28). In contrast, most adults are in favor of *limiting* smoking in restaurants. A 1976 Roper poll indicated that 57 percent believed smoking should be restricted to certain areas in restaurants, while 22 percent favored a total ban on smoking. In a 1987 Gallup survey conducted for ALA, 74 percent of adults thought that certain areas should be set aside for smoking and 17 percent thought that smoking should be banned completely (ALA 1987; Gallup 1987a).

As mentioned above, 61 percent of respondents to the 1986 AUTS choose no-smoking sections of restaurants and other public places when given a choice (CDC 1988). In a survey conducted by the Gallup Organization for the National Restaurant Association in 1987, adults were asked about various opinions regarding smoking in restaurants: 61 percent overall said that they prefer to sit in a no-smoking section (83 percent of never smokers, 65 percent of former smokers, and 20 percent of current smokers) (Gallup 1987d).

## Other Places

A Gallup survey conducted for the ALA in 1983 showed that 54 percent of adults favored setting aside certain areas for smoking in hotels and motels and 12 percent favored a total smoking ban. In a similar survey in 1987, these percentages were 67 percent and 10 percent, respectively, and were slightly higher for nonsmokers than for current smokers (Gallup 1988a).

## Restrictions on the Sale and Distribution of Cigarettes

### Complete Ban on Sales

The questions used to assess opinion regarding the outright ban of cigarette sales have varied considerably in wording. In 1964, respondents were asked if they agreed that “The selling of cigarettes should *not* be stopped completely.” In 1970, respondents were asked if they agreed that “The selling of cigarettes *should* be stopped completely.” Despite these differences, the responses consistently indicated little sympathy for this most stringent policy: approximately 30 percent of adults supported a ban in 1964, compared with 20 percent in 1981 (Table 29).

### Limiting Sales to Minors

Most adults favor limiting cigarette sales to minors. In 1964, only 9 percent of adults thought that sales of cigarettes to people under a certain age should *not* be against the law. In 1970, 88 percent thought that such sales *should be* against the law (Table 30).

**TABLE 28.--Trends in public opinion about restrictions on smoking in restaurants**

| survey    | Year | Reference  | Smoking should be banned (or limited) in restaurants <sup>a</sup><br>(percentage who agree by smoking status) |                |               |                | All adults |
|-----------|------|------------|---|----------------|---------------|----------------|------------|
|           |      |            | Current smokers   | Former smokers | Never smokers | All nonsmokers |            |
| 1. Roper  | 1976 | Roper 1978 |   |                |               |                | 22 (57)    |
| 2. Roper  | 1978 | Roper 1978 |   |                |               |                | 23 (73)    |
| 3. Gallup | 1983 | ALA 1987   | 12 (74)   | 19 (71)        |               | 26 (65)        | 19 (69)    |
| 4. Gallup | 1987 | ALA 1987   | 7 (79)  | 19 (74)        |               | 23 (71)        | 17 (74)    |

<sup>a</sup>Percentages represent those who favor a total smoking ban. Percentages *in parentheses* represent those who favor setting aside certain areas for smoking.

NOTE: Actual questions:

1-2. Should smoking be permitted only in separate sections or should it be permitted anywhere . . . in eating places?

3-4. What is your opinion regarding smoking in these public places . . . restaurants? (set aside certain areas, totally ban smoking, or no restrictions)

**TABLE 29.--Trends in public opinion about banning the sale of cigarettes**

|   |      |              | P e r c e n t a g e w h o a g r e e b y s m o k i n g s t a t u s |                |               |                |            |
|---|------|--------------|---|----------------|---------------|----------------|------------|
| Survey  | Year | Reference    | Current smokers   | Former smokers | Never smokers | All nonsmokers | All adults |
| <u>The selling of cigarettes SHOULD BE stopped completely</u>     |      |              |   |                |               |                |            |
| 1. AUTS   | 1970 | US DHEW 1973 | 27  | 36             | 48            | 44             | 38         |
| 2. Roper  | 1970 | Roper 1978   |   |                |               |                | 15         |
| 3. Roper  | 1972 | Roper 1978   |   |                |               |                | 13         |
| 4. Roper  | 1974 | Roper 1978   |   |                |               |                | 12         |
| 5. Roper  | 1976 | Roper 1978   |   |                |               |                | 12         |
| 6. Roper  | 1978 | Roper 1978   |   |                |               |                | 16         |
| 7. Gallup   | 1977 | Gallup 1981  |   |                |               |                | 19         |
| 8. Gallup   | 1978 | Gallup 1978  | 11  |                |               | 23             | 19         |
| 9. Gallup   | 1981 | Gallup 1978  | 10  |                |               | 26             | 20         |
| <u>The selling of cigarettes should NOT be stopped completely</u> |      |              |   |                |               |                |            |
| 10. AUTS  | 1964 | US DHEW 1969 | 83  | 74             | 57            | 61             | 70         |
| 11. Gallup  | 1978 | Gallup 1978  |   |                |               |                | 75         |

NOTE: Actual questions:

1. The selling of cigarettes should be stopped completely. (strongly agree, mildly agree, no opinion, mildly disagree, strongly disagree)\*

2-6. A law should be passed against the sale of all cigarettes. (agree, disagree, don't know)

7-9. Do you think the sale of cigarettes should or should not be banned completely?

10. The selling of cigarettes should *not* be stopped completely.

11. Cigarette sales should *not* be banned completely.

\*Percentages include those who "strongly agree" or "mildly agree."

**TABLE 30.--Trends in public opinion about restrictions on the sale or distribution of cigarettes**

| Survey   | Year | Reference      | Percentage who agree by smoking status |                |               |                | All adults |
|--|------|----------------|--|----------------|---------------|----------------|------------|
|  |      |                | Current smokers                        | Former smokers | Never smokers | All nonsmokers |            |
| <u>Sales of cigarettes to people under a certain age should NOT be against the law</u>             |      |                |  |                |               |                |            |
| 1. AUTS  | 1964 | US DHEW 1969   | 12                                     | 7              | 7             | 7              | 9          |
| <u>Sales of cigarettes to people under a certain age SHOULD BE against the law</u>                 |      |                |  |                |               |                |            |
| 2. AUTS  | 1970 | US DHEW 1973   | 87                                     | 87             | 90            | 89             | 88         |
| <u>Cigarette companies should not be permitted to distribute free cigarettes on public streets</u> |      |                |  |                |               |                |            |
| 3. Lieberman   | 1986 | Lieberman 1986 | 48                                     |                |               | 67             | 61         |

NOTE: Actual questions:

1. Sales of cigarettes to people under a certain age should not be against the law. (strongly agree, mildly agree, no opinion, mildly disagree, strongly disagree)\*

2. Sales of cigarettes to people under a certain age should be against the law. (strongly agree, mildly agree, no opinion, mildly disagree, strongly disagree)\*

3. Should cigarette companies be permitted to distribute free cigarettes on public streets?<sup>†</sup>

\*Percentages include those who "strongly agree" or "mildly agree."

<sup>†</sup>Percentages are those who believe cigarette companies should not be permitted to distribute free samples.

In a 1986 survey conducted by Lieberman Research, Inc. (1986) (New York City) for ACS, AHA, and ALA, 61 percent of adults said that the distribution of free cigarette samples should not be permitted (67 percent of nonsmokers, 48 percent of smokers) (Table 30).

### **Policies Pertaining to Information and Education**

#### Restricting or Prohibiting Tobacco Advertising

Since 1964, several surveys have investigated public opinion regarding a cigarette advertising ban, with marked differences in the wording of questions. Taken together, they do not seem to indicate any trend in public opinion (Table 31). However, separate examinations of surveys using identical questions over time indicate increasing support for an advertising ban. A series of identical questions from the AUTSs from 1964 and 1975 showed an increase in support for a complete ban between 1964 and 1970. In 1964, 36 percent of adults thought that cigarette advertising should be stopped completely. This increased to 61 percent in 1970 and 56 percent in 1975 (Table 31). Support for an advertising ban may have increased by 1970 because Congress had already banned cigarette advertising on television and radio in 1969 (effective on January 2, 1971) (see Chapter 7). Another series of identical questions used in Gallup surveys after the broadcast advertising ban showed an increase in the proportion of the public favoring a cigarette advertising ban, from 36 percent in 1977 to 43 percent in 1981 to 49 percent in 1987 to 55 percent in 1988.

Since 1975, surveys have provided conflicting results regarding public support for a complete ban, most likely as a result of differences in the wording of questions. In the two Gallup surveys conducted in 1977 and 1981, support *for a complete ban on cigarette advertising* increased from 36 to 43 percent (Gallup 1987a). In a 1985 Gallup survey, adults were asked which statement best described the respondent's opinion regarding cigarette advertising: "There should be a total ban on cigarette advertising." "There should be a curb on some types or forms of cigarette advertising." "There should be no ban whatsoever on cigarette advertising in newspapers, magazines, or billboards." The public was divided in their responses: about a third favored each option (32, 36, and 31 percent, respectively) (Gallup 1985).

As mentioned at the beginning of this Chapter, two surveys conducted in 1986 reported different results. One, conducted by AMA, reported that almost two-thirds of adults favored such a ban whereas another, sponsored by ACS, AHA, and ALA, reported that only one-third of Americans supported such a ban for newspapers and magazines (see the earlier discussion of these discrepant results). Four more recent surveys, conducted in 1987 and 1988, revealed that about half of adults favor a complete ban on advertising (Table 31).

**TABLE 31.--Trends in public opinion about restricting or banning cigarette advertising**

| Survey       | Year | Reference              | Cigarette advertising should NOT be permitted (percentage who agree by smoking status) |                |               |                |                 |
|--------------|------|------------------------|--|----------------|---------------|----------------|-----------------|
|              |      |                        | Current smokers  | Former smokers | Never smokers | All nonsmokers | All adults      |
| 1. AUTS      | 1964 | US DHEW 1969           | 23   | 37             | 46            | 44             | 36              |
| 2. AUTS      | 1970 | US DHEW 1973           | 50   | 64             | 68            | 67             | 61              |
| 3. AUTS      | 1975 | US DHEW 1976a          | 43   | 59             | 64            | 63             | 56              |
| 4. Gallup    | 1977 | Gallup 1987a           | 28   |                |               | 41             | 36              |
| 5. Gallup    | 1978 | Gallup 1978            | 28   |                |               | 41             | 36              |
| 6. Gallup    | 1981 | Gallup 1987a           | 27   |                |               | 53             | 43              |
| 7. Liebetman | 1986 | Liebetman 1986         | 21 (23)  |                |               | 38 (38)        | 33 (33)         |
| 8. AMA       | 1986 | Harvey and Shubat 1986 | 48   |                |               | 71             | 64              |
| 9. AMA       | 1987 | Harvey and Shubat 1987 | 42   |                |               | 61             | 55 <sup>a</sup> |
| 10. Gallup   | 1987 | Gallup 1987a           | 30   |                |               | 57             | 49 <sup>a</sup> |
| 11. Gallup   | 1987 | ACS 1988               | 37   | 53             | 59            | 57             | 51 <sup>a</sup> |
| 12. Gallup   | 1988 | Gallup 1988b           | 34   |                |               | 64             | 55 <sup>a</sup> |

<sup>a</sup>The percentages who believe that cigarette advertising *should* be permitted were 36 percent (Harvey and Shubat 1987), 47 percent (Gallup 1987a), 33 percent (ACS 1988), and 40 percent (Gallup 1988b). Remaining respondents indicated no opinion.

NOTE: Actual questions:

1-3. Cigarette advertising should be stopped completely. (strongly agree, mildly agree, no opinion, mildly disagree, strongly disagree)\*

4-6, 10, 12. Do you think there should or should not be a complete ban on cigarette advertising?

7. Some people feel that, as long as cigarettes are legal, cigarette advertising should be permitted. Others feel that cigarette advertising should not be permitted. Should cigarette companies be permitted to advertise . . . in magazines? . . . in newspapers?

8. The American Medical Association called for a ban on tobacco advertising. Do you favor or oppose such an advertising ban?

9. Do you favor or oppose a ban on advertising of all tobacco products?

11. Some people feel that cigarette advertising *should* be permitted; others feel that cigarette advertising *should not* be permitted. Do you feel that cigarette advertising *should be* or *should not be* permitted?

\*Percentages include those who "strongly agree" or "mildly agree."

<sup>†</sup>Percentages in parentheses are for newspapers (otherwise for magazines).

## Warning Labels for Cigarettes

Recent data are not available on public opinion about warning labels. However, from 1964-70, support for these appeared to increase. In 1964, 28 percent of adults thought that cigarette advertising or commercials should *not* be required to carry a warning statement to the effect that smoking may be harmful to health; in 1970, 88 percent thought that cigarette advertising or commercials *should* be required to carry such a warning statement (Table 32).

Several surveys have assessed opinions regarding the need to strengthen the then existing health warning on packages and/or advertisements (e.g., Roper 1978). Some of these surveys tested specifically worded warnings that had been produced as an alternative to the existing warning. Because these data over time are difficult to compare and were most relevant at the time of the survey, they are not presented here.

Survey data from Lieberman Research, Inc. (1986) pertaining to recall of warning statements are presented in Chapter 7.

## Economic Policies

### Taxation

Questions regarding taxation of cigarettes are referenced to the taxation level at the time of the interview. This level varies with time, so it is difficult to delineate trends in opinion regarding taxation. Nevertheless, national surveys indicate an increase in public acceptance of increased cigarette taxation (Table 33).

In 1964, 30 percent of adults thought that taxes on cigarettes should be much higher than they were at the time of the interview. Similar questions asked in 1977 and 1981 revealed an increase in this proportion to 39 and 46 percent, respectively (Gallup 1981) (Table 33). In 1987, 79 percent of adults (75 percent of smokers and 80 percent of non-smokers) favored an increase in the tax on tobacco products if the money from the increase went to medicare (Harvey and Shubat 1987). These recent data are of particular interest in light of the prevailing sentiment opposing increases in taxes in general.

### Hiring

A minority of adults feel that employers should be allowed to refuse to hire cigarette smokers. In the 1978 Roper survey, 22 percent of adults thought that an employer has the right to refuse to hire someone who smokes cigarettes. In a 1986 survey (Lieberman Research 1986), 21 percent of adults (27 percent of nonsmokers, 7 percent of current smokers) believed that employers should be allowed to turn down job applicants who smoke.



**TABLE 32.--Trends in public opinion concerning cigarette warning labels**

| Survey   | Year | Reference    | Percentage who agree by smoking status |                |               |                | All adults |
|--|------|--------------|--|----------------|---------------|----------------|------------|
|  |      |              | Current smokers                        | Former smokers | Never smokers | All nonsmokers |            |
| <u>Cigarette advertising should NOT be required to carry a warning statement</u> |      |              |  |                |               |                |            |
| 1. AUTS  | 1964 | US DHEW 1969 | 38                                     | 27             | 19            | 21             | 28         |
| <u>Cigarette packages should NOT be required to carry a warning statement</u>    |      |              |  |                |               |                |            |
| 2. AUTS  | 1964 | US DHEW 1969 | 42                                     | 27             | 21            | 22             | 30         |
| <u>Cigarette advertising SHOULD BE required to carry a warning statement</u>     |      |              |  |                |               |                |            |
| 3. AUTS  | 1970 | US DHEW 1973 | 83                                     | 90             | 91            | 91             | 88         |

NOTE: Actual questions:

1. Cigarette advertising or commercials should *not* be required to carry a warning statement to the effect that smoking may be harmful to health. (strongly agree, mildly agree, no opinion, mildly disagree, strongly disagree)\*

2. Cigarette manufacturers should *not* be required to put on the outside package a warning label like "Cigarette smoking is dangerous to health." (strongly agree, mildly agree, no opinion, mildly disagree, strongly disagree)\*

3. Cigarette advertising or commercials should be required to carry a warning statement to the effect that smoking may be harmful to health.\*

\*Percentages include those who "strongly agree" or "mildly agree."

**TABLE 33.--Trends in public opinion about increasing cigarette taxes**

| Survey    | Year | Reference              | Taxes on cigarettes should be increased<br>(percentage who agree by smoking status) |                |               |                | All adults |
|-----------|------|------------------------|---|----------------|---------------|----------------|------------|
|           |      |                        | Current smokers   | Former smokers | Never smokers | All nonsmokers |            |
| 1. AUTS   | 1964 | US DHEW 1969           | 14  | 33             | 44            | 42             | 30         |
| 2. Roper  | 1970 | Roper 1978             | 20  |                |               | 46             | 36         |
| 3. Roper  | 1972 | Roper 1978             | 13  |                |               | 44             | 32         |
| 4. Roper  | 1974 | Roper 1978             | 14  |                |               | 42             | 31         |
| 5. Roper  | 1976 | Roper 1978             | 12  |                |               | 46             | 33         |
| 6. Gallup | 1977 | Gallup 1981            |   |                |               |                | 39         |
| 7. Roper  | 1978 | Roper 1978             | 16  |                |               | 50             | 38         |
| 8. Gallup | 1978 | Gallup 1978            | 45  |                |               | 57             | 45         |
| 9. Gallup | 1981 | Gallup 1981            | 23  |                |               | 59             | 46         |
| 10. AMA   | 1987 | Harvey and Shubat 1987 | 75  |                |               | 80             | 79         |

NOTE: Actual questions:  
1. Taxes on cigarettes should be much higher than they are now. (strongly agree, mildly agree, no opinion, mildly disagree, strongly disagree)\*  
2-5, 7. The tax on cigarettes should be sharply increased to reduce their sale. (agree, disagree, don't know)  
6, 9. Do you think federal and state taxes on cigarettes should or should not be increased?  
8. Do you think the present 8 cents/pack federal tax on cigarettes should or should not be increased?  
10. Would you favor or oppose an increase in the tax on tobacco products if the money from the increase went to Medicare?  
\*Percentages include those who "strongly agree" or "mildly agree."

## Conclusions

1. In the 1950s, 40 to 50 percent of adults believed that cigarette smoking is a cause of lung cancer. By 1986, this proportion had increased to 92 percent (including 85 percent of current smokers).
2. Between 1964 and 1986, the proportion of adults who believed that cigarette smoking increases the risk of heart disease rose from 40 to 78 percent. A similar increase occurred among smokers, from 32 to 71 percent.
3. The proportion of adults who believed that cigarette smoking increases the risk of emphysema and chronic bronchitis rose from 50 percent in 1964 to 81 percent (chronic bronchitis) and 89 percent (emphysema) in 1986. These proportions increased among current smokers from 42 percent in 1964 to 73 percent (chronic bronchitis) and 85 percent (emphysema) in 1986.
4. Despite these impressive gains in public knowledge, substantial numbers of smokers are still unaware of or do not accept important health risks of smoking. For example, the proportions of smokers in 1986 who did not believe that smoking increases the risk of developing lung cancer, heart disease, chronic bronchitis, and emphysema were 15 percent, 29 percent, 27 percent, and 15 percent, respectively. These percentages correspond to between 8 and 15 million adult smokers in the United States.
5. In 1985, substantial percentages of women of childbearing age did not believe that smoking during pregnancy increases the risk of stillbirth (32 percent), miscarriage (25 percent), premature birth (24 percent), and having a low-birthweight baby (15 percent). Of women in this age group, 28 percent did not believe that women taking birth control pills have a higher risk of stroke if they smoke.
6. Some smokers today do not recognize their own personal risk from smoking or they minimize it. In 1986, only 18 percent of smokers were "very concerned" about the effects of smoking on their health, and 24 percent were not at all concerned.
7. In 1986, about half of current smokers and 40 percent of never smokers incorrectly believed that a person would have to smoke 10 or more cigarettes per day before it would affect his or her health.
8. A national survey conducted in 1983 by Louis Harris and Associates found that the public underestimates the health risks of smoking compared with many other health risks.
9. Many smokers underestimate the population impact of smoking. In 1987, 28 percent of smokers (and 16 percent of the general population) disagreed with the statement, "Most deaths from lung cancer are caused by cigarette smoking."
10. The proportion of high school seniors who believe that smoking a pack or more of cigarettes per day causes great risk of harm increased from 51 percent in 1975 to 66 percent in 1986.
11. In 1986, about three-quarters of adults believed that using chewing tobacco or snuff is harmful to health.
12. The social acceptability of smoking in public is declining, as measured by the proportion of adults who find it annoying to be near a person smoking cigarettes. This proportion increased from 46 percent in 1964 to 69 percent in 1986.

13. A majority of the public favors policies restricting smoking in public places and worksites, prohibiting the sale of cigarettes to minors, and increasing the cigarette tax to fund the medicare program. Recent surveys indicate that about half the public supports a ban on cigarette advertising.

## **Appendix**

### **Description of Primary Data Sources for Chapters 4 and 5**

#### **Adult Use of Tobacco Survey, 1964**

This was the first AUTS sponsored by the U.S. Public Health Service. The survey was conducted by National Analysts, Inc., under contract with the National Clearinghouse for Smoking and Health in the fall of 1964. The data for this survey were collected using area probability sampling techniques and stratifying by the type of population and geographic area. Approximately 5,794 adults 21 years and older were interviewed in person. The response rate was 76 percent. Detailed methods have been published elsewhere (US DHEW 1969).

#### **Adult Use of Tobacco Survey, 1966**

This was the second AUTS sponsored by the U.S. Public Health Service. The survey was conducted by two research firms: National Analysts, Inc., and Opinion Research Corporation, under contract with the National Clearinghouse for Smoking and Health in the spring of 1966. The data were collected using area probability sampling techniques and stratifying by the type of population and geographic area. The 1964 AUTS questionnaire was used with minor changes. Approximately 5,768 adults were interviewed. Interviews were primarily in person, although telephone interviews were used for nonrespondents. The response rate was 72 percent. Detailed methods have been published elsewhere (US DHEW 1969).

#### **Adult Use of Tobacco Survey, 1970**

This was the third AUTS sponsored by the U.S. Public Health Service. The survey was conducted by Chilton Research Services under contract with the National Clearinghouse for Smoking and Health in the spring of 1970. The data were collected from a probability sample of households in the contiguous United States. Approximately 5,200 individuals were surveyed; 91 percent were interviewed by telephone and 9 percent, from nontelephone households, were interviewed face to face. Of the total number of respondents, 44 percent were male and 56 percent were female; all were at least 21 years old. The methods have been described elsewhere in detail (US DHEW 1973).

#### **Adult Use of Tobacco Survey, 1975**

This was the fourth AUTS sponsored by the U.S. Public Health Service. The survey was conducted by Chilton Research Services under contract with the National Clearinghouse for Smoking and Health in 1975. The data were collected from a probability sample of telephone numbers in the contiguous United States, with a separate survey

of nontelephone households. Approximately 12,000 individuals were surveyed. The methods have been described elsewhere in detail (US DHEW 1976a).

#### Adult Use of Tobacco Survey, 1986

In 1986, 13,031 members of the civilian, noninstitutionalized population of the United States 17 years of age and older were surveyed by telephone on their smoking history, attitudes, and beliefs (CDC 1986).

A 2-stage sampling procedure was used within a computer-assisted telephone interview format. The first stage involved selecting a random sample of telephone exchanges within the United States. The sampling procedure was balanced for the number of telephones within the exchange. Clusters of between 10 and 15 households within each exchange were contacted using random-digit dialing. Households were enumerated and smoking status of members ascertained. Up to 27 callbacks were made to obtain a total of 36,405 households, with a response rate of 85.5 percent.

A further stratified random sampling procedure was used to provide an approximate equal proportion of respondents in each smoking category (current, former, never). The stratification variable was the number of smokers in the household. Up to 10 callbacks were made to interview the selected respondent, with a response rate of 86.9 percent. The overall response rate from the two stages of sampling was 74.3 percent (85.5 percent times 86.9 percent).

Quality control procedures in the survey involved 26 hours of survey-specific training and practice for interviewers and a silent monitoring of 10 percent of all interviews by supervisory staff. Data obtained were weighted to reflect the U.S. population in 2 stages. A base weight was calculated, which was the product of the weighting for cluster (completed screeners within cluster), household (telephone numbers within household), and person (to account for selection based on smoking status). Poststratification weighting was then undertaken for region, education, race, sex, and age.

#### American Medical Association, 1986, 1987

The data were gathered in telephone interviews with approximately 1,500 adults, conducted during May-June 1986 and January-February 1987. The surveys were conducted by Kane, Parsons and Associates of New York City. The samples were generated by Survey Sampling, Inc. (Westport, Connecticut) using a multistage probability method to provide a random sample of all residential telephones in the United States. Sampling error was an estimated plus or minus 2.5 percentage points at the 95-percent confidence level (Harvey and Shubat 1986, 1987).

#### Behavioral Risk Factor Surveillance System

Between 1981 and 1983, the U.S. Centers for Disease Control (CDC) collaborated with 29 State health departments (including the District of Columbia) to conduct one-time random-digit-dialed telephone surveys of adults 18 years of age and older. Stand-

ard methods and questionnaires were used to assess the prevalence of personal health practices and behaviors related to the leading causes of death, including cigarette smoking. Beginning in 1984, the surveys evolved into an ongoing surveillance system when States began collecting data throughout the year. For each State, approximately 1,200 (range 600-3,000) interviews are completed each year. The raw data are weighted to the age, race, and sex distribution for each State from the 1980 Census. This weighting accounts for the underrepresentation of men, blacks, and younger persons (18-24 years of age). A detailed review of the survey design and methods of analyzing the data has been published (Remington et al. 1985).

#### Chilton Survey, 1979

This survey was conducted by Chilton Research Services (Radnor, PA) for the FTC from December 21, 1978 through February 4, 1979. A random-digit-dialing procedure was used to collect interviews from 1,211 teenagers aged 13 to 18 years and from 407 adults aged 29 to 31 years in a national probability sample of telephone households. The 1,618 completed interviews represented 81 percent of the number of usable household telephone numbers (Chilton 1980).

#### Current Population Surveys

The U.S. Bureau of the Census regularly collects information as part of its Current Population Survey (CPS). Households are selected for survey via a sampling procedure designed to accurately reflect the U.S. population, and information is collected in person during a home visit. In 1955, 1966, 1967, 1968, and 1985, the CPS included a supplement that asked questions on current smoking practices. For 1985, 114,342 individuals, 16 years and older, were surveyed on smoking and smokeless tobacco use. Approximately 55 percent of the sample consisted of self-respondents while the remaining 45 percent were proxy respondents. The 1985 CPS sample was initially selected from the 1980 census files with coverage in all 50 States and the District of Columbia. This sampling methodology allows for State-specific analysis of smoking practices.

The estimation procedure used in this survey involves the inflation of the weighted sample results to independent estimates of the total civilian, noninstitutional population of the United States by age, race, sex, and Hispanic/non-Hispanic categories. These independent estimates are based on statistics on births, deaths, immigration, and emigration, as well as statistics on the strength of the Armed Forces. Based on the use of a special weighting algorithm developed by the Bureau of the Census, the CPS household sample estimates are considered to be representative of the United States. However, one potential problem with the CPS is the effect of proxy reports on sample estimates of smoking status. This may result in an underreporting bias.

#### Gallup Surveys

Gallup surveys are conducted using personal (face-to-face) or telephone interviews.

*Personal surveys.* The design of the sample for personal surveys is that of a replicated area probability sample down to the block level in the case of urban areas and to segments of townships in the case of rural areas.

After the Nation has been stratified geographically and by size of community according to information derived from the most recent census, more than 350 different sampling locations are selected on a mathematically random basis from within cities, towns, and counties that have in turn been selected on a mathematically random basis.

The interviewers are given no leeway in selecting the areas in which they are to conduct their interviews. Each interviewer is given a map on which a specific starting point is marked, and is instructed to contact households according to a predetermined travel pattern. At each occupied dwelling unit, the interviewer selects respondents by following a systematic procedure. This procedure is repeated until the assigned number of interviews has been completed.

*Telephone surveys.* The national Gallup telephone samples are based on the area probability sample used for personal surveys. In each of the sampling locations selected (as described above for personal surveys), a set of telephone exchanges that falls within the geographic boundaries of the sampling location is first identified. Listed telephone numbers in these exchanges are selected randomly and used as "seed numbers" for randomly generating telephone numbers. The result of this procedure is a sample of listed and unlisted telephone numbers assigned to households within telephone exchanges serving the sampling locations. The final sample of numbers thus reflects the stratification and selection of sampling locations.

After the survey data have been collected and processed, each respondent is assigned a weight so that the demographic characteristics of the total weighted sample of respondents match the latest estimates of the demographic characteristics of the appropriate adult population available from the U.S. Census Bureau. Telephone surveys are weighted to match the characteristics of the adult population living in households with access to a telephone. The weighting of personal interview data includes a factor to improve the representation of the kinds of people who are less likely to be found at home. The procedures described above are designed to produce samples approximating the adult civilian population (18 and older) living in private households (excluding those in prisons, hospitals, hotels, and religious and educational institutions, and those living on reservations or military bases)--and in the case of telephone surveys, households with access to a telephone (Gallup 1987a).

Lieberman Research Inc., 1986

The study was based on telephone interviews in a nationwide sample of 1,025 persons 18 years of age and older in the contiguous United States (Alaska and Hawaii were not included). A random-digit-dialed sample was used. Interviews were conducted from June 26 through July 10, 1986. The study was jointly sponsored by the American Cancer Society, the American Heart Association, and the American Lung Association; neither interviewers nor respondents were aware of the sponsors.



The National Adolescent Student Health Survey was initiated in 1985 by three national health organizations: the American School Health Association, the Association for the Advancement of Health Education, and the Society for Public Health Education. Funding for the survey was provided by the following agencies of the Public Health Service: the Office of Disease Prevention and Health Promotion (Office of the Assistant Secretary for Health), the Center for Chronic Disease Prevention and Health Promotion (CDC), and National Institute on Drug Abuse (Alcohol, Drug Abuse, and Mental Health Administration).

A two-stage cluster sampling procedure was used to survey 5,859 8th graders and 5,560 10th graders from 112 public and private schools. Twenty-four percent of the original sample of schools did not agree to participate and each was replaced by another randomly selected school from the same geographic area. Parents were informed of the content and purpose of the survey and were provided the opportunity to exclude their children from the survey. Students were informed that participation was voluntary and that all information provided would be strictly confidential. Parental requests for exclusion, student absenteeism, and voluntary nonparticipation reduced the survey response rate to 87.5 percent (88.9 percent for 8th grade and 86.0 percent for 10th grade).

During October to December 1987, trained survey administrators collected data from three randomly selected classes of 8th or 10th grade students at each participating school. Each student responded to one of three survey forms. The 30-day prevalence of cigarette smoking and smokeless tobacco use appeared on all survey forms. The item nonresponse on these questions was 0.2 percent of those who were surveyed.

#### National Health Interview Surveys

The National Health Interview Survey (NHIS), which is conducted regularly by the National Center for Health Statistics, uses a sampling frame developed by the U.S. Bureau of the Census and is based on a multistaged random probability sampling design. Information is collected in face-to-face household interviews using one adult per household and using proxy reporting for other members of the household. Since 1974, information on smoking has been obtained only by self-report. This has entailed telephone followup to selected household members who were not personally interviewed. Basic smoking information has been collected for several years, including 1965, 1966, 1970, 1974, 1976-80, inclusive, 1983, 1985, and 1987 (data prior to 1974 are based on both self-reports and proxy reporting; all of the more recent surveys were based on self-reports). Sample sizes for smoking data have ranged from 10,000 to 50,000 persons. There has been an overall consistency in the smoking questions asked in the different surveys. Beginning in 1985, an adequate sample of blacks was ensured by the survey design (using the technique of oversampling). The NHIS generally has a response rate of 96 percent (NCHS 1987). However, the extra step in converting proxy response to self-report leads to a decrease in the response rate to approximately 90 percent.

The data presented in this Chapter were taken from the Health Promotion and Disease Prevention Supplement to the 1985 NHIS and the Cancer Control Supplement to the 1987 NHIS.

#### National Health and Nutrition Examination Survey and Hispanic Health and Nutrition Examination Survey

Since 1960, the National Center for Health Statistics has conducted periodic health surveys that have included physical examinations and laboratory tests. Initially called the National Health Examination Survey (NHES), the name of this survey was changed to the National Health and Nutrition Examination Survey (NHANES) in 1970 when a nutrition component was added. The NHES was conducted in 1960, 1963, and 1966, and the NHANES in 1971, 1976, and 1988.

Although the NHANES as a population survey included all of the Nation's major subpopulations including Hispanics, the sample sizes were insufficient to produce reliable estimates of health status, particularly if the three major Hispanic subgroups--Mexican-Americans, Cuban-Americans, and Puerto Ricans--were considered separately. Therefore, the Hispanic Health and Nutrition Examination Survey (HHANES) was developed by the National Center for Health Statistics. The HHANES was designed to provide sufficient samples of each Hispanic subgroup. The survey not only produces reliable estimates of health status for each subgroup but also permits cross-cultural comparisons within the broader Hispanic cultural context.

The HHANES was a probability-based survey of three distinct subgroups of a major U.S. minority group rather than of a national sample. The sampling methodology used complex, multistaged, stratified, clustered samples of the defined population. When weighted, the sample data represent the targeted population. For HHANES, the targeted population consisted of three groups of civilian, noninstitutionalized persons, aged 6 months to 74 years from three areas of the country that had a sufficient number or proportion of Hispanics to render it economically feasible to screen households and to operate an examination center: (1) Mexican-Americans residing in selected areas of Texas, California, Colorado, New Mexico, and Arizona; (2) Cuban-Americans residing in Dade County, Florida; and (3) Puerto Ricans residing in the New York City area. Data were collected from 1982 through 1984 via in-person household interviews and via examination at a local examination center. Information was collected regarding a number of health issues, including the use of tobacco.

#### NIDA High School Seniors Surveys on Drug Use

Each year since 1975, the Monitoring the Future project has conducted surveys of representative national samples of high school seniors in the United States (Johnston, O'Malley, Bachman 1987). Monitoring the Future is conducted by the University of Michigan Institute for Social Research and receives its core funding from the National Institute on Drug Abuse.

Each year, a multistage sampling procedure is used to identify approximately 135 public and private schools (the number of private schools has varied from 14 to 22) that

represent an accurate cross-section of high school seniors throughout the coterminous United States. The first stage involves the use of 74 primary sampling units developed by the University of Michigan Survey Research Center for use in its nationwide interview surveys.

The second sampling stage involves choice of a single high school from most geographic areas (more than one is chosen in major metropolitan areas). The probability of selection of any school is proportional to the size of the senior class. When a sampled school is unwilling to participate, a replacement school is selected from the same geographic area. Response rate of schools has been from 66 to 80 percent throughout the survey period.

Up to 400 seniors are surveyed from each school. In schools with more than 400 seniors, a random sampling system convenient for the school (provided it results in an unbiased sample) is used to choose the 400 students to be interviewed. Most schools use the classroom as the basis for this selection. The total number of students interviewed each year has been between 15,700 and 19,000. The student response rate has varied from 77 percent to 84 percent throughout the survey period.

The questionnaire administration in each school is carried out by local Survey Research Center representatives and their assistants following standardized procedures detailed in a project manual. Questionnaires are generally delivered in classrooms during normal class periods, although in some instances larger groups are used. Because of the range of topics, five different questionnaire forms are used in the survey. These are distributed to participants in an ordered sequence to produce identical subsamples. All five forms contain core data on demographics and some drug use (about one-third of the form); all other questions are asked of subsamples of the total respondents. Basic questions on cigarette usage have been included in the core for all years.

Followup surveys by mail are conducted annually using representative subsamples from each of the previously participating classes, that is, the classes of 1976 through 1987. Thus, long-term panel data are collected on individuals, and analyses aimed at separating secular, age, and cohort effects are possible. (See O'Malley, Bachman, Johnston 1988.)

#### NIDA National Household Surveys on Drug Abuse

NIDA conducted household surveys on drug use in 1979, 1982, and 1985. Data were obtained from a stratified random sample of 8,000 U.S. households; approximately 2,000 in-person interviews were conducted with respondents in the 12- to 17-year-old age group. Questions included whether any cigarettes were smoked within 30 days as well as within the previous year.

#### Roper Survey, 1978

This survey was conducted for the Tobacco Institute via face-to-face interviewing with 2,511 subjects. Other methodological details are unavailable.

## Roper Survey, 1980

The 1980 Roper Survey used face-to-face interviews to test a nationally representative sample of 2,000 adults for knowledge about the health hazards of smoking. The study was commissioned by the FTC and was conducted in November 1980. The total sample was split into two halves, and one set of questions was varied between the two. Thus, the sample size for several of the questions on the health effects of smoking was approximately half the total sample size.

## US DHEW Teenage Smoking Surveys

In 1968, 1970, 1972, 1974, and 1979, random samples of teenagers aged 12 to 18 years were surveyed by telephone in December-January (US DHEW 1972, 1976b, 1979b). The first stage of the 3-stage sampling plan involved grouping and selecting telephone exchanges and was designed to eliminate geographic bias. Within the selected exchanges, equal numbers of random-digit-dialed telephone numbers were generated and contacted. Household enumeration was undertaken with an adult respondent and if more than one person aged between 12 and 18 years lived in the house, random selection was used to choose the study participant.

In 1968, the sample size was 4,931, 89 percent of whom were interviewed by telephone. The other 11 percent lived in nontelephone households and were interviewed in their homes. As exclusion of the nontelephone households did not substantially affect prevalence estimates, later surveys did not include household interviewing of nontelephone households. The sample size in 1970 was 2,640; in 1972, it was 2,790; in 1974, it was 2,553; and in 1979, it was 2,639. In 1979, a followup survey was also undertaken of 1,194 (46.8 percent) of the 1974 respondents. Approximately 12,000 households were contacted in 1979, from which 2,639 people aged 12 to 18 years were interviewed. In no survey was there any attempt to validate the smoking status indicated.

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DISTRICT COURT

CLARK COUNTY, NEVADA

SANDRA CAMACHO, individually,  
and ANTHONY CAMACHO, individually,

Plaintiffs,

v.

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; 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 I-X;  
and ROE BUSINESS ENTITIES XI-XX,  
inclusive,

Defendants.

CASE NO.: A-19-807650-C

DEPT. NO.: IV

**AMENDED COMPLAINT**

**JURY TRIAL DEMAND**

COMES NOW, SANDRA CAMACHO, individually, and ANTHONY CAMACHO, individually, by and through their attorney of record, CLAGGETT & SYKES LAW FIRM, complaining of Defendants and allege as follows:

**JURISDICTION, VENUE, AND PARTIES**

1. This Court has jurisdiction over this matter under NRS 14.065 and NRS 4.370(1), as the facts alleged occurred in Clark County, Nevada and involve an amount in controversy in excess of \$15,000.00. Venue is proper pursuant to NRS 13.040, as Defendants, or any one of them, reside and/or conduct business in Clark County, Nevada at the commencement of this action.

2. Plaintiff, SANDRA CAMACHO (hereinafter "Plaintiff"), was and is at all times relevant herein, a resident of Clark County, Nevada.

3. Plaintiff, ANTHONY CAMACHO, was and is at all times relevant herein, married to Plaintiff, SANDRA CAMACHO, and was and is a resident of Clark County, Nevada.

4. Plaintiffs are informed and believe and thereon allege that at all times relevant herein, Defendant PHILIP MORRIS USA, Inc. (hereinafter "PHILIP MORRIS"), was and is a corporation authorized to do business within this jurisdiction of Clark County, Nevada, and was duly organized, created, and existing under and by virtue of the laws of the State of Virginia with its principal place of business located in the State of Virginia. Defendant, PHILIP MORRIS, resides and/or conducts business in every county within the State of Nevada and did so during all times relevant to this action.

5. Plaintiffs are informed and believe and thereon allege that at all times relevant herein, Defendant R.J. REYNOLDS TOBACCO COMPANY, Inc. (hereinafter "R.J. REYNOLDS"), was and is a corporation authorized to do business within this jurisdiction of Clark County, Nevada, and was duly organized, created, and existing under and by virtue of the laws of the State of North Carolina with its principal place of business located in the State of North Carolina. Defendant, R.J.

1 REYNOLDS, resides and/or conducts business in every county within the State of Nevada and did so  
2 during all times relevant to this action.

3 6. R.J. REYNOLDS TOBACCO COMPANY is also the successor-by-merger to  
4 LORILLARD TOBACCO COMPANY (hereinafter "LORILLARD"), and is the successor-in-interest  
5 to the United States tobacco business of BROWN & WILLIAMSON TOBACCO CORPORATION  
6 (n/k/a Brown & Williamson Holdings, Inc.) (hereinafter "BROWN & WILLIAMSON"), which is the  
7 successor-by-merger to the AMERICAN TOBACCO COMPANY (hereinafter "AMERICAN").  
8

9 7. Plaintiffs are informed and believe and thereon allege that at all times relevant herein,  
10 Defendant LIGGETT GROUP, Inc. (f/k/a LIGGETT GROUP, INC., f/k/a BROOKE GROUP, LTD.,  
11 Inc., f/k/a LIGGETT & MEYERS TOBACCO COMPANY) (hereinafter "LIGGETT"), was and is a  
12 corporation authorized to do business within this jurisdiction of Clark County, Nevada, and was duly  
13 organized, created, and existing under and by virtue of the laws of the State of Delaware with its  
14 principal place of business located in the State of North Carolina. Defendant, LIGGETT, resides and/or  
15 conducts business in every county within the State of Nevada and did so during all times relevant to  
16 this action.  
17

18 8. The TOBACCO INDUSTRY RESEARCH COMMITTEE ("TIRC") was formed in  
19 1954, and later was re-named the COUNCIL FOR TOBACCO RESEARCH ("CTR"). This was a  
20 disingenuous, fake "research committee" organized by Defendants as part of their massive public  
21 relations campaign to create a controversy regarding the health hazards of cigarettes.  
22

23 9. The TOBACCO INSTITUTE, INC. ("TI") was formed in 1958 and was intended to  
24 supplement the work of TIRC/CTR. TI spokespeople appeared on media/news outlets responding on  
25 behalf of the cigarette industry with misrepresentations and false statements regarding health concerns  
26 over cigarettes.  
27  
28

1           10. Plaintiffs are informed and believe, and thereon allege that Defendant, ASM  
2 NATIONWIDE CORPORATION d/b/a SILVERADO SMOKES & CIGARS (“SILVERADO”), was  
3 and is a domestic corporation authorized to do business within this jurisdiction of Clark County,  
4 Nevada, and was duly organized, created, and existing under and by virtue of the laws of the State of  
5 Nevada. At all times material, SILVERADO’S registered agent resides at 430 E. Silverado Ranch  
6 Blvd. No 120. SILVERADO’S owns and operates a store that sells tobacco and cigarette products  
7 located at 430 E. Silverado Ranch Blvd, Ste. 120, Las Vegas NV 89123. SILVERADO’S is a retailer  
8 of tobacco and cigarette products and is registered with the State of Nevada as a licensed tobacco  
9 retailer, selling such items to the public, including Plaintiff, SANDRA CAMACHO.

11           11. Plaintiffs are informed and believe, and thereon allege that Defendant, LV SINGHS  
12 INC. d/b/a SMOKES & VAPES (“SMOKES & VAPES”), was and is a domestic corporation  
13 authorized to do business within this jurisdiction of Clark County, Nevada, and was duly organized,  
14 created, and existing under and by virtue of the laws of the State of Nevada. At all times material,  
15 SMOKES & VAPES’ registered agent resides at 9101 w. Sahara Ave. Ste 101, Las Vegas NV 89117.  
16 SMOKES & VAPES owns and operates a store that sells tobacco and cigarette products located at 430  
17 E. Silverado Ranch Blvd. Ste 120, Las Vegas NV 89183. ASM’S is a retailer of tobacco and cigarette  
18 products and is registered with the State of Nevada as a licensed tobacco retailer, selling such items to  
19 the public, including Plaintiff, SANDRA CAMACHO.

22           12. Plaintiffs further allege that Defendants, at all times material to this cause of action,  
23 through their agents, employees, executives, and representatives, conducted, engaged in and carried on a  
24 business venture of selling cigarettes in the State of Nevada and/or maintained an office or agency in this  
25 state and/or committed tortious acts within the State of Nevada and knowingly allowed the Plaintiff to be  
26 exposed to an unreasonably dangerous and addictive product, to-wit: cigarettes and/or cigarette smoke.



1           17. Plaintiff, SANDRA CAMACHO, was diagnosed on or about March of 2018 with  
2 laryngeal cancer, which was caused by smoking L&M brand cigarettes, Marlboro brand cigarettes, and  
3 Basic brand cigarettes, to which she was addicted and smoked continuously from approximately 1964  
4 until 2017.

5           18. At all times material, L&M cigarettes were designed, manufactured, and sold by  
6 Defendant, Liggett.

7           19. At all times material, Marlboro and Basic cigarettes were designed, manufactured, and  
8 sold by Defendant, Philip Morris USA, Inc.

9           20. Plaintiff, SANDRA CAMACHO, purchased and smoked L&M, Marlboro, and Basic  
10 cigarettes from the SILVERADO'S in sufficient quantities to be a substantial contributing cause of her  
11 laryngeal cancer.

12           21. Plaintiff, SANDRA CAMACHO, purchased and smoked L&M, Marlboro, and Basic  
13 cigarettes from the SMOKES & VAPORS in sufficient quantities to be a substantial contributing cause  
14 of her laryngeal cancer.

15           22. At all times material, Defendants purposefully and intentionally designed cigarettes to  
16 be highly addictive. They added ingredients such as ammonia and diammonium-phosphate to "free-  
17 base" nicotine and manipulated levels of nicotine and pH in smoke to make cigarettes more addictive,  
18 better tasting, and easier to inhale. They also deliberately manipulated and/or added compounds in  
19 cigarettes such as arsenic, polonium-210, tar, methane, methanol, carbon monoxide, nitrosamines,  
20 butane, formaldehyde, tar, carcinogens, and other deadly and poisonous compounds to cigarettes.

21           23. Astonishingly, for over half a century, Defendants concealed the addictive and deadly  
22 nature of cigarettes from Plaintiff, the government, and the American public by making knowingly  
23 false and misleading statements and by engaging in an over two-hundred and fifty-billion-dollar  
24 conspiracy.

1           24.     Despite knowing internally, dating back to the 1950s, that cigarettes were deadly,  
2     addictive, and caused death and disease, Defendants, for over five decades, purposefully and  
3     intentionally lied, concealed information, and made knowingly false and misleading statements to the  
4     public, including Plaintiff, that cigarettes were allegedly *not* harmful.

5           25.     Defendants failed to acknowledge or admit the truth until they were forced to do, as a  
6     result of litigation, in the year 2000.

7           26.     Plaintiff's injuries arose out of Defendants' acts and/or omissions which occurred  
8     inside and outside of the State of Nevada.

9           27.     At all times material to this action, Defendants knew or should have known the  
10    following:

- 11           a.     Smoking cigarettes causes chronic obstructive pulmonary disease, also referred to as  
12                 COPD, which includes emphysema and chronic bronchitis, laryngeal cancer, and lung  
13                 cancer, including squamous cell carcinoma, small cell carcinoma, adenocarcinoma,  
14                 and large cell carcinoma;
- 15           b.     Nicotine in cigarettes is addictive;
- 16           c.     Defendants placed cigarettes on the market that were defective and unreasonably  
17                 dangerous;
- 18           d.     Defendants concealed or omitted material information not otherwise known or  
19                 available, knowing that the material was false and misleading, or failed to disclose a  
20                 material fact concerning the health effects or addictive nature of smoking cigarettes, or  
21                 both;
- 22           e.     Defendants entered into an agreement to conceal or omit information regarding the  
23                 health effects of cigarettes or their addictive nature with the intention that smokers and  
24                 the public would rely on this information to their detriment;



- f. Defendants sold or supplied cigarettes that were defective;
- g. Defendants are negligent;
- h. Children and teenagers are more likely to become addicted to cigarettes if they begin smoking at an early age;
- i. Continued and frequent use of cigarettes highly increases one's chances of becoming, and remaining, addicted;
- j. Continued and frequent use of cigarettes highly increases one's chances of developing serious illness and death;
- k. It is extremely difficult to quit smoking;
- l. "Many, but not most, people who would like to stop smoking are able to do so" (Concealed Document, 1982);
- m. "Defendants' cannot defend continued smoking as "free choice" if the person is addicted" (Concealed Document 1980);
- n. It is possible to develop safe cigarettes free of nicotine, carcinogens, and other deadly and poisonous compounds;
- o. "The thing Defendants' sell most is nicotine" (Concealed Document 1980);
- p. Filtered, low tar, low nicotine, and "light" cigarettes are more dangerous than "regular" cigarettes;
- q. "Cigarette[s] that do not deliver nicotine cannot satisfy the habituated smoker and would almost certainly fail" (Concealed Document 1966);
- r. "Without the nicotine, the cigarette market would collapse, and Defendants' would all lose their jobs and their consulting fees" (Concealed Document 1977);
- s. "Carcinogens are found in practically every class of compounds in smoke" (Concealed Document 1961);

1 t. "Cigarettes have certain unattractive side effects . . . they cause lung cancer"  
2 (Concealed Document 1963).

3 28. Defendants' tortious and unlawful conduct caused consumers, including SANDRA  
4 CAMACHO, to suffer dangerous diseases and injuries.

5  
6 **Historical Allegations of Defendants Unlawful Conduct**  
7 **Giving Rise to the Lawsuit**

8 29. Lung cancer, caused by cigarette smoking, is the number one leading cause of death in  
9 the United States.

10 30. Cigarettes kill more than 500,000 Americans every year. Over 20 million Americans  
11 have died from lung cancer.

12 31. Lung cancer is a disease manufactured and created by the cigarette industry, including  
13 Defendants herein.

14 32. Prior to 1900, lung cancer was virtually unknown as a cause of death in the United  
15 States.

16 33. By 1935, there were only an estimated 4,000 lung cancer deaths. By 1945, as a result  
17 of the rise of cigarette consumption, the number of deaths almost tripled.

18 34. Because of this phenomenon, scientists began conducting research and experiments  
19 regarding the link between cigarette smoking and lung cancer.

20 35. In addition to scientists, Defendants themselves began to conduct similar research. By  
21 February 2, 1953 Defendants had concrete proof that cigarette smoking increased the risk of lung  
22 cancer. A previously secret and concealed document by Defendant, an R.J. Reynolds' states:  
23

24 **Studies of clinical data tend to confirm the relationship between heavy smoking**  
25 **and prolonged smoking and incidence of cancer of the lung.**

26 36. Approximately six months later on December 21, 1953, Life Magazine and Reader's  
27 Digest published articles regarding a ground-breaking mouse painting study, conducted by Drs.  
28

Wynder and Graham, which concluded that tar from cigarettes painted on the backs of mice developed into cancer.

37. As a result of these articles and mounting public awareness regarding the link between cigarette smoking and lung cancer, Defendants grew fearful their customers would stop smoking, which would in turn bankrupt their companies.

38. Thus, in order to maximize profits, Defendants decided to intentionally ban together to form a conspiracy which, for over half a century, was devoted to creating and spreading doubt regarding a disingenuous “open debate” about whether cigarettes were or were not harmful.

39. This conspiracy was formed in December of 1953 at the Plaza Hotel in New York City. Paul Hahn, president of American Tobacco, sent telegrams to presidents of the seven largest tobacco companies and one tobacco growers’ organization, inviting them to meet at the Plaza Hotel.



40. Executives from every cigarette company, except for Liggett, met at the Plaza Hotel on December 14, 1953. The executives discussed the following topics: (i) the negative publicity from the recent articles in the media, (ii) the need to hire a public relations firm, Hill & Knowlton, and (iii) the major threat to their corporations’ economic future.

41. In an internal planning memorandum Hill & Knowlton assessed their cigarette clients’ problems in the following manner:

“There is only one problem -- confidence, and how to establish it; public assurance, and how to create it -- in a perhaps long interim when scientific doubts must remain. **And, most important, how to free millions of Americans from the guilty fear that is going to arise deep in their biological depths -- regardless of any pooh-poohing**

1       **logic -- every time they light a cigarette.** No resort to mere logic ever cured panic yet,  
2       whether on Madison Avenue, Main Street, or in a psychologist's office. And no mere  
3       recitation of arguments pro, or ignoring of arguments con, or careful balancing of the  
4       two together, is going to deal with such fear now. That, gentlemen, is the nature of the  
5       unexampled challenge to this office."

6               42. On December 28, 1953, Defendants again met at the Plaza Hotel where they knowingly  
7       and purposefully agreed to form a fake "research committee," called the Tobacco Industry Research  
8       Committee ("TIRC") (later renamed the Council for Tobacco Research ("CTR")). Paul Hahn,  
9       president of American Tobacco, was elected the temporary chairman of TIRC.

10              43. TIRC's *public* mission statement was to supposedly aid and assist with so-called  
11       "independent" research into cigarette use and health.

12              44. The formation and purpose of TIRC was announced on January 4, 1954, in a full-page  
13       advertisement called "A Frank Statement to Cigarette Smokers" published in 448 newspapers  
14       throughout the United States.

15              45. The Frank Statement was signed by the following domestic cigarette and tobacco  
16       product manufacturers, including Defendants herein, organizations of leaf tobacco growers, and  
17       tobacco warehouse associations that made up TIRC: American Tobacco by Paul Hahn, President;  
18       B&W by Timothy Hartnett, President; Lorillard by Herbert Kent, Chairman; Defendant, Philip  
19       Morris by O. Parker McComas, President; Defendant, R.J Reynolds by Edward A. Darr, President;  
20       Benson & Hedges by Joseph Cullman, Jr., President; Bright Belt Warehouse Association by F.S.  
21       Royster, President; Burley Auction Warehouse Association by Albert Clay, President; Burley  
22       Tobacco Growers Cooperative Association by John Jones, President; Larus & Brother Company,  
23       Inc. by W.T. Reed, Jr., President; Maryland Tobacco Growers Association by Samuel Linton,  
24       General Manager; Stephano Brothers, Inc. by C.S. Stephano, Director of Research; Tobacco  
25       Associates, Inc. by J.B. Hutson, President; and United States Tobacco by J. Whitney Peterson,  
26       President.  
27  
28

46. In their Frank Statement to Cigarette Smokers, Defendants knowingly and intentionally mislead Plaintiff, the public, and the American government when they disingenuously promised to “safeguard” the health of smokers, support allegedly “disinterested” research into smoking and health, and reveal to the public the results of their purported “objective” research.

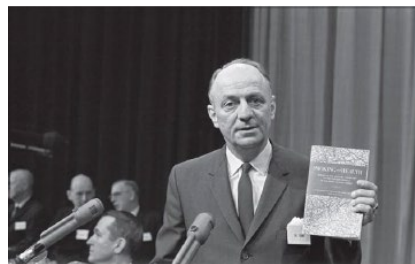
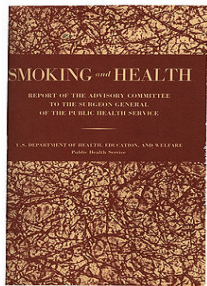
47. For the next five decades, TIRC/CTR worked diligently, and quite successfully, to rebuff the public’s concern about the dangers of cigarettes. Defendants, through TIRC/CTR, invented the false and misleading notion that there was an “open question” regarding cigarette smoking and health. They appeared on television and radio to broadcast this message.

48. TIRC/CTR hired fake scientists and spokespeople to attack genuine, legitimate scientific studies. Virtually none of the so-called “research” funded by TIRC/CTR centered on the immediate questions relating to carcinogenesis and tobacco. Rather than addressing the compounds and carcinogens in cigarette smoke and their hazardous effect on the human body, TIRC/CTR instead directed its resources to alternative theories of the origins of cancer, centering on genetic factors and environmental risks.

49. The major initiative of TIRC/CTR, through their Scientific Advisory Board (SAB), was to, “create the appearance of [Defendants] devoting substantial resources to the problem without the risk of funding further ‘contrary evidence.’”

50. TIRC/CTR’s efforts worked brilliantly and cigarette consumption rapidly increased.

51. In 1964 there was another dip in the consumption of cigarettes because the United States Surgeon General reported, “cigarette smoking is causally related to lung cancer in men . . . the data for women, though less extensive, points in the same direction.”



1  
2 52. The cigarette industry's *public* response, through TIRC, to the 1964 Surgeon General  
3 Report was to falsely assure the public that (i) cigarettes were not injurious to health, (ii) the industry  
4 would cooperate with the Surgeon General, (iii) more research was needed, and (iv) if there were  
5 any bad elements discovered in cigarettes, the cigarette manufacturers would remove those elements.  
6 As a result, cigarette consumption again began to rise.  
7

8 53. Despite Defendant's *public* response, internally they were fully aware of the magnitude  
9 and depth of lies and deception they were promulgating. They knew and understood they were  
10 making fake, misleading promises that would never come to fruition. Their own internal records  
11 reveal that they knew, even back in 1964, that cigarettes were not only hazardous, but deadly:

12 **"Cigarettes have certain unattractive side effects . . . they cause lung**  
13 **cancer"** (Concealed Document 1963).

14 **"Carcinogens are found in practically every class of compounds in smoke"**  
15 **(Concealed Document 1961).**

16 **"The amount of evidence accumulated to indict cigarette smoke as a**  
17 **health hazard is overwhelming. The evidence challenging such indictment**  
18 **is scant"** (Concealed Document 1962).

19 54. Furthermore, not only did Defendants know and appreciate the dangers of cigarettes,  
20 but they were also intentionally manipulating ingredients, such as nicotine, in cigarettes to make  
21 them more addictive. Their documents reveal they knew the following:

22 **"Our industry is based upon design, manufacture and sale of attractive**  
23 **dosage forms of nicotine"** (Concealed Document 1972).

24 **"We can regulate, fairly precisely, the nicotine . . . to almost any desired**  
25 **level management might require"** (Concealed Document 1963).

26 **"Cigarette[s] that do not deliver nicotine cannot satisfy the habituated**  
27 **smoker and would almost certainly fail"** (Concealed Document 1966).

28 **"Nicotine is addictive . . . We are then, in the business of selling nicotine,**  
**an addictive drug"** (Concealed Document 1963).

1                   **“We have deliberately played down the role of nicotine”** (Concealed  
2 Document 1972).

3                   **“Very few consumers are aware of the effects of nicotine, i.e., it’s addictive**  
4 **nature and that nicotine is a poison”** (Concealed Document 1978).

5                   **“Determine minimum nicotine required to keep normal smoker ‘hooked.’”**  
6 (Concealed Document 1965).

7                   **“The thing we sell most is nicotine”** (Concealed Document 1980).

8                   **“Without the nicotine, the cigarette market would collapse, and**  
9 **Defendants’ would all lose their jobs and their consulting fees”** (Concealed  
10 Document 1977).

11                   55. Defendants deliberately added chemicals such as urea, ammonia, diammonium-  
12 phosphate, tar, nitrosamines, arsenal, polonium-210, formaldehyde, and other carcinogens to  
13 cigarettes. They “free-based” nicotine in cigarettes and manipulated levels of pH in smoke to make  
14 cigarettes more addictive and easier to inhale.

15                   56. Defendant’s sole priority was to make as much money as quickly as possible, with no  
16 concern about the safety and well-being of their customers.

17                   57. In 1966, the United States Government mandated that a “Caution” Label be placed on  
18 packs of cigarettes stating, “Cigarette Smoking May be Hazardous to Your Health.”

19                   58. The cigarette industry responded to the “Caution” label by continuing their massive  
20 public relations campaign, continuing to spread doubt and confusion, and continuing to deceive the  
21 public.  
22

23                   59. Throughout this period Defendants also introduced “filtered” cigarettes – cigarettes  
24 falsely marketed, advertised, and promoted as “less tar” and “less nicotine.”

25                   60. However, internally, in Defendants’ previously concealed, hidden documents,  
26 discussions regarding the true nature of filtered cigarettes was revealed – filters were just as harmful,  
27 dangerous, and hazardous as unfiltered cigarettes; In fact, they were more dangerous. In a previously  
28

1 secret document from 1976, Ernie Pepples from Brown & Williamson states, “the smoker of a filter  
2 cigarette was getting as much or more nicotine and tar as he would have gotten from a regular  
3 cigarette.”

4  
5 61. Throughout the 1960s, 1970s, 1980s and 1990s, the cigarette industry, including  
6 Defendants herein, spent two-hundred and fifty-billion-dollars in marketing efforts to promote the  
7 sale of cigarettes.

8 62. The cigarette industry spent more money on marketing and advertising cigarettes *in*  
9 *one day* than the public health community spent *in one year*.

10 63. Cigarette smoking was glamorized – celebrities smoked, athletes smoked, doctors  
11 smoked, politicians smoked – everyone smoked cigarettes.

12 64. As early as the 1920s, and continuing today, cigarette manufacturers, including  
13 Defendants herein, were also intentionally targeting children. Their documents reveal:

14  
15 **“School days are here. And that means BIG TOBACCO BUSINESS for**  
16 **somebody . . . line up the most popular students”** (Concealed Document  
17 1927).

18 **“SUMMER SCHOOL IS STARTING . . . lining up these students . . . as**  
19 **consumers”** (Concealed Document 1928).

20 **“Today’s teenager is tomorrow’s potential regular customer”** (Concealed  
21 Document 1981).

22 **“The 14-24 age group . . . represent tomorrow’ cigarette business”**  
23 (Concealed Document 1974).

24 65. Cigarette manufacturers, including Defendants herein, also targeted and prayed upon  
25 minority populations in an effort to increase their market share and ultimately their profits.

26 66. Cigarettes were the number one most heavily advertised product on television until the  
27 United States Government banned television advertisements in 1972.  
28



67. When cigarettes advertising was banned on television Defendants turned to marketing in stadiums, sponsoring sporting events such as the Winston Cup and Marlboro 500, sponsoring concerts, utilizing print advertisements in magazines, adding product placement in movies, and more.



68. Meanwhile, internally Defendants were praising themselves for accomplishing this “brilliantly conceived” conspiracy which deceived SANDRA CAMACHO, millions of Americans, the government, and the public health community.

**“for nearly 20 years, this industry has employed a single strategy to defend itself . . . brilliantly conceived and executed . . . a holding strategy . . . creating doubt about the health charge without actually denying it”**  
(Concealed Document 1972).

69. In 1985, four rotating warning labels were placed on packs of cigarettes which warned, for the first time, that smoking causes lung cancer, heart disease, emphysema, and may complicate pregnancy.

70. The cigarette industry, including Defendants herein, opposed these warning labels and throughout the 1980s, despite the warning labels being placed on their cigarettes, spoke publicly through their representatives in the Tobacco Institute (TI) that it was allegedly still unknown whether smoking cigarettes caused cancer or was addictive because, apparently, “more research was needed.”

1           71. In 1988 the United States Surgeon General reported that cigarettes and other forms of  
2 tobacco were addicting, and nicotine is the drug in tobacco that causes addiction. In fact, in his  
3 report, the Surgeon General compared tobacco addiction to heroine and cocaine.

4           72. In response, the cigarette industry, including Defendants herein, issued a press release  
5 knowingly and disingenuously stating, "Claims that cigarettes are addictive is irresponsible and  
6 scare tactics."

7           73. Defendants continued to publicly deny the addictive nature and health hazards of  
8 smoking cigarettes until the year 2000, after litigation was brought against them by the Attorneys  
9 Generals of multiple States and their previously concealed documents were made public.

10           74. In 1994 CEOs from the seven largest cigarette companies, including Defendants herein,  
11 testified under oath before the United States Congress that it was their opinion that it had not been  
12 proven that cigarettes were addictive, caused disease, or caused one single person to die.  
13  
14



15  
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17  
18  
19  
20           75. Despite their own intensive research and (millions of) internal documents describing  
21 the dangers and addictive qualities of cigarettes, Defendants' negligently, willfully, maliciously, and  
22 intentionally made false and misleading statements to Congress, the public, and Plaintiff, SANDRA  
23 CAMACHO.  
24  
25

26           76. Even after Defendants knowingly lied during these Congressional hearings,  
27 Defendants continued, and still are continuing to, perpetuate their conspiracy.  
28

1           77. For example, in 1997 Liggett announced that they would voluntarily place a warning  
2 label on their cigarette packages, in addition to the labels mandated by the United States government,  
3 that smoking is addictive. Defendant, Philip Morris, immediately filed a restraining order against  
4 Liggett to prevent them from adding this warning label. Then, in 1998 Liggett sold its three major  
5 cigarette brands, L&N, Lark, and Chesterfield, to Philip Morris who immediately removed the  
6 “smoking was addictive” warning label from these products.

7  
8           78. Furthermore from 2000 through 2010, Defendants continued to mislead the public by  
9 marketing and promoting “light” and “ultra-light” cigarettes despite knowing internally that such  
10 cigarettes were just as dangerous and addictive as “regular” cigarettes.

11           79. In 2010 after Defendants were required, by the United States government, to remove  
12 the misleading “light” and “ultra-light” labels from their cigarettes, they instead added “onserts” to  
13 their packages of cigarettes explaining that, for example, “Your Marlboro Lights pack is changing.  
14 But your cigarette stays the same. In the future, ask for ‘Marlboro in the gold pack.’”

15  
16           80. Additionally, as recently as 2018, Defendants have continued to oppose proposed FDA  
17 regulations which would reduce or eliminate the levels of nicotine in cigarettes.

18           81. As recently as 2019, Defendants do not admit or acknowledge that nicotine in their  
19 cigarette smoke “is” addictive.

20           82. As recently as 2019, Defendants do not admit or acknowledge that nicotine addiction  
21 can cause diseases.

22  
23           83. As recently as 2019, Defendants continue to make false or misleading statements that  
24 filtered cigarettes, lights, ultra-lights and low tar are less hazardous than conventional full favored  
25 cigarettes.

26           84. Finally, Defendants have continued to target and prey upon children, teenagers,  
27 minorities, and other segment populations, all in the name of money.

86. This sophisticated conspiracy involved hundreds of billions of dollars spent on marketing efforts, massive deception including lying under oath before Congress and other governmental entities, forming fake organizations with fake scientists and fake research, and creating a “brilliantly conceived” public relations campaign designed to create and sustain doubt and confusion regarding a – made up – cigarette controversy.

**FIRST CLAIM FOR RELIEF**

**Sandra Camacho Against Defendants Philip Morris and Liggett**

89. Defendants owed a duty to the general public, including Plaintiff, to manufacture, design, sell, market, promote, and/or otherwise produce a product and/or any of its component parts safe and free of unreasonable and harmful defects when used in the manner and for the purpose it was designed, manufactured, and/or intended to be used.

91. Each exposure to Defendants' cigarettes caused Plaintiff to inhale smoke which caused him to become addicted to cigarettes, and further caused him to develop pharyngeal cancer and suffer severe bodily injuries.

- 1           92. Defendants were negligent in all the following respects, same being the proximate  
2 and/or legal cause of SANDRA CAMACHO's injuries and disabilities, including but not limited to:  
3           a. designing and manufacturing an unreasonably dangerous and deadly product;  
4           b. designing and manufacturing cigarettes to be addictive;  
5           c. designing and manufacturing cigarettes to be inhalable;  
6           d. manipulating the level of nicotine in cigarettes to make them more addictive;  
7           e. genetically modifying nicotine in tobacco plants;  
8           f. blending different types of tobacco to obtain a desired amount of nicotine;  
9           g. engineering cigarettes to be rapidly inhaled into the bloodstream;  
10          h. adding carcinogens, polonium-210, urea, arsenal, formaldehyde, nitrosamines, and  
11             other deadly, poisonous compounds to cigarettes;  
12          i. adding and/or manipulating compounds such as ammonia and diammonium phosphate  
13             to Defendants' cigarettes to "free-base" nicotine;  
14          j. marketing and advertising "light" and "ultra light" cigarettes as safe, low nicotine, and  
15             low tar;  
16          k. adding "onserts" to packages of cigarettes even after the United States government  
17             banned marketing of "light" and "ultra-light" cigarettes;  
18          l. manipulating levels of pH in Defendants' cigarettes;  
19          m. targeting children who could not understand or comprehend the seriousness or  
20             addictive nature of nicotine and smoking;  
21          n. targeting minority populations such as African Americans, Hispanics, and women to  
22             obtain a greater market share to increase their profits;  
23          o. failing to develop and utilize alternative designs, manufacturing methods, and/or  
24             materials to reduce and/or eliminate harmful materials from cigarettes;  
25  
26  
27  
28

- p. continuing to manufacture, distribute, and/or sell cigarettes when Defendant knew at all times material that its products could cause, and in fact were more likely to cause, injuries including, but not limited to, emphysema, throat cancer, COPD, laryngeal cancer, lung cancer, and/or other forms of cancer when used as intended;
  - q. making knowingly false and misleading statements to Plaintiff, the public, and the American government that cigarettes were safe and/or not proven to be dangerous;
  - r. failing to remove and recall cigarettes from the stream of commerce and the marketplace upon ascertaining that said products would cause disease and death.
93. Additionally, prior to July 1, 1969, Defendants failed to warn/and or adequately warn foreseeable users, such as SANDRA CAMACHO, of the following, including but not limited to:
- a. failing to warn and/or adequately warn foreseeable users, such as SANDRA CAMACHO, of the dangerous and deadly nature of cigarettes;
  - b. failing to warn foreseeable users, such as SANDRA CAMACHO, that they could develop fatal injuries including, but not limited to, emphysema, COPD, throat cancer, laryngeal cancer, lung cancer, and/or other forms of cancer, as a result of smoking and/or inhaling smoke from Defendants' cigarettes;
  - c. failing to warn foreseeable users, such as SANDRA CAMACHO, that the use of cigarettes would more likely than not lead to addiction, habituation, and/or dependence;
  - d. failing to warn foreseeable users, such as SANDRA CAMACHO, that quitting and/or limiting use of cigarettes would be extremely difficult, particularly if users started smoking at an early age;
  - e. failing to disclose to consumers of cigarettes, such as SANDRA CAMACHO, the results of genuine scientific research conducted by and/or known to Defendant that cigarettes were dangerous, defective, and addictive.

1           94. Defendants breached said aforementioned duties of due and reasonable care in that they  
2 produced, designed, manufactured, sold, and/or marketed defective cigarettes and/or any of its  
3 component parts which contained risks of harm to the user/consumer and which were reasonably  
4 foreseeable to cause harm in the use or exercise of reasonable and/or ordinary care.

5  
6           95. As a direct and proximate and/or legal result of Defendants' aforementioned  
7 negligence, SANDRA CAMACHO was severely injured when she was exposed to Defendants'  
8 cigarettes. Each exposure to Defendants' cigarettes caused SANDRA CAMACHO to become  
9 addicted to cigarettes and to inhale smoke which caused her to develop laryngeal cancer, in addition  
10 to other related physical conditions which resulted in and directly caused her to suffer severe bodily  
11 injuries. Each exposure to such products was harmful and caused or contributed substantially to  
12 SANDRA CAMACHO's aforementioned injuries.

13  
14           96. SANDRA CAMACHO's aforementioned injuries arose out of and were connected to  
15 and incidental to the way Defendants' designed, manufactured, marketed, distributed, and/or sold  
16 its products.

17           97. The aforementioned damages of SANDRA CAMACHO were directly and proximately  
18 and/or legally caused by Defendants' negligence, in that it produced, sold, manufactured, and/or  
19 otherwise placed into the stream of intrastate and interstate commerce, cigarettes which it knew, or  
20 in the exercise of ordinary care should have known, were deleterious and highly harmful to  
21 SANDRA CAMACHO's health and well-being.

22  
23           98. Defendants, prior to selling and/or distributing the cigarettes to which SANDRA  
24 CAMACHO was exposed, knew or should have known that exposure to cigarette smoke was  
25 harmful and caused injuries including, but not limited to, lung cancer, pharyngeal cancer, laryngeal  
26 cancer, emphysema, COPD, heart disease, other forms of cancer, and/or result in death.

1           99. As a direct and proximate and/or legal cause of Defendants' aforesaid negligence,  
2 SANDRA CAMACHO was injured and experienced great pain to her body and mind, sustaining  
3 injuries and damages in a sum in excess of Fifteen Thousand Dollars (\$15,000.00).

4           100. As a further direct and proximate and/or legal cause of Defendants' aforesaid  
5 negligence, SANDRA CAMACHO has incurred damages, both general and special, including  
6 medical expenses as a result of the necessary treatment of her injuries, and will continue to incur  
7 damages for future medical treatment necessitated by smoking-related injuries she has suffered, in  
8 a sum in excess of Fifteen Thousand Dollars (\$15,000.00).

9           101. As a further direct and proximate and/or legal cause of Defendants' aforesaid  
10 negligence, SANDRA CAMACHO was required to, and did, employ physicians, surgeons, and  
11 other health care providers to examine, treat, and care for her and did incur medical and incidental  
12 expenses thereby. The exact amount of such expenses is unknown at this present time, but SANDRA  
13 CAMACHO alleges that she has suffered special damages in excess of Fifteen Thousand Dollars  
14 (\$15,000.00)

15           102. As a further direct and proximate and/or legal cause of Defendants' aforesaid  
16 negligence, Plaintiff, ANTHONY CAMACHO, as SANDRA CAMACHO'S husband, has suffered  
17 and continues to suffer loss of companionship and care, emotional and moral support and/or sexual  
18 intimacy and alleges he has suffered damages in excess of Fifteen Thousand Dollars (\$15,000.00).

19           103. Defendants' actions were taken knowingly, wantonly, willfully, and/or maliciously.

20           104. Defendants' conduct was despicable and so contemptible that it would be looked down  
21 upon and despised by ordinary decent people and was carried on by Defendants with willful and  
22 conscious disregard for the safety of SANDRA CAMACHO.



105. Defendants' outrageous and unconscionable conduct warrants an award of exemplary and punitive damages pursuant to NRS 42.005 in an amount appropriate to punish and make an example of Defendants, and to deter similar conduct in the future.

106. To the extent NRS 42.007 applies, Defendants are vicariously liable for punitive damages arising from the outrageous and unconscionable conduct of its employees, agents, apparent agents, independent contractors, and/or servants, as set forth herein.

107. Defendants' actions have forced Plaintiffs to retain counsel to represent them in the prosecution of this action, and they are therefore entitled to an award of a reasonable amount as attorney fees and costs of suit.

**SECOND CLAIM FOR RELIEF**

**(GROSS NEGLIGENCE)**

**SANDRA CAMACHO Against Defendant Philip Morris and Liggett**

108. Plaintiffs repeat and re-allege the allegations as contained in paragraphs 1 through 87 and 88 - 107 and incorporate the same herein by reference.

109. Defendants manufactured and created an unreasonably dangerous, addictive, and defective product that caused SANDRA CAMACHO to develop laryngeal cancer. At all times material hereto, Defendants had actual knowledge of the wrongfulness of its conduct and the high probability that injury or damage to SANDRA CAMACHO would result. Despite that knowledge, the Defendants willfully and wantonly pursued a course of conduct that was so reckless or wanting in care that it constituted a conscious disregard or indifference to the life, safety or rights of SANDRA CAMACHO and Defendants actively and knowingly participated in such conduct, and/or its officers, director or managers knowingly condoned, ratified or consented to such conduct.

110. Upon information and belief, through an examination of Defendants' own previously secret internal documents, Defendants had reason to know facts which could lead a reasonable person

1 to realize that their cigarettes could cause an unreasonable risk of bodily harm to others and involved  
2 a high probability that substantial harm would result. Specifically, Defendants had reason to know  
3 facts that their cigarettes caused diseases including but not limited to lung cancer, COPD, emphysema,  
4 heart disease, pharyngeal cancer, laryngeal cancer, oral cavity cancer.

5  
6 111. Defendants knew there were ways to minimize the disease and destruction their  
7 product, cigarettes, caused through alternative safer designs of cigarettes including but not limited to  
8 nicotine free or reduced nicotine cigarettes.

9  
10 112. Defendants willfully, purposefully, and knowingly did not make safer cigarettes and in  
11 fact manipulated the compounds in cigarettes to make them more addictive, deadly, and dangerous.

12 113. Defendants and their co-conspirators also purposefully and knowingly manipulated the  
13 public including SANDRA CAMACHO by marketing and promoting their filter, “light” and “low-  
14 tar” cigarettes as safer, despite knowing these cigarettes are in fact more dangerous.

15 114. Defendants’ actions in creating, manufacturing, and selling cigarettes despite having  
16 knowledge that these actions created an unreasonable risk of bodily harm and involved a high  
17 probability that substantial harm would result, was an extreme departure from the ordinary duty of  
18 care owed and constitutes gross negligence.

19  
20 115. SANDRA CAMACHO’S aforementioned injuries arose out of and were connected to  
21 and incidental to the way Defendants’ designed, manufactured, marketed, distributed, and/or sold its  
22 products.

23 116. The aforementioned damages of SANDRA CAMACHO were directly and proximately  
24 and/or legally caused by Defendants’ gross negligence, in that it produced, sold, manufactured, and/or  
25 otherwise placed into the stream of intrastate and interstate commerce, cigarettes which it knew, or in  
26 the exercise of ordinary care should have known, were deleterious and highly harmful to SANDRA  
27 CAMACHO’S health and well-being.  
28

117. As a direct and proximate and/or legal result of Defendants' aforementioned gross negligence, SANDRA CAMACHO was severely injured when she was exposed to Defendants' cigarettes. Each exposure to Defendants' cigarettes caused SANDRA CAMACHO to become addicted to cigarettes and to inhale smoke which caused her to develop laryngeal cancer, in addition to other related physical conditions which resulted in and directly caused her to suffer severe bodily injuries. Each exposure to such products was harmful and caused or contributed substantially to SANDRA CAMACHO'S aforementioned injuries.

118. As a direct and proximate and/or legal cause of Defendants' aforesaid gross negligence, SANDRA CAMACHO was injured and experienced great pain to her body and mind, sustaining injuries and damages in a sum in excess of Fifteen Thousand Dollars (\$15,000.00).

119. As a further direct and proximate and/or legal cause of Defendants' aforesaid gross negligence, SANDRA CAMACHO has incurred damages, both general and special, including medical expenses as a result of the necessary treatment of her injuries, and will continue to incur damages for future medical treatment necessitated by smoking-related injuries she has suffered, in a sum in excess of Fifteen Thousand Dollars (\$15,000.00).

120. As a further direct and proximate and/or legal cause of Defendants' aforesaid gross negligence, SANDRA CAMACHO was required to, and did, employ physicians, surgeons, and other health care providers to examine, treat, and care for her and did incur medical and incidental expenses thereby. The exact amount of such expenses is unknown at this present time, but SANDRA CAMACHO alleges that she has suffered special damages in excess of Fifteen Thousand Dollars (\$15,000.00).

121. As a further direct and proximate and/or legal cause of Defendants' aforesaid negligence, Plaintiff, ANTHONY CAMACHO, as SANDRA CAMACHO'S husband, has suffered

1 and continues to suffer loss of companionship and care, emotional and moral support and/or sexual  
2 intimacy and alleges he has suffered damages in excess of Fifteen Thousand Dollars (\$15,000.00)

3 122. The actions of Defendants as complained of in this claim for relief was undertaken  
4 knowingly, wantonly, willfully, and/or maliciously.

5 123. Defendants' conduct was despicable and so contemptible that it would be looked down  
6 upon and despised by ordinary decent people and was carried on by Defendants with willful and  
7 conscious disregard for the safety of SANDRA CAMACHO.

8 124. Defendants' outrageous and unconscionable conduct warrants an award of exemplary  
9 and punitive damages pursuant to NRS 42.005, in an amount appropriate to punish and make an  
10 example of Defendants and to deter similar conduct in the future.

11 125. To the extent NRS 42.007 applies, Defendants are vicariously liable for punitive  
12 damages arising from the outrageous and unconscionable conduct of its employees, agents, apparent  
13 agents, independent contractors, and/or servants, as set forth herein.

14 126. Defendants' actions have forced Plaintiffs to retain counsel to represent them in the  
15 prosecution of this action, and they are therefore entitled to an award of a reasonable amount as  
16 attorney fees and costs of suit.

17 **THIRD CLAIM FOR RELIEF**

18 **(STRICT PRODUCTS LIABILITY)**

19 **Sandra Camacho Against Defendants Philip Morris and Liggett**

20 127. Plaintiffs repeat and re-allege the allegations as contained in paragraphs 1 through 87  
21 and incorporate the same herein by reference.

22 128. Upon information and belief, at all times material, Defendants were/are in the business  
23 of designing, engineering, manufacturing, distributing, marketing, selling, and/or otherwise placing  
24 cigarettes into the stream of commerce.

129. The products complained of were cigarettes designed, manufactured, marketed, distributed, and/or sold by Defendants and used by SANDRA CAMACHO.

130. The aforesaid products were distributed, sold, manufactured, and/or otherwise placed into the stream of commerce by Defendants.

131. Defendants' defective and unreasonably dangerous cigarettes reached SANDRA CAMACHO without substantial change from that in which such products were when within the possession of Defendants.

132. Defendants' cigarettes were dangerous beyond the expectation of the ordinary user/consumer when used as intended or in a manner reasonably foreseeable by Defendants.

133. The nature and degree of danger of Defendants' cigarettes were beyond the expectation of the ordinary consumer, including SANDRA CAMACHO, when used as intended or in a reasonably foreseeable manner.

134. Defendants' cigarettes were unreasonably dangerous because a less dangerous design and/or modification was economically and scientifically feasible.

135. Defendants' cigarettes were defective and unreasonably dangerous in the following ways, including but not limited to:

- a. designing and manufacturing an unreasonably dangerous and deadly product;
- b. designing and manufacturing cigarettes to be addictive;
- c. designing and manufacturing cigarettes to be inhalable;
- d. manipulating levels of nicotine in cigarettes to make them more addictive;
- e. genetically modifying nicotine in tobacco plants;
- f. blending different types of tobacco to obtain a desired amount of nicotine;
- g. engineering cigarettes to be rapidly inhaled into the lungs;

- h. adding carcinogens, polonium-210, urea, arsenal, formaldehyde, nitrosamines, and other deadly, poisonous compounds to cigarettes;
- i. adding and/or manipulating compounds such as ammonia and diammonium phosphate to Defendants' cigarettes to "free-base" nicotine;
- j. manipulating levels of pH in Defendants' cigarettes;
- k. utilizing deadly and harmful additives, compounds, and ingredients in their cigarette design and manufacturing process when alternative, less dangerous materials were available;
- l. marketing and advertising "light" and "ultra light" cigarettes as safe, low nicotine, and low tar;
- m. adding "onserts" to packages of cigarettes even after the United States government banned marketing of "light" and "ultra-light" cigarettes;
- n. prior to July 1, 1969, failing to warn and/or adequately warn foreseeable users, such as SANDRA CAMACHO, of the dangerous and deadly nature of cigarettes;
- o. prior to July 1, 1969, failing to warn foreseeable users, such as SANDRA CAMACHO, that they could develop fatal injuries including, but not limited to, emphysema, throat cancer, laryngeal cancer, lung cancer, and/or other forms of cancer, as a result of smoking and/or inhaling smoke from Defendants' cigarettes;
- p. prior to July 1, 1969, failing to warn foreseeable users, such as SANDRA CAMACHO, that the use of cigarettes would more likely than not lead to addiction, habituation and/or dependence;
- q. prior to July 1, 1969, failing to warn foreseeable users, such as SANDRA CAMACHO, that quitting and/or limiting use of cigarettes would be extremely difficult, particularly if users started smoking at an early age;

1 r. prior to July 1, 1969, failing to disclose to consumers of cigarettes, such as SANDRA  
2 CAMACHO, the results of scientific research conducted by and/or known to Defendant  
3 that cigarettes may be dangerous, defective, and/or addictive.

4 136. SANDRA CAMACHO was unaware of the defective and unreasonably dangerous  
5 condition of Defendants' cigarettes, and at a time when such products were being used for the  
6 purposes for which they were intended, was exposed to, breathed smoke from, and inhaled  
7 Defendants' cigarettes.  
8

9 137. Defendants knew their cigarettes would be used without inspection for defects, and by  
10 placing them on the market, represented that they would be safe.

11 138. SANDRA CAMACHO was unaware of the hazards and defects in Defendants'  
12 cigarettes, to-wit: That exposure to said products would cause SANDRA CAMACHO to become  
13 addicted and develop laryngeal cancer.  
14

15 139. As a direct and proximate and/or legal cause of the aforesaid defective and  
16 unreasonably dangerous condition of Defendants' cigarettes, SANDRA CAMACHO was injured.  
17 SANDRA CAMACHO thereby experienced great pain to her body and mind, and sustained injuries  
18 and damages in a sum in excess of Fifteen Thousand Dollars (\$15,000.00).  
19

20 140. As a further direct and proximate and/or legal cause of the defective and unreasonably  
21 dangerous condition of Defendants' cigarettes, SANDRA CAMACHO has incurred damages, both  
22 general and special, including medical expenses as a result of the necessary treatment of her injuries,  
23 and will continue to incur damages for future medical treatment necessitated by smoking-related  
24 injuries she has suffered, in a sum in excess of Fifteen Thousand Dollars (\$15,000.00).  
25

26 141. As a further direct and proximate and/or legal cause of the aforementioned defective  
27 and unreasonably dangerous condition of Defendants' cigarettes, SANDRA CAMACHO was  
28 required to, and did, employ physicians, surgeons, and other health care providers to examine, treat,

1 and care for her and did incur medical and incidental expenses thereby. The exact amount of such  
2 expenses is unknown at this present time, but SANDRA CAMACHO alleges that she has suffered  
3 special damages in excess of Fifteen Thousand Dollars (\$15,000.00).

4  
5 142. As a further direct and proximate and/or legal cause of Defendants' aforesaid defective  
6 and unreasonably dangerous condition of Defendants' cigarettes, Plaintiff, ANTHONY  
7 CAMACHO, as SANDRA CAMACHO'S husband, has suffered and continues to suffer loss of  
8 companionship and care, emotional and moral support and/or sexual intimacy and alleges he has  
9 suffered damages in excess of Fifteen Thousand Dollars (\$15,000.00).

10 143. Defendants' actions were taken knowingly, wantonly, willfully, and/or maliciously.

11 144. Defendants' conduct was despicable and so contemptible that it would be looked down  
12 upon and despised by ordinary decent people and was carried on by Defendants with willful and  
13 conscious disregard for the safety of SANDRA CAMACHO.

14  
15 145. Defendants' outrageous and unconscionable conduct warrants an award of exemplary  
16 and punitive damages pursuant to NRS 42.005, in an amount appropriate to punish and make an  
17 example of Defendants, and to deter similar conduct in the future.

18 146. To the extent NRS 42.007 applies, Defendants are vicariously liable for punitive  
19 damages arising from the outrageous and unconscionable conduct of its employees, agents, apparent  
20 agents, independent contractors, and/or servants, as set forth herein.

21  
22 147. Defendants' actions have forced Plaintiffs to retain counsel to represent them in the  
23 prosecution of this action, and they are therefore entitled to an award of a reasonable amount as  
24 attorney fees and costs of suit.



**FOURTH CLAIM FOR RELIEF**

**(FRAUDULENT MISREPRESENTATION)**

**Sandra Camacho Against Defendants Philip Morris and Liggett**

148. Plaintiffs repeat and re-allege each and every allegation as contained in paragraphs 1 through 87 and incorporate the same herein by reference.

149. Beginning at an exact time unknown to Plaintiff, and continuing even today, the cigarette manufacturers, including Defendants herein, have carried out, and continue to carry out a campaign designed to deceive the public, including SANDRA CAMACHO, the government, and others as to the health hazards and addictive nature of cigarettes, through false statements and/or misrepresentations of material facts.

150. Defendants made intentional misrepresentations, false promises, concealed information, and failed to disclose material information to SANDRA CAMACHO, the public, and the American government.

151. Defendants carried out its campaign of fraud, false statements, and/or misrepresentations in at least six ways:

- a. Defendants falsely represented to SANDRA CAMACHO that questions about smoking and health would be answered by an unbiased, trustworthy source;
- b. Defendants misrepresented and confused facts about health hazards of cigarettes and addiction;
- c. Defendants, along with other cigarette manufacturers, spent billions of dollars hiring lawyers, fake scientists, and public relations firms to misdirect purported “objective” scientific research;
- d. Defendants discouraged meritorious litigation by engaging in “scorched earth” tactics – in fact in a previously secret 1988 document they commented “to paraphrase General

Patton, the way we won these cases was not by spending all of [their] money, but by making that other son of a bitch spend all of his;”

- e. Defendants suppressed and distorted evidence to protect its existence and profits
- f. Defendants designed, marketed, and sold “filtered” and “light” cigarettes despite knowing internally that such cigarettes were just as addictive, dangerous, and deadly as “regular” cigarettes.

152. Cigarette manufacturers, including Defendants herein, knew cigarettes were dangerous and addictive. It became their practice, purpose, and goal to question any scientific research which concluded cigarettes were dangerous. They did this through misleading media campaigns, mailings to doctors and other scientific professionals, and testimony before governmental bodies.

153. Defendants made multiple misrepresentations to SANDRA CAMACHO including misrepresentations and misleading statements in advertisements, news programs and articles, media reports, and press releases.

154. These misrepresentations and false statements include, but are not limited to, the aforementioned statements and conduct contained in the *Historical Allegations of Defendants Unlawful Conduct Giving Rise to the Lawsuit* section above.

155. These misrepresentations and false statements also include the following statements which were heard, read, and relied upon by Plaintiff, SANDRA CAMACHO, including but not limited to

- a. In 1953, Cigarette manufacturers, including Defendants herein, took out a full-page advertisement called the “Frank Statement to Cigarette Smokers” which falsely assured the public, the American government, and SANDRA CAMACHO, that the cigarette manufacturers, including Defendant herein, would purportedly “safeguard” the health

- 1 of smokers, support allegedly “disinterested” research into smoking and health, and  
2 reveal to the public the results of their alleged “objective” research
- 3 b. Beginning in 1953 and continuing for decades, Cigarette manufacturers, including  
4 Defendants herein, falsely assured the public that TIRC/CTR was an “objective”  
5 research committee when internal company document reveal that TIRC/CTR  
6 functioned not for the promotion of scientific goals, but for public relations, politics,  
7 and positioning for litigation;  
8
- 9 c. In the 1950s and 1960s, Cigarette manufacturers, including Defendants herein,  
10 sponsored, were quoted in, and helped publish articles to mislead the public including  
11 but not limited to the following: “Smoke-Cancer Tie Termed Obscure” (1955), “Study  
12 of Smoking is Inconclusive” (1956), “Cigarette Threat Called Unproven,” (1962),  
13 “Tobacco Spokesmen Dispute Lung Study” (1962), “Tobacco Cancer Scare Fading in  
14 Smoke Ring (1964), and “Smokers Assured In Industry Study” (1962);  
15
- 16 d. In response to the 1964 Surgeon General Report which linked cigarette smoking to  
17 health, the cigarette industry falsely assured the public that (i) cigarettes were not  
18 injurious to health, (ii) the industry would cooperate with the Surgeon General, (iii)  
19 more research was needed, and (iv) if there were any bad elements discovered in  
20 cigarettes, the cigarette manufacturers would remove those elements;  
21
- 22 e. In the 1950s and 1960s, the Cigarette manufacturers, including Defendants herein,  
23 advertised and promoted cigarettes on television and radio as safe and glamorous, to  
24 the extent that cigarette advertising was the number one most heavily advertised  
25 product on television;  
26  
27  
28

- f. Falsely advertised and promoted “filtered” and “light” cigarettes as “low tar” and “low nicotine” through print advertisements in magazines and newspapers throughout the 1950s, 1960s, 1970s, 1980s, 1990s, and even into the 2000s;
- g. Knowingly made false and misleading statements to governmental entities, including in 1982 when the CEO of Defendant R.J. Reynolds, Edward Horrigan, disingenuously stated during a governmental hearing, “there is absolutely no proof that cigarettes are addictive;
- h. In 1984, continuing to purposefully target children yet openly in press releases falsely claim, “We don’t advertise to children . . . Some straight talk about smoking for young people;”
- i. In 1988, in response to the United States Surgeon General’s report that cigarettes are addictive and nicotine is the drug in tobacco that causes addiction, issuing a press release knowingly and disingenuously stating, “Claims that cigarettes are addictive is irresponsible and scare tactics;”
- j. Through representatives in the Tobacco Institute, making countless publicized appearances on television and radio disingenuously denying cigarettes were addictive and claimed smoking was a matter of free choice and smokers could quit smoking if they wanted to;
- k. In 1994 CEOs from the seven largest cigarette companies, including Defendants herein, knowingly providing false and misleading testimony under oath before the United States Congress that it had not been proven that cigarettes were addictive, caused disease, or caused one single person to die.

156. Defendants made intentional misrepresentations to Plaintiff, SANDRA CAMACHO, in the following ways:

- a. The aforementioned representations were regarding material facts about cigarettes and were knowingly false;
- b. Defendants knew said representations were false at the time they made such statements;
- c. Defendants knew SANDRA CAMACHO did not hold sufficient information to understand or appreciate the dangers of cigarettes;
- d. Defendants intended to induce SANDRA CAMACHO, and did indeed induce SANDRA CAMACHO, to rely upon the aforementioned false representations/acts/statements;
- e. SANDRA CAMACHO was unaware of the falsity of Defendants' aforementioned false representations/acts/statements;
- f. CLEVELAND CALRK was justified in relying upon Defendants' misrepresentations because they were made by Defendants who possessed superior knowledge regarding the health hazards and addictive nature of cigarettes;
- g. As a direct and proximate and/or legal cause of Defendants' intentional misrepresentations, SANDRA CAMACHO became addicted to cigarettes and developed laryngeal cancer.

157. Furthermore, Defendants made false promises to Plaintiff, SANDRA CAMACHO, in the following ways:

- a. Defendants made false promises to the public, including SANDRA CAMACHO to (i) cooperate with public health, including the Surgeon General, (ii) conduct allegedly "objective" research regarding the addictive nature and health hazards of cigarettes, (ii) remove any harmful elements to cigarettes, if there were any, (iv) form purported "objective" research committees dedicated to undertaking an interest in health as its

“basic responsibility paramount to every other consideration,” (v) falsely pledging to provide aid and assistance to research cigarette use and health and others;

- b. At all times material, Defendants did not intend to keep its promises;
- c. Defendants made its promises with the intent to induce Plaintiff to begin and continue smoking;
- d. Plaintiff was unaware of Defendants’ intention not to perform their promises;
- e. Plaintiff acted in reliance upon Defendants’ promises;
- f. Plaintiff was justified in relying upon Defendants’ promises;
- g. As a direct and proximate and/or legal cause of Defendants’ false promises, SANDRA CAMACHO became addicted to cigarettes and developed laryngeal cancer.

158. As a direct and proximate and/or legal cause of Defendants’ fraudulent acts and misrepresentations, SANDRA CAMACHO was injured. SANDRA CAMACHO thereby experienced great pain to her body and mind, sustaining injuries and damages in a sum in excess of Fifteen Thousand Dollars (\$15,000.00).

159. As a further direct and proximate and/or legal cause of Defendants’ fraudulent acts and misrepresentations, SANDRA CAMACHO has incurred damages, both general and special, including medical expenses as a result of the necessary treatment of her injuries, and will continue to incur damages for future medical treatment necessitated by smoking-related injuries she has suffered, in a sum in excess of Fifteen Thousand Dollars (\$15,000.00).

160. As a further direct and proximate and/or legal cause of Defendants’ fraudulent acts and misrepresentations, SANDRA CAMACHO was required to, and did, employ physicians, surgeons, and other health care providers to examine, treat, and care for her and did incur medical and incidental expenses thereby. The exact amount of such expenses is unknown at this present time, but SANDRA

1 CAMACHO alleges that she has suffered special damages in excess of Fifteen Thousand Dollars  
2 (\$15,000.00).

3 161. As a further direct and proximate and/or legal cause of Defendants' aforesaid  
4 fraudulent acts and misrepresentations, Plaintiff, ANTHONY CAMACHO, as SANDRA  
5 CAMACHO'S husband, has suffered and continues to suffer loss of companionship and care,  
6 emotional and moral support and/or sexual intimacy and alleges he has suffered damages in excess of  
7 Fifteen Thousand Dollars (\$15,000.00).  
8

9 162. Defendants' actions were taken knowingly, wantonly, willfully, and/or maliciously.

10 163. Defendants' conduct was despicable and so contemptible that it would be looked down  
11 upon and despised by ordinary decent people and was carried on by Defendants with willful and  
12 conscious disregard for the safety of SANDRA CAMACHO.  
13

14 164. Defendants' outrageous and unconscionable conduct warrants an award of exemplary  
15 and punitive damages pursuant to NRS 42.005, in an amount appropriate to punish and make an  
16 example of Defendants, and to deter similar conduct in the future.

17 165. To the extent NRS 42.007 applies, Defendants are vicariously liable for punitive  
18 damages arising from the outrageous and unconscionable conduct of its employees, agents, apparent  
19 agents, independent contractors, and/or servants, as set forth herein.  
20

21 166. Defendants' actions have forced Plaintiffs to retain counsel to represent them in the  
22 prosecution of this action, and they are therefore entitled to an award of a reasonable amount as  
23 attorney fees and costs of suit.  
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**FIFTH CLAIM FOR RELIEF**

**(FRAUDULENT CONCEALMENT)**

**Sandra Camacho Against Defendants Philip Morris and Liggett**

176. Plaintiffs repeat and re-allege each and every allegation as contained in paragraphs 1 through 87 and paragraphs 148-175 and incorporate the same herein by reference.

177. Beginning at an exact time unknown to SANDRA CAMACHO, and continuing today, cigarette manufacturers, including Defendants herein, have carried out, and continue to carry out, a campaign designed to deceive the public, including SANDRA CAMACHO, physicians, the government, and others as to the true danger of cigarettes.

178. Cigarette manufacturers, including Defendants herein, carried out their plan by concealing and suppressing facts, information, and knowledge about the dangers of smoking, including addiction.

179. Defendants carried out its scheme by concealing its knowledge concerning the dangers of cigarettes and its addictive nature as set forth in the *Historical Allegations of Defendants Unlawful Conduct Giving Rise to the Lawsuit* allegations referenced above.

180. Defendants also carried out such scheme by concealing its knowledge concerning, but not limited to, the following:

- a. the highly addictive nature of nicotine cigarettes;
- b. the design of cigarettes to make them more addictive and easier to inhale;
- c. the manipulating and controlling of nicotine content of their products to create and perpetuate users' addiction to cigarettes;
- d. the manufacturing and engineering process of making cigarettes, including adding tar, carcinogens, arsenal, polonium-210, formaldehyde, nitrosamines, and other compounds;



- e. the deliberate use of ammonia technology and/or certain tobacco;
- f. blends to boost the pH of cigarette smoke to “free base” nicotine in cigarettes;
- g. its intentional use of tobacco high in nitrosamines—a potent carcinogen not found in natural, green tobacco leaf, but created during the tobacco curing process;
- h. its scheme to target and addict children to replace customers who were dying from smoking cigarettes;
- i. the true results of its research regarding the dangers posed by smoking cigarettes. For example, in response to the 1965 Surgeon General report that related cigarette smoking to lung cancer in men, the cigarette manufacturers, including Defendant herein, concealed their research, from the year prior, which concluded:

Moreover, nicotine is addictive. We are, then in the business of selling nicotine, an addictive drug effective in the release of stress mechanisms ... But cigarettes - we assume the Surgeon General's Committee to say - despite the beneficent effect of nicotine, have certain unattractive side effects:

1. They cause, or predispose to, lung cancer.
  2. They contribute to certain cardiovascular disorders.
  3. They may well be truly causative in emphysema, etc.
- j. the risks of contracting cancer, including but not limited to laryngeal cancer, esophageal cancer, other head and neck cancers, oral cancer, emphysema, COPD, lung cancer, heart disease, strokes, bladder cancer, other forms of cancer;
  - k. filtered, low tar, low nicotine, and/or “light” cigarettes were not safe, safer, or less dangerous than “regular” cigarettes;
  - l. the Federal Trade Commission (“FTC”) method of measuring “tar & nicotine” levels underestimated and did not accurately reflect the levels of tar and nicotine delivered to a smoker.

181. Cigarette manufacturers, including Defendants herein, also concealed and/or made fraudulent statements and misrepresentations to the public, including SANDRA CAMACHO, through their actions, funding, and involvement with TIRC/CTR, including but not limited to the following:

- a. falsely concealing the true purpose of TIRC/CTR was public relations, politics, and positioning for litigation;
- b. falsely pledging to provide aid and assistance to research cigarette use and health;
- c. expressly undertaking a disingenuous interest in health as its “basic responsibility paramount to every other consideration;”
- d. affirmatively assumed a (broken) promise to truthfully disclose adverse information regarding the health hazards of smoking;
- e. purposely created the illusion that scientific research regarding the dangers of cigarettes was being conducted and the results of which would be made public;
- f. concealing information regarding the lack of bona fide research being conducted by TIRC/CTR and the lack of funds being provided for research;
- g. concealing that TIRC/CTR was nothing more than a “public relations” front and shield.

182. Defendants made false promises to Plaintiff, SANDRA CAMACHO, in the following ways:

- a. Defendants assumed the responsibility to provide SANDRA CAMACHO, and the public, accurate and truthful information about their own products
- b. Defendants concealed and/or suppressed the aforementioned material facts about the dangers of cigarettes;
- c. Defendants were under a duty to disclose material facts about the dangers of cigarettes to Plaintiff;

- d. Defendants knew it was concealing material facts about the dangers of cigarettes from Plaintiff;
- e. Defendants intended to induce Plaintiff to smoke and become addicted to cigarettes;
- f. Plaintiff was unaware of the dangerous and addictive nature of cigarettes, and would not have begun or continued to smoke had he known the aforementioned concealed and/or suppressed information Defendants' possessed;
- g. Plaintiff was unaware of the danger of Defendants' cigarettes, the addictive nature of Defendants' cigarettes, and that low tar, low nicotine, "light," and/or filtered cigarettes were just as dangerous as unfiltered and "regular" cigarettes;
- h. Plaintiff justifiably relied upon Defendants to disseminate the superior knowledge and information it possessed regarding the dangers of cigarettes;
- i. The concealment and/or suppressed of material facts regarding the hazards of cigarettes caused Plaintiff to become addicted to cigarettes, and also caused her to develop laryngeal cancer.

183. As a direct and proximate and/or legal cause of Defendants' fraudulent concealment, SANDRA CAMACHO was injured and experienced great pain to her body and mind, sustaining injuries and damages in a sum in excess of Fifteen Thousand Dollars (\$15,000.00).

184. As a further direct and proximate and/or legal cause of Defendants' fraudulent concealment, SANDRA CAMACHO has incurred damages, both general and special, including medical expenses as a result of the necessary treatment of her injuries, and will continue to incur damages for future medical treatment necessitated by smoking-related injuries she has suffered, in a sum in excess of Fifteen Thousand Dollars (\$15,000.00).

185. As a further direct and proximate and/or legal cause of Defendants' fraudulent concealment, SANDRA CAMACHO was required to, and did, employ physicians, surgeons, and other

1 health care providers to examine, treat, and care for her and did incur medical and incidental expenses  
2 thereby. The exact amount of such expenses is unknown at this present time, but SANDRA  
3 CAMACHO alleges that she has suffered special damages in excess of Fifteen Thousand Dollars  
4 (\$15,000.00).

5  
6 186. As a further direct and proximate and/or legal cause of Defendants' aforesaid  
7 fraudulent concealment, Plaintiff, ANTHONY CAMACHO, as SANDRA CAMACHO'S husband,  
8 has suffered and continues to suffer loss of companionship and care, emotional and moral support  
9 and/or sexual intimacy and alleges he has suffered damages in excess of Fifteen Thousand Dollars  
10 (\$15,000.00).

11 187. Defendants' actions were taken knowingly, wantonly, willfully, and/or maliciously.

12 188. Defendants' conduct was despicable and so contemptible that it would be looked down  
13 upon and despised by ordinary decent people and was carried on by Defendants with willful and  
14 conscious disregard for the safety of SANDRA CAMACHO.

15  
16 189. Defendants' outrageous and unconscionable conduct warrants an award of exemplary  
17 and punitive damages pursuant to NRS 42.005, in an amount appropriate to punish and make an  
18 example of Defendants, and to deter similar conduct in the future.

19 190. To the extent NRS 42.007 applies, Defendants are vicariously liable for punitive  
20 damages arising from the outrageous and unconscionable conduct of its employees, agents, apparent  
21 agents, independent contractors, and/or servants, as set forth herein.

22  
23 191. Defendants' actions have forced Plaintiffs to retain counsel to represent them in the  
24 prosecution of this action, and they are therefore entitled to an award of a reasonable amount as  
25 attorney fees and costs of suit.

**SIXTH CLAIM FOR RELIEF**

**(CIVIL CONSPIRACY)**

**Sandra Camacho Against Defendants Philip Morris; R.J. Reynolds; and Liggett**

192. Plaintiffs repeat and re-allege the allegations as contained in paragraphs 1 through 87, paragraphs 148 – 191 and incorporate the same herein by reference.

193. Defendants acted in concert to accomplish an unlawful objective for the purposes of harming Plaintiff, SANDRA CAMACHO. Defendants' actions include, but are not limited to the following:

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

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

- a. Marketing and/or advertising filters as safer or less hazardous to health than non-filtered cigarettes;
- b. Marketing and/or advertising low tar cigarettes as safer or less hazardous to health;
- c. Marketing and/or advertising lights and ultra-light cigarettes as safer or less hazardous to health;
- d. Knowingly concealing from the public that filtered, low tar, lights, and ultra-lights cigarettes were no safer or even less hazardous than other cigarettes;
- e. Adding “onserts” to packages of cigarettes even after the United States government banned marketing of “light” and “ultra-light” cigarettes;
- f. Opposing, and continuing to oppose proposed FDA regulations to reduce or eliminate levels of nicotine in cigarettes;
- g. Continuing to market and prey upon children and teenagers who are not able to understand or appreciate the risks and dangers associated with cigarette smoking.

195. Defendants’ actions, as they relate to their acts in furtherance of their conspiracy as alleged in this complaint, continues through the present.

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

197. As a direct proximate and/or legal cause of Defendants’ concerted actions, SANDRA CAMACHO was injured and experienced great pain to her body and mind, sustaining injuries and damages in a sum in excess of Fifteen Thousand Dollars (\$15,000.00).

198. As a further direct and proximate and/or legal cause of Defendants’ concerted actions, SANDRA CAMACHO has incurred damages, both general and special, including medical expenses as a result of the necessary treatment of her injuries, and will continue to incur damages for future

1 medical treatment necessitated by smoking-related injuries she has suffered, in a sum in excess of  
2 Fifteen Thousand Dollars (\$15,000.00).

3 199. As a further direct and proximate and/or legal cause of Defendants' concerted actions,  
4 SANDRA CAMACHO was required to, and did, employ physicians, surgeons, and other health care  
5 providers to examine, treat, and care for her and did incur medical and incidental expenses thereby.  
6 The exact amount of such expenses is unknown at this present time, but SANDRA CAMACHO  
7 alleges that she has suffered special damages in excess of Fifteen Thousand Dollars (\$15,000.00).  
8

9 200. As a further direct and proximate and/or legal cause of Defendants' aforesaid concerted  
10 actions, Plaintiff, ANTHONY CAMACHO, as SANDRA CAMACHO'S husband, has suffered and  
11 continues to suffer loss of companionship and care, emotional and moral support and/or sexual  
12 intimacy and alleges he has suffered damages in excess of Fifteen Thousand Dollars (\$15,000.00).  
13

14 201. Defendants' concerted actions were taken knowingly, wantonly, willfully, and/or  
15 maliciously.

16 202. Defendants' conduct was despicable and so contemptible that it would be looked down  
17 upon and despised by ordinary decent people and was carried on by Defendants with willful and  
18 conscious disregard for the safety of SANDRA CAMACHO.

19 203. Defendants' outrageous and unconscionable conduct warrants an award of exemplary  
20 and punitive damages pursuant to NRS 42.005, in an amount appropriate to punish and make an  
21 example of Defendants, and to deter similar conduct in the future.  
22

23 204. To the extent NRS 42.007 applies, Defendants are vicariously liable for punitive  
24 damages arising from the outrageous and unconscionable conduct of their employees, agents, apparent  
25 agents, independent contractors, and/or servants, as set forth herein.  
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205. Defendants' actions have forced Plaintiffs to retain counsel to represent them in the prosecution of this action, and they are therefore entitled to an award of a reasonable amount as attorney fees and costs of suit.

**SEVENTH CLAIM FOR RELIEF**

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

**Sandra Camacho Against Defendants Philip Morris; R.J. Reynolds; And Liggett**

206. Plaintiffs repeat and re-allege the allegations contained in the preceding paragraphs herein and incorporate the same herein by reference.

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

208. Defendants are subject to the provisions of the Nevada Deceptive Trade Practices Act, and Plaintiff is one of the persons the Act was enacted to protect.

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

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

\*\*\*\*

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

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

\*\*\*\*

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

7. Represents that goods or services for sale or lease are of a particular



standard, quality or grade, or that such goods are of a particular style or model, if he or she knows or should know that they are of another standard, quality, grade, style or model.

\*\*\*\*

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

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

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

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

1 which falsely assured the public, the American government, and SANDRA  
2 CAMACHO, that would purportedly “safeguard” the health of smokers, support  
3 allegedly “disinterested” research into smoking and health, and reveal to the public the  
4 results of their alleged “objective” research;

- 5
- 6 i. falsely assuring the public that TIRC/CTR was an “objective” research committee  
7 when internal company documents reveals that TIRC/CTR functioned not for the  
8 promotion of scientific goals, but for public relations, politics, and positioning for  
9 litigation;
- 10 j. sponsoring, being quoted in, and helping publish articles to mislead the public  
11 including but not limited to the following: “Smoke-Cancer Tie Termed Obscure”  
12 (1955), “Study of Smoking is Inconclusive” (1956), “Cigarette Threat Called  
13 Unproven,” (1962), “Tobacco Spokesmen Dispute Lung Study” (1962), “Tobacco  
14 Cancer Scare Fading in Smoke Ring (1964), and “Smokers Assured In Industry Study”  
15 (1962);
- 16 k. responding to the 1964 Surgeon General Report which linked cigarette smoking to  
17 health, by falsely assuring the public that (i) cigarettes were not injurious to health, (ii)  
18 the industry would cooperate with the Surgeon General, (iii) more research was needed,  
19 and (iv) if there were any bad elements discovered in cigarettes, the cigarette  
20 manufacturers would remove those elements;
- 21 l. advertising and promoting cigarettes on television and radio as safe and glamorous, to  
22 the extent that cigarette advertising was the number one most heavily advertised  
23 product on television;
- 24 m. making knowingly false and misleading statements during a governmental hearing,  
25 including stating that, “there is absolutely no proof that cigarettes are addictive;”  
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- 1 n. purposefully targeting children yet openly in press releases falsely claiming, “We don’t  
2 advertise to children . . . Some straight talk about smoking for young people;”  
3 o. responding the 1988 United States Surgeon General’s report that nicotine is the drug  
4 in tobacco that causes addiction, by issuing press releases stating, “Claims that  
5 cigarettes are addictive is irresponsible and scare tactics;”  
6 p. lying under oath before the United States Congress in 1994 that it was their opinion  
7 that it had not been proven that cigarettes were addictive, caused disease, or caused one  
8 single person to die.  
9

10 213. As a direct and proximate and/or legal cause of Defendants’ aforementioned acts,  
11 SANDRA CAMACHO was injured and experienced great pain to her body and mind, sustaining  
12 injuries and damages in a sum in excess of Fifteen Thousand Dollars (\$15,000.00).  
13

14 214. As a further direct and proximate and/or legal cause of Defendants’ aforementioned  
15 acts, SANDRA CAMACHO has incurred damages, both general and special, including medical  
16 expenses as a result of the necessary treatment of her injuries, and will continue to incur damages for  
17 future medical treatment necessitated by smoking-related injuries she has suffered, in a sum in excess  
18 of Fifteen Thousand Dollars (\$15,000.00).  
19

20 215. As a further direct proximate and/or legal cause of Defendants’ aforementioned acts,  
21 SANDRA CAMACHO was required to, and did, employ physicians, surgeons, and other health care  
22 providers to examine, treat, and care for her and did incur medical and incidental expenses thereby.  
23 The exact amount of such expenses is unknown at this present time, but SANDRA CAMACHO  
24 alleges that she has suffered special damages in excess of Fifteen Thousand Dollars (\$15,000.00).  
25

26 216. As a further direct and proximate and/or legal cause of Defendants’ aforementioned  
27 acts, Plaintiff, ANTHONY CAMACHO, as SANDRA CAMACHO’S husband, has suffered and  
28 continues to suffer loss of companionship and care, emotional and moral support and/or sexual

intimacy and alleges he has suffered damages in excess of Fifteen Thousand Dollars (\$15,000.00).

217. Defendants' actions were taken knowingly, wantonly, willfully, and/or maliciously.

218. Defendants' conduct was despicable and so contemptible that it would be looked down upon and despised by ordinary decent people and was carried on by Defendants with willful and conscious disregard for the safety of SANDRA CAMACHO.

219. Defendants' outrageous and unconscionable conduct warrants an award of exemplary and punitive damages pursuant to NRS 42.005, in an amount appropriate to punish and make an example of Defendants, and to deter similar conduct in the future.

220. To the extent NRS 42.007 applies, Defendants are vicariously liable for punitive damages arising from the outrageous and unconscionable conduct of their employees, agents, apparent agents, independent contractors, and/or servants, as set forth herein.

221. Defendants' actions have forced Plaintiffs to retain counsel to represent them in the prosecution of this action, and they are therefore entitled to an award of a reasonable amount as attorney fees and costs of suit.

#### **EIGHTH CLAIM FOR RELIEF**

#### **(STRICT PRODUCT LIABILITY)**

**Sandra Camacho Against Defendant, ASM Nationwide Corporation  
d/b/a Silverado Smokes & Cigars and LV Singhs Inc. d/b/a Smokes & Vapors**

222. Plaintiffs repeat and re-allege the allegations contained in paragraphs 1 and 87 and paragraphs 127 - 147 and incorporate the same herein by reference.

223. Defendants, SILVERADO and SMOKES & VAPORS, are in the business of distributing, marketing, selling, or otherwise placing cigarette into the stream of commerce.

224. Defendants, SILVERADO and SMOKES & VAPORS' sold cigarettes to the public, including Plaintiff SANDRA CAMACHO.

225. The aforesaid products were distributed, sold and/or otherwise placed into the stream of

1 commerce by Defendants, SILVERADO and SMOKES & VAPORS.

2 226. Defendants, SILVERADO and SMOKES & VAPORS', defective and unreasonably  
3 dangerous cigarettes reached SANDRA CAMACHO without substantial change from that in which  
4 such products were when within the possession of Defendants.

5 227. Defendants, SILVERADO and SMOKES & VAPORS' cigarettes were dangerous  
6 beyond the expectation of the ordinary user/consumer when used as intended or in a manner  
7 reasonably foreseeable by Defendants.

8 228. The nature and degree of danger of Defendants, SILVERADO and SMOKES &  
9 VAPORS' cigarettes were dangerous beyond the expectation of the ordinary consumer, including  
10 SANDRA CAMACHO, when used as intended or in a reasonably foreseeable manner.

11 229. Defendants, SILVERADO and SMOKES & VAPORS' cigarettes were unreasonably  
12 dangerous because a less dangerous design and/or modification was economically and scientifically  
13 feasible.

14 230. As a direct and proximate and/or legal cause of the aforesaid defective and  
15 unreasonably dangerous condition of cigarette products sold by Defendants, SILVERADO and  
16 SMOKES & VAPORS, SANDRA CAMACHO was injured. SANDRA CAMACHO thereby  
17 experienced great pain to her body and mind, and sustained injuries and damages in a sum in excess  
18 of Fifteen Thousand Dollars (\$15,000.00).

19 231. As a further direct and proximate and/or legal cause of the defective and unreasonably  
20 dangerous condition of Defendants' cigarettes, SANDRA CAMACHO has incurred damages, both  
21 general and special, including medical expenses as a result of the necessary treatment of her injuries,  
22 and will continue to incur damages for future medical treatment necessitated by smoking-related  
23 injuries she has suffered, in a sum in excess of Fifteen Thousand Dollars (\$15,000.00).

24 232. As a further direct and proximate and/or legal cause of the aforementioned defective  
25  
26  
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1 and unreasonably dangerous condition of Defendants' cigarettes, SANDRA CAMACHO was  
2 required to, and did, employ physicians, surgeons, and other health care providers to examine, treat,  
3 and care for her and did incur medical and incidental expenses thereby. The exact amount of such  
4 expenses is unknown at this present time, but SANDRA CAMACHO alleges that she has suffered  
5 special damages in excess of Fifteen Thousand Dollars (\$15,000.00).  
6

7 233. As a further direct and proximate and/or legal cause of Defendants' aforesaid defective  
8 and unreasonably dangerous condition of Defendants' cigarettes, Plaintiff, ANTHONY CAMACHO,  
9 as SANDRA CAMACHO'S husband, has suffered and continues to suffer loss of companionship and  
10 care, emotional and moral support and/or sexual intimacy and alleges he has suffered damages in  
11 excess of Fifteen Thousand Dollars (\$15,000.00).  
12

13 234. Defendants' actions were taken knowingly, wantonly, willfully, and/or maliciously.

14 235. Defendants' conduct was despicable and so contemptible that it would be looked down  
15 upon and despised by ordinary decent people and was carried on by Defendants with willful and  
16 conscious disregard for the safety of SANDRA CAMACHO.

17 236. Defendants' outrageous and unconscionable conduct warrants an award of exemplary  
18 and punitive damages pursuant to NRS 42.005, in an amount appropriate to punish and make an  
19 example of Defendants, and to deter similar conduct in the future.

20 237. To the extent NRS 42.007 applies, Defendants are vicariously liable for punitive  
21 damages arising from the outrageous and unconscionable conduct of their employees, agents, apparent  
22 agents, independent contractors, and/or servants, as set forth herein.

23 238. Defendants' actions have forced Plaintiffs to retain counsel to represent them in the  
24 prosecution of this action, and they are therefore entitled to an award of a reasonable amount as  
25 attorney fees and costs of suit.  
26

27 WHEREFORE, Plaintiffs, SANDRA CAMACHO and ANTHONY CAMACHO expressly  
28

1 reserving the right to amend this Complaint at the time of trial to include all items of damage not yet  
2 ascertained, demand judgment against Defendants, PHILIP MORRIS USA, INC.; R.J. REYNOLDS  
3 TOBACCO COMPANY, individually, and as successor-by-merger to LORILLARD TOBACCO  
4 COMPANY and as successor-in-interest to the United States tobacco business of BROWN &  
5 WILLIAMSON TOBACCO CORPORATION, which is the successor-by-merger to THE  
6 AMERICAN TOBACCO COMPANY; LIGGETT GROUP, LLC.; ASM NATIONWIDE  
7 CORPORATION d/b/a SILVERADO SMOKES & CIGARS; LV SINGHS INC. d/b/a SMOKES &  
8 VAPORS; DOES I-X; and ROE BUSINESS ENTITIES XI-XX as follows:  
9

10 1. For general damages in excess of Fifteen Thousand Dollars (\$15,000.00), to be set  
11 forth and proven at the time of trial;

12 2. For special damages in excess of Fifteen Thousand Dollars (\$15,000.00), to be set forth  
13 and proven at the time of trial;

14 3. For exemplary and punitive damages in excess of Fifteen Thousand Dollars  
15 (\$15,000.00);  
16

17 4. For reasonable attorneys' fees;

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5. For costs of suit incurred;
6. For a jury trial on all issues so triable; and
7. For such other relief as to the Court seems just and proper.

DATED this 26<sup>th</sup> day of February 2020.

CLAGGETT & SYKES LAW FIRM

/s/ Sean K. Claggett

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**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

21 SANDRA CAMACHO, individually, and  
22 ANTHONY CAMACHO, individually,

23 Plaintiffs,

24 vs.

25 PHILIP MORRIS USA, INC., a foreign  
26 corporation; R.J. REYNOLDS TOBACCO  
27 COMPANY, a foreign corporation,  
28 individually, and as successor-by-merger to  
LORILLARD TOBACCO COMPANY and as  
successor-in-interest to the United States  
tobacco business of BROWN &

Case No.: A-19-807650-C  
Dept. No.: IV, Judge Nadia Krall

**PHILIP MORRIS USA INC.'S RESPONSE**  
**TO PLAINTIFF'S REQUEST FOR**  
**ADMISSIONS TO DEFENDANT PHILIP**  
**MORRIS USA INC. REGARDING**  
**TIRC/CTR AND TI**



1 WILLIAMSON TOBACCO CORPORATION,  
2 which is the successor-by-merger to THE  
3 AMERICAN TOBACCO COMPANY;  
4 LIGGETT GROUP, LLC., a foreign  
5 corporation; ASM NATIONWIDE  
6 CORPORATION d/b/a SILVERADO  
7 SMOKE & CIGARS, a domestic corporation;  
8 and LV SINGHS INC. d/b/a SMOKE &  
9 VAPORS, a domestic corporation; DOES I-X;  
10 and ROE BUSINESS ENTITIES XI-XX,  
11 inclusive,

12 Defendants.

13 COMES NOW Defendant, PHILIP MORRIS USA INC ("Philip Morris USA"), by and  
14 through its attorneys, WEINBERG WHEELER HUDGINS GUNN & DIAL, LLC and SHOOK, HARDY &  
15 BACON L.L.P. and hereby provides responses to Plaintiff's [sic] Request for Admissions to  
16 Defendant Philip Morris USA Inc. Regarding TIRC/CTR and TI ("Requests") as follows:

17 **GENERAL OBJECTIONS AND PRELIMINARY STATEMENT**  
18 **REGARDING REQUEST FOR ADMISSIONS**

19 Philip Morris USA's response to each and every Request herein is made subject to and  
20 without waiving the following general objections:

21 Philip Morris USA has not yet completed its investigation of the facts pertaining to this  
22 action and has not yet completed its discovery or preparation for trial and specifically reserves  
23 the right to amend, modify and/or supplement the within responses/objections.

24 In responding to Plaintiffs' Requests, Philip Morris USA does not waive, nor intend to  
25 waive, but rather intends to preserve, and is preserving:

- 26 a. all objections as to competency, relevancy, materiality and admissibility;
- 27 b. all rights to object on any ground to the use in any proceeding, including  
28 trial of this or any other action, of any of the responses referenced herein;
- 29 c. all objections as to vagueness and ambiguity; and
- 30 d. all rights to object on any ground to future discovery requests.

31 Philip Morris USA objects to Plaintiffs' Requests to the extent that they seek to impose  
32 requirements which are at variance with or exceed those requirements specified by the applicable  
33 provisions of the Nevada Rules of Civil Procedure. In responding to these discovery requests,

Philip Morris USA will be governed by the provisions of the Nevada Rules of Civil Procedure and not by any purported requirements sought to be imposed by Plaintiffs.

Philip Morris USA objects to these Requests on the grounds that they are overly broad, and they seek admissions pertaining to information that is neither relevant to any party's claims or defenses, nor proportional to the needs of the case, as required by Nevada Rule of Civil Procedure 26(b)(1), in part, to the extent they seek admissions pertaining to periods of time other than those during which Sandra Camacho allegedly smoked cigarettes manufactured and sold by Philip Morris USA.

Philip Morris USA does not concede that any of its responses are or will be admissible evidence at trial. Further, Philip Morris USA does not waive any objection, whether or not asserted herein, to use any such response at trial.

Philip Morris USA expressly incorporates these objections in the responses set forth below.

**DEFENDANT PHILIP MORRIS USA INC.'S RESPONSES TO PLAINTIFFS'**

**REQUEST FOR ADMISSIONS TO DEFENDANT PHILIP MORRIS USA INC.**

**REGARDING TIRC/CTR AND TI**

**REQUEST NO. 1:**

Admit that from 1954 through October 31, 1999, payments to Center for Tobacco Research's General Fund from Defendant PHILIP MORRIS USA INC. totaled \$189,506,678.86, as follows. [sic]

|      |              |
|------|--------------|
| 1954 | \$147,450.00 |
| 1955 | \$80,000.00  |
| 1956 | \$98,750.00  |
| 1957 | \$112,500.00 |
| 1958 | \$91,305.06  |
| 1959 | \$75,372.00  |
| 1960 | \$92,968.00  |
| 1961 | \$109,250.00 |
| 1962 | \$115,250.00 |
| 1963 | \$139,531.25 |
| 1964 | \$150,000.00 |
| 1965 | \$180,000.00 |
| 1966 | \$198,750.00 |
| 1967 | \$217,500.00 |
| 1968 | \$288,750.00 |



|    |      |                 |
|----|------|-----------------|
| 1  | 1969 | \$515,625.00    |
|    | 1970 | \$481,125.00    |
| 2  | 1971 | \$712,160.00    |
|    | 1972 | \$648,333.00    |
| 3  | 1973 | \$837,692.00    |
|    | 1974 | \$1,140,755.00  |
| 4  | 1975 | \$1,373,310.00  |
|    | 1976 | \$1,737,960.47  |
| 5  | 1977 | \$1,902,921.58  |
|    | 1978 | \$1,830,438.82  |
| 6  | 1979 | \$1,992,658.50  |
|    | 1980 | \$2,126,878.68  |
| 7  | 1981 | \$2,238,843.26  |
|    | 1982 | \$2,657,229.84  |
| 8  | 1983 | \$3,008,257.67  |
|    | 1984 | \$3,909,018.97  |
| 9  | 1985 | \$4,390,132.76  |
|    | 1986 | \$5,308,278.00  |
| 10 | 1987 | \$5,754,937.00  |
|    | 1988 | \$6,752,365.00  |
| 11 | 1989 | \$7,245,257.00  |
|    | 1990 | \$8,162,873.00  |
| 12 | 1991 | \$9,307,060.00  |
|    | 1992 | \$10,945,500.00 |
| 13 | 1993 | \$11,070,876.00 |
|    | 1994 | \$11,196,196.00 |
| 14 | 1995 | \$12,663,022.00 |
|    | 1996 | \$13,523,170.00 |
| 15 | 1997 | \$22,194,342.00 |
|    | 1998 | \$18,277,616.00 |
| 16 | 1999 | \$13,504,470.00 |

**RESPONSE TO REQUEST NO. 1:**

Philip Morris USA objects to this Request on the grounds that it is overly broad, and it seeks an admission pertaining to information that is neither relevant to any party's claims or defenses, nor proportional to the needs of the case, as required by Nevada Rule of Civil Procedure 26(b)(1), in part, to the extent it seeks an admission pertaining to periods of time other than those during which Sandra Camacho allegedly smoked cigarettes manufactured and sold by Philip Morris USA.

Subject to and without waiving its specific and General Objections, Philip Morris USA admits that, in 1954, it participated with other cigarette manufacturers in the formation of the Tobacco Industry Research Committee ("TIRC") and that, in or around 1964, the TIRC changed its name to The Council for Tobacco Research - U.S.A., Inc. ("CTR"). Philip Morris USA admits that it was a sponsor of CTR from 1954 until its dissolution under the New York Not-for-



Profit Corporation Laws on November 6, 1998. Philip Morris USA further admits that, during its existence, CTR received the majority of its funding from its sponsors.

Responding further, Philip Morris USA admits that it contributed the amounts listed by year in this Request to the general fund of CTR for the years 1954 until CTR ceased operations in 1999, but states that the amount listed for 1983 represents a CTR fiscal year from January 1 to October 31 and the amounts listed for 1984 through 1997 represent a CTR fiscal year from November 1 to October 31. Except as expressly admitted, Philip Morris USA denies this Request.

**REQUEST NO. 2:**

Admit that from 1958 through 1999, payments to the Tobacco Institute from Defendant PHILIP MORRIS USA INC. amounted to \$278,559,178.67, as follows. [sic]

|      |                 |
|------|-----------------|
| 1979 | \$662,194.00    |
| 1980 | \$3,613,118.00  |
| 1981 | \$5,238,852.00  |
| 1982 | \$7,769,565.39  |
| 1983 | \$7,402,441.36  |
| 1984 | \$7,544,601.15  |
| 1985 | \$9,358,595.46  |
| 1986 | \$8,821,404.20  |
| 1987 | \$11,555,809.20 |
| 1988 | \$14,941,127.51 |
| 1989 | \$17,540,330.00 |
| 1990 | \$24,348,972.55 |
| 1991 | \$22,095,096.64 |
| 1992 | \$19,745,067.54 |
| 1993 | \$18,630,613.13 |
| 1994 | \$16,174,215.00 |
| 1995 | \$12,840,772.00 |
| 1996 | \$21,509,843.54 |
| 1997 | \$20,309,795.00 |
| 1998 | \$18,251,046.00 |
| 1999 | \$10,205,719.00 |

**RESPONSE TO REQUEST NO. 2:**

Philip Morris USA objects to this Request to the extent that it seeks an admission protected by privileges arising from the First Amendment to the United States Constitution, and/or the Noerr-Pennington and/or Separation of Powers doctrines. Philip Morris USA also objects to this Request on the grounds that it is overly broad, and it seeks an admission pertaining to information that is neither relevant to any party's claims or defenses, nor proportional to the

needs of the case, as required by Nevada Rule of Civil Procedure 26(b)(1), in part, to the extent it seeks an admission pertaining to periods of time other than those during which Sandra Camacho allegedly smoked cigarettes manufactured and sold by Philip Morris USA.

Subject to and without waiving its specific and General Objections, Philip Morris USA admits that, in 1958, it participated with other cigarette manufacturers in the formation of the Tobacco Institute, Inc. ("Tobacco Institute"). Philip Morris USA admits that it was a member of the Tobacco Institute from its formation in 1958 until its dissolution under the New York Not-for-Profit Corporation Laws on September 15, 2000. Philip Morris USA further admits that, during its existence, the Tobacco Institute received the majority of its funding from its members.

Responding further, Philip Morris USA admits that it contributed to the Tobacco Institute the amounts listed by year in this Request from 1979 through 1999. Philip Morris USA further states that it does not have records of the amounts it contributed to the Tobacco Institute for the time period 1958 through 1978. Except as expressly admitted, Philip Morris USA denies this Request.

**REQUEST NO. 3:**

Admit that from 1966 to 1990, Defendant PHILIP MORRIS USA INC. contributed \$5,837,922 to Center for Tobacco Research's Special Projects, as follows. [sic]

|      |           |
|------|-----------|
| 1966 | \$21,200  |
| 1967 | \$22,200  |
| 1968 | \$39,600  |
| 1969 | \$15,000  |
| 1970 | \$30,800  |
| 1971 | \$53,400  |
| 1972 | \$61,200  |
| 1973 | \$41,193  |
| 1974 | \$76,652  |
| 1975 | \$63,022  |
| 1976 | \$89,967  |
| 1977 | \$188,190 |
| 1978 | \$190,676 |
| 1979 | \$245,903 |
| 1980 | \$310,574 |
| 1981 | \$300,025 |
| 1982 | \$440,644 |
| 1983 | \$347,794 |
| 1984 | \$317,774 |
| 1985 | \$379,082 |
| 1986 | \$839,902 |

1987 \$641,763  
1988 \$517,770  
1989 \$428,618  
1990 \$174,973

**RESPONSE TO REQUEST NO. 3:**

Philip Morris USA objects to this Request on the grounds that it is overly broad, and it seeks an admission pertaining to information that is neither relevant to any party's claims or defenses, nor proportional to the needs of the case, as required by Nevada Rule of Civil Procedure 26(b)(1), in part, to the extent it seeks an admission pertaining to periods of time other than those during which Sandra Camacho allegedly smoked cigarettes manufactured and sold by Philip Morris USA.

Subject to and without waiving its specific and General Objections, Philip Morris USA admits that, according to information received from CTR, Philip Morris USA contributed the amounts listed by year in this Request to co-fund CTR Special Projects from 1966 until the end

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1 of CTR Fiscal Year 1990, but states that beginning in 1983, the amounts listed represent a CTR  
2 fiscal year from November 1 through October 31. Except as expressly admitted, Philip Morris  
3 USA denies this Request.

4  
5 Dated this 16th day of July, 2021.

6  
7 WEINBERG, WHEELER, HUDGINS,  
GUNN & DIAL, LLC

8  
9 /s/ D. Lee Roberts, Jr.

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21 Attorneys for Defendant Philip Morris USA Inc.



**CERTIFICATE OF SERVICE**

I hereby certify that on the 16th day of July, 2021, a true and correct copy of the foregoing **PHILIP MORRIS USA INC.'S RESPONSE TO PLAINTIFF'S REQUEST FOR ADMISSIONS TO DEFENDANT PHILIP MORRIS USA INC. REGARDING TIRC/CTR AND TI** was electronically 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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R.J. REYNOLDS TOBACCO COMPANY

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

Case No. A-19-807650-C  
Dept. No. IV

**DEFENDANT R. J. REYNOLDS**  
**TOBACCO COMPANY'S RESPONSES**  
**TO PLAINTIFF'S REQUEST FOR**  
**ADMISSIONS TO DEFENDANT R.J.**  
**REYNOLDS TOBACCO COMPANY**  
**REGARDING TIRC/CTR & TI**

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 XI-XX, inclusive,

Defendants.

**DEFENDANT R. J. REYNOLDS TOBACCO COMPANY'S RESPONSES TO PLAINTIFF'S REQUEST FOR ADMISSIONS TO DEFENDANT R.J. REYNOLDS TOBACCO COMPANY REGARDING TIRC/CTR & TI**

Pursuant to Rule 36 of the Nevada Rules of Civil Procedure, Defendant R. J. Reynolds Tobacco Company, individually, as successor-by-merger to Lorillard Tobacco Company, and as successor-in-interest to the U.S. tobacco business of Brown & Williamson Tobacco Corporation (n/k/a Brown & Williamson Holdings, Inc.), which is successor-by-merger to The American Tobacco Company ("Reynolds"), provides the following responses to Plaintiff's Request for Admissions to Defendant R.J. Reynolds Tobacco Company Regarding TIRC/CTR & TI (the "Requests").

**RECURRING OBJECTIONS**

Reynolds makes the following Recurring Objections to the Requests ("Recurring Objections"). The Recurring Objections set forth below are incorporated, as appropriate, into Reynolds' responses to the Requests.

**A. Scope and Relevance**

Reynolds objects to Plaintiff's Requests to the extent that they are overly broad in scope and seek discovery concerning matters that are neither relevant to this action nor reasonably calculated to lead to the discovery of admissible evidence. Reynolds bases these objections, in part, to the extent that the Requests purport to seek information unlimited as to time or pertaining to time periods that Plaintiff, Sandra Camacho, did not smoke cigarettes and/or smoke Reynolds' products. Reynolds also objects to these Requests to the extent that they attempt to impose obligations other than those imposed or authorized by the Nevada Rules of Civil Procedure.

**B. Activities Protected by the First Amendment and Other Immunities**

Reynolds objects to Plaintiff's Requests to the extent that they relate to protected activities. Reynolds states that the First Amendment to the United States Constitution guarantees "the right of the people ... to petition the Government for a redress of grievances." (Constitution Amend. I). The United States Supreme Court has held that the right to petition precludes a plaintiff from collecting damages based on "mere attempts to influence the Legislative Branch for the passage of laws or the Executive Branch for their enforcement." *California Motor Transport Co. v. Trucking Unlimited*, 404 U.S. 508, 510 (1972). See also *Eastern R.R. Presidents Conference v. Noerr Motor Freight, Inc.*, 365 U.S. 127, 138-39, 143 (1961); *United Mine Workers v. Pennington*, 381 U.S. 657 (1965). Reynolds' lobbying efforts and related activities are protected First Amendment activities. *Liberty Lobby, Inc. v. Pearson*, 390 F.2d 489, 491 (D.C. Cir. 1967) ("every person or group engaged ... in trying to persuade Congressional action is exercising the First Amendment right of petition"); *Boone v. Redevelopment Agency of San Jose*, 841 F.2d 886, 895 (9th Cir.) cert. denied, 488 U.S. 965 (1988). The fact that Reynolds is a corporation does not change this fact, for corporations are guaranteed the same rights as individuals to engage in political advocacy under the First Amendment. *First National Bank of Boston v. Bellotti*, 435 U.S. 765, 784 (1978). In addition, the *Noerr-Pennington* doctrine extends to administrative and judicial proceedings as well and/or any other order of the Court.

**RESPONSES TO THE REQUESTS**

Subject to and without waiving its Recurring Objections, which are incorporated into Reynolds' responses to the individual Requests as appropriate, Reynolds responds to Plaintiff's Requests as follows:

**REQUEST FOR ADMISSION NO. 1:** Admit that from 1954 through October 31, 1999, payments to the Council for Tobacco Research's General Fund from Defendant R.J. Reynolds totaled \$140,890,169.04 as follows:

|      |              |
|------|--------------|
| 1954 | \$387,000.00 |
| 1955 | \$236,000.00 |
| 1956 | \$310,937.50 |
| 1957 | \$338,750.00 |

|    |      |                 |
|----|------|-----------------|
| 1  | 1958 | \$284,570.70    |
|    | 1959 | \$234,748.00    |
| 2  | 1960 | \$306,250.00    |
|    | 1961 | \$386,250.00    |
| 3  | 1962 | \$417,500.00    |
|    | 1963 | \$514,000.00    |
| 4  | 1964 | \$546,876.00    |
|    | 1965 | \$618,752.00    |
| 5  | 1966 | \$633,752.00    |
|    | 1967 | \$637,500.00    |
| 6  | 1968 | \$743,752.00    |
|    | 1969 | \$1,155,000.00  |
| 8  | 1970 | \$1,025,000.00  |
|    | 1971 | \$1,372,462.00  |
| 9  | 1972 | \$1,100,405.00  |
|    | 1973 | \$1,335,334.00  |
| 10 | 1974 | \$1,562,698.00  |
|    | 1975 | \$1,967,995.00  |
| 11 | 1976 | \$2,401,860.86  |
|    | 1977 | \$2,204,141.64  |
| 12 | 1978 | \$2,451,852.00  |
|    | 1979 | \$2,262,052.31  |
| 13 | 1980 | \$2,415,625.22  |
|    | 1981 | \$2,328,984.69  |
| 14 | 1982 | \$2,695,690.73  |
|    | 1983 | \$3,236,627.68  |
| 15 | 1984 | \$3,503,884.11  |
|    | 1985 | \$3,848,392.60  |
| 16 | 1986 | \$4,705,793.00  |
|    | 1987 | \$5,112,586.00  |
| 17 | 1988 | \$5,954,450.00  |
|    | 1989 | \$5,588,403.00  |
| 18 | 1990 | \$5,672,304.00  |
|    | 1991 | \$6,368,672.00  |
| 19 | 1992 | \$6,016,192.00  |
|    | 1993 | \$7,933,688.00  |
| 20 | 1994 | \$7,867,212.00  |
|    | 1995 | \$7,636,778.00  |
| 21 | 1996 | \$7,292,655.00  |
|    | 1997 | \$11,569,109.00 |
| 22 | 1998 | \$9,033,107.00  |
|    | 1999 | \$6,674,603.00  |
| 23 |      |                 |
| 24 |      |                 |
| 25 |      |                 |

26 **RESPONSE:**

27 In addition to its Recurring Objections, Reynolds objects to this Request on the ground that it  
28 seeks an admission regarding information that is neither relevant to this action nor reasonably

1 calculated to lead to the discovery of admissible evidence. Reynolds' objection is based, in part, on  
2 the fact that there is no evidence that Plaintiff, Sandra Camacho, ever saw, read, or heard, much less  
3 relied upon, any actions or statements of the TIRC/CTR.

4 Subject to and without waiving its objections, Reynolds admits that its contributions to the  
5 TIRC/CTR, for the purposes of supporting the grant-in-aid and other research funding (i.e., contract  
6 research) of the TIRC/CTR and organizational overhead associated therewith, exclusive of Special  
7 Projects, were as follows:

8 Year – Contribution

|    |      |                 |
|----|------|-----------------|
| 9  | 1954 | \$ 387,000.00   |
|    | 1955 | \$ 236,000.00   |
| 10 | 1956 | \$ 310,937.50   |
|    | 1957 | \$ 338,750.00   |
| 11 | 1958 | \$ 284,570.70   |
|    | 1959 | \$ 234,748.00   |
| 12 | 1960 | \$ 306,250.00   |
|    | 1961 | \$ 386,250.00   |
| 13 | 1962 | \$ 417,500.00   |
|    | 1963 | \$ 514,000.00   |
| 14 | 1964 | \$ 546,876.00   |
|    | 1965 | \$ 618,752.00   |
| 15 | 1966 | \$ 633,752.00   |
|    | 1967 | \$ 637,500.00   |
| 16 | 1968 | \$ 743,752.00   |
|    | 1969 | \$ 1,155,000.00 |
| 17 | 1970 | \$ 1,025,000.00 |
|    | 1971 | \$ 1,372,462.00 |
| 18 | 1972 | \$ 1,100,405.00 |
|    | 1973 | \$ 1,335,334.00 |
| 19 | 1974 | \$ 1,562,698.00 |
|    | 1975 | \$ 1,967,995.00 |
| 20 | 1976 | \$ 2,401,860.86 |
|    | 1977 | \$ 2,204,141.64 |
| 21 | 1978 | \$ 2,451,852.00 |
|    | 1979 | \$ 2,262,052.31 |
| 22 | 1980 | \$ 2,415,625.22 |
|    | 1981 | \$ 2,328,984.69 |
| 23 | 1982 | \$ 2,695,690.73 |
|    | 1983 | \$ 3,236,627.68 |
| 24 | 1984 | \$ 3,503,884.11 |
|    | 1985 | \$ 3,848,392.60 |
| 25 | 1986 | \$ 4,705,793.00 |
|    | 1987 | \$ 5,112,586.00 |
| 26 | 1988 | \$ 5,954,450.00 |
|    | 1989 | \$ 5,588,403.00 |
| 27 | 1990 | \$ 5,672,304.00 |
|    | 1991 | \$ 6,368,672.00 |
| 28 | 1992 | \$ 6,016,192.00 |

1 1993 \$ 7,933,688.00  
1994 \$ 7,867,212.00  
2 1995 \$ 7,636,778.00  
1996 \$ 7,292,655.00  
3 1997 \$11,569,109.00  
1998 \$ 9,033,107.00<sup>1</sup>

4  
5 Except as expressly admitted, Reynolds denies this Request.

6 **REQUEST FOR ADMISSION NO. 2:** Admit that from 1961 through 1999, Defendant,  
7 R.J. Reynolds Tobacco Company, made the following annual contributions to the Tobacco Institute,  
8 which totaled \$219,279,449.00:

9 1961 \$323,200.00  
10 1962 \$271,870.00  
1963 \$385,050.00  
11 1964 \$478,000.00  
1965 \$409,925.00  
12 1966 \$426,350.00  
1967 \$463,250.00  
13 1968 \$908,250.00  
1969 \$747,293.00  
14 1970 \$456,225.00  
1971 \$858,803.00  
15 1972 \$668,083.00  
1973 \$684,631.00  
16 1974 \$760,341.00  
17 1975 \$980,044.00  
1976 \$1,123,084.00  
18 1977 \$1,403,574.00  
1978 \$3,082,521.00  
19 1979 \$4,584,772.00  
20 1980 \$4,190,628.00  
1981 \$5,709,581.00  
21 1982 \$8,287,093.00  
22 1983 \$7,987,814.00  
1984 \$7,752,214.00  
23 1985 \$8,327,714.00  
1986 \$9,911,000.00  
24 1987 \$12,215,008.00

25  
26 <sup>1</sup> Following a reasonable inquiry and search, Reynolds was unsuccessful in determining the amount of money it  
27 contributed to the CTR in 1999. However, upon information and belief, the CTR has stated that Reynolds' contribution  
28 for 1999 was \$ 6,674,603.00. Reynolds objects to conducting a further inquiry on the subject of its 1999 contribution to  
CTR on the grounds that it is overly broad, unduly burdensome and seeks information that is neither relevant to this  
action nor reasonably calculated to lead to the discovery of admissible evidence.

1 1988 \$12,579,126.00  
2 1989 \$13,885,062.00  
3 1990 \$16,721,000.00  
4 1991 \$14,721,421.00  
5 1992 \$12,205,199.00  
6 1993 \$12,809,039.00  
7 1994 \$9,339,996.00  
8 1995 \$7,201,570.00  
9 1996 \$11,747,008.00  
10 1997 \$10,260,248.00  
11 1998 \$8,927,161.00  
12 1999 \$5,486,301.00

13 **RESPONSE:**

14 In addition to its Recurring Objections, Reynolds objects to this Request on the ground that it  
15 seeks an admission regarding information that is neither relevant to this action nor reasonably  
16 calculated to lead to the discovery of admissible evidence. Reynolds' objection is based, in part, on  
17 the fact that there is no evidence that Plaintiff, Sandra Camacho, ever saw, read, or heard, much less  
18 relied upon, any actions or statements of the Tobacco Institute. Reynolds' objection also is based on  
19 the fact that this Request seeks an admission regarding activities that are protected by the First  
20 Amendment. *See* Recurring Objection B.

21 Subject to and without waiving its objections, Reynolds states that the Tobacco Institute was  
22 a trade association not unlike the thousands of other trade associations in the United States, and its  
23 purpose was to represent its members in First Amendment activities, including presenting the  
24 position of its members in public and legislative contexts. Further responding, Reynolds admits this  
25 Request accurately states Reynolds' contributions to the Tobacco Institute for the period 1961  
26 through 1999.

27 **REQUEST FOR ADMISSION NO. 3:** Admit that from 1966 to 1990, Defendant R.J.  
28 Reynolds contributed \$6,029,254.83 to the Council for Tobacco Research's Special Projects as  
follows:

1966 \$ 67,600.00  
1967 \$ 67,800.00  
1968 \$102,000.00  
1969 \$ 33,600.00  
1970 \$ 65,600.00



1 1971 \$101,400.00  
2 1972 \$104,400.00  
3 1973 \$64,387.83  
4 1974 \$110,677.00  
5 1975 \$ 87,913.00  
6 1976 \$122,569.00  
7 1977 \$244,536.00  
8 1978 \$236,851.00  
9 1979 \$290,628.00  
10 1980 \$350,330.00  
11 1981 \$317,160.00  
12 1982 \$459,054.00  
13 1983 \$354,715.00  
14 1984 \$291,193.00  
15 1985 \$340,922.00  
16 1986 \$741,830.00  
17 1987 \$556,067.00  
18 1988 \$445,017.00  
19 1989 \$346,922.00  
20 1990 \$126,083.00

21 **RESPONSE:**

22 In addition to its Recurring Objections, Reynolds objects to this Request on the ground that it  
23 seeks an admission regarding information that is neither relevant to this action nor reasonably  
24 calculated to lead to the discovery of admissible evidence. Reynolds' objection is based, in part, on  
25 the fact that there is no evidence that Plaintiff, Sandra Camacho, ever saw, read, or heard, much less  
26 relied upon, any actions or statements of CTR.

27 Subject to and without waiving its objections, Reynolds admits this Request.

28 **REQUEST FOR ADMISSION NO. 4:** Admit Defendant, R.J. Reynolds Tobacco  
Company, Brown & Williamson, and American Tobacco Company made the following  
contributions to the Tobacco Industry Research Committee ("TIRC"), later known as the Council for  
Tobacco Research ("CTR"), for the purpose of supporting the grant-in-aid and other research  
funding of the TIRC/CTR and organizational overhead associated therewith, exclusive of Special  
Projects, which totaled \$134,215,593.04 for R.J. Reynolds Tobacco Company, \$67,666,074.00 for  
Brown & Williamson, and \$31,929,272.00 American Tobacco Company:

|    |                                |
|----|--------------------------------|
| 1  | R.J. Reynolds Tobacco Company: |
| 2  | 1954 \$387,000.00              |
| 3  | 1955 \$236,000.00              |
|    | 1956 \$310,937.50              |
| 4  | 1957 \$338,750.00              |
|    | 1958 \$284,570.70              |
| 5  | 1959 \$234,748.00              |
|    | 1960 \$306,250.00              |
| 6  | 1961 \$386,250.00              |
| 7  | 1962 \$417,500.00              |
|    | 1963 \$514,000.00              |
| 8  | 1964 \$546,876.00              |
|    | 1965 \$618,752.00              |
| 9  | 1966 \$633,752.00              |
|    | 1967 \$637,500.00              |
| 10 | 1968 \$743,752.00              |
| 11 | 1969 \$1,155,000.00            |
|    | 1970 \$1,025,000.00            |
| 12 | 1971 \$1,372,462.00            |
|    | 1972 \$1,100,405.00            |
| 13 | 1973 \$1,335,334.00            |
| 14 | 1974 \$1,562,698.00            |
|    | 1975 \$1,967,995.00            |
| 15 | 1976 \$2,401,860.86            |
|    | 1977 \$2,204,141.64            |
| 16 | 1978 \$2,451,852.00            |
|    | 1979 \$2,262,052.31            |
| 17 | 1980 \$2,415,625.22            |
|    | 1981 \$2,328,984.69            |
| 18 | 1982 \$2,695,690.73            |
| 19 | 1983 \$3,236,627.68            |
|    | 1984 \$3,503,884.11            |
| 20 | 1985 \$3,848,392.60            |
|    | 1986 \$4,705,793.00            |
| 21 | 1987 \$5,112,586.00            |
| 22 | 1988 \$5,954,450.00            |
|    | 1989 \$5,588,403.00            |
| 23 | 1990 \$5,672,304.00            |
|    | 1991 \$6,368,672.00            |
| 24 | 1992 \$6,016,192.00            |
|    | 1993 \$7,933,688.00            |
| 25 | 1994 \$7,867,212.00            |
| 26 | 1995 \$7,636,778.00            |
|    | 1996 \$7,292,655.00            |
| 27 | 1997 \$11,569,109.00           |
| 28 | 1998 \$9,033,107.00            |

|    |                     |
|----|---------------------|
| 1  | Brown & Williamson: |
| 2  | 1954 \$95,625.00    |
| 3  | 1955 \$84,000.00    |
|    | 1956 \$125,000.00   |
| 4  | 1957 \$140,625.00   |
|    | 1958 \$106,562.00   |
| 5  | 1959 \$78,375.00    |
|    | 1960 \$99,092.00    |
| 6  | 1961 \$122,000.00   |
| 7  | 1962 \$121,000.00   |
|    | 1963 \$137,750.00   |
| 8  | 1964 \$168,750.00   |
|    | 1965 \$225,000.00   |
| 9  | 1966 \$255,000.00   |
|    | 1967 \$277,500.00   |
| 10 | 1968 \$336,875.00   |
| 11 | 1969 \$543,125.00   |
|    | 1970 \$512,500.00   |
| 12 | 1971 \$745,966.00   |
|    | 1972 \$512,476.00   |
| 13 | 1973 \$733,628.00   |
|    | 1974 \$894,555.00   |
| 14 | 1975 \$1,100,764.00 |
| 15 | 1976 \$1,219,921.00 |
|    | 1977 \$1,092,260.00 |
| 16 | 1978 \$1,153,456.00 |
|    | 1979 \$1,107,672.00 |
| 17 | 1980 \$1,059,512.00 |
|    | 1981 \$970,071.00   |
| 18 | 1982 \$1,189,268.00 |
| 19 | 1983 \$1,166,354.00 |
|    | 1984 \$1,270,627.00 |
| 20 | 1985 \$1,394,951.00 |
|    | 1986 \$1,728,575.00 |
| 21 | 1987 \$1,802,087.00 |
|    | 1988 \$1,975,311.00 |
| 22 | 1989 \$1,982,550.00 |
| 23 | 1990 \$2,201,026.00 |
|    | 1991 \$2,137,030.00 |
| 24 | 1992 \$2,698,230.00 |
|    | 1993 \$3,095,923.00 |
| 25 | 1994 \$2,867,365.00 |
|    | 1995 \$5,180,923.00 |
| 26 | 1996 \$5,153,111.00 |
| 27 | 1997 \$7,915,574.00 |
|    | 1998 \$5,679,878.00 |
| 28 | 1999 \$4,208,231.00 |

1 American Tobacco Company:

|    |             |                |
|----|-------------|----------------|
| 2  | 1954        | \$479,250.00   |
| 3  | 1955        | \$310,000.00   |
|    | 1956        | \$392,187.00   |
| 4  | 1957        | \$382,812.00   |
|    | 1958        | \$288,203.00   |
| 5  | 1959        | \$218,248.00   |
|    | 1960        | \$263,812.00   |
| 6  | 1961        | \$306,500.00   |
| 7  | 1962        | \$316,750.00   |
|    | 1963        | \$368,125.00   |
| 8  | 1964        | \$393,750.00   |
|    | 1965        | \$476,250.00   |
| 9  | 1966        | \$483,750.00   |
|    | 1967        | \$472,500.00   |
| 10 | 1968        | \$516,250.00   |
|    | 1969        | \$783,750.00   |
| 11 | 1970        | \$650,000.00   |
|    | 1971        | \$334,015.00   |
| 12 | 1972        | \$550,339.00   |
|    | 1973        | \$674,291.00   |
| 13 | 1974        | \$787,066.00   |
|    | 1975        | \$861,284.00   |
| 14 | 1976        | \$1,055,816.00 |
|    | 1977        | \$888,619.00   |
| 15 | 1978        | \$906,940.00   |
|    | 1979        | \$748,420.00   |
| 16 | 1980        | \$888,628.00   |
|    | 1981        | \$741,467.00   |
| 17 | 1982        | \$742,713.00   |
|    | 1983        | \$893,878.00   |
| 18 | Fiscal 1984 | \$934,324.00   |
|    | Fiscal 1985 | \$951,195.00   |
| 19 | Fiscal 1986 | \$1,105,217.00 |
|    | Fiscal 1987 | \$1,121,960.00 |
| 20 | Fiscal 1988 | \$1,245,548.00 |
|    | Fiscal 1989 | \$1,238,943.00 |
| 21 | Fiscal 1990 | \$1,339,819.00 |
|    | Fiscal 1991 | \$1,478,630.00 |
| 22 | Fiscal 1992 | \$1,794,877.00 |
|    | Fiscal 1993 | \$1,772,151.00 |
| 23 | Fiscal 1994 | \$1,770,995.00 |

26 **RESPONSE:**

27 In addition to its Recurring Objections, Reynolds objects to this Request on the ground that it  
28 seeks an admission regarding information that is neither relevant to this action nor reasonably

1 calculated to lead to the discovery of admissible evidence. Reynolds' objection is based, in part, on  
2 the fact that there is no evidence that Plaintiff, Sandra Camacho, ever saw, read, or heard, much less  
3 relied upon, any actions or statements of the TIRC/CTR.

4 Subject to and without waiving its objections, Reynolds admits this Request.

5 **REQUEST FOR ADMISSION NO. 5:** Admit that from 1979 through 1999, payments to  
6 the Tobacco Institute from Brown & Williamson amounted to \$56,440,240 as follows:

|    |      |                |
|----|------|----------------|
| 7  | 1979 | \$2,160,598.00 |
| 8  | 1980 | \$1,823,740.00 |
|    | 1981 | \$2,299,842.00 |
| 9  | 1982 | \$3,477,265.00 |
|    | 1983 | \$2,869,614.00 |
| 10 | 1984 | \$2,794,027.00 |
|    | 1985 | \$3,184,914.00 |
| 11 | 1986 | \$3,560,083.00 |
| 12 | 1987 | \$3,702,585.00 |
|    | 1988 | 0*             |
| 13 | 1989 | 0*             |
|    | 1990 | 0*             |
| 14 | 1991 | 0*             |
|    | 1992 | 0*             |
| 15 | 1993 | 0*             |
| 16 | 1994 | \$1,204,704.00 |
|    | 1995 | \$5,011,394.00 |
| 17 | 1996 | \$7,384,719.00 |
|    | 1997 | \$7,192,250.00 |
| 18 | 1998 | \$6,218,949.00 |
| 19 | 1999 | \$3,555,556.00 |

20 **RESPONSE:**

21 In addition to its Recurring Objections, Reynolds objects to this Request on the ground that it  
22 seeks an admission regarding information that is neither relevant to this action nor reasonably  
23 calculated to lead to the discovery of admissible evidence. Reynolds' objection is based, in part, on  
24 the fact that there is no evidence that Plaintiff, Sandra Camacho, ever saw, read, or heard, much less  
25 relied upon, any actions or statements of the Tobacco Institute. Reynolds' objection also is based on  
26 the fact that this Request seeks an admission regarding activities that are protected by the First  
27 Amendment. *See* Recurring Objection B.

28 Subject to and without waiving its objections, Reynolds admits this Request.

**REQUEST FOR ADMISSION NO. 6:** Admit that Brown & Williamson and American

Tobacco made the following contributions to co-fund CTR Special Projects from 1966 to 1990,  
which totaled \$2,571,345.00 as to Brown & Williamson and \$2,049,354.00 as to American Tobacco:

**Brown & Williamson:**

|      |              |
|------|--------------|
| 1966 | \$27,200.00  |
| 1967 | \$28,400.00  |
| 1968 | \$46,200.00  |
| 1969 | \$15,800.00  |
| 1970 | \$32,800.00  |
| 1971 | \$55,800.00  |
| 1972 | \$49,800.00  |
| 1973 | \$33,807.00  |
| 1974 | \$61,619.00  |
| 1975 | \$48,847.00  |
| 1976 | \$64,585.00  |
| 1977 | \$121,263.00 |
| 1978 | \$113,552.00 |
| 1979 | \$134,692.00 |
| 1980 | \$155,288.00 |
| 1981 | \$132,960.00 |
| 1982 | \$193,978.00 |
| 1983 | \$140,746.00 |
| 1984 | \$105,983.00 |
| 1985 | \$122,122.00 |
| 1986 | \$277,880.00 |
| 1987 | \$290,687.00 |
| 1988 | \$149,940.00 |
| 1989 | \$119,537.00 |
| 1990 | \$47,859.00  |

**American Tobacco:**

|      |              |
|------|--------------|
| 1966 | \$51,600.00  |
| 1967 | \$51,000.00  |
| 1968 | \$70,800.00  |
| 1969 | \$22,800.00  |
| 1970 | \$41,600.00  |
| 1971 | \$61,200.00  |
| 1972 | \$53,400.00  |
| 1973 | \$33,404.00  |
| 1974 | \$57,009.00  |
| 1975 | \$43,969.00  |
| 1976 | \$57,328.00  |
| 1977 | \$106,254.00 |
| 1978 | \$90,476.00  |

1 1979 \$103,525.00  
2 1980 \$124,605.00  
3 1981 \$104,905.00  
4 1982 \$137,028.00  
5 1983 \$94,069.00  
6 Fiscal 1984 \$79,778.00  
7 Fiscal 1985 \$84,804.00  
8 Fiscal 1986 \$175,530.00  
9 Fiscal 1987 \$204,687.00  
10 Fiscal 1988 \$94,608.00  
11 Fiscal 1989 \$75,310.00  
12 Fiscal 1990 \$29,665.00

13 **RESPONSE:**

14 In addition to its Recurring Objections, Reynolds objects to this Request on the ground that it  
15 seeks an admission regarding information that is neither relevant to this action nor reasonably  
16 calculated to lead to the discovery of admissible evidence. Reynolds' objection is based, in part, on  
17 the fact that there is no evidence that Plaintiff, Sandra Camacho, ever saw, read, or heard, much less  
18 relied upon, any actions or statements of CTR.

19 Subject to and without waiving its objections, Reynolds admits this Request.

20 **REQUEST FOR ADMISSION NO. 7:** Admit that from 1954 through October 31, 1999,  
21 payments to Center for Tobacco Research's General Fund from American Tobacco Company totaled  
22 \$31,929,272 as follows:

23 1954 \$479,250.00  
24 1955 \$310,000.00  
25 1956 \$392,187.00  
26 1957 \$382,812.00  
27 1958 \$288,203.00  
28 1959 \$218,248.00  
1960 \$263,812.00  
1961 \$306,500.00  
1962 \$316,750.00  
1963 \$368,125.00  
1964 \$393,750.00  
1965 \$476,250.00  
1966 \$483,750.00  
1967 \$472,500.00  
1968 \$516,250.00  
1969 \$783,750.00

1 1970 \$650,000.00  
2 1971 \$334,015.00  
3 1972 \$550,339.00  
4 1973 \$674,291.00  
5 1974 \$787,066.00  
6 1975 \$861,284.00  
7 1976 \$1,055,816.00  
8 1977 \$888,619.00  
9 1978 \$906,940.00  
10 1979 \$748,420.00  
11 1980 \$888,628.00  
12 1981 \$741,467.00  
13 1982 \$742,713.00  
14 1983 \$893,878.00  
15 Fiscal 1984 \$934,324.00  
Fiscal 1985 \$951,195.00  
Fiscal 1986 \$1,105,217.00  
Fiscal 1987 \$1,121,960.00  
Fiscal 1988 \$1,245,548.00  
Fiscal 1989 \$1,238,943.00  
Fiscal 1990 \$1,339,819.00  
Fiscal 1991 \$1,478,630.00  
Fiscal 1992 \$1,794,877.00  
Fiscal 1993 \$1,772,151.00  
Fiscal 1994 \$1,770,995.00

16 **RESPONSE:**

17 In addition to its Recurring Objections, Reynolds objects to this Request on the grounds that  
18 it is vague and ambiguous in its use of the phrase “Center for Tobacco Research.” Reynolds states  
19 that it assumes that Plaintiffs’ reference to the “Center for Tobacco Research” refers to the Council  
20 for Tobacco Research (“CTR”) which was originally known as the Tobacco Industry Research  
21 Committee (“TIRC”). Reynolds also objects to this Request on the ground that it seeks an admission  
22 regarding information that is neither relevant to this action nor reasonably calculated to lead to the  
23 discovery of admissible evidence. Reynolds’ objection is based on the fact that there is no evidence  
24 that Plaintiff, Sandra Camacho, ever saw, read, or heard, much less relied upon, any actions or  
25 statements of the Tobacco Industry Research Committee (“TIRC”), later known as the Council for  
26 Tobacco Research (“CTR”).

27 Subject to and without waiving its objections, Reynolds admits this Request.  
28



1           **REQUEST FOR ADMISSION NO. 8:** Admit that from 1958 through 1999, payments to  
2 the Tobacco Institute from American Tobacco Company amounted to \$28,126,174 as follows:

|    |      |                |
|----|------|----------------|
| 3  | 1958 | \$154,530.00   |
| 4  | 1959 | \$108,891.00   |
|    | 1960 | \$119,943.00   |
| 5  | 1961 | \$246,537.00   |
|    | 1962 | \$198,794.00   |
| 6  | 1963 | \$268,866.00   |
|    | 1964 | \$336,641.00   |
| 7  | 1965 | \$306,177.00   |
| 8  | 1966 | \$149,900.00   |
|    | 1967 | \$160,047.00   |
| 9  | 1968 | \$192,000.00   |
|    | 1969 | \$166,267.00   |
| 10 | 1970 | \$178,169.00   |
|    | 1971 | \$59,679.00    |
| 11 | 1972 | \$170,000.00   |
|    | 1973 | \$25,606.00    |
| 12 | 1974 | \$41,292.00    |
| 13 | 1975 | \$250,000.00   |
|    | 1976 | \$250,000.00   |
| 14 | 1977 | \$250,000.00   |
|    | 1978 | \$250,000.00   |
| 15 | 1979 | \$350,000.00   |
| 16 | 1980 | \$350,000.00   |
|    | 1981 | \$350,000.00   |
| 17 | 1982 | \$500,000.00   |
|    | 1983 | \$650,000.00   |
| 18 | 1984 | \$800,000.00   |
|    | 1985 | \$800,000.00   |
| 19 | 1986 | \$850,000.00   |
| 20 | 1987 | \$850,000.00   |
|    | 1988 | \$2,495,726.00 |
| 21 | 1989 | \$2,565,457.00 |
|    | 1990 | \$3,222,803.00 |
| 22 | 1991 | \$3,427,205.00 |
|    | 1992 | \$2,585,912.00 |
| 23 | 1993 | \$3,279,976.00 |
| 24 | 1994 | \$1,165,756.00 |

25           **RESPONSE:**

26           In addition to its Recurring Objections, Reynolds objects to this Request on the ground that it  
27 seeks an admission regarding information that is neither relevant to this action nor reasonably  
28 calculated to lead to the discovery of admissible evidence. Reynolds' objection is based, in part, on

1 the fact that there is no evidence that Plaintiff, Sandra Camacho, ever saw, read, or heard, much less  
2 relied upon, any actions or statements of the Tobacco Institute. Reynolds' objection also is based on  
3 the fact that this Request seeks an admission regarding activities that are protected by the First  
4 Amendment. *See* Recurring Objection B.

5 Subject to and without waiving its objections, Reynolds admits this Request.

6 **REQUEST FOR ADMISSION NO. 9:** Admit that from 1966 to 1990, American Tobacco  
7 Company contributed \$2,003,464 to the Center for Tobacco Research's Special Projects as follows:

|    |             |               |
|----|-------------|---------------|
| 8  | 1966        | \$ 51,600.00  |
| 9  | 1967        | \$ 51,000.00  |
|    | 1968        | \$ 70,800.00  |
| 10 | 1969        | \$ 22,800.00  |
|    | 1970        | \$ 41,600.00  |
| 11 | 1971        | \$ 61,200.00  |
|    | 1972        | \$ 53,400.00  |
| 12 | 1973        | \$ 33,404.00  |
|    | 1974        | \$ 57,009.00  |
| 13 | 1975        | \$ 43,969.00  |
|    | 1976        | \$ 57,328.00  |
| 14 | 1977        | \$ 106,254.00 |
|    | 1978        | \$ 90,476.00  |
| 15 | 1979        | \$ 103,525.00 |
|    | 1980        | \$ 124,605.00 |
| 16 | 1981        | \$ 104,905.00 |
|    | 1982        | \$ 137,028.00 |
| 17 | 1983        | \$ 94,069.00  |
|    | Fiscal 1984 | \$ 79,778.00  |
| 18 | Fiscal 1985 | \$ 84,804.00  |
|    | Fiscal 1986 | \$ 175,530.00 |
| 19 | Fiscal 1987 | \$ 204,687.00 |
|    | Fiscal 1988 | \$ 94,608.00  |
| 20 | Fiscal 1989 | \$ 75,310.00  |
|    | Fiscal 1990 | \$ 29,665.00  |

21 **RESPONSE:**

22 In addition to its Recurring Objections, Reynolds objects to this Request on the grounds that  
23 it is vague and ambiguous in its use of the phrase "the Center for Tobacco Research." Reynolds  
24 states that it assumes that Plaintiffs' reference to the "Center for Tobacco Research" refers to the  
25 Council for Tobacco Research ("CTR") which was originally known as the Tobacco Industry  
26 Research Committee ("TIRC"). Reynolds also objects to this Request on the ground that it seeks an  
27  
28

admission regarding information that is neither relevant to this action nor reasonably calculated to lead to the discovery of admissible evidence. Reynolds' objection is based, in part, on the fact that there is no evidence that Plaintiff, Sandra Camacho, ever saw, read, or heard, much less relied upon, any actions or statements of CTR.

Subject to and without waiving its objections, Reynolds admits this Request as to American Tobacco's contributions and states that American Tobacco contributed the following amounts by year to co-fund CTR Special Projects:

Year - Contribution:

|             |               |
|-------------|---------------|
| 1966        | \$ 51,600.00  |
| 1967        | \$ 51,000.00  |
| 1968        | \$ 70,800.00  |
| 1969        | \$ 22,800.00  |
| 1970        | \$ 41,600.00  |
| 1971        | \$ 61,200.00  |
| 1972        | \$ 53,400.00  |
| 1973        | \$ 33,404.00  |
| 1974        | \$ 57,009.00  |
| 1975        | \$ 43,969.00  |
| 1976        | \$ 57,328.00  |
| 1977        | \$ 106,254.00 |
| 1978        | \$ 90,476.00  |
| 1979        | \$ 103,525.00 |
| 1980        | \$ 124,605.00 |
| 1981        | \$ 104,905.00 |
| 1982        | \$ 137,028.00 |
| 1983        | \$ 94,069.00  |
| Fiscal 1984 | \$ 79,778.00  |
| Fiscal 1985 | \$ 84,804.00  |
| Fiscal 1986 | \$ 175,530.00 |
| Fiscal 1987 | \$ 204,687.00 |
| Fiscal 1988 | \$ 94,608.00  |
| Fiscal 1989 | \$ 75,310.00  |
| Fiscal 1990 | \$ 29,665.00  |

Except as expressly admitted, Reynolds states that the information known or readily available to Reynolds is insufficient to enable it to admit or deny this Request.

**REQUEST FOR ADMISSION NO. 10:** Admit that from 1953 through 1999, payments to Center for Tobacco Research's General Fund from Lorillard Tobacco Company were the following amount per year, totaling \$40,148,058.73 as follows:

|      |             |
|------|-------------|
| 1953 | \$69,000.00 |
| 1954 | \$35,000.00 |

|    |      |                |
|----|------|----------------|
| 1  | 1955 | \$59,000.00    |
|    | 1956 | \$69,062.50    |
| 2  | 1957 | \$70,312.50    |
|    | 1958 | \$77,015.64    |
| 3  | 1959 | \$96,372.00    |
|    | 1960 | \$118,126.00   |
| 4  | 1961 | \$131,250.00   |
|    | 1962 | \$129,250.00   |
| 5  | 1963 | \$154,375.00   |
|    | 1964 | \$168,748.00   |
| 6  | 1965 | \$176,248.00   |
|    | 1966 | \$195,048.00   |
| 7  | 1967 | \$202,628.00   |
|    | 1968 | \$268,650.00   |
| 8  | 1969 | \$367,900.00   |
|    | 1970 | \$305,900.00   |
| 9  | 1971 | \$239,313.00   |
| 10 | 1972 | \$332,737.00   |
|    | 1973 | \$397,833.68   |
| 11 | 1974 | \$291,304.73   |
|    | 1975 | \$497,054.00   |
| 12 | 1976 | \$523,792.00   |
|    | 1977 | \$608,335.00   |
| 13 | 1978 | \$659,440.44   |
|    | 1979 | \$686,766.00   |
| 14 | 1980 | \$600,817.00   |
|    | 1981 | \$780,923.39   |
| 15 | 1982 | \$728,159.46   |
|    | 1983 | \$892,988.19   |
| 16 | 1984 | \$1,023,306.12 |
|    | 1985 | \$1,018,984.04 |
| 17 | 1986 | \$1,137,278.04 |
|    | 1987 | \$1,336,640.00 |
| 18 | 1988 | \$1,399,459.00 |
|    | 1989 | \$1,330,657.00 |
| 19 | 1990 | \$1,644,678.00 |
|    | 1991 | \$1,677,000.00 |
| 20 | 1992 | \$1,845,000.00 |
|    | 1993 | \$1,793,274.00 |
| 21 | 1994 | \$1,932,000.00 |
|    | 1995 | \$2,125,000.00 |
| 22 | 1996 | \$2,286,500.00 |
|    | 1997 | \$3,922,479.00 |
| 23 | 1998 | \$3,183,472.00 |
|    | 1999 | \$2,558,982.00 |
| 24 |      |                |
| 25 |      |                |
| 26 |      |                |
| 27 |      |                |
| 28 |      |                |

**RESPONSE:**

In addition to its Recurring Objections, Reynolds objects to this Request on the grounds that it is vague and ambiguous in its use of the phrase “Center for Tobacco Research.” Reynolds states that it assumes that Plaintiffs’ reference to the “Center for Tobacco Research” refers to the Council for Tobacco Research (“CTR”) which was originally known as the Tobacco Industry Research Committee (“TIRC”). Reynolds also objects to this Request on the ground that it seeks an admission regarding information that is neither relevant to this action nor reasonably calculated to lead to the discovery of admissible evidence. Reynolds’ objection is based on the fact that there is no evidence that Plaintiff, Sandra Camacho, ever saw, read, or heard, much less relied upon, any actions or statements of CTR.

Subject to and without waiving its objections, Reynolds admits this Request.

**REQUEST FOR ADMISSION NO. 11:** Admit that from 1958 through 1999, payments to the Tobacco Institute from Lorillard Tobacco Company amounted to \$57,068,750.41 as follows:

|      |                |
|------|----------------|
| 1958 | \$43,527.92    |
| 1959 | \$52,236.75    |
| 1960 | \$80,949.09    |
| 1961 | \$106,000.00   |
| 1962 | \$82,460.00    |
| 1963 | \$118,150.00   |
| 1964 | \$144,375.00   |
| 1965 | \$115,425.00   |
| 1966 | \$109,350.00   |
| 1967 | \$145,876.37   |
| 1968 | 0*             |
| 1969 | 0*             |
| 1970 | 0*             |
| 1971 | \$274,580.35   |
| 1972 | Not available  |
| 1973 | \$130,745.40   |
| 1974 | \$207,520.00   |
| 1975 | \$251,737.20   |
| 1976 | \$281,184.20   |
| 1977 | \$329,354.50   |
| 1978 | \$690,877.11   |
| 1979 | \$1,247,767.00 |
| 1980 | \$1,260,893.00 |
| 1981 | \$1,695,229.00 |
| 1982 | \$2,269,787.00 |

1 1983 \$2,150,121.00  
2 1984 \$2,219,160.00  
3 1985 \$2,414,513.00  
4 1986 \$2,552,095.00  
5 1987 \$3,057,463.00  
6 1988 \$3,206,271.00  
7 1989 \$3,605,355.00  
8 1990 \$4,367,449.00  
9 1991 \$3,703,653.00  
10 1992 \$3,247,920.00  
11 1993 \$3,008,512.00  
12 1994 \$1,466,723.00  
13 1995 \$1,987,636.00  
14 1996 \$3,148,626.00  
15 1997 \$3,481,641.00  
16 1998 \$2,535,264.00  
17 1999 \$2,551,254.00

18 **RESPONSE:**

19 In addition to its Recurring Objections, Reynolds objects to this Request on the ground that it  
20 seeks an admission regarding information that is neither relevant to this action nor reasonably  
21 calculated to lead to the discovery of admissible evidence. Reynolds' objection is based, in part, on  
22 the fact that there is no evidence that Plaintiff, Sandra Camacho, ever saw, read, or heard, much less  
23 relied upon, any actions or statements of the Tobacco Institute. Reynolds' objection also is based on  
24 the fact that this Request seeks an admission regarding activities that are protected by the First  
25 Amendment. *See* Recurring Objection B.

26 Subject to and without waiving its objections, Reynolds admits that, based upon available  
27 information, Lorillard's annual contributions, including non-member contributions, to the Tobacco  
28 Institute were as follows:

Year - Contribution:

|      |    |            |
|------|----|------------|
| 1958 | \$ | 43,527.92  |
| 1959 | \$ | 52,236.75  |
| 1960 | \$ | 80,949.09  |
| 1961 | \$ | 106,000.00 |
| 1962 | \$ | 82,460.00  |
| 1963 | \$ | 118,150.00 |
| 1964 | \$ | 144,375.00 |
| 1965 | \$ | 115,425.00 |
| 1966 | \$ | 109,350.00 |

|    |      |                |
|----|------|----------------|
| 1  | 1967 | \$ 145,876.37  |
|    | 1968 | 0*             |
| 2  | 1969 | 0*             |
|    | 1970 | 0*             |
| 3  | 1971 | \$ 274,580.35  |
|    | 1972 | Not available  |
| 4  | 1973 | \$ 130,745.40  |
|    | 1974 | \$ 207,520.00  |
| 5  | 1975 | \$ 251,737.20  |
|    | 1976 | \$ 281,184.20  |
| 6  | 1977 | \$ 329,354.50  |
|    | 1978 | \$ 690,877.11  |
| 7  | 1979 | \$1,247,767.00 |
|    | 1980 | \$1,260,893.00 |
| 8  | 1981 | \$1,695,229.00 |
|    | 1982 | \$2,269,787.00 |
| 9  | 1983 | \$2,150,121.00 |
|    | 1984 | \$2,219,160.00 |
| 10 | 1985 | \$2,414,513.00 |
|    | 1986 | \$2,552,095.00 |
| 11 | 1987 | \$3,057,463.00 |
|    | 1988 | \$3,206,271.00 |
| 12 | 1989 | \$3,605,355.00 |
|    | 1990 | \$4,367,449.00 |
| 13 | 1991 | \$3,703,653.00 |
|    | 1992 | \$3,247,920.00 |
| 14 | 1993 | \$3,008,512.00 |
|    | 1994 | \$1,466,723.00 |
| 15 | 1995 | \$1,987,636.00 |
|    | 1996 | \$3,148,626.00 |
| 16 | 1997 | \$3,481,641.00 |
|    | 1998 | \$2,535,264.00 |
| 17 | 1999 | \$2,551,254.00 |

18 Except as expressly admitted, Reynolds states that the information known or readily  
19 available to Reynolds is insufficient to enable it to admit or deny this Request.

20 **REQUEST FOR ADMISSION NO. 12:** Admit that from 1966 to 1990, Lorillard Tobacco  
21 Company contributed to the Center for Tobacco Research's Special Projects the following amounts  
22 per year, totaling \$1,635,358.68 as follows:

|    |      |             |
|----|------|-------------|
| 23 | 1966 | \$18,800.00 |
|    | 1967 | \$19,200.00 |
| 24 | 1968 | \$32,400.00 |
|    | 1969 | \$10,400.00 |
| 25 | 1970 | \$18,400.00 |
|    | 1971 | \$28,200.00 |
| 26 | 1972 | \$18,400.00 |
|    | 1973 | \$17,369.68 |
| 27 | 1974 | \$35,943.00 |
| 28 |      |             |

1 1975 \$23,050.00  
2 1976 \$30,233.00  
3 1977 \$59,757.00  
4 1978 \$63,444.00  
5 1979 \$80,252.00  
6 1980 \$104,203.00  
7 1981 \$94,950.00  
8 1982 \$129,296.00  
9 1983 \$92,676.00  
10 1984 \$85,271.00  
11 1985 \$89,070.00  
12 1986 \$190,058.00  
13 1987 \$156,796.00  
14 1988 \$112,657.00  
15 1989 \$90,113.00  
16 1990 \$34,420.00

11 **RESPONSE:**

12 In addition to its Recurring Objections, Reynolds objects to this Request on the grounds that  
13 it is vague and ambiguous in its use of the phrase “the Center for Tobacco Research.” Reynolds  
14 states that it assumes that Plaintiffs’ reference to the “Center for Tobacco Research” refers to the  
15 Council for Tobacco Research (“CTR”) which was originally known as the Tobacco Industry  
16 Research Committee (“TIRC”). Reynolds also objects to this Request on the ground that it seeks an  
17 admission regarding information that is neither relevant to this action nor reasonably calculated to  
18 lead to the discovery of admissible evidence. Reynolds’ objection is based, in part, on the fact that  
19 there is no evidence that Plaintiff, Sandra Camacho, ever saw, read, or heard, much less relied upon,  
20 any actions or statements of CTR.

21 Subject to and without waiving its objections, Reynolds admits this Request.

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///



1 DATED this 17<sup>th</sup> day of December, 2021.

2 BAILEY ♦ KENNEDY

3  
4 By: /s/ Joseph A. Liebman  
5 DENNIS L. KENNEDY  
6 JOSEPH A. LIEBMAN  
7 REBECCA L. CROOKER

8 AND

9 KING & SPALDING LLP  
10 VALENTIN LEPPERT  
11 (*Admitted Pro Hac Vice*)  
12 URSULA MARIE HENNINGER  
13 (*Admitted Pro Hac Vice*)

14 *Attorneys for Defendant*  
15 R.J. REYNOLDS TOBACCO COMPANY  
16  
17  
18  
19  
20  
21  
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28

**CERTIFICATE OF SERVICE**

I certify that I am an employee of BAILEY ♦ KENNEDY and that on the 17<sup>th</sup> day of December, 2021, service of the foregoing **DEFENDANT R. J. REYNOLDS TOBACCO COMPANY'S RESPONSES TO PLAINTIFF'S REQUEST FOR ADMISSIONS TO DEFENDANT R.J. REYNOLDS TOBACCO COMPANY REGARDING TIRC/CTR & TI** 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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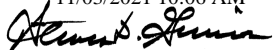
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*Attorneys for Plaintiffs*  
SANDRA CAMACHO and ANTHONY  
CAMACHO

---

/s/ Sharon L. Murnane  
Employee of BAILEY ♦ KENNEDY

  
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*Attorneys for Plaintiffs*

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 2<sup>nd</sup> day of November 2021.

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 \_\_\_\_ day of \_\_\_\_ 2021.

BAILEY KENNEDY

*Submitting Competing Order*

\_\_\_\_\_  
Dennis L. Kennedy  
Nevada Bar No. 1462  
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Las Vegas, Nevada 89148  
*Attorneys for Defendant R.J. Reynolds Tobacco Company*

1 CSERV

2 DISTRICT COURT  
3 CLARK COUNTY, NEVADA

|   |                              |                        |
|---|------------------------------|------------------------|
| 4 |                              |                        |
| 5 |                              |                        |
| 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)                 |                        |

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:

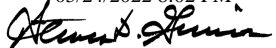
14 Service Date: 11/3/2021

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| 26                     |                                      |
| 27                     |                                      |
| 28                     |                                      |



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CLERK OF THE COURT

**ORDER**

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DISTRICT COURT  
CLARK COUNTY, NEVADA

MARTIN TULLY, individually, and  
DEBRA TULLY, individually,  
  
Plaintiffs,

v.

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; JAMEZ LLC (d/b/a  
JAMEZ SMOKES & CIGARS), a limited

CASE NO.: A-19-807657-C

DEPT. NO.: XVII

**ORDER DENYING DEFENDANTS'  
MOTION FOR SUMMARY  
JUDGMENT ON PLAINTIFFS'  
PUNITIVE DAMAGES CLAIM**

liability corporation; RED ROCK SMOKE  
SHOP INC., a domestic corporation; and  
DOES I-X; and ROE BUSINESS  
ENTITIES XI-XX, inclusive

Defendants.

**ORDER DENYING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT  
ON PLAINTIFFS' PUNITIVE DAMAGES CLAIM**

Defendants' Motion for Summary Judgment on Plaintiffs' Punitive Damages Claim came before the Court and was heard by former Nevada Supreme Court Justice Mark Gibbons and then taken under advisement by this Court. After carefully considering the evidence and arguments submitted, and good cause appearing, the COURT FINDS and ORDERS as follows:

1. Defendants seek to dismiss Plaintiffs' claims for punitive damages based on the Master Settlement Agreement ("MSA") agreed to in 1998, which resulted from a lawsuit brought by the Nevada Attorney General against several tobacco companies, including the Defendants in this case. Defendants argue that the MSA released Plaintiffs' rights to punitive damages in their private tort action, even though Plaintiffs' private action only accrued in 2018 when Martin Tully was diagnosed with cancer.
2. Summary judgment is appropriate only when no genuine issues of material fact exist and the moving party is entitled to judgment as a matter of law. *Stalk v. Mushkin*, 125 Nev. 21, 24–25 (2009). Defendants' Motion relies heavily upon the MSA and its language. Therefore, as a threshold issue, this Court must determine whether it can consider the MSA in a motion for summary judgment.

- 1 3. “The admissibility of evidence on a motion for summary judgment is subject to  
2 NRCP 43(a), and evidence that would be inadmissible at the trial of the case is  
3 inadmissible on a motion for summary judgment. The trial court may not consider  
4 hearsay or other inadmissible evidence whether it be in the form of direct  
5 testimony given in court of whether it appears in a deposition or answers to  
6 interrogatories.” *Adamson v. Bowker*, 85 Nev. 115, 119 (1969).
- 7 4. In both Nevada and federal courts, a public record that may be subject to judicial  
8 notice does not automatically come into evidence if its content is inadmissible. See  
9 *Khoja v. Orexigen Therapeutics, Inc.*, 899 F.3d 988, 999 (9th Cir. 2018) and *In re*  
10 *Parental Rights as to R.Y.*, 130 Nev. 1197 (2014). As the Ninth Circuit explained,  
11 “accuracy is only part of the inquiry under [the rule for judicial notice]...Just  
12 because the document itself is susceptible to judicial notice does not mean that  
13 every assertion of fact within that document is judicially noticeable for its truth.”  
14 *Khoja* at 999. It is especially improper for a court to judicially notice a document  
15 whose substance “is subject to varying interpretations, and there is a reasonable  
16 dispute as to what [it] establishes.” *Id.* at 1000.
- 17 5. Since there is a dispute over the MSA’s scope, terms, meaning, and applicability  
18 to subsequent private plaintiffs seeking punitive damages in their individual  
19 torts, this Court’s ability to take judicial notice of the MSA at this time is  
20 questionable. Therefore, as the Court does not take judicial notice of the MSA, the  
21 granting of Summary Judgment on Plaintiff’s request for punitive damages is  
22 unwarranted.

23 ///

6. For the above reasons, this COURT ORDER: Defendants' motion is DENIED  
Dated this 24th day of May, 2022

without prejudice at this time.



IT IS SO ORDERED.

**9D8 C2D AECA 78A7**  
**Michael Villani**  
**District Court Judge**

For Judge Gibbons

|  |  |
|--|--|
| <p>Respectfully Submitted by:<br/>Dated this 20th day of May 2022<br/>CLAGGETT &amp; SYKES LAW FIRM</p> <p><u>/s/ Sean K. Claggett</u><br/>Sean K. Claggett, Esq.<br/>Nevada Bar No. 8407<br/>4101 Meadows Lane, Suite 100<br/>Las Vegas, Nevada 89107<br/><i>Attorneys for Plaintiff</i></p>  | <p>Reviewed as to Form and Content:<br/>Dated this 20th day of May 2022<br/>BAILEY KENNEDY</p> <p><u>/s/ Joseph Liebman</u><br/>Joseph Liebman<br/>Nevada Bar No. 10125<br/>8984 Spanish Ridge Avenue<br/>Las Vegas, Nevada 89148<br/><i>Attorneys for Defendant, R.J. Reynolds Tobacco Company</i></p>                                    |
| <p>Reviewed as to Form and Content:<br/>Dated this 20th day of May 2022<br/>WEINBERG WHEELER HUDGINS<br/>GUN &amp; DIAL</p> <p><u>/s/ Brian A. Jackson</u><br/>Brian A. Jackson<br/>Pro Hac<br/>6385 South Rainbow Boulevard, Ste 400<br/>Las Vegas, Nevada 89118<br/><i>Attorneys for Defendant, Philip Morris USA, Inc., Jamez LLC, and Red Rock Smoke Shop Inc.</i></p> | <p>Reviewed as to Form and Content:<br/>Dated this 20th day of May 2022<br/>LEWIS ROCA ROTHGERBER<br/>CHRISTIE</p> <p><u>/s/ J. Christopher Jorgensen</u><br/>J. Christopher Jorgensen<br/>Nevada Bar No. 5382<br/>3993 Howard Hughes Parkway, #600<br/>Las Vegas, Nevada 89169<br/><i>Attorneys for Defendant, Liggett Group, LLC</i></p> |

1 CSERV

2 DISTRICT COURT  
3 CLARK COUNTY, NEVADA

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6 Martin Tully, Plaintiff(s)

CASE NO: A-19-807657-C

7 vs.

DEPT. NO. Department 17

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  
recipients registered for e-Service on the above entitled case as listed below:

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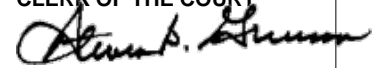
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**DISTRICT COURT**

**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

Case No.: A-19-807650-C  
Dept. No.: IV

**DEFENDANTS PHILIP MORRIS USA  
INC. AND R.J. REYNOLDS TOBACCO  
COMPANY'S REPLY IN SUPPORT OF  
THEIR MOTION FOR PARTIAL  
SUMMARY JUDGMENT ON  
PLAINTIFFS' PUNITIVE DAMAGES  
CLAIM**

**Hearing Date: July 19, 2022**

**Hearing Time: 9:00 a.m.**



corporation; ASM NATIONWIDE  
CORPORATION d/b/a SILVERADO  
SMOKES & CIGARS, a domestic corporation;  
and LV SINGHS INC. d/b/a SMOKE &  
VAPORS, a domestic corporation; DOES I-X;  
and ROE BUSINESS ENTITIES XI-XX,  
inclusive,

Defendants.

Defendants, Philip Morris USA Inc. (“PM USA”) and R.J. Reynolds Tobacco Company  
 (“Reynolds”) (collectively, “Defendants”), by and through their counsel of record, Shook, Hardy  
& Bacon, LLP, WEINBERG, WHEELER, HUDGINS, GUNN & DIAL, LLC, Fasi & DiBello, King &  
 Spalding, and Bailey Kenney, hereby submit this Reply in Support of Their Motion for Partial  
 Summary Judgment on Plaintiffs’ Punitive Damages Claim.

## **MEMORANDUM OF POINTS AND AUTHORITIES**

### **I. INTRODUCTION**

Plaintiffs’ arguments do nothing to change the basic principle: *res judicata* bars their  
 punitive damages claim because the Nevada Attorney General vindicated and released such  
 claims on their behalf over two decades ago. Accordingly, the Court should grant summary  
 judgment in Defendants’ favor on Plaintiffs’ punitive damages claim under Nevada Rule of Civil  
 Procedure 56.

### **II. ARGUMENT**

Defendants argued in their Motion for Summary Judgment that Plaintiffs’ punitive  
 damages claim was barred by *res judicata* and released by the MSA. Plaintiffs’ response fails to  
 adequately address either of those arguments, instead opting to focus on procedural issues that  
 lack merit.

#### **A. Plaintiffs’ Procedural Arguments Fail.**

Plaintiffs argue that the Court cannot grant Defendants’ Motion because the MSA is  
 subject to varying interpretations and constitutes inadmissible evidence. Pls.’ Resp. at 3–4. This  
 argument misapprehends the required analysis. Indeed, the Court does not even need to examine  
 the MSA itself in order to make a legal determination about *res judicata*. All that is necessary to  
 establish a *res judicata* defense is to show that there was a prior suit asserting the same claims

(i.e., that there was a complaint containing identical claims to the current suit), and that that suit was resolved via a final judgment. The MSA—which was incorporated by reference in the consent decree and was therefore part of the final judgment—is certainly helpful to the court in confirming that the judgment did indeed resolve all of the pending claims. But the admissibility of that document is a red herring: even if the court chooses to ignore the document entirely, the *res judicata* claim is capable of resolution. This requires nothing more than a comparison between the Nevada Attorney General’s complaint and Plaintiffs’ complaint in this case to see whether the two arise from the same set of facts and circumstances, along with a review of the final judgment to ensure that the claims arising from those same circumstances were resolved on the merits. To that end, Defendants attached to their motion for summary judgment (1) the Nevada Attorney General’s complaint, (2) the final judgment entered in the Nevada Attorney General’s case, and (3) Plaintiffs’ complaint in this case.

Plaintiffs cite no rules or cases holding that the MSA cannot be considered for purposes of summary judgment. Rather, Plaintiff argues that because another district court in Nevada was skeptical of whether it can take judicial notice the MSA, this Court should also deny Defendants’ Motion.<sup>1</sup> The logical implications of Plaintiffs’ claim that this Court cannot consider the MSA at the summary judgment stage are absurd. If Plaintiffs were right, no party could ever properly invoke *res judicata* as a defense to a subsequent lawsuit. By Plaintiffs’ logic, even if the current Nevada Attorney General refiled the exact same lawsuit his predecessor settled over two decades ago, Defendants would be unable to cite the prior lawsuit and settlement to support dismissal. That cannot be right—indeed, courts frequently resolve questions of *res judicata* at the summary judgment stage by considering the type of documents presented by Defendants here. *See Kuptz-Blinkinsop v. Blinkinsop*, 136 Nev. 360, 365, 466 P.3d 1271, 1276 (2020) (affirming summary judgment on *res judicata* grounds after comparing prior petition with current petition and examining final divorce decree from first court); *Landers v. Quality Commc’ns, Inc.*, 130 Nev.

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<sup>1</sup> A motion for reconsideration is currently pending in the other district court case Plaintiffs rely upon. Moreover, as discussed in Defendants’ Motion for Judicial Notice (filed May 25, 2022), this Court need not take judicial notice of the MSA to rule on Defendants’ Summary Judgment Motion, but the Court can take judicial notice of the MSA.



1207, 2014 WL 3784254, at \*1–2 (July 30, 2014) (affirming summary judgment on *res judicata* grounds in the first instance, comparing prior complaint to current complaint); *LaForge v. State, Univ. & Cmty. Coll. Sys. Of Nev.*, 116 Nev. 415, 421, 997 P.2d 130, 134 (2000) (affirming summary judgment on *res judicata* grounds, in part quoting first court’s order); *see also Five Star Capital Corp. v. Ruby*, 124 Nev. 1053, 194 P.3d 709, 712 (2008) (noting that claim preclusion applies where the “*first and second complaint* are based on the same set of common facts” and where “the same relief is sought in the *two complaints*” (emphasis added; citation omitted)).

Unsurprisingly, none of the cases Plaintiffs cite for their position supports the notion that the Court cannot consider publicly filed court records (*i.e.*, the two complaints and the prior judgment) at the summary judgment stage. *See Occhiuto v. Occhiuto*, 97 Nev. 143, 652 P.2d 568 (1981); *Khoja v. Orexigen Therapeutics, Inc.*, 899 F.3d 988 (9th Cir. 2018); *Reina-Rodriguez v. United States*, 655 F.3d 1182 (9th Cir. 2011). None of those cases involved summary judgment, where litigants routinely submit documents in support of their position without requesting judicial notice. Two of the cited cases discuss the propriety of taking judicial notice when considering a *motion to dismiss*, which typically does not allow a court to review materials outside the four corners of the complaint. *See Occhiuto*, 97 Nev. at 145; *Khoja*, 899 F.3d at 994. These concepts have no application at the summary judgment stage, especially where Plaintiffs have raised no challenge to the authenticity of the two complaints and the prior judgment.

Equally unavailing is Plaintiffs’ discussion of the MSA itself. They claim that the document is subject to varying interpretations and that it contains a clause prohibiting its introduction into evidence. Pls.’ Resp. at 5–8. As an initial matter, Defendants’ *res judicata* argument does not depend on the MSA itself or any interpretation thereof but rather on the two complaints and the prior judgment (which attaches the MSA). But in any event, Plaintiffs merely offer broad generic assertions that there is a genuine issue of material fact regarding the “scope of the MSA, the contractual parties’ understanding of its application, and whose claims were dismissed.” Pls.’ Resp. at 4. Plaintiffs make no effort—as Nevada law requires them to do—to “cite” to any “particular” fact in the MSA that is “genuinely dispute[d],” much less any



1 that are relevant to the claim preclusion analysis. NRCP 56. As Defendants have demonstrated,  
2 there is no dispute as to the scope of the claim dismissed with prejudice in the prior lawsuit, and  
3 it is the same claim that Plaintiffs pursue here. That is all that matters.

4 Plaintiffs instead claim that this Court cannot take judicial notice of the MSA because  
5 there are varying factual interpretations of the MSA “such that there is a reasonable dispute as to  
6 what [it] establishes.” Pls.’ Resp. at 5. This is incorrect and a red herring. As previously  
7 explained, judicial notice is not necessary for the Court to consider materials submitted in  
8 support of a motion for summary judgment. And what is more, the courts in other states that  
9 have considered the MSA did not base their opinions on varying “factual interpretations” of the  
10 MSA’s terms. Rather, they conducted *legal interpretations* based on the *different law* in each  
11 jurisdiction—particularly, whether the purpose of punitive damages is to vindicate a public or a  
12 private right. *See* Defs.’ Mot. at 11–14. Hence, the Court should reject Plaintiffs’ attempt to  
13 mischaracterize how those other courts reached their opinions in those cases.

14 The same is true as it relates to Plaintiffs’ reliance on Judge Villani’s Order Denying  
15 Defendants’ Motion for Summary Judgment on Plaintiffs’ Punitive Damages Claim, *Tully v.*  
16 *Philip Morris USA Inc.*, No. A-10-807657-C (“*Tully Order*”). Indeed, at the hearing on the  
17 motion for summary judgment, Former Chief Justice Mark Gibbons, who heard the motion,  
18 never raised the issue of judicial notice at the hearing, and instead focused on the merits of the  
19 motion before him, and concluding by commenting that this particular issue was one affecting an  
20 important “public interest” and would “ultimately” have “to be decided by the Nevada Supreme  
21 Court”:

22 I just have one observation though on where the case goes.  
23 **Regardless of who prevails in this motion, ultimately it has to**  
24 **be decided by the Nevada Supreme Court.** I mean, the District  
25 Court is just a conduit for it to get to the Supreme Court. So you  
26 have to come here first. So I get why you can’t do it initially in the  
27 Supreme Court. My thoughts are that the parties might want to  
28 avail themselves of Rule 3A of the Nevada Rules of Appellate  
Procedure on direct appeals depending on what the ruling is or  
Rule 21 of the rules of appellate procedure on writs, and again,  
depending on who prevails on the case. Because **I do believe that**  
**the Supreme Court would take this case quickly and would**  
**rule on it and have this issue resolved prior to the time that it's**



going to trial. That's my -- I could be wrong, **but I think this is a public interest case.** It's one that would attract their attention if you sent it to them either way.

Hr'g Tr. at 30–31, *Tully v. Philip Morris USA Inc.*, No. A-19-807657-C (8th Jud. Dist. Ct. May 3, 2022) (Ex. A) (emphases added). However, the *Tully* Order did not reach the merits of the defendants' *res judicata* defense.<sup>2</sup> Rather, the Judge Villani was persuaded by plaintiff that it could not consider the MSA on a motion for summary judgment because it is not admissible. But, this Court need not make any determination as to whether the MSA is admissible when addressing the merits of a *res judicata* defense. To be sure, the Nevada Supreme Court has considered final judgments, decrees, and other legal documents on motions for summary judgment and determined that *res judicata* bars a party from relitigating a previously adjudicated claim without indicating a need to make any threshold admissibility determination, such as judicial notice. *See, e.g., Kuptz-Blinkinsop v. Blinkinsop*, 136 Nev. 360, 365, 466 P.3d 1271, 1276 (2020) (affirming the district court's grant of summary judgment and reasoning "[r]eviewing the record and the briefs, we determine that Thomas demonstrated that Trisha's partition action was claim precluded by the divorce decree, which adjudicated the Deer Springs property as Thomas's sole and separate property." (Gibbons and Silver, J.J., concurring)); *Five Star*, 194 P.3d at 715 (affirming district court's grant of summary judgment based on claim preclusion regarding the plaintiff's second action asserting breach of contract where it was based on the same facts asserted in the first action that the Court previously dismissed (Gibbons, C.J., and Hardesty, Parraguirre, Douglas, and Cherry, JJ., concurring)). As such, this Court need not take judicial notice of the MSA to determine whether *res judicata* bars Plaintiffs' punitive damages claim.

#### **B. *Res Judicata* Bars Plaintiffs' Punitive Damages Claim.**

In their Motion for Summary Judgment, Defendants argued that *res judicata* barred Plaintiffs punitive damages claim because: (1) Plaintiffs were in privity with the attorney general; (2) the final judgment was valid; and (3) the issues to be decided in the present case are

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<sup>2</sup> A motion for reconsideration is currently pending in *Tully*, and will be heard in August 2022.



the same as those raised in the 1997 lawsuit filed by the Nevada Attorney General. Plaintiffs' response falls well short of rebutting these arguments.

1. Privity

Defendants explained in their Motion that because the Nevada Attorney General brought the 1997 lawsuit in *parens patriae*, on behalf of the citizens of Nevada, Plaintiffs were represented in that suit and are thus bound by its resolution, at least insofar as the Nevada Attorney General was advancing public claims on behalf of state citizens rather than private claims on behalf of the state government. And with respect to punitive damages, the Nevada Attorney General did just that: she sought to punish the defendants and deter them from future misconduct, not to seek compensation—either for the state or for any individual. *See* Defs.' Mot. at 6–9.

Plaintiffs first argue that “their interest in vindicating their individual, private claims as alleged in this case is not a sovereign interest . . . that the State could bring on their behalf.” Pls.' Resp. at 10. That is true, but irrelevant. Defendants do not seek to bar Plaintiffs from asserting their private claims for which they seek compensatory damages to make them whole. But principles of *res judicata* do bar Plaintiffs from asserting the public claim they make for punitive damages—a form of relief that the Nevada Supreme Court has explained “has as its underlying purpose public policy concerns unrelated to the compensatory entitlements of the injured party.” *Siggelkow v. Phoenix Ins. Co.*, 109 Nev. 42, 45, 846 P.2d 303, 305 (1993). As to that claim, the Nevada Attorney General represented Plaintiffs in the earlier suit and vindicated their interests—and the interest of all Nevada residents and citizens—to the tune of a \$240 billion settlement. This is the precise argument Defendants made in their Motion, to which Plaintiffs did not respond.

Next, Plaintiffs' assertion that “the State had no authority to assert private claims on behalf of individuals” and would create “serious constitutional problems” is without merit. Pls.' Resp. at 11. As explained in Defendants' Motion, Nevada law clearly provides the Nevada Attorney General with the authority to bring civil lawsuits on behalf of the residents and citizens of Nevada to protect and secure the **public interests** (*e.g.*, claims for punitive damages to punish





and deter misconduct). *See* NRS 228.170 (“when, in the opinion of the Attorney General, to protect and secure the interest of the State it is necessary that a suit be commenced or defended in any federal or state court, the Attorney General shall commence the action or make the defense”); NRS 598.0963(3) (“If the Attorney General has reason to believe that a person has engaged or is engaging in a deceptive trade practice, the Attorney General may bring an action in the name of the State of Nevada against that person to obtain a temporary restraining order, a preliminary or permanent injunction, or other appropriate relief.”); *State ex rel. Johnson v. Reliant Energy, Inc.*, 128 Nev. 483, 486, 289 P.3d 1186, 1188 n.2 (2012) (recognizing that Nevada common law provides the Attorney General with the ability to sue on behalf of the State “in its capacity as *parens patriae* on behalf of the residents”).

## 2. Final Judgment

Plaintiffs do not and cannot dispute that the second element of claim preclusion is satisfied. The Attorney General’s suit was resolved via a stipulated settlement and dismissal, which satisfies the “final judgment” requirement of *res judicata*. *Mendenhall v. Tassinari*, 133 Nev. 614, 618, 403 P.3d 364, 370 (2017).

## 3. Claim Identity

Defendants’ Motion explained that Plaintiffs premise their punitive damages claim on identical allegations of wrongdoing that the Nevada Attorney General alleged in the 1997 lawsuit. *See* Defs.’ Mot. at 9–10. This included a page-long bulleted list comparing the allegations in the 1997 Complaint with those in Plaintiffs’ Amended Complaint, establishing that they were premised on the “same set of facts and circumstances.” *Id.* Plaintiffs do not dispute this. Instead, Plaintiffs argue that claim preclusion does not apply because “punitive damages is a “remedy, not a cause of action” under Nevada law. Pls.’ Resp. at 6. But it is the facts upon which their claim is based, not its legal label, that matters. As explained in Defendants’ Motion, under Nevada law, “[t]he test for determining whether the claims, or any part of them, are barred in a subsequent action is if they are ‘based on the same set of facts and circumstances as the [initial action].’” *Mendenhall*, 403 P.3d at 370 (quoting *Five Star*, 194 P.3d at 714). In other words, so long as the claims stem from “the same set of facts and circumstances,” *res judicata*



1 applies, irrespective of whether a plaintiff in a second lawsuit seeks to present different evidence  
2 or legal theories or seek additional damages. *Id.*

3 Thus, Plaintiffs having pled punitive damages as a remedy in their Amended Complaint  
4 is irrelevant; what governs is the substance, not the label. And the substance of their Amended  
5 Complaint is identical. To recover punitive damages, Plaintiffs, like the Nevada Attorney  
6 General, need to separately plead and prove aggravating facts about Defendants' motivations,  
7 their conduct, and the effects of that conduct. That constitutes a "claim" based on the "same set  
8 of facts and circumstances" for *res judicata* purposes. As the New York Appellate Division  
9 explained in *Fabiano v. Philip Morris Inc.*, "[a]lthough punitive damages claims depend upon  
10 the existence of an underlying cause of action for a compensatory relief . . . they are nonetheless  
11 distinct claims, seeking relief upon a vastly different evidentiary predicate than that which would  
12 suffice to support a claim for personal injury, and are justified as a matter of policy for public  
13 ends." 54 A.D. 3d 146, 151 (N.Y. App. Div. 2008).

14 Plaintiffs may not evade *res judicata* by seeking double recovery for the same acts by  
15 labeling their claims as a different remedy or advancing a new theory of damages.

### 16 **C. Plaintiffs' Other Arguments Similarly Fail.**

#### 17 1. The MSA Did Not Specifically Exclude Plaintiffs' Claim for Punitive 18 Damages.

19 Plaintiffs claim that the MSA did not release their punitive damages claim because the  
20 MSA carved out "private or individual remedies for separate and distinct injuries." Pls.' Resp. at  
21 20. However, as previously stated, Defendants do not disagree that the MSA permits Plaintiffs  
22 to pursue private claims. But that is not the case for Plaintiffs' punitive damages claim because  
23 that is a public, *not private*, claim under Nevada law, which the MSA specifically released. *See*  
24 *Defs.' Mot.* at 6–7.

#### 25 2. Philip Morris v. Williams Does Not Foreclose Defendants' Claim Preclusion 26 Argument.

27 Plaintiffs' next claim that due process and the *Williams* case foreclose Defendants' claim  
28 preclusion argument "because they were nonparties whose underlying claims had yet to even



accrue.” Pls.’ Resp. at 12–13. This is incorrect because Nevada law empowered the Nevada Attorney General to act on behalf of its citizens with respect to the claims and conduct underlying Plaintiffs’ punitive damages claim. In fact, the Nevada Attorney General expressly agreed to the release of certain claims—including accrued and unaccrued claims. *See* Defs.’ Mot. at 4–5.

First, it is undisputed that Nevada law empowers the Nevada Attorney General to bring civil lawsuits on behalf of the residents and citizens of Nevada—including Plaintiffs—to protect and secure the **public interests**. *See supra* at 6–8. Second, it is undisputed that the Nevada Attorney General did exactly that when she filed the 1997 lawsuit and sought relief on behalf of Nevada citizens for the harm caused by their use of tobacco products manufactured by defendants.<sup>3</sup>

As a result, Defendants’ claim preclusion argument in no way conflicts with *Williams*. Pls.’ Resp. at 12–13. Defendants’ position is *not* that a defendant may only be subject to punitive damage once. It is that *these* Plaintiffs cannot seek punitive damages *again* because the Nevada Attorney General already sought and released them on their behalf. That is not at odds with *Williams*, which held that “a state [cannot] use a punitive damages award to punish a defendant for injury that it inflicts upon nonparties.” 549 U.S. 346, 353 (2007). *Williams* does not hold that a plaintiff may recover punitive damages despite having done so already through a privy.<sup>4</sup>

<sup>3</sup> *See, e.g.*, Nev. A.G. Compl. ¶ 354 (“[D]efendants have unreasonably injured and endangered the comfort, repose, health and safety of the **residents of the State of Nevada** by selling tobacco products which are dangerous to human life and health and cause injury, disease and sickness. Defendants’ acts have caused damage to the public, the public safety and the general welfare of **citizens of Nevada** and have caused great and/or irreparable harm to the State of Nevada.” (emphasis added)); *id.* ¶ 359 (“defendants have unreasonably injured and endangered the comfort, repose, health and safety of the **residents of the State of Nevada** in violation of NRS 202.450 by selling their tobacco products in an unlawful manner as outlined in Courts 1-5 above. Defendants have caused damage to the public, the public safety and the general welfare of the **residents of the State of Nevada**, and constitute a public nuisance.” (emphasis added); *id.* ¶¶ 278–98, 376, 386, 398–99, 403–05 (asserting numerous allegations regarding the health effects of tobacco products on Nevada residents).

<sup>4</sup> In the Oregon Supreme Court’s later *Williams* opinion, the court addressed the scope of the MSA’s release, not the Consent Decree’s preclusive effect. That “punitive damages may not be awarded to punish a defendant for harms to persons who were not parties to the litigation,” *Williams v. R.J. Reynolds Tobacco Co.*, 351 Or. 368, 386, 271 P.3d 103, 113 (2011), does not mean that the Attorney General has not already litigated to a judgment a punitive damages claim on Plaintiffs’ behalf.

3. The New York and Georgia Decisions Turn on Whether a Claim for Punitive Damages is a Public or Private Right, No the Uniqueness of State Laws.

Both the New York and Georgia courts have made clear that their decisions finding punitive damages claims barred by the MSA were based on the fact that punitive damages in those states (like in Nevada) seek to vindicate a **public**, not a private, right, not some peculiarity of their states' law as Plaintiffs assert. *See Fabiano*, 54 A.D.3d at 150 (concluding that under New York law, "punitive damages are quintessentially and exclusively public in their ultimate orientation and purpose," and "do not, even when asserted in the context of a personal injury action, essentially relate to individual injury."); *Brown & Williamson Tobacco Corp. v. Gault*, 627 S.E.2d 549, 552 (Ga. 2006) ("Because punitive damages serve a public interest and are intended to protect the general public, as opposed to benefiting or rewarding particular private parties," "the State, in seeking punitive damages in the suit against B&W, did so as *parens patriae* and in this capacity represented the interests of all Georgia citizens, including plaintiffs here.").

4. Public Policy Does Not Bar the Application of Claim Preclusion in this Case.

Plaintiffs allege that claim preclusion would "conflict with Plaintiffs' statutory and constitutional rights," but they fail to specify *what* statutory or constitutional rights are implicated, much less *how* the application of claim preclusion violates those rights. Pls.' Resp. at 18. Equally meritless is Plaintiffs' claim that "the MSA was never intended to punish the Defendants and in fact has not punished them." *Id.* Regardless of whether the MSA was intended to punish the defendants or not, Plaintiffs cannot dispute that the massive liability stemming from the MSA (\$240 billion over 25 years, including over \$1 billion to Nevada alone, plus continuing obligations in perpetuity of hundreds of millions of dollars every year) *functions* like a punitive damages award in that it deprives the defendants of a substantial sum of money to punish them for their alleged wrongdoing and to deter future misconduct. *See, e.g., State Farm Mut. Ins. Co. v. Campbell*, 538 U.S. 408, 419 (2003) ("[P]unitive damages should only be awarded if the defendant's culpability, after having paid compensatory damages, is so reprehensible as to warrant the imposition of further sanctions to achieve punishment or



1 deterrence.”); *Memphis Cmty. Sch. Dist. v. Stachura*, 477 U.S. 299, 307 (1986) (deterrence often  
2 “operates through the mechanism of damages that are compensatory” in nature). Nor can  
3 Plaintiffs dispute that the MSA released punitive damages claims on behalf of Nevada citizens in  
4 exchange for the settlement payments. To hold otherwise, would offend the well-established  
5 public policy of encouraging settlement between parties and promote the poor public policy of  
6 denying parties the enforcement of their settlements. *Beattie v. Thomas*, 99 Nev. 579, 588, 668  
7 P.2d 268, 274 (1983) (“the purpose of NRCP 68 is to encourage settlement.”).

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## CONCLUSION

For these reasons and those articulated in Defendants' Motion, the Court should grant summary judgment in Defendants' favor on Plaintiffs' punitive damages claim under Nevada Rule of Civil Procedure 56.

Dated this 5<sup>th</sup> day of July, 2022.

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## CERTIFICATE OF SERVICE

I hereby certify that on the 5<sup>th</sup> day of July, 2022, a true and correct copy of the foregoing **DEFENDANTS PHILIP MORRIS USA INC. AND R.J. REYNOLDS TOBACCO COMPANY'S REPLY IN SUPPORT OF THEIR MOTION FOR PARTIAL SUMMARY JUDGMENT ON PLAINTIFFS' PUNITIVE DAMAGES CLAIM** 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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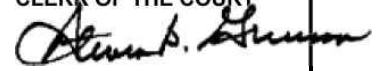
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An employee of WEINBERG, WHEELER,  
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# EXHIBIT A

# EXHIBIT A



TRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA  
\* \* \* \* \*

|                            |   |                        |
|----------------------------|---|------------------------|
| MARTIN TULLY,              | ) |                        |
|                            | ) |                        |
| Plaintiff,                 | ) | CASE NO. A-19-807657-C |
|                            | ) | DEPT NO. XVII          |
| vs.                        | ) |                        |
|                            | ) |                        |
| PHILIP MORRIS USA INC.,    | ) |                        |
|                            | ) |                        |
|                            | ) | <b>TRANSCRIPT OF</b>   |
| Defendant.                 | ) | <b>PROCEEDINGS</b>     |
| <u>AND RELATED PARTIES</u> | ) |                        |

BEFORE THE HONORABLE MARK GIBBONS, DISTRICT COURT JUDGE

TUESDAY, MAY 3, 2022

**RE: DEFENDANTS' MOTION FOR SUMMARY JUDGMENT ON PLAINTIFFS'  
PUNITIVE DAMAGES CLAIM**

SEE NEXT PAGE FOR APPEARANCES

RECORDED BY: KRISTINE SANTI, COURT RECORDER  
TRANSCRIBED BY: JD REPORTING, INC.

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All appearances via BlueJeans unless noted

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*Pro Hac Vice*

JD Reporting, Inc.

1 point, and that's where I started as well. To the extent  
2 Mr. Tullys' suit is based on -- and the language from the MSA,  
3 which I read to Your Honor at the beginning, solely seeking,  
4 solely, the word solely is in the MSA, solely private or  
5 individual relief for separate and distinct injuries, we have  
6 no quarrel with that.

7 But to the extent that the Tullys are doing more,  
8 seeking damages beyond what is solely related to their personal  
9 injuries and which is available to them under state law only by  
10 virtue of the fact that the State allows private plaintiffs to  
11 seek relief on behalf of the public, those claims we say are  
12 barred by *res judicata* and by (indiscernible).

13 THE COURT: Okay.

14 MR. CHESIN: That's all I've got.

15 THE COURT: Okay. Thank you, both.

16 What I'm going to do is this, is I appreciate  
17 excellent oral argument from both sides. I am going to take it  
18 under submission, but I will have a decision this week. So I  
19 will be notifying you in writing this week, probably by court  
20 minutes. And then we'll get that out.

21 I just have one observation though on where the case  
22 goes. Regardless of who prevails in this motion, ultimately it  
23 has to be decided by the Nevada Supreme Court. I mean, the  
24 District Court is just a conduit for it to get to the Supreme  
25 Court. So you have to come here first. So I get why you can't

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1 do it initially in the Supreme Court.

2           My thoughts are that the parties might want to avail  
3 themselves of Rule 3A of the Nevada Rules of Appellate  
4 Procedure on direct appeals depending on what the ruling is or  
5 Rule 21 of the rules of appellate procedure on writs, and  
6 again, depending on who prevails on the case. Because I do  
7 believe that the Supreme Court would take this case quickly and  
8 would rule on it and have this issue resolved prior to the time  
9 that it's going to trial. That's my -- I could be wrong, but I  
10 think this is a public interest case. It's one that would  
11 attract their attention if you sent it to them either way.

12           And the Chief Justice, how it works in the Supreme  
13 Court, the Chief Justice screens the cases as they come in,  
14 either by writ or appeals, determines where, if it stays in the  
15 Supreme Court, if it's an appeal or if it's going to be  
16 transferred to the Court of Appeals or if it's a writ, if they  
17 wish to entertain it. It's a decision by the Chief Justice.  
18 So that's where it goes.

19           And as I said, I'm guessing, but I think they might  
20 be interested in accepting this case.

21           So anyway. Thank -- with that being said, with all  
22 my other gratuitous comments I made here, I'll take the matter  
23 under submission, and we'll get you an answer this week.

24           And good luck to everybody as the litigation  
25 proceeds. I'll be not as a Judge, but I'll be interested as a

JD Reporting, Inc.



*Steven D. Grierson*

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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

Case No.: A-19-807650-C  
Dept. No.: IV

**DEFENDANT ASM NATIONWIDE  
CORPORATION'S REPLY IN SUPPORT  
OF ITS MOTION FOR PARTIAL  
SUMMARY JUDGMENT ON  
PLAINTIFFS' PUNITIVE DAMAGES  
CLAIM**

**Hearing Date: July 19, 2022**

**Hearing Time: 9:00 a.m.**



corporation; ASM NATIONWIDE  
CORPORATION d/b/a SILVERADO  
SMOKES & CIGARS, a domestic corporation;  
and LV SINGHS INC. d/b/a SMOKE &  
VAPORS, a domestic corporation; DOES I-X;  
and ROE BUSINESS ENTITIES XI-XX,  
inclusive,

Defendants.

Defendant ASM Nationwide Corporation d/b/a Silverado Smokes & Cigars  
("Silverado"), by and through its counsel of record, WEINBERG, WHEELER, HUDGINS, GUNN &  
DIAL, LLC, hereby submit this Reply in Support of Its Motion for Partial Summary Judgment on  
Plaintiffs' Punitive Damages Claim.

### **MEMORANDUM OF POINTS AND AUTHORITIES**

In response to Silverado's Motion, Plaintiffs represented to the Court that they "will not  
seek punitive damages against Silverado." Pls.' Resp. at 2. Thus, upon the Court's dismissal of  
Plaintiffs' punitive damages claim against Silverado, this Motion for Partial Summary Judgment  
on Plaintiffs' Punitive Damages Claim will be moot.

### **CONCLUSION**

For these reasons (and the reasons stated in Silverado's Motion for Summary Judgment),  
the Court should dismiss Plaintiffs' punitive damages claim against Silverado.

Dated this 5<sup>th</sup> day of July, 2022.

/s/ D. Lee Roberts, Jr.

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## CERTIFICATE OF SERVICE

I hereby certify that on the 5<sup>th</sup> day of July, 2022, a true and correct copy of the foregoing  
**DEFENDANT ASM NATIONWIDE CORPORATION'S REPLY IN SUPPORT OF ITS  
MOTION FOR PARTIAL SUMMARY JUDGMENT ON PLAINTIFFS' PUNITIVE  
DAMAGES CLAIM** was electronically filed and served on counsel through the Court's  
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