

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss

SUPERIOR COURT
DOCKET NO. 21 0242

LISA MORRIS and MICHAEL MORRIS,

Plaintiffs,

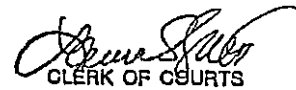
v.

R.J. REYNOLDS TOBACCO COMPANY,
PHILIP MORRIS USA INC., and STOP & SHOP
SUPERMARKET COMPANY, LLC,

Defendants.

HAMPDEN COUNTY
SUPERIOR COURT
FILED

MAY 17 2021


CLERK OF COURTS

COMPLAINT AND DEMAND FOR JURY TRIAL

Nature of the Action

1. In approximately October 2018, Lisa Morris was diagnosed with metastatic lung cancer. Mrs. Morris developed this disease as a result of smoking: cigarettes manufactured by R.J. Reynolds Tobacco Company and/or its predecessors, including, but not limited to, GPC brand cigarettes; and cigarettes manufactured by Philip Morris USA Inc. and/or its predecessors, including, but not limited to, Marlboro and Basic brand cigarettes. Lisa Morris smoked for a total of approximately 44 years, starting when she was approximately 14 years old.
2. During the time Lisa Morris smoked GPC brand cigarettes, they were designed, tested, manufactured, marketed, promoted, distributed, and/or sold by Brown & Williamson Tobacco Corporation, a company to whose liabilities Defendant R.J. Reynolds has succeeded

(and which is referred to herein as part of "R.J. Reynolds"). GPC brand cigarettes were defective and unreasonably dangerous and should not have been sold to Lisa Morris at any time.

3. During the time Lisa Morris smoked Marlboro and Basic brand cigarettes, they were designed, tested, manufactured, marketed, promoted, distributed, and/or sold by Defendant Philip Morris USA Inc. or its predecessors in interest (referred to herein as "Philip Morris"). Marlboro and Basic brand cigarettes were defective and unreasonably dangerous and should not have been sold to Lisa Morris at any time.
4. Philip Morris, R.J. Reynolds, and their predecessors in interest knew before and after Lisa Morris began smoking that smoking their cigarettes was a cause of a variety of potentially fatal diseases, including lung cancer, and that the nicotine contained in their cigarettes was a highly addictive drug.
5. At all times material hereto, Philip Morris, R.J. Reynolds, Brown and Williamson, American Tobacco Company, Lorillard Tobacco Company, and Liggett & Myers conspired to conceal and misrepresent the addictive nature and adverse health consequences of smoking cigarettes.
6. Since the 1950s, Philip Morris and R.J. Reynolds, as well as their lawyers and other cigarette manufacturers, having created industry trade organizations such as the Tobacco Industry Research Committee ("TIRC"), the Council for Tobacco Research U.S.A., Inc. ("CTR"), and the Tobacco Institute, Inc. ("TI"), publicly pledged "to aid and assist research into tobacco use and health." Contrary to such public statements, Philip Morris, R.J. Reynolds, their lawyers, the TIRC, the CTR, and the TI conspired to conceal and misrepresent the addictive nature and adverse health consequences of smoking cigarettes and actually did everything

they could to misrepresent, conceal, and distort information about the negative health consequences of smoking their cigarettes.

7. During the time Lisa Morris smoked cigarettes, Philip Morris and R.J. Reynolds, as well as their lawyers, their trade organizations, and other cigarette manufacturers who aided and abetted them, consistently engaged in public relations campaigns to mislead, confuse, and deceive the public, including Mrs. Morris, as to the dangerousness of cigarettes and the addictive quality of nicotine delivered by cigarettes.
8. Defendants' co-conspirators included attorneys and law firms who initiated and oversaw actions in furtherance of the conspiracy. These lawyers, acting through a "Committee of Counsel," actually presided over the conspiracy to address the three most important threats to the industry – litigation, politics, and public opinion. For example, lawyers for Defendants and the other cigarette manufacturers initiated and oversaw CTR "Special Projects" – an elaborate program conceived and directed by industry representatives, including industry lawyers, to support scientists who had shown a willingness and ability to help undermine the medical consensus that cigarettes caused diseases and provide testimony that would bolster the industry's position before the courts and governmental bodies. The Defendants' lawyers reviewed and edited scientific documents to ensure that no damaging information was disclosed to the public nor retained in company files. The "Committee of Counsel" and an associated "ad hoc committee" orchestrated the industry's denial campaign and worked to ensure that all threats against the continued sale of deadly and addictive cigarettes were neutralized.
9. Internal documents from Philip Morris and R.J. Reynolds, as well as the internal documents of their co-conspirators, show that they knew for decades that nicotine is an addictive drug

and that their cigarettes were a vehicle for the delivery of nicotine. Reports aimed at determining the “optimum nicotine/tar ratio” to produce “the most favorable physiological and behavioral responses” tied nicotine delivery directly to Philip Morris’ market position. Further records show that the Defendants and other cigarette manufacturers knew that the user’s primary motivation for smoking cigarettes was to obtain the effects of nicotine. Philip Morris’ and R.J. Reynolds’ research confirmed, and their internal communications acknowledged, that addiction can be intensified through adjustment and manipulation of the “attractive dosage forms” of nicotine in cigarettes and the method of nicotine delivery. Philip Morris and R.J. Reynolds, and other cigarette manufacturers used this information to manipulate the nicotine delivery of their cigarettes so as to initiate and maximize addiction in smokers such as Mrs. Morris.

10. Philip Morris, R.J. Reynolds, their lawyers, their trade organizations, and other cigarette manufacturers also knew for decades that most smokers, like Lisa Morris, began smoking as children or teenagers. Despite this knowledge and with knowledge that cigarette smoking is addictive and hazardous to one’s health, Philip Morris, R.J. Reynolds, and other cigarette manufacturers employed marketing techniques and themes designed to attract children and teenagers to smoking.
11. Throughout Mrs. Morris’ smoking years, Defendant Stop & Shop Supermarket Company, LLC (“Stop & Shop”), sold Marlboro, Basic, and GPC brand cigarettes to consumers, including Lisa Morris. The cigarettes that Stop & Shop sold to Mrs. Morris were defective and unreasonably dangerous and should not have been sold to her at any time.
12. Plaintiff Lisa Morris seeks compensatory, punitive, and multiple damages for the wrongful conduct alleged in this Complaint, which proximately caused her to become addicted to

Defendants' cigarettes, to develop lung cancer, to incur significant medical expenses, and to endure enormous pain and suffering. Her husband, Michael Morris, seeks damages for loss of consortium.

The Parties

13. At all relevant times, Plaintiffs Lisa Morris and Michael Morris were citizens of the Commonwealth of Massachusetts and residents of Springfield, Hamden County, Massachusetts.
14. Defendant Philip Morris is a Virginia corporation that conducts business in the Commonwealth of Massachusetts. Philip Morris manufactures, advertises, and sells cigarettes throughout the United States, including the Commonwealth of Massachusetts. During the time Lisa Morris smoked Basic and Marlboro brand cigarettes, Philip Morris or its predecessors in interest manufactured, advertised, and sold such cigarettes throughout the United States, including in the Commonwealth of Massachusetts.
15. Defendant R.J. Reynolds is a North Carolina corporation that conducts business in the Commonwealth of Massachusetts. R.J. Reynolds is the successor by merger or acquisition to, and succeeded to the liabilities of, Lorillard Tobacco Company, Brown & Williamson Tobacco Corporation, and American Tobacco Company. During the time that Lisa Morris smoked GPC brand cigarettes, Brown & Williamson manufactured, advertised, and sold such cigarettes throughout the United States, including in the Commonwealth of Massachusetts. References above and below to "R.J. Reynolds" or the "Defendants" include R.J. Reynolds' predecessors such as Brown & Williamson, where the sense requires.

16. Defendant Stop & Shop is a Massachusetts corporation with its principal and/or usual place of business in Quincy, Massachusetts. It sold cigarettes to Lisa Morris in the Commonwealth of Massachusetts.

Jurisdiction and Venue

17. Defendants have, since before Lisa Morris began smoking cigarettes, continuously done business in the Commonwealth of Massachusetts; made contracts to be performed in whole or in part in the Commonwealth; manufactured, tested, sold, offered for sale, supplied, and/or placed cigarettes in the stream of commerce, or in the course of their business, materially participated with others in so doing; and performed such acts as were intended to and did result in the sale and distribution in the Commonwealth of cigarettes from which all Defendants derived substantial revenue, directly or indirectly. All Defendants also caused injury by acts or omissions in the Commonwealth and/or caused injury in the Commonwealth by acts or omissions outside the Commonwealth.
18. This Court has jurisdiction over the subject matter of this action pursuant to G.L. c. 212, § 4. This Court has personal jurisdiction over Defendants pursuant to G.L. c. 223A, §§ 2 and 3.
19. Venue is proper in Hamden County pursuant to G.L. c. 223 §§ 7 and 8(4).

Factual Background

20. Lisa Morris was born in 1962 and began smoking cigarettes when she was approximately 14 years old. As a teenager, Mrs. Morris was given free samples of cigarettes in Massachusetts, including in West Springfield, Massachusetts. Over the course of her life, Mrs. Morris smoked Philip Morris' Basic and Marlboro brand cigarettes and R.J. Reynolds' GPC brand cigarettes. Mrs. Morris purchased her cigarettes regularly from Stop and Shop supermarkets.

21. Lisa Morris became addicted to the nicotine in the cigarettes she smoked and continued to smoke approximately two packs per day for decades thereafter.
22. For many years, Lisa Morris has struggled to overcome her addiction to nicotine. She has attempted a variety of methods to quit, including, but not limited to: Chantix, nicotine patch, nicotine gum, lozenges, reducing the number of cigarettes she smoked, limiting the number of places where she would smoke, and by attempting to quit without the use of cessation aids.
23. In approximately October 2018, Lisa Morris was diagnosed with metastatic lung cancer that was caused by smoking Defendants' cigarettes.
24. Lisa Morris has undergone numerous treatments in an effort to treat her lung cancer and halt its spread throughout her body, including immunotherapy. Mrs. Morris' treatments have incurred significant expenses and rendered her unable to go about her normal daily activities, including being fully present in the lives of her husband, two children, and grandchildren. These treatments have taken an enormous physical and emotional toll on Mrs. Morris and her family.
25. Plaintiff Michael Morris has been deprived of the full care, comfort, society, and companionship of his wife as a result of the injuries that Mrs. Morris sustained arising from Defendants' negligence and other wrongful acts or omissions. He demands judgment against all Defendants in an amount just and appropriate, together with interest and costs.
26. Marlboro, Basic, and GPC brand cigarettes were defective and unreasonably dangerous and should not have been sold or given to consumers, including Lisa Morris, at any time.

27. Philip Morris and R.J. Reynolds purposely manipulated and controlled the tar and nicotine content and delivery methods of their tobacco products, including, but not limited to, Marlboro, Basic, and GPC, to create and maintain smokers' addiction to cigarettes.
28. At all times relevant to this Complaint, Philip Morris, R.J. Reynolds, their lawyers, their trade organizations, and other cigarette manufacturers knowingly made material misrepresentations to the public, including Lisa Morris, about the link between smoking and various diseases and the addictive properties of nicotine.
29. By the early 1950s and 1960s, Philip Morris and R.J. Reynolds, their lawyers, their trade organizations, and other cigarette manufacturers acknowledged internally that smokers were addicted to nicotine delivered by cigarettes and that the tar in cigarette smoke causes cancer.
30. Philip Morris and R.J. Reynolds purposely joined with other cigarette manufacturers and trade organizations in the tobacco industry in order to mislead the public regarding the health consequences of cigarettes and the addictiveness of nicotine and to fraudulently represent to the public that there was no scientific consensus on the addictiveness and negative health consequences of cigarettes.
31. Philip Morris, R.J. Reynolds, their lawyers, their trade organizations, and other cigarette manufacturers also knew since before Lisa Morris began smoking that cigarettes cause human diseases, including cancer, and contain numerous chemicals that intensify the dangers of smoking. Despite that knowledge, Philip Morris and R.J. Reynolds, directly and through their lawyers, their trade organizations, and other cigarette manufacturers, misrepresented, concealed, and/or failed to disclose to the public and to Lisa Morris the true facts about the health hazards of smoking cigarettes (including the brands smoked by Mrs. Morris), such as their highly addictive qualities.

32. Philip Morris and R.J. Reynolds, along with their lawyers, their trade organizations, and other cigarette manufacturers, engaged in a deliberate and decades-long misrepresentation, concealment of, and/or failure to disclose the true facts and health consequences of smoking, disease, and addiction that deprived Mrs. Morris of the ability to make an informed decision about smoking Defendants' cigarettes.
33. Among other misrepresentations, Philip Morris and R.J. Reynolds specifically misrepresented the safety of their cigarettes for the express purpose of keeping Lisa Morris and others as their customers, including by doing the following:
 - a. Philip Morris and R.J. Reynolds intentionally, recklessly, knowingly, and/or willfully conveyed through the addition of health descriptors such as "Filter," "Filters," or "Filtered" to various brands of their cigarettes smoked by Lisa Morris that such cigarettes minimized or reduced the risks of smoking by reducing tar and/or nicotine delivery in order to convince customers like Lisa Morris not to quit smoking;
 - b. Philip Morris and R.J. Reynolds intentionally, recklessly, knowingly, and/or willfully conveyed through the addition of descriptors such as "Light," "Lights," "Ultra Light," "Ultra Lights," and "Low Tar" to various brands of their cigarettes that those cigarettes minimized or reduced the risks of smoking by reducing tar and nicotine delivery in order to convince customers not to quit smoking;
 - c. Philip Morris and R.J. Reynolds knew or should have known that the implicit health reassurance messages conveyed by descriptors such as "Filter," "Filters," "Filtered," "Light," "Lights," "Ultra Light," "Ultra Lights", "Low Tar" on various brands of their cigarettes smoked by Lisa Morris were not justified by any scientific research it had conducted prior to the time it first made those claims. In fact, in many cases, smokers of cigarettes with those descriptors were getting as much or more tar and nicotine than brands of cigarettes without those descriptors; and
 - d. Philip Morris and R.J. Reynolds continued to use the misleading descriptors "Filter," "Filters," "Filtered," "Light," "Lights," "Ultra Light," "Ultra Lights," and "Low Tar" on certain varieties of their cigarettes until the early 2000s, despite the fact that they did not offer a health benefit and, in many cases, smokers of those cigarettes with those descriptors were getting as much or more tar and nicotine than brands of cigarettes without those descriptors.
34. False public statements by Philip Morris, R.J. Reynolds, their lawyers, their trade organizations, and other cigarette manufacturers were made with the expectation that

consumers, including Lisa Morris, would rely on such statements in making decisions about whether to start or to continue smoking cigarettes. For example, Brennan Dawson, Vice President of Public Relations for the Tobacco Institute – a trade association formed by and for the major tobacco manufacturers for the purpose of providing misleading information concerning the dangers of cigarette use – and Walker Merryman, another Tobacco Institute spokesperson, both stated that the Tobacco Institute intended consumers to rely on the public statements they made on television, and elsewhere, concerning the dangers of cigarettes.

35. Philip Morris, R.J. Reynolds, their lawyers, and their trade organizations continued their campaign of misrepresentation and concealment long after they became internally aware of the health consequences of smoking.
36. As a result of the false public statements on the health consequences of smoking made by Philip Morris, R.J. Reynolds, their lawyers, their trade organizations, and other cigarette manufacturers, Lisa Morris began smoking cigarettes as a minor, became addicted to them, continued to smoke them, and contracted smoking-related illnesses.

COUNT I

Breach of Warranty – Defective Design (Against All Defendants)

37. Plaintiffs restate and incorporate herein the foregoing paragraphs of their Complaint.
38. At all relevant times, Philip Morris, R.J. Reynolds, and Stop & Shop engaged in the business of manufacturing, testing, designing, advertising, marketing, packaging, selling, and/or distributing Marlboro, Basic, and GPC brand cigarettes and placing these cigarettes into the stream of commerce in Massachusetts.

39. Marlboro, Basic, and GPC brand cigarettes were expected to and did reach Lisa Morris in substantially the same condition they were in when originally manufactured, distributed, and/or sold by Philip Morris and R.J. Reynolds, and re-sold by Stop & Shop.
40. Philip Morris, R.J. Reynolds, and Stop & Shop – as the manufacturers, sellers, marketers, and/or distributors of Marlboro, Basic, and GPC brand cigarettes – impliedly warranted that such cigarettes were merchantable and fit for the ordinary purposes for which they were intended.
41. Philip Morris, R.J. Reynolds, and Stop & Shop breached this warranty because the cigarettes they manufactured, sold, and/or distributed to Lisa Morris and other members of the public were defective and unreasonably dangerous to users and consumers.
42. Such cigarettes were carcinogenic, addictive, and contained dangerous levels of tar, nicotine, and other dangerous substances. The foreseeable risks posed by Marlboro, Basic, and GPC brand cigarettes could have been reduced or eliminated by Philip Morris' or R.J. Reynolds' adoption of safer reasonable alternative designs that were technologically and commercially available and feasible.
43. At all times relevant to this Complaint, Lisa Morris used and consumed Marlboro, Basic, and GPC cigarettes that were designed, manufactured, sold, and/or distributed by Philip Morris, R.J. Reynolds, and sold by Stop & Shop in the manner in which Philip Morris, R.J. Reynolds, and Stop & Shop intended and expected such cigarettes to be used.
44. As a direct and proximate result of Philip Morris', R.J. Reynolds', and Stop & Shop's breach of warranty, Lisa Morris developed lung cancer, resulting in pain and suffering, mental anguish, the expense of medical and/or nursing care and treatment, and other losses for which Plaintiffs are entitled to recover the damages sought in this Complaint.

COUNT II
Negligence
(Against Philip Morris and R.J. Reynolds)

45. Plaintiffs restate and incorporate herein the foregoing paragraphs of their Complaint.
46. Philip Morris and R.J. Reynolds owed Lisa Morris a duty to exercise reasonable care in the design, development, manufacturing, testing, marketing, advertising, promotion, packaging, sale, and/or distribution of Marlboro, Basic, and GPC brand cigarettes.
47. Philip Morris and R.J. Reynolds failed to exercise reasonable care in the design, development, manufacturing, testing, marketing, advertising, promotion, packaging, sale, and/or distribution of Marlboro, Basic, and GPC brand cigarettes.
48. Philip Morris and R.J. Reynolds knew or should have known that, when used as intended, such cigarettes would cause human disease. Philip Morris and R.J. Reynolds also knew or should have known that, when used as intended by consumers, smoking Marlboro, Basic, and GPC brand cigarettes would likely lead to addiction and dependence.
49. At all times relevant to this Complaint, it was illegal to sell cigarettes to persons under the age of 18. Despite this, Philip Morris and R.J. Reynolds deliberately marketed and/or distributed their cigarettes in a manner calculated to induce purchases and use of their cigarettes by minors, whose use would involve an unreasonable risk of injury. Lisa Morris was one of those consumers who began smoking as a minor. Philip Morris and R.J. Reynolds breached their duty to exercise reasonable care in numerous respects, including, but not limited to, through the free giveaways of cigarettes to minors, such as Lisa Morris, in or around Massachusetts.
50. Philip Morris and R.J. Reynolds themselves, and through their lawyers, trade associations, and other cigarette manufacturers, also negligently misrepresented to members of the media,

Congress, and the public, including Mrs. Morris, that their cigarettes were not carcinogenic or addictive. Philip Morris, R.J. Reynolds, their trade organizations, their lawyers, and other cigarette manufacturers knew or should have known of the falsity of such representations.

51. As a direct and proximate result of Philip Morris' and R.J. Reynolds' negligence, Lisa Morris developed lung cancer, resulting in conscious pain and suffering, mental anguish, the expense of medical and/or nursing care and treatment, and other losses for which Plaintiffs are entitled to recover the damages sought in this Complaint.

COUNT III
Civil Conspiracy
(Against Philip Morris and R.J. Reynolds)

52. Plaintiffs restate and incorporate herein the foregoing paragraphs of their Complaint.
53. Philip Morris and R.J. Reynolds, themselves and through their predecessors in interest, engaged in a "Concerted Action" conspiracy. Philip Morris and R.J. Reynolds acted in concert and joined together in a conspiracy with other manufacturers, industry lawyers, and trade organizations in the tobacco industry in an unlawful and unfair manner, pursuant to a common design, to deliberately misrepresent and conceal both the health consequences and addictive qualities of cigarettes and the state of scientific knowledge on those subjects, and to conceal or omit information regarding those subjects, with the intention that consumers, including Lisa Morris, would rely on this false information.
54. Each conspirator knew or, in the exercise of reasonable care, should have known about the conduct of the others and about the common tortious scheme.
55. Philip Morris and R.J. Reynolds, themselves and through their predecessors in interest, also engaged in a "True Conspiracy." Philip Morris and R.J. Reynolds acted in unison and by

force of numbers with other tobacco companies, industry lawyers, and trade organizations to overwhelm the will of consumers, including Lisa Morris.

56. Philip Morris, R.J. Reynolds, their legal counsel, their trade organizations, and other cigarette manufacturers engaged in numerous overt acts in furtherance of the conspiracy. Such acts included, but were not limited to:

- a. A meeting between Philip Morris, R.J. Reynolds, and their co-conspirators in 1953 to form the Tobacco Institute Research Committee ("TIRC"), eventually renamed the Council for Tobacco Research ("CTR"), an organization which claimed its purpose was to promote "independent" research on cigarette dangers, but which instead was used by Philip Morris and R.J. Reynolds, and its co-conspirators to disseminate misleading information about the dangers of smoking;
- b. Meetings over the years of TIRC and its successor organization CTR, where the co-conspirators discussed and acted upon their above stated goals;
- c. TIRC-funded research studies, which avoided the issue of cancer and addiction, and instead focused on other matters, while giving the impression to the public that the "cancer question" was under "investigation";
- d. The subsequent creation of the Tobacco Institute, an organization formed for the purpose of providing misleading information concerning the dangers of cigarette use to the media and others, of which Philip Morris, R.J. Reynolds, and their co-conspirators were members;
- e. The suppression of and refusal to publish various research studies carried out by co-conspirators which revealed smoking to be both harmful and addictive;
- f. The Tobacco Institute issued publications and news releases, made telephone calls, and contacted the media, government, and others suggesting the presentation of the "other side" of the "health controversy" about cigarettes, and urged the media to quote tobacco industry sources when reporting on scientific developments showing the dangers of cigarettes smoking. These suggestions were accompanied by references to the amount of advertising carried in the magazine or newspaper and threats that such advertising would be dropped if the magazine did not comply;
- g. The publication in 1954 by Philip Morris, R.J. Reynolds, and their co-conspirators, through TIRC, of "A Frank Statement to Cigarette Smokers." The "Frank Statement" promised the public that Philip Morris, R.J. Reynolds, and their co-conspirators would do research to reveal the true dangers of cigarettes smoking;
- h. Following the publication of "A Frank Statement to Cigarette Smokers" and for many decades thereafter, numerous public statements were made by Philip Morris, R.J. Reynolds, and their co-conspirators that falsely criticized scientific publications and reports that showed that cancer and other diseases were caused by cigarette smoking;

- i. A statement on April 14, 1954 by the TIRC in "A Scientific Perspective on the Cigarette Controversy" that its members had adopted "an interest in people's health as a basic responsibility, paramount to every other consideration in our business," and a promise on July 1, 1954 to share its research findings on smoking and disease with the public;
- j. Statements and publications by Clarence Cook Little, spokesman for TIRC, to the effect that scientific evidence showing the dangers of cigarette smoking were "not proven" or were "merely statistical." These statements included, but were not limited to, statements made in *Atlantic* magazine in 1957, which were made with an intent to deceive the public into believing cigarette smoking was safe;
- k. A December 16, 1957 press release from TIRC falsely stating that "[n]o substance has been found in tobacco smoke known to cause cancer in human beings";
- l. "Research Reports on Tobacco and Health," generated on behalf of the co-conspirators by the Tobacco Institute and published for many years, which falsely claimed that there was scientific doubt concerning the known health consequences of smoking. These releases reported on fringe medical theories of causes of cancer other than cigarettes, in order to assuage the public's fear regarding the deadly consequences of smoking cigarettes. These theories, as reported by the Tobacco Institute on behalf of Philip Morris, R.J. Reynolds, and their co-conspirators included, but were not limited to, that smoking lowers fatty substances in the lungs, that lung cancer is caused by a certain personality, and that emphysema is an outcome of childhood measles;
- m. The commentary in the Annual Reports put out by TIRC that uniformly challenged the hypothesis that smoking was linked to lung cancer and emphasized that data regarding smoking and health was controversial, contradictory, and inconclusive;
- n. A false statement on July 6, 1961 by Tobacco Institute President George Allen in a press release that "The tobacco industry itself is more interested than anyone else in finding out and making public the true facts about tobacco and health," and a further false statement that "research in recent years has produced findings that weaken rather than support the claim that smoking is a major contributor to lung cancer";
- o. A false statement on March 14, 1963 by Tobacco Institute President George Allen in a press release that "Scientific opinions differ widely. Many scientists say that more must be learned before it will be known whether any of the factors now under study, including smoking, has a role in causation of diseases such as lung cancer, and, if so, whether that role is direct or indirect, primary or incidental. In the opinion of these scientists, singling out tobacco as a major factor is not warranted by scientific knowledge";
- p. An internal memorandum dated January 29, 1964 from George Weissman (Vice President of Philip Morris) to Joseph Cullman 3rd (President of Philip Morris and on the executive committee of the Tobacco Institute) regarding the "Surgeon General's Report" wherein it states "we must in the near future provide some answers which will give smokers a psychological crutch and a self-rationale to continue smoking";

- q. An internal review of the Surgeon General's Report of 1964 by Helmut Wakeham, Vice President of Research and Development at Philip Morris, Inc., concluding that there was "little basis for disputing the findings [of the 1964 Surgeon General's Report] at this time";
- r. A confidential British American Tobacco document reporting on the company's 1964 visit with the heads of the major American tobacco companies, including Philip Morris and R.J. Reynolds, recounting the following concerning the influence of the lawyers in the conspiracy: "In consequence of the importance of the lawsuits, the main power in the smoking and health situation undoubtedly rests with the lawyers, and more particularly with the Policy Committee of lawyers. The members of this committee are – Henry Ramm (Reynolds Chairman) - Cy. Hetsko (A.T.Co.) - Add. Yeaman (Brown & Williamson) – Paul Smith (PM)[...]." The report concluded: "This Committee is extremely powerful; it determines the high policy of the industry on all smoking and health matters- research and public relations matters, for example, as well as legal matters- and it reports directly to the Presidents.";
- s. A public statement issued by the Tobacco Institute on October 21, 1966, two years after issuance of the 1964 Surgeon General's Report, stating that the tobacco industry knew "of no valid scientific evidence demonstrating that either 'tar' or nicotine is responsible for any human illness";
- t. A statement on October 3, 1967 by Paul D. Smith, Vice President and General Counsel of Philip Morris, that "The truth of the matter is this: No one knows whether cigarette smoking causes any human disease or in any way impairs human health," and that "[n]obody has yet been able to find any ingredient as found in tobacco or smoke that causes human disease";
- u. In November 1967, at the direction of outside lawyers, the Tiderock Corporation, the Tobacco Institute's public relations firm, prepared an action plan titled "The Cigarette Controversy." The action plan proposed to influence public opinion by creating specific initiatives to re-open the "open question" cigarette controversy. The program called for the creation of a position paper for intra-industry use as well as one for distribution to the media and public. The plan included targeted categories for mailings such as the medical profession, scientists, communicators (press, radio, television), educators, top public figures, and 10,000 top corporate presidents. It also detailed the publication of magazine articles;
- v. A memorandum dated April 15, 1968 from William Kloepfer, Vice President of Public Relations for the Tobacco Institute to Earle Clements, President of the Tobacco Institute stating, "Our basic position in the cigarette controversy is subject to the charge, and maybe subject to a finding, that we are making false or misleading statements to promote the sale of cigarettes";
- w. The publication of an article in 1968, paid for by co-conspirators, entitled "To Smoke or Not to Smoke – That is Still the Question," in *True* magazine, which was designed to appear as legitimate article by a genuine author. The article was in fact written by a sports writer who was also employed by Hill and Knowlton, the public relations firm behind the creation of TIRC. This article deliberately misstated the known dangers of smoking;

- x. Notification by Philip Morris Senior Scientist Dr. Helmut Wakeham to Philip Morris senior management on January 10, 1969 that “[n]ow we have a study of the effect of smoking in pregnancy which supports previous conclusions that smoking mothers produce smaller babies,” and that the medical field recognized that “smaller babies suffer detrimental effects all through life,” including “lower intelligence test scores at age 10”;
- y. A 1969 Brown & Williamson internal document which states “doubt is our product since it is the best means of competing with the “body of facts” that exists in the mind of the general public. It is also the means of establishing a controversy.”;
- z. A report on December 8, 1970 by Philip Morris researcher Dr. Helmut Wakeham to Philip Morris President Joseph Cullman III on the Council for Tobacco Research program, which was publicly described as a funding source for independent research on tobacco and health, stating: “It has been stated that CTR is a program to find out ‘the truth about smoking and health.’ What is truth to one is false to another. CTR and the Industry have publicly and frequently denied what others find as ‘truth.’ Let’s face it. We are interested in evidence which we believe denies the allegation that cigarette smoking causes disease.”;
- aa. A false statement on January 3, 1971 by Joseph Cullman III, President of Philip Morris that “We do not believe that cigarettes are hazardous; we don’t accept that. But we are working with the government, working very hard with the government, on various methods of ascertaining whether or not cigarettes can be found to be hazardous ... I believe they have not been proved to be unsafe”;
- bb. A false statement on January 3, 1971 by Joseph Cullman III, President of Philip Morris that “[I]t’s true that babies born to women who smoke are smaller, but they are just as healthy as the babies born to women who do not smoke. Some women would prefer to have smaller babies”;
- cc. A press release dated November 15, 1971 in which the Tobacco Institute falsely stated, in addressing whether smoking adversely affects the health of pregnant women, that “We just don’t know, and only further research on smoking and all the other possible factors that may affect pregnancy will answer the question”;
- dd. An internal memorandum dated April 14, 1972 from Claude Teague (Assistant Director of Research for R.J. Reynolds) that states “happily for the tobacco industry, nicotine is both habituating and unique its variety of physiological actions, hence no other active material or combination of materials provides equivalent “satisfaction.” The memo goes on to state that “we have deliberately played down the role of nicotine, hence the non-smoker has little or no knowledge of what satisfactions it may offer him, and no desire to try it. Instead, we must convince him with wholly irrational reasons that he should try smoking, in the hope that he will for himself then discovery the real “satisfactions” obtainable.”;
- ee. A 1972 memorandum to Horace Kornegay, president of the Tobacco Institute, stated that for 20 years the industry had employed a single strategy to defend itself on three major fronts: litigation, politics, and public opinion. The author noted that “it has always been a holding strategy, consisting of “creating doubt about the health charge

- without actually denying it -- advocating the public's right to smoke, without actually urging them to take up the practice--encouraging objective scientific research as the only way to resolve the question of health hazard.”;
- ff. An updated version of the Tobacco Institute's "The Cigarette Controversy," published in 1974, stating that a causal relationship between smokers and illness or death had not been established and that such claims were unproven;
 - gg. A 1976 interview of James Bowling, Vice President of Philip Morris, wherein he stated "I wouldn't be in the business if I thought cigarettes were harmful to people. I think it is important that there be a lot of us around who are trying to keep the research honest and open. I think the real dishonesty is telling people things that are not so."
 - hh. A 1976 interview of Helmut Wakeham, Vice President of Science and Technology at Philip Morris wherein he stated "If the company, as a whole, believed that cigarettes were really harmful, we would not be in the business. We are a very moralistic company. I think the management of Philip Morris is sincere in this position. I think there is a great deal of doubt as to whether or not cigarettes are harmful."
 - ii. A pamphlet issued in 1978 by the Tobacco Institute, stating that "The flat assertion that smoking causes lung cancer and heart disease and that the case is proved is not supported by many of the world's leading scientists.";
 - jj. Articles in *The Tobacco Observer*, circulated by the Tobacco Institute, perpetuating the industry's denials of causation and harm from smoking. One headline announced, "Smoke not harmful to average non-smoker" (October 1978). In the May 1976 issue, one headline read "No Simple Answers; Research Disputes UPI"; and another stated, "no cause and effect relationship between cigarette smoking and pulmonary emphysema has been established";
 - kk. A November 1978 CTR memorandum acknowledged the existence of an "ad hoc" committee, made up of representatives of legal, public relations, and research executives of the major tobacco companies, who were working together to plan the industry's response to the "smoking and health" issue. This same memorandum noted that trade organizations such as CTR have been used as a tobacco industry "shield" in response to increasing reports of smoking related disease since the 1950s.
 - ll. A pamphlet published by the Tobacco Institute in 1979 titled "TOBACCO from seed to smoke amid controversy," stating falsely: "it has not been established that smoking causes any human disease";
 - mm. William L. Dunn, a Philip Morris scientist, wrote in a 1980 document titled "The Nicotine Receptor Program" that, despite the fact that the psychopharmacology of nicotine is "where the action is for those doing fundamental research on smoking," and where "most likely will come significant scientific developments profoundly influencing the industry, . . . it is where our attorneys least want us to be. . . .";
 - nn. A false statement by R.J. Reynolds Chairman and CEO Edward Horrigan in 1982 that "science to date after much research including over \$100 million funded by our industry, indicates that no causal link [between smoking and human disease] has been shown," and that "there is absolutely no proof that cigarettes are addictive.";

- oo. A national advertising campaign undertaken by R. J. Reynolds in 1984, which asserted that “[S]tudies which conclude that smoking causes disease have regularly ignored significant evidence to the contrary.”;
 - pp. In 1984 R.J. Reynolds Chairman and CEO Edward Horrigan, as part of a panel discussion on the “Nightline” television program, stated that: (1) “It is not known whether cigarettes cause cancer,”; (2) “Despite all the research to date, there has been no causal link established [between smoking and emphysema]”; and (3) “As a matter of fact, there are studies that while we are accused of being associated with heart disease, there have been studies conducted over 10 years that would say, again, that science is still puzzled over these forces.”;
 - qq. A December 31, 1985 memorandum from Reynolds’ outside counsel indicated that “[a]fter the 1964 Surgeon General’s report came out, the Law Department influenced research objectives to a degree, because the lawyers did not want anyone performing research that would appear to acknowledge that cigarettes or cigarette smoke contained harmful constituents or posed a health problem.”;
 - rr. A 1985 publication issued by R.J. Reynolds, entitled “Of Cigarettes and Science,” falsely stating that cigarettes do not cause heart disease, which was the subject of an F.T.C. charge of false advertising; and
 - ss. Statements to Congress by the executives of Philip Morris and R.J. Reynolds and their co-conspirators falsely denying the addictiveness and dangerousness of cigarettes. For example, in 1994 R.J. Reynolds’ then Chairman and CEO, James Johnston testified that cigarettes and nicotine clearly do not meet the classic definitions of addiction, after R.J. Reynolds engaged in national media campaign to further mislead the public as to the addictiveness of cigarettes.¹
57. Philip Morris, R.J. Reynolds, their lawyers, their trade organizations, and other cigarette manufacturers made the above false representations despite their internal acknowledgment, based on scientific evidence, including evidence developed by Philip Morris, R.J. Reynolds, and other cigarette manufacturers, that nicotine is addictive and is the principal reason why people, including Lisa Morris, continued to smoke. Rather than publicly acknowledging what they knew for years – that the primary effect of nicotine is to provide “physiological satisfaction” for the smoker that leads to and sustains addiction – Philip Morris, R.J.

¹ There are many other acts in furtherance of the conspiracy engaged in by Defendants. Plaintiffs reserve the right at trial to introduce additional acts in furtherance of the conspiracy.

Reynolds, their lawyers, their trade organizations, and other cigarette manufacturers deliberately misrepresented the scientific consensus concerning addictiveness of nicotine.

58. Philip Morris, R.J. Reynolds, their lawyers, their trade organizations, and other cigarette manufacturers deliberately concealed knowledge that the tar and nicotine delivery of “Filtered” cigarettes was not substantially different from that of other cigarettes that were not “Filtered.” These efforts to conceal and diminish the dangers of “Filtered” cigarettes were made in spite of the knowledge that consumers, including Lisa Morris, purchased such cigarettes under the mistaken belief that they were a healthier or safer option.
59. Philip Morris, R.J. Reynolds, their lawyers, their trade organizations, and other cigarette manufacturers deliberately concealed knowledge that the tar and nicotine delivery of “Light,” “Ultra Light,” and “Low Tar” cigarettes was not substantially different from that of other cigarettes that were not “Light,” “Ultra Light,” and/or “Low Tar.” These efforts to conceal and diminish the dangers of “Light,” “Ultra Light,” and “Low Tar” cigarettes were made in spite of the knowledge that consumers purchased such cigarettes under the mistaken belief that they were a healthier or safer option.
60. Each conspirator knew or, in the exercise of reasonable care, should have known about the conduct of the others and about the common tortious scheme.
61. Lisa Morris was deceived by this conspiratorial campaign of disinformation and deception and suffered from lung cancer as a result. Among other things, had she been told what the co-conspirators knew about the dangers and addictiveness of smoking, she never would have started smoking in the first place. Had Lisa Morris been told that “Filtered” cigarettes were not delivering her less tar and nicotine, she would have made earlier and more persistent efforts to quit smoking.

62. As a direct and proximate result of Philip Morris' and R.J. Reynolds' role in the conspiracy to deceive the public about the harmful effects of smoking cigarettes, Lisa Morris developed lung cancer, resulting in pain and suffering, mental anguish, expense of medical and/or nursing care and treatment, and other losses for which Plaintiff is entitled to recover the damages sought in this Complaint.

COUNT IV
Fraud and Misrepresentation
(Against Philip Morris and R.J. Reynolds)

63. Plaintiffs restate and incorporate herein the foregoing paragraphs of their Complaint.
64. Philip Morris and R.J. Reynolds, directly and through their lawyers, their trade organizations, and other cigarette manufacturers, made representations and statements about the safety of cigarettes and their effect on human health and addiction, as described in this Complaint. Such statements and representations were materially false, incomplete, and fraudulent at the time Philip Morris and R.J. Reynolds made them, and Philip Morris and R.J. Reynolds knew or had reason to know of their falsity.
65. At all times relevant to this Complaint, Philip Morris and R.J. Reynolds intentionally, willfully, and/or recklessly misrepresented and/or failed to disclose material facts about the human health hazards of smoking cigarettes, including addiction.
66. Philip Morris' and R.J. Reynolds' fraudulent misrepresentations include, but are not limited to, claims that certain brands and types of "Filtered" cigarettes would reduce the health risks of smoking. Philip Morris' and R.J. Reynolds' fraudulent misrepresentations include falsely, fraudulently, and with intent to defraud made such representations and statements about the safety of its cigarettes and their effect on human health and addiction. Philip Morris and R.J.

Reynolds knew or should have known of the falsity of such claims during the time Lisa Morris smoked such cigarettes.

67. Philip Morris and R.J. Reynolds had a duty to disclose to the purchasers of its products, including Lisa Morris, all material facts about the health hazards of smoking their cigarettes, including their highly addictive qualities and that “Filtered” cigarettes were no healthier than “Regular” cigarettes. Such duty to disclose on the part of Philip Morris and R.J. Reynolds arose because they were and are in the business of selling cigarettes and by virtue of their affirmative conduct as more specifically described in this Complaint.
68. Because of Philip Morris’ and R.J. Reynolds’ knowledge of the material facts about smoking, health, and addiction, and their making of partial and incomplete statements about this issue, Philip Morris and R.J. Reynolds had a duty to reveal all of the material facts of which they were on notice, in order not to deceive and mislead consumers, including Lisa Morris. Philip Morris’ and R.J. Reynolds’ nondisclosure, and their disclosure of fragmentary information and half-truths, constitutes actionable misrepresentation.
69. Philip Morris and R.J. Reynolds sought to induce the public’s reliance, including the reliance of Lisa Morris, knowing that the public was in a vastly inferior, unequal, and/or disadvantaged position to discover these material facts.
70. The facts concealed by Philip Morris, R.J. Reynolds, their lawyers, their trade organizations, and other cigarette manufacturers about smoking, health, and addiction were material in that a reasonable consumer would have considered them important in deciding whether to purchase and/or smoke cigarettes, including Marlboro, Basic, and GPC brand cigarettes.
71. Lisa Morris reasonably relied on Philip Morris’ and R.J. Reynolds’ materially false, incomplete, and misleading misrepresentations about smoking, health, and addiction, and/or

Philip Morris' and R.J. Reynolds' nondisclosure of the material facts about cigarette smoking and human health, including addiction, and was thereby induced to purchase, smoke, and become addicted to a deadly and defective product, to her detriment. Because of the pervasiveness of the tobacco industry campaign to hide the truth, Lisa Morris' detrimental reliance may also be inferred.

72. As a direct and proximate result of Philip Morris' and R.J. Reynolds' fraudulent misrepresentations and active concealment, Lisa Morris developed lung cancer, resulting in pain and suffering, mental anguish, expense of medical and/or nursing care and treatment, and other losses for which Plaintiffs are entitled to recover the damages sought in this Complaint.

COUNT VI

Violations of G.L. c. 93A, §§ 2, 9
(Against All Defendants)

73. Plaintiffs restate and incorporate herein the foregoing paragraphs of their Complaint.
74. Philip Morris, R.J. Reynolds, and Stop & Shop have committed unfair and deceptive acts and practices in violation of Massachusetts' Consumer Protection Act, G.L. c. 93A, § 2(a), and regulations promulgated thereunder. These violations include, but are not limited to, Philip Morris', R.J. Reynolds', and Stop & Shop' breach of the implied warranty of merchantability, in violation of G.L. c. 93A, § 2, in the following respects:
- a. At all relevant times, Philip Morris, R.J. Reynolds, and Stop & Shop engaged in the business of developing, manufacturing, testing, designing, advertising, marketing, packaging, selling, promoting, and distributing Marlboro, Basic, and GPC brand cigarettes and placing such cigarettes into the stream of commerce in Massachusetts;
 - b. Marlboro, Basic, and GPC brand cigarettes were expected to, and did, reach Lisa Morris in substantially the same condition they were in when originally manufactured, distributed, and/or sold by Philip Morris, R.J. Reynolds, and Stop & Shop;

- c. Philip Morris, R.J. Reynolds, and Stop & Shop, as the manufacturers, sellers, marketers, and/or distributors of Marlboro, Basic, and GPC brand cigarettes impliedly warranted that such cigarettes were merchantable and fit for the ordinary purposes for which they were intended;
 - d. Philip Morris, R.J. Reynolds, and Stop & Shop breached this warranty because the Marlboro, Basic, and GPC brand cigarettes manufactured, sold, and distributed by Philip Morris, R.J. Reynolds, and Stop & Shop to Lisa Morris and other members of the public were defective and unreasonably dangerous;
 - e. Such cigarettes were carcinogenic, addictive, and contained dangerous levels of tar, nicotine, and other dangerous substances. The foreseeable risks posed by such cigarettes could have been reduced or eliminated by Philip Morris' and R.J. Reynolds' adoption of safer reasonable alternative designs that were technologically and commercially available and feasible.;
 - f. At all times relevant to this Complaint, Lisa Morris used and consumed the Marlboro, Basic, and GPC brand cigarettes manufactured, sold, and/or distributed by Philip Morris, R.J. Reynolds, and Stop & Shop in the manner in which Philip Morris, R.J. Reynolds, and Stop & Shop intended and expected such cigarettes to be used and suffered damages as a result.
75. Philip Morris and R.J. Reynolds also violated G.L. c. 93A, § 2 by making false representations of material facts concerning the safety and addictiveness of their products, and thereby caused damages to Lisa Morris.
76. Philip Morris and R.J. Reynolds also violated G.L. c. 93A, § 2 by engaging in a conspiracy with other tobacco companies and trade organizations to hide what they knew about the dangers and addictiveness of cigarettes, and thereby causing damages to Lisa Morris.
77. Philip Morris and R.J. Reynolds also violated G.L. c. 93A, § 2 by making false representations concerning the relative safety of their cigarettes, including by the use of misleading descriptors such as "Lights," "Low Tar," "Lowered Tar and Nicotine," and "Filtered," knowing that consumers interpreted these descriptors to mean that the cigarettes were a healthier option, and thereby caused damages to Lisa Morris.

78. By letter dated March 19, 2021, Plaintiff sent a demand for relief to Defendants Philip Morris, R.J. Reynolds, and Stop & Shop in accordance with G.L. c. 93A, § 9(3). In response to Plaintiff's demand for relief, Defendants failed to make a written tender of settlement reasonable for the injuries suffered by Lisa Morris.
79. As a proximate result of Philip Morris', R.J. Reynolds', and Stop & Shop's unfair and deceptive trade practices, Lisa Morris, pursuant to G.L. c. 93A, § 9, is entitled to recover the damages sought in this Complaint.

COUNT VII
Loss of Consortium
(Against All Defendants)

80. Plaintiffs restate and incorporate herein the foregoing paragraphs of their Complaint.
81. As a direct and proximate result of the Defendants' wrongful acts, Plaintiff Michael Morris has suffered loss of consortium and companionship of his wife Lisa Morris, as a result of the damages she has suffered due to her lung cancer. Such injuries include, but are not limited to, Lisa Morris' struggles with participating in the life of their family while going through cancer treatment and her continued physical weakness.
82. Plaintiff Michael Morris has been deprived of the full care, comfort, society, and companionship of his wife as a result of the injuries that she sustained arising from the Defendants' negligence and other wrongful acts or omissions as described in this Complaint, and he demands judgment against all Defendants in an amount just and appropriate together with interest and costs.

Prayer for Relief

Plaintiffs request judgment against all Defendants for compensatory and multiple damages for all injuries and losses described above, including, but not limited to:

- A) Lisa Morris' conscious pain and suffering and her past and future medical and life care expenses;
- B) Michael Morris' loss of the reasonably expected services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of his wife Lisa Morris, had she not contracted cancer from smoking-related injuries;
- C) Multiple damages, costs and attorneys' fees pursuant to G.L. c. 93A;
- D) All recoverable costs of this action; all legally recoverable interest; and
- E) Any other relief the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiffs demand a trial by jury of all claims so triable.

Respectfully submitted,

/s/ ShanShan Guo /s/

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Dated: May 6, 2021