

Plaintiff OPENING STATEMENT

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
2 FOR THE COUNTY OF LOS ANGELES  
3 DEPARTMENT 308 HON. CHARLES MC COY, JUDGE  
4 RICHARD BOEKEN, )  
5 PLAINTIFF, )  
6 )  
7 ) CASE NO. BC226593  
8 VS. )  
9 PHILIP MORRIS, )  
INCORPORATED, A )  
10 CORPORATION; INTERNATIONAL )  
HOUSE OF PANCAKES )  
INCORPORATED, A )  
CORPORATION. )  
11 )  
DEFENDANTS. )  
12 \_\_\_\_\_)

13 REPORTER'S DAILY TRANSCRIPT OF PROCEEDINGS  
14 MONDAY, APRIL 2ND, 2001

15 APPEARANCES:

16 (FOR PLAINTIFF)

LAW OFFICES OF  
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18  
19 (FOR DEFENDANTS)

20

21

22

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25

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28

1 LOS ANGELES, CALIFORNIA; MONDAY, APRIL 2ND, 2001

2 9:00 A.M

3 DEPARTMENT 308 HON. CHARLES MC COY, JUDGE

4

5 (THE FOLLOWING PROCEEDINGS

6 WERE HELD IN OPEN COURT IN

7 THE PRESENCE OF THE JURY.)

8

9 THE COURT: GOOD MORNING, LADIES AND  
10 GENTLEMEN. IT'S GOOD TO SEE ALL OF YOU. I HOPE  
11 YOU HAD A GOOD WEEKEND.

12 I CAN SEE YOU ARE ALL INTERESTED IN  
13 GETTING STARTED THIS MORNING.

14 GOOD MORNING, GOOD COUNSEL. GOOD  
15 TO SEE ALL OF YOU.

16 ALL RIGHT. LET ME CHAT JUST A  
17 LITTLE BIT ABOUT WHAT'S GOING TO HAPPEN NOW

18 THIS IS GOING TO BE OPENING  
19 STATEMENT. AND AS I TOLD YOU LAST WEEK, DON'T  
20 EXPECT THE LAWYERS TO STAND UP AND MAKE CLOSING  
21 ARGUMENTS, TO WAX AND WAYNE AND, YOU KNOW, GO  
22 THROUGH THE DRAMATICS. THAT'S NOT WHAT OPENINGS  
23 STATEMENTS ARE ABOUT.

24 OPENING STATEMENTS IS AN  
25 OPPORTUNITY FOR THEM TO GIVE YOU SOME IDEA OF WHAT  
26 THEY THINK THE EVIDENCE IN THIS CASE IS GOING TO BE  
27 AND SO THAT YOU CAN GET SOME IDEA OF THIS, SO THAT  
28 IT CAN ALL HANG TOGETHER IN YOUR MIND, AT LEAST A

1 LITTLE BIT AS YOU BEGIN TO RECEIVE THE EVIDENCE,  
2 WHICH WILL COME IN SORT OF PIECE BY PIECE.

3 THINK OF IT SORT OF LIKE A JIGSAW  
4 PUZZLE. THOSE THOUSAND PIECE JIGSAW PUZZLES THAT  
5 SHAKE AROUND IN YOUR CLOSET. IMAGINE IF I BROUGHT  
6 ONE OF THOSE IN HERE, WALKED OVER TO THAT COUNSEL  
7 TABLE AND JUST TOOK IT AND JUST DUMPED IT OUT ON  
8 THE TABLE, AND THEN I SAID, "LADIES AND GENTLEMEN,  
9 WOULD YOU PLEASE PUT THIS TOGETHER FOR US. "

10 I MEAN, CAN YOU IMAGINE ALL OF YOU  
11 SORT OF STANDING AROUND AND ONE OF YOU PICK UP  
12 A PIECE AND LOOK AT IT, WHERE, DOES THIS FIT. AND  
13 IT WOULD PROBABLY GO ON FOR HOURS.

14 BUT I COULD MAKE IT JUST A LITTLE  
15 BIT EASIER FOR YOU IF I SHOWED YOU THE PICTURE ON  
16 THE OUTSIDE OF THE BOX; RIGHT?

17 THAT'S WHAT YOU ARE GOING TO GET  
18 HERE THIS MORNING AND THIS AFTERNOON IS SOME IDEA  
19 OF WHAT THE PICTURE ON THE OUTSIDE OF THE BOX LOOKS  
20 LIKE.

21 BUT THE THING ABOUT A TRIAL IS YOU  
22 ARE PROBABLY GOING TO HAVE TWO VERY DIFFERENT  
23 PICTURES PAINTED FOR YOU OF HOW THOSE PUZZLE PIECES  
24 ARE SUPPOSED TO FIT TOGETHER.

25 AND THAT IS GOING TO BE THE  
26 ULTIMATE DECISION IN THIS CASE IS TO WHICH OF THE  
27 PICTURES YOU BELIEVE IS THE TRUE PICTURE AND THAT'S  
28 YOUR ROLE AS TRIAL JURORS IN THIS MATTER.

1 ARE BOTH SIDES READY TO MAKE THEIR  
2 OPENING STATEMENTS?

3 MR. PIUZE: YES.

4 MR. LEITER: YES, YOUR HONOR.

5 THE COURT: VERY WELL. IT IS TRADITIONAL  
6 THAT WE MUST ALWAYS START WITH THE PLAINTIFF.

7 MR. PUIZE, YOUR JURY.

8 MR. PIUZE: OKAY.

9

10 OPENING STATEMENT

11

12 BY MR. PIUZE:

13 GOOD MORNING.

14 NOW, I CANNOT INTRODUCE MY CLIENT,  
15 RICHARD BOEKEN, RIGHT NOW AND I WILL TELL YOU  
16 THAT I AM NOT SURE THAT YOU ARE GOING TO HAVE A  
17 CHANCE TO SEE HIM IN PERSON OR TO HEAR HIM IN  
18 PERSON. BUT I CAN TELL YOU THAT SOMETIME DURING  
19 THE TRIAL YOU ARE GOING TO HEAR TESTIMONY FROM HIM  
20 EITHER IN PERSON OR THROUGH VIDEO TAPE.

21 BUT I'D LIKE TO INTRODUCE YOU TO  
22 MR. BROKEN THROUGH JUST TWO PICTURES BEFORE I GO  
23 ANY FURTHER SO THAT I WON'T HAVE AN EMPTY CHAIR  
24 HERE BEHIND ME.

25 AND THEN AFTER I INTRODUCE YOU TO  
26 MR. BROKEN THROUGH PICTURES, I WANT TO EXPLAIN HOW  
27 WHEN HE WAS BORN, WHICH IS A TOTALLY FOREIGN  
28 CONCEPT TO A FEW OF YOU, AND RELATIVELY FAMILIAR

1 CONCEPT TO A FEW OF YOU, COINCIDED WITH THE TIME  
2 WHEN, IN AMERICA, IN EXCESS OF 50 PERCENT OF ALL  
3 THE MEN SMOKED CIGARETTES, A LOT.

4 AND MR. BROKEN, AS IT TURNED OUT,  
5 WAS BORN AT EXACTLY A TIME WHEN SMOKING WAS  
6 GLORIFIED AND THE THING TO DO, AND HE BECAME A  
7 HEAVY SMDKER.

8 AND THEN I AM GOING TO TALK A  
9 LITTLE BIT ABOUT WHAT THIS EVIDENCE IS GOING TO  
10 SHOW HERE, AS FAR AS WHAT CIGARETTES CAN REALLY DO  
11 TO HUMAN BEINGS, WHAT PHILIP MRRIS AND THE TOBACCO  
12 INDUSTRIES ALWAYS KNEW THAT CIGARETTES COULD DO TO  
13 HUMAN BEINGS AND HOW PHILIP MRRIS AND OTHER  
14 TOBACCO COMPANIES DENY, HID, SUPPRESSED, AND  
15 BASICALLY, MADE A BIG QUESTION OUT OF THE FACT THAT  
16 CIGARETTES WERE REALLY HARMFUL.

17 SO LET' S START WITH MR. BROKEN,  
18 FIRST.

19 THIS IS RICHARD AND JUDY BROKEN.

20 THEY WERE MARRIED SOMEPLACE IN THE  
21 VICINITY OF ABOUT 1976, EARLY ON IN 1976.

22 MAYBE THEY HAVEN' T BEEN MARRIED FOR  
23 QUITE THAT LONG.

24 AND HERE' S A PICTURE OF MR. BROKEN.  
25 THIS IS A RECENT ONE NOW AND THE FACT THAT HE' S  
26 GOT NO HAIR ISN' T BECAUSE HE IS TRYING TO BE  
27 STYLISH HERE, THE FACT THAT HE HAS NO HAIR IS  
28 BECAUSE OF SOME CHEMD AND RADIATION THERAPY THAT' S

1 BEEN DONE ON HIM

2 BUT HE IS WITH HIS YOUNG SON DYLAN  
3 AND DYLAN IS THE SON OF JUDY AND RICHARD. I JUST  
4 SHOWED YOU A PICTURE OF THE TWO OF THEM

5 NOW, MR. BROKEN RAISED TWO STEP  
6 SONS THAT HIS WIFE HAD BY A PRIOR MARRIAGE, DAVID  
7 AND DAMIEN PETROLI.

8 AND I EXPECT THAT DURING THE COURSE  
9 OF THE TRIAL YOU ARE PROBABLY GOING TO HEAR FROM AT  
10 LEAST ONE OF THEM THEY ARE GROWN MEN NOW, THEY  
11 ARE OUT OF THE HOUSE.

12 RICHARD BOEKEN WAS BORN IN -- YOUR  
13 HONOR, CAN I SIT HERE FOR A SECOND?

14 RICHARD BOEKEN WAS BORN IN 1944.  
15 1944 SEEMS LIKE ANOTHER PLANET TO SOME OF US, I  
16 KNOW, NOT TO ME.

17 IN 1944, WORLD WAR II WAS GOING ON,  
18 AND IN 1944, AMONG OTHER THINGS THAT HAPPENED,  
19 WHICH PEOPLE LIKE MR. BROKEN SAW AGAIN AND AGAIN  
20 AND AGAIN DURING WAR MOVIES THAT WERE POPULAR FOR  
21 AT LEAST TEN YEARS AFTERWARDS, WAS THAT THE  
22 SOLDIERS, WHEN THEY GOT THEIR C-RATIONS, WHICH IS  
23 THE FOOD YOU GET IN THE FIELD, GOT FREE CIGARETTES,  
24 AND THE CIGARETTES WERE PROVIDED FREE BY THE  
25 MANUFACTURERS. AND SMOKING IN WARTIME WAS, LET'S  
26 PUT IT THIS WAY, NOT SMOKING IN WARTIME WAS  
27 UNUSUAL.

28 MR. BROKEN WAS ABOUT 6 OR 7 OR 8

1 YEARS OLD WHEN THE KOREAN WAR WAS GOING ON.

2 AND THE KOREAN WAR WAS ROUGHLY  
3 ABOUT '51 TO '53, IN THAT AREA.

4 AND AT THAT TIME, AGAIN, OUR  
5 SOLDIERS FIGHTING IN THE FIELD HAD FREE CIGARETTES,  
6 COURTESY OF THE MANUFACTURERS. AND SMOKING  
7 CIGARETTES WAS THE THING TO DO BUT PEOPLE WHO  
8 WEREN'T SMOKING CIGARETTES WERE OUT OF THE LOOP,  
9 TOTALLY.

10 MR. BROKEN WAS IN THE VICINITY OF  
11 ABOUT, ROUGHLY, 20 TO 30 YEARS OLD WHEN OUR COUNTRY  
12 FOUGHT IN THE VIETNAM WAR. AND ONCE AGAIN, IN THE  
13 VIETNAM WAR, AS IN THE OTHER WARS, THE SOLDIERS  
14 WERE GIVEN FREE CIGARETTES TO SMOKE IN THE FIELD  
15 ALONG WITH THEIR C-RATIONS AND AGAIN, SMOKING WAS  
16 THE THING TO DO.

17 NOT SMOKING, FOR THESE TOUGH,  
18 RUGGED MEN, WAS UNUSUAL. IT WAS IN THE MINORITY,  
19 BY FAR.

20 MR. BROKEN GREW UP, RICHARD BOEKEN,  
21 WAS BORN HERE AND GREW UP HERE. AND ULTIMATELY  
22 WENT TO HOLLYWOOD HIGH SCHOOL.

23 HIS DAD WAS ILL WHEN HE WAS A KID.  
24 I THINK HIS DAD DIED, OH, BEFORE RICHARD, CERTAINLY  
25 BEFORE HE GOT OUT OF HIGH SCHOOL, I THINK THE  
26 EVIDENCE IS GOING TO SHOW AND RICHARD GREW UP AT  
27 A TIME WHEN, AT THE AGE OF 10, HE PICKED UP HIS  
28 FIRST CIGARETTE.

1                   NOW, 10 YEARS OLD WAS 1954. I'D  
2 LIKE YOU TO KEEP 1954 IN MIND BECAUSE THAT'S A VERY  
3 IMPORTANT DATE IN OUR STORY HERE ABOUT PHILIP  
4 MORRIS AND THE TOBACCO INDUSTRY.

5                   RICHARD BOEKEN STARTED SMOKING  
6 CIGARETTES REGULARLY WHEN HE WAS APPROXIMATELY 13  
7 YEARS OLD AND THAT WOULD HAVE BEEN 1957.

8                   THE EVIDENCE IS GOING TO SHOW THAT  
9 CERTAINLY THEN AND PROBABLY NOW, MOST SERIOUS  
10 SMOKERS START WHEN THEY ARE TEENAGERS. MOST  
11 SERIOUS SMOKERS GET HOOKED WHEN THEY ARE TEENAGERS  
12 AND PEOPLE WHO DON'T START SMOKING WHEN THEY ARE  
13 TEENAGERS TYPICALLY DON'T GET HOOKED ON CIGARETTES.  
14 IT IS PRETTY UNUSUAL.

15                  ONE OF THE REASONS MR. BROKEN  
16 STARTED SMOKING CIGARETTES WHEN HE WAS 13 YEARS OLD  
17 IS BECAUSE EVERYONE DID IT. HIS PARENTS BOTH  
18 SMOKED. HIS TEACHERS SMOKED. HIS FRIENDS SMOKED,  
19 ATHLETES WOULD BE ON TELEVISION, ADVERTISING  
20 CIGARETTES, SAYING HOW MUCH THEY ENJOYED SMOKING.

21                  THE MOST FAMOUS NEWSCASTER AND NEWS  
22 ANALYST OF THE TIME, THE GUY WHO WAS SORT OF A  
23 COMBINATION OF RATHER AND JENNINGS AND BROKAW, ALL  
24 THROWN TOGETHER, WAS A MAN NAMED EDWARD R. MURROW  
25 AND EDWARD R. MURROW WAS A VERY, VERY FAMOUS AND  
26 POWERFUL JOURNALIST. HE IS THE GUY WHO STARTED OFF  
27 THE CBS TRADITION, WALTER CRONKITE WAS ONE OF HIS  
28 PUPILS, SO TO SPEAK.

1                   EDWARD R. MURROW, WHEN HE WAS ON  
2 TELEVISION, GIVING THE NEWS AND GIVING COMMENTARIES  
3 TO US EVERY NIGHT ON THE TELEVISION WAS SITTING  
4 THERE WITH A CIGARETTE, SMOKING A CIGARETTE FOR THE  
5 COUNTRY TO SEE.

6                   AND EDWARD R. MURROW HAD A SHOW  
7 CALLED "SEE IT NOW" ON TELEVISION. HE WAS SMOKING  
8 A CIGARETTE FOR THE WORLD TO SEE.

9                   IT WAS A DIFFERENT TIME, A  
10 DIFFERENT PLACE, A PLACE THAT SOME OF YOU CANNOT  
11 IMAGINE NOW, BUT A PLACE IN WHICH RICHARD BOEKEN  
12 GREW UP AND A PLACE THAT IS RESPONSIBLE FOR THE WAY  
13 HE SAW CIGARETTES RIGHT UP UNTIL A COUPLE YEARS  
14 AGO. TOO LATE WHEN HE -- IN TELEVISION, IN THE  
15 MORNING, ON THE "TODAY SHOW," PEOPLE SMOKED, AND ON  
16 TELEVISION AT NIGHT ON THE "TONIGHT SHOW," PEOPLE  
17 SMOKED. IN PUBLIC BUILDINGS, PEOPLE SMOKED. IN  
18 COURT HOUSES EXACTLY LIKE THIS ONE, DURING BREAKS,  
19 IN OPENING STATEMENT OR CROSS-EXAMINATION OR BREAKS  
20 IN THE TRIAL, THE JURORS AND THE LAWYERS WOULD GO  
21 RIGHT OUT IN THE HALL RIGHT OUTSIDE THE DOOR AND  
22 SMOKED.

23                   SMOKING WAS EVERYWHERE. SMOKING  
24 WAS ALLOWED EVERYWHERE. SMOKING WAS EXPECTED.

25                   ONCE AGAIN, THE EVIDENCE IN THIS  
26 CASE WILL SHOW THAT IN AMERICA, MORE THAN 50  
27 PERCENT OF THE MEN SMOKED AND SMOKED HEAVILY.

28                   SO AT THE AGE OF 13, RICHARD BOEKEN

1 STARTED SMOKING CIGARETTES. AND AT THIS AGE OF 13,  
2 HE STARTED SMOKING MARLBORO CIGARETTES.

3 AND THERE'S A COUPLE REASONS WHY HE  
4 STARTED SMOKING MARLBORO CIGARETTES. BUT ACCORDING  
5 TO HIS TESTIMONY, THE FIRST AND FOREMOST IS THE  
6 IMAGE THAT IT PROJECTED TO HIM, BECAUSE RICHARD  
7 BOEKEN WANTED TO BE A STRONG, TOUGH, INDEPENDENT  
8 GUY. HE WANTED TO BE A GUY'S GUY, AND THAT WAS  
9 EXACTLY THE WAY THESE CIGARETTES WERE PORTRAYED.

10 SOMEPLACE IN THIS OPENING  
11 STATEMENT, A LITTLE WHILE, I AM GOING TO SHOW YOU A  
12 COUPLE VIDEOS. I AM GOING TO SHOW SOME OF YOU SOME  
13 THINGS THAT I KNOW YOU HAVE NEVER SEEN. I AM GOING  
14 TO SHOW YOU CIGARETTE ADS THAT WERE ON TELEVISION  
15 ALL THE TIME. INSTEAD OF SEEING ADS ABOUT BUYING  
16 SOAP OR BUYING, WHATEVER IS ADVERTISED NOWADAYS,  
17 WHEN KIDS TURNED ON THE TELEVISION AT NIGHT, THERE  
18 WERE ADS SAYING, BUY OUR CIGARETTES, BUY OUR  
19 CIGARETTES, BUY OUR CIGARETTES. AND THEY WERE NOT  
20 ACCOMPANIED BY WARNINGS OF ANYTHING. BECAUSE THERE  
21 WERE NO WARNINGS OF ANYTHING.

22 WHEN MR. BROKEN STARTED SMOKING  
23 CIGARETTES AND EXPERIMENTING WITH CIGARETTES, THERE  
24 WERE NO WARNING OF ANY KIND WHATSOEVER.

25 WHEN I START TALKING ABOUT  
26 SPECIFICS HERE IN A LITTLE WHILE, I WILL GIVE YOU A  
27 LITTLE TIME LINE AS TO EXACTLY HOW OLD HE WAS AND  
28 WHAT HE WAS DOING WHEN DIFFERENT THINGS HAPPENED IN

1 THE TOBACCO INDUSTRY AS FAR AS OUR PUBLIC HEALTH  
2 SYSTEM IS CONCERNED.

3 MR. BROKEN WAS 40 YEARS OLD IN  
4 1984.

5 AND IN 1984, WHEN HE WAS 40 YEARS  
6 OLD, THE TOBACCO INDUSTRY PUBLISHED IN NEWSPAPERS,  
7 STATEMENTS SAYING THEY ABSOLUTELY WERE NOT  
8 CONVINCED THAT SMOKING CAUSED ANY KIND OF SERIOUS  
9 DISEASE.

10 AND THEY ABSOLUTELY WERE NOT  
11 CONVINCED THAT SMOKING WAS HARMFUL TO HEALTH.

12 AND THE TOBACCO INDUSTRY TOLD  
13 ANYONE WHO WANTED TO READ THE NEWSPAPER THAT IT WAS  
14 AN OPEN QUESTION AND THAT THERE WAS NO, REALLY, FOR  
15 THEIR PURPOSES, HARD SCIENTIFIC PROOF THAT SMOKING  
16 WAS DANGEROUS.

17 NOW, I'D LIKE TO, IF I COULD, START  
18 OFF WITH SOME DOCUMENTS AND I WOULD LIKE TO START  
19 OFF WITH TODAY, RIGHT NOW -- I AM GOING TO SHOW YOU  
20 SOME ADMISSIONS FROM PHILIP MORRIS THAT STATES  
21 THEIR POSITION RIGHT OFF OF THEIR WEB SITE TODAY.

22 AND SO WE WILL PUT A COUPLE ISSUES  
23 INTO CONCRETE HERE, AND I AM GOING TO GO BACKWARDS.

24 PHILIP MORRIS SAYS "CIGARETTE  
25 SMOKING AND ADDICTION. WE AGREE WITH THE  
26 OVERWHELMING MEDICAL AND SCIENTIFIC CONSENSUS THAT  
27 CIGARETTE SMOKING IS ADDICTIVE. "

28 SO NOW THAT'S NOT A QUESTION. THE

1 PLAINTIFF, RICHARD BOEKEN, THROUGH SOME INCREDIBLY  
2 DISTINGUISHED EXPERT WITNESSES THAT ARE GOING TO  
3 COME HERE AND THAT WILL TELL YOU ABOUT IT, WILL  
4 EXPLAIN THAT CIGARETTE SMOKING IS ADDICTIVE, THAT  
5 NICOTINE IS A VERY ADDICTIVE SUBSTANCE, AND THAT  
6 THIS HAS BEEN KNOWN FOR EVER AND EVER.

7 THE FACT THAT IT IS ADDICTIVE IS A  
8 NON-ISSUE IN THE CASE, BECAUSE PHILIP MORRIS AGREES  
9 NOW WITH THE PLAINTIFF'S POSITION.

10 SO LET ME PUT THIS UP OVER HERE  
11 BECAUSE, AS I TALK, I WANT TO SORT OF MAKE A TIME  
12 LINE BETWEEN WHERE WE ARE NOW AND WHERE WE WERE  
13 WHERE RICHARD BOEKEN WAS WHEN HE STARTED SMOKING  
14 AND WHAT WAS GOING ON.

15 AND I'D LIKE TO SHOW YOU BETWEEN  
16 THE TWO EXTREMES, HOW THINGS CHANGED OVER A PERIOD  
17 OF TIME AND HOW IT AFFECTED MR. BROKEN AND THE  
18 UNITED STATES OF AMERICA.

19 THIS IS OFF OF PHILIP MORRIS'S WEB  
20 SITE TODAY, 2001.

21 "CIGARETTE SMOKING AND  
22 DISEASE IN SMOKERS. WE AGREE WITH THE  
23 OVERWHELMING MEDICAL AND SCIENTIFIC  
24 CONSENSUS THAT CIGARETTE SMOKING  
25 CAUSES LUNG CANCER, HEART DISEASE,  
26 EMPHYSEMA AND OTHER SERIOUS DISEASES  
27 IN SMOKERS. SMOKERS ARE FAR MORE  
28 LIKELY TO DEVELOP SERIOUS DISEASES

1           LIKE LUNG CANCER THAN NON-SMOKERS.  
2           THERE IS NO SAFE CIGARETTE. THESE ARE  
3           AND HAVE BEEN THE MESSAGE OF PUBLIC  
4           HEALTH AUTHORITIES WORLDWIDE. SMOKERS  
5           AND POTENTIAL SMOKERS SHOULD RELY ON  
6           THESE MESSAGES IN MAKING ALL SMOKING  
7           RELATED DECISIONS. "

8                         SO, NOW IN 2001, FOR EVERYBODY' S  
9           KNOWLEDGE, PHILIP MORRIS, AGAIN, AGREES WITH THE  
10          PLAINTIFF' S POSITION IN THIS CASE THAT SMOKING  
11          CAUSES LUNG CANCER.

12                        NOW, THERE ARE OTHER SERIOUS  
13          DISEASES MENTIONED HERE, VERY SERIOUS DISEASES.

14                        THIS PARTICULAR CASE IS ABOUT LUNG  
15          CANCER. THESE VERY SERIOUS DISEASES ARE ABOUT A  
16          LARGER PART OF THE CASE, A PART OF THE CASE BEYOND  
17          MR. BROKEN.

18                        AND BETWEEN 10, AND THAT' S FOR  
19          LADIES, AND 15, FOR MEN, PERCENT OF PEOPLE WHO ARE  
20          LONG-TERM SMOKERS GET LUNG CANCER. 10 PERCENT OF  
21          THE LADIES, 15 PERCENT OF THE MEN GET LUNG CANCER.

22                        THE EVIDENCE IN THIS CASE WILL SHOW  
23          THAT 400,000 PEOPLE DIE OF CIGARETTE RELATED  
24          ILLNESS IN THE UNITED STATES EACH YEAR.

25                        AND SO THE TIMEFRAME WE ARE GOING  
26          TO BE CONCENTRATING ON HERE IS ROUGHLY 1950 TO,  
27          ROUGHLY, 2000. SO THAT' S 50 YEARS. DURING THAT  
28          TIME, IN ROUND NUMBERS, 20 MILLION AMERICANS HAVE

1 DIED FROM SMOKING RELATED ILLNESS.

2 AND AS I GO THROUGH SOME OF THESE  
3 OTHER TIMEFRAMES IN A LITTLE BIT, WHEN I SHOW YOU  
4 WHAT PHILIP MORRIS AND THE TOBACCO INDUSTRY KNEW,  
5 AND WHAT PHILIP MORRIS AND THE TOBACCO INDUSTRY  
6 TOLD THE PUBLIC OR DIDN'T TELL THE PUBLIC OR HID  
7 FROM THE PUBLIC OR COVERED UP FROM THE PUBLIC, I'D  
8 LIKE YOU TO REMEMBER THAT WE WILL SHOW THAT FOR  
9 EACH YEAR OF DELAY IN DOING SOMETHING, 400,000  
10 AMERICANS DIED OF SMOKING RELATED ILLNESS.

11 OUR FIRST WITNESS IN THIS CASE,  
12 UNLESS SOMETHING VERY UNUSUAL HAPPENS, IS A DOCTOR  
13 NAMED RICHARD DOLL, D-O-L-L. RICHARD DOLL IS 88  
14 YEARS OLD. AND RICHARD DOLL HAS AGREED TO COME  
15 HERE FROM OXFORD, ENGLAND.

16 RICHARD DOLL IS ONE OF THE MOST  
17 HIGHLY RESPECTED AND ACKNOWLEDGED AND DECORATED  
18 SMOKING, TOBACCO DOCTORS IN THE WORLD.

19 RICHARD DOLL HOLDS HONORS FROM THE  
20 BRITISH GOVERNMENT AND THE AMERICAN GOVERNMENT IN  
21 ALL THE MAJOR TOBACCO -- I AM SORRY -- CANCER AND  
22 DISEASE SOCIETIES THAT HAVE ANYTHING TO DO WITH  
23 SMOKING.

24 HE HOLDS THE SECOND HIGHEST HONOR  
25 THAT THE BRITISH GOVERNMENT CAN GIVE ANYONE, ONLY  
26 66 PEOPLE IN THE ENTIRE WORLD TO HAVE THIS HONOR,  
27 HE IS ONE OF THEM HE WAS HONORED IN THIS WAY  
28 BECAUSE OF HIS PIONEERING WORK THAT WAS PUBLISHED

1 IN 1950, 50 YEARS AGO, THAT SAID, CIGARETTE SMOKING  
2 CAUSES LUNG CANCER.

3 I WILL SAY SIR RICHARD ONES OR  
4 TWICE, BUT HE IS NOT TO BE CALLED THAT. I WILL  
5 CALL HIM DR. DOLL AFTER THAT.

6 SIR RICHARD DOLL HAS AGREED TO FLY  
7 OVER HERE TO LOS ANGELES FROM OXFORD AND TESTIFY A  
8 LITTLE BIT IN THIS TRIAL.

9 HE'S GOING TO TELL YOU THAT BY  
10 1950, AS A RESULT OF STRONG STUDIES THAT WERE DONE  
11 IN BRITAIN AND STRONG STUDIES THAT WERE DONE HERE  
12 IN THE UNITED STATES BY THREE RESEARCHERS, AND THE  
13 CHIEF RESEARCHER HERE IS A MAN NAMED RENDER, THAT  
14 IT IS PRETTY DARN OBVIOUS TO ANYONE, 50 YEARS AGO,  
15 THAT CIGARETTE SMOKING CAUSED LUNG CANCER.

16 NOW, SOME OF YOU, BECAUSE OF YOUR  
17 AGES, HAVE GROWN UP WHERE THIS HAS SORT OF BEEN  
18 LIKE A YAWN, SO WHAT, BECAUSE, I GUESS, WE HAVE  
19 HEARD IT SINCE WE WERE KIDS.

20 BUT THIS ISN'T ALWAYS THE CASE.

21 THE EVIDENCE WILL SHOW THE  
22 FOLLOWING, AND YOU SHOULD BE AWARE OF THE  
23 FOLLOWING: CIGARETTE SMOKING WAS NOT VERY  
24 WIDE-SPREAD BEFORE THE TURN OF THIS CENTURY. AND  
25 THE REASON FOR THAT IS BECAUSE THE KIND OF MACHINES  
26 THAT ARE USED TO ROLL UP NICE CIGARETTES AND JUST  
27 MAKE JILLIONS OF CIGARETTES AT A TIME DIDN'T EXIST.

28 SO CIGARETTES WEREN'T REALLY MASS

1 PRODUCED AND THERE REALLY WEREN' T THAT MANY OF  
2 THEM

3 IN THE FIRST DECADE OF THIS  
4 CENTURY, THERE WERE ALMOST NO RECORDED LUNG CANCER  
5 DEATHS ANY PLACE IN THE WORLD.

6 IT WAS BASICALLY AN UNKNOWN  
7 DISEASE. IT HAD BEEN ESTABLISHED THAT IT WAS A  
8 DISEASE, BUT IT WAS EXTREMELY RARE.

9 WITH THE ADVENT OF THE MACHINERY  
10 THAT MASS PRODUCED CIGARETTES, NICE ROUND  
11 CIGARETTES, PEOPLE STARTED SMOKING, AND AT FIRST,  
12 WHEN SMOKING STARTED TO GET POPULAR, AT LEAST IN  
13 THIS COUNTRY, THERE WAS A LITTLE REBELLION ABOUT  
14 IT. THERE WERE A LOT OF PEOPLE WHO DIDN' T LIKE IT.

15 AND I THINK THE EVIDENCE IS GOING  
16 TO SHOW THAT THERE WERE MANY AMERICAN, UNITED  
17 STATES' STATES THAT DID NOT ALLOW CIGARETTE SMOKING  
18 HERE IN AMERICA, IN THIS CENTURY.

19 AND IT MAY BE THAT THERE WERE AS  
20 MANY AS 11 STATES THAT WOULD NOT ALLOW CIGARETTE  
21 SMOKING, EARLY IN THE CENTURY.

22 THEIR RELUCTANCE, THEIR DISTASTE,  
23 FELL BY THE WAYSIDE AND, OBVIOUSLY, WE ALL KNOW  
24 CIGARETTE SMOKING IS COMPLETELY, TOTALLY LEGAL. IT  
25 HAS BEEN DURING ANY OF OUR MEMDRIES, CERTAINLY.

26 LUNG CANCER INCREASED DRAMATICALLY  
27 WITH THE PASSAGE OF TIME GOING INTO OUR 20TH  
28 CENTURY.

1                   SOME RESEARCH WAS DONE, SOME OF THE  
2 PIONEERING RESEARCH WAS DONE IN GERMANY JUST  
3 BEFORE, OR MAYBE JUST AT THE BEGINNING OF WORLD WAR  
4 II. BUT BECAUSE OF THIS HORRENDOUS WAR AND  
5 HOSTILITIES, THAT RESEARCH WAS NEVER PUBLISHED AND  
6 IT WAS NEVER REALLY AVAILABLE TO ANYONE, OTHER THAN  
7 SOME SCIENTISTS IN GERMANY.

8                   THE FIRST PAGE OR STUDIES THAT WERE  
9 TO DETERMINE WHAT IS RESPONSIBLE FOR THE TREMENDOUS  
10 INCREASE IN LUNG CANCER AND LUNG CANCER DEATHS WAS  
11 STARTED IN THE LATE 1940' S.

12                   WE WILL BE TALKING HERE PRETTY MUCH  
13 ABOUT THE WINDER STUDIES IN THE UNITED STATES AND  
14 THE DOLL STUDIES IN ENGLAND.

15                   DR. DOLL' S STUDIES HAVE GONE ON TO  
16 THIS VERY DAY. THE STUDIES SHOWED, WTHOUT ANY  
17 QUESTION, THAT THERE WAS A DIRECT LINK BETWEEN  
18 SMOKING CIGARETTES AND LUNG CANCER.

19                   I WILL JUST TOUCH ON TWO OF THE  
20 HIGHLIGHTS, AND THEN I WILL LET DR. DOLL TELL YOU  
21 ABOUT THE DETAILS.

22                   ONE THING THAT WAS DONE WAS TO FIND  
23 GROUPS OF TWINS. IT WAS THOUGHT THAT MAYBE THE  
24 LUNG CANCER WAS GENETIC AND THAT SMOKING REALLY  
25 DIDN' T HAVE THAT MUCH TO DO ABOUT IT.

26                   AND SO I THINK IN SWEDEN,  
27 ESPECIALLY, THERE WERE SEVERAL STUDIES DONE NOT  
28 JUST IN SWEDEN, BUT FOR SURE IN SWEDEN, SEVERAL

1 STUDIES DONE WHERE MEDICAL RESEARCHERS TRACKED DOWN  
2 TWINS TO SEE WHAT WOULD HAPPEN WHERE ONE SMOKED AND  
3 THE OTHER DIDN' T.

4 AND IF IT WAS GENETIC, OF COURSE,  
5 THE RESEARCHERS WOULD EXPECT TO SEE BOTH TWINS  
6 HAVING LUNG CANCER. AND WHAT THE RESEARCHERS FOUND  
7 OUT WAS THE TWIN WHO SMOKED WAS WAY MORE LIKELY TO  
8 GET LUNG CANCER AND THE TWIN WHO DIDN' T SMOKE WAS  
9 VERY UNLIKELY TO GET LUNG CANCER.

10 SO THAT WAS ONE STUDY.

11 ANOTHER STEP WAS TO FOLLOW A GROUP  
12 OF ENGLISH DOCTORS THAT ALL HAD M.D. DEGREES. THEY  
13 WERE ALL PRACTICING PHYSICIANS, AND BECAUSE,  
14 BECAUSE SMOKING WAS SO WIDE SPREAD, NOT JUST HERE,  
15 BUT ALSO IN ENGLAND, ALL OF THESE DOCTORS SMOKED.  
16 I THINK MAYBE 9 OUT OF 10 DOCTORS SMOKED.

17 SO DR. DOLL AND HIS PARTNER AND  
18 THEIR COLLEAGUES STARTED FOLLOWING THESE DOCTORS  
19 WHO SMOKED TO SEE WHAT WOULD HAPPEN TO THEM AND  
20 THIS STARTED WAY, WAY BACK. AND THIS STUDY IS  
21 STILL GOING ON TO THIS VERY DAY, FOLLOWING THESE  
22 DOCTORS TO SEE WHAT THEIR CONDITIONS ARE.

23 A COUPLE OF THINGS THAT ARE  
24 NOTEWORTHY.

25 ONE, THE DOCTORS WERE ASKED, WHY  
26 ARE YOU SMOKING, TO START WITH?

27 AND I THINK THE EVIDENCE IS GOING  
28 TO SHOW THAT NONE OF THEM RESPONDED THAT THEY

1 SMOKED FOR PLEASURE. I THINK THE EVIDENCE IS GOING  
2 TO SHOW THAT THESE DOCTORS SAID THEY SMOKED BECAUSE  
3 THEY COULDN'T STOP SMOKING.

4 AND THAT GOES TO THE ISSUE OF  
5 ADDICTION WHICH, AS I HAVE POINTED OUT, PHILIP  
6 MORRIS NOW ADMITS THAT THAT'S AN ISSUE THAT THEY  
7 ADMIT.

8 AND ANOTHER FEATURE OF THE DOCTORS'  
9 STUDY WAS THAT DOCTORS WHO SMOKED GOT LUNG CANCER  
10 WAY, WAY, WAY MORE OFTEN THAN DOCTORS WHO DIDN'T  
11 SMOKE.

12 JUST SO I DON'T FORGET, I'D LIKE TO  
13 INSERT A FIGURE HERE. RICHARD BOEKEN HAS BEEN  
14 DIAGNOSED WITH PAPILLARY ADENOCARCINOMA.

15 SMOKERS ARE 22 TIMES MORE LIKELY TO  
16 HAVE ADENOCARCINOMA OF THE LUNG THAN NON-SMOKERS.  
17 22 TIMES MORE.

18 RICHARD DOLL'S STUDIES CONTINUED  
19 AND DR. DOLL AND HIS AMERICAN COHORTS, WINDER AND  
20 HIS GROUP, PUBLISHED EXTENSIVELY ABOUT THEIR  
21 FINDINGS.

22 THEY THOUGHT THAT CIGARETTE SMOKING  
23 WAS A MAJOR PUBLIC HEALTH MENACE.

24 AND THEY WANTED TO SHARE THEIR  
25 FINDINGS WITH THE WORLD TO SEE IF IT COULD HAVE  
26 SOME EFFECT ON HEALTH HABITS AND PUBLIC HEALTH  
27 HABITS, PUBLIC HEALTH POLICY IN ENGLAND AND THE  
28 UNITED STATES AND THE WESTERN WORLD, GENERALLY.

1 AND SO RIGHT NOW, HAVING  
2 ESTABLISHED THAT, I'D LIKE TO GO TO ANOTHER  
3 DOCUMENT THAT I AM GOING TO PUT UP OVER HERE.

4 THIS DOCUMENT DATES BACK TO JANUARY  
5 OF 1954.

6 AND THIS IS CALLED A FRANK  
7 STATEMENT TO CIGARETTE SMOKERS. I AM GOING TO PUT  
8 IT UP AND HOLD IT UP FOR YOU, DISCUSS IT.

9 I'D LIKE TO TELL YOU IN ADVANCE  
10 THAT WHAT I AM ABOUT TO SHOW YOU WAS PUBLISHED IN  
11 APPROXIMATELY 450 NEWSPAPERS ALL OVER THE UNITED  
12 STATES, SIMULTANEOUSLY, ALL ON THE SAME DAY.

13 THIS FRANK STATEMENT WAS MEANT TO  
14 REACH THE AMERICAN PUBLIC.

15 I DRAW YOUR ATTENTION, TO START  
16 WITH, FIRST OF ALL, AT THE DATE, JANUARY '54.

17 AND I'D LIKE TO REMIND YOU THAT IN  
18 1954, LATER IN THE YEAR, RICHARD BOEKEN TURNED TEN  
19 YEARS OLD.

20 AND WHEN THIS CAME OUT HE WAS NINE  
21 YEARS OLD. I THINK HIS BIRTHDAY IS IN JUNE, BUT I  
22 MAY BE CORRECTED.

23 THE SECOND THING I WOULD LIKE TO  
24 POINT OUT TO YOU IS AT THE TOP IT SAYS.

25 "TOBACCO INDUSTRY RESEARCH  
26 COUNCIL. "

27 AND YOU ARE GOING TO SEE DURING THE  
28 COURSE OF THIS TRIAL AND YOU ARE GOING TO HEAR

1 REFERENCE TO DURING THE COURSE OF THIS TRIAL TO  
2 TOBACCO INDUSTRY RESEARCH COMMITTEE, EXCUSE ME.  
3 AND THAT IS SOMETIMES CALLED T. I. R. C. , T-I-R-C.

4 NOW, BEFORE I READ YOU -- WELL, I  
5 WILL READ YOU THIS AND THEN I WILL TALK ABOUT WHAT  
6 T. I. R. C. IS, WHERE IT CAME FROM, WHAT IT DID.

7 FROM THIS DOCUMENT THAT WAS  
8 PUBLISHED IN THE PAPERS, ALL THE TOBACCO COMPANIES  
9 ARE LISTED DOWN HERE AS THE SPONSORS AND HERE'S  
10 PHILIP MORRIS RIGHT HERE (INDICATING).

11 I BLEW UP THIS PASSAGE:

12 "WE ACCEPT AN INTEREST IN  
13 PEOPLE'S HEALTH AS A BASIC  
14 RESPONSIBILITY PARAMOUNT TO EVERY  
15 OTHER CONSIDERATION IN OUR BUSINESS.

16 "WE BELIEVE THE PRODUCTS WE  
17 MAKE ARE NOT INJURIOUS TO HEALTH. WE  
18 ALWAYS HAVE AND ALWAYS WILL COOPERATE  
19 CLOSELY WITH THOSE WHO'S TASK IT IS TO  
20 SAFEGUARD PUBLIC HEALTH."

21 NOW, ACCORDING TO THE EVIDENCE IN  
22 THIS CASE, IN 1954, IT WAS WELL-KNOWN THAT THEIR  
23 PRODUCT, CIGARETTES, CAUSED VERY SERIOUS ILLNESSES,  
24 INCLUDING LUNG CANCER AND LOTS AND LOTS AND LOTS OF  
25 DEATH. LOTS OF DEATHS.

26 THE EVIDENCE IN THIS CASE IS GOING  
27 TO SHOW THAT ON THE DAY THAT THAT STATEMENT WAS  
28 PUBLISHED IN 450, APPROXIMATELY, NEWSPAPERS AROUND

1 THE UNITED STATES, THE PEOPLE THAT PUBLISHED IT HAD  
2 NO RIGHT TO SAY WHAT THEY SAID.

3 AND THE EVIDENCE IS GOING TO SHOW  
4 THAT ON THE DAY THAT THAT WAS PUBLISHED, IT WAS, AT  
5 BEST, THAT STATEMENT, WAS AT BEST, A HALF TRUTH,  
6 VERY LIKELY AN OUT AND OUT LIE, AND TOTALLY  
7 MISLEADING.

8 THE EVIDENCE IS GOING TO SHOW THAT  
9 THE TOBACCO INDUSTRY, DURING THE TIMES IN QUESTION  
10 HERE, IN THE EARLY '50'S GOING RIGHT UP UNTIL THIS  
11 INSTANT, NEVER ACCEPTED AN INTEREST IN PEOPLE'S  
12 HEALTH AS THEIR BASIC RESPONSIBILITY, EVER.

13 AND THE EVIDENCE IS GOING TO SHOW  
14 THAT THE TOBACCO INDUSTRY AND PHILIP MORRIS NEVER  
15 HELD PEOPLE'S HEALTH AS PARAMOUNT TO EVERY OTHER  
16 CONSIDERATION IN THEIR BUSINESS.

17 AND THE EVIDENCE IS GOING TO SHOW  
18 THAT WHEN THEY SAID, "WE BELIEVE THAT THE PRODUCTS  
19 WE MAKE ARE NOT INJURIOUS TO HEALTH," KNEW IT WAS  
20 FALSE. THEY KNEW IT WAS FALSE. THEY HAD NO RIGHT  
21 TO SAY IT. AND THAT WAS SAID WITH ONE PURPOSE IN  
22 MIND, TO MISLEAD THE AMERICAN PUBLIC SO THAT THEY  
23 WOULDN'T LOSE CUSTOMERS WHO MIGHT STOP SMOKING IF  
24 THE TRUTH WAS KNOWN.

25 AND IT WAS SAID SO THAT THEY COULD  
26 MAKE, NOT JUST PHILIP MORRIS, BUT THE WHOLE  
27 INDUSTRY, TENS OF BILLIONS OF DOLLARS, AN UNTOLD  
28 MASSIVE AMOUNT, SELLING SOMETHING THAT THEY KNEW

1 BUT DENIED WAS INJURIOUS TO HEALTH.

2 THE EVIDENCE IN THIS CASE IS GOING  
3 TO SHOW THAT PHILIP MORRIS, INDIVIDUALLY, AND THE  
4 TOBACCO INDUSTRY, COLLECTIVELY, DISRESPECTED  
5 RICHARD BOEKEN, DISRESPECTED ITS CUSTOMERS,  
6 DISRESPECTED THE PUBLIC HEALTH AND DISRESPECTED THE  
7 PUBLIC.

8 THE EVIDENCE IN THIS CASE IS GOING  
9 TO SHOW THAT THE INDUSTRY FLIRTED WITH THE LAW,  
10 FLIRTED WITH, AT BEST, HALF TRUTHS, BUT USUALLY  
11 NON-TRUTHS, THAT IT TOLD ITS CUSTOMERS, THE PEOPLE  
12 OF THIS COUNTRY AND THE UNITED STATES GOVERNMENT.

13 NOW, I'D LIKE TO GET FROM THERE,  
14 "WE BELIEVE THE PRODUCTS WE MAKE ARE NOT INJURIOUS  
15 TO HEALTH," TO HERE, "WE AGREE WITH THE  
16 OVERWHELMING MEDICAL AND SCIENTIFIC CONSENSUS THAT  
17 CIGARETTE SMOKING CAUSES LUNG CANCER, HEART  
18 DISEASE, EMPHYSEMA AND OTHER SERIOUS DISEASES IN  
19 SMOKERS," AND SHOW HOW THAT SHOULD HAVE BEEN WAY  
20 OVER THERE. AND THAT THIS SHOULD HAVE BEEN  
21 PUBLISHED SOMEPLACE IN THE VICINITY OF 1956, OR  
22 MAYBE 1960, BUT UNDER NO CIRCUMSTANCES SHOULD IT  
23 HAVE WAITED FOR 50 YEARS TO BE PUBLISHED.

24 NOW, I AM GOING TO BE INTERSPERSING  
25 MR. BROKEN, RICHARD BOEKEN, INTO THIS CONVERSATION  
26 AS I GO ALONG.

27 NINE YEARS OLD, TURNED TEN THAT  
28 YEAR, PICKED UP HIS FIRST CIGARETTE THAT YEAR.

1 MR. BROKEN HAS TESTIFIED, AND  
2 AGAIN, I DON'T KNOW IF YOU WILL HEAR HIM IN PERSON  
3 OR I DON'T KNOW IF IT WILL BE THE VIDEO TAPE, BUT  
4 HE HAS TESTIFIED THAT THE REASON HE PICKED UP THAT  
5 CIGARETTE WAS BECAUSE HE THOUGHT IT WOULD BE  
6 SOPHISTICATED BECAUSE HE SAW ADULTS DOING IT  
7 EVERYWHERE, BECAUSE HE THOUGHT IT WAS THE WAY TO BE  
8 GROWN UP.

9 I AM JUMPING THE GUN WITH THIS ONE.  
10 LET ME PUT THIS ONE DOWN HERE.

11 I TOLD YOU I'D EXPLAIN WHAT THE  
12 TOBACCO INDUSTRY RESEARCH COMMITTEE WAS, SO THIS IS  
13 THE THING.

14 THE "READERS DIGEST" AND SOME OTHER  
15 MAGAZINES, STARTED PUBLISHING STORIES IN THE EARLY  
16 50'S HAVING TO DO WITH DR. DOLL'S RESEARCH, HAVING  
17 TO DO WITH DR. WUNDER'S RESEARCH.

18 AND, OF COURSE, IF THIS RESEARCH  
19 WAS TRUE, THAT LITERALLY HUNDREDS OF THOUSANDS OF  
20 PEOPLE WERE DYING FROM SMOKING CIGARETTES, THAT  
21 WOULD HAVE A POTENTIALLY DEVASTATING IMPACT ON THE  
22 TOBACCO INDUSTRY.

23 SO MEMBERS OF THE INDUSTRY, WE WILL  
24 SEE FROM THE EVIDENCE THAT'S GOING TO BE PRESENTED  
25 HERE, HAD A RESPONSE.

26 OBVIOUSLY, I THINK WE ALL KNOW, THE  
27 RESPONSE WASN'T TO WITHDRAW WHAT'S A DANGEROUS  
28 PRODUCT. OBVIOUSLY THE RESPONSE WASN'T TO WARN THE

1 PUBLIC THAT WE ARE RISKING YOUR LIFE AND YOUR  
2 HEALTH BY SMOKING OUR PRODUCT.

3                   WHAT THE RESPONSE WAS WAS TO FORM A  
4 COUPLE OF GROUPS, ONE OF THEM, THE T. I. R. C. ,  
5 TOBACCO INDUSTRY RESEARCH COMMITTEE, IS UP ON THE  
6 BOARD HERE. AND ANOTHER ONE IS CALLED THE C. T. R.  
7 AND I THINK THAT' S COUNCIL FOR TOBACCO RESEARCH.

8                   YOU ARE GOING TO BE HEARING ABOUT  
9 THESE ORGANIZATIONS AS WE GO ALONG.

10                   ONE OF THE CLAIMS IN THIS CASE THAT  
11 WE ARE ON RIGHT HERE AND NOW IS THAT PHILIP MORRIS  
12 AND THE OTHER MAJOR TOBACCO COMPANIES IN THIS  
13 COUNTRY WERE PART OF A CONSPIRACY.

14                   AND THE CONSPIRACY WAS TO KEEP THE  
15 REAL NEWS, THIS NEWS OVER HERE, FROM THE PUBLIC  
16 INDEFINITELY.

17                   AND THAT WAS DONE PARTIALLY THROUGH  
18 THE SETTING UP OF THE T. I. R. C. AND THE C. T. R.

19                   NOW, THIS FRANK STATEMENT APPEARED  
20 AFTER A MEETING IN NEW YORK CITY ON PARK AVENUE OF  
21 THE HEADS OF ALMOST ALL OF THE TOBACCO COMPANIES.

22                   AT ONE TIME IN THIS COUNTRY, THIS  
23 IS JUST DECIDING IT, BUT AT ONE TIME IN THIS  
24 COUNTRY A LONG TIME AGO, THERE WAS ONE MAJOR  
25 TOBACCO MONOPOLY OR CARTEL AND IT WAS SPLIT UP BY  
26 THE GOVERNMENT. AND SO IN ORDER THAT, LIKE ANY  
27 INDUSTRY THAT AT ONE TIME HAD ANTI-TRUST PROBLEMS  
28 WHERE THE GOVERNMENT SPLIT IT UP INTO PIECES, THE

1 TOBACCO INDUSTRY WAS VERY WELL AWARE THAT THE  
2 GOVERNMENT MIGHT NOT LIKE THEM ALL MEETING TOGETHER  
3 LIKE THAT, AND THEY MAY WELL HAVE TOLD THE  
4 GOVERNMENT IN ADVANCE THERE WAS GOING TO BE A  
5 MEETING, JUST TO SQUARE IT AWAY.

6 BUT AT THIS MEETING, IT WAS  
7 DETERMINED THAT THE WAY THE TOBACCO INDUSTRY WOULD  
8 RESPOND TO DR. DOLL'S RESEARCH AND THE WAY THAT  
9 TOBACCO INDUSTRY WOULD RESPOND TO DR. WUNDER'S  
10 RESEARCH HERE IN THE UNITED STATES WAS THROUGH  
11 PUBLIC RELATIONS.

12 AND THE FIRST STEP IN THE PUBLIC  
13 RELATIONS WASN'T THROUGH SCIENCE, IT WAS THROUGH  
14 PUBLIC RELATIONS.

15 AND THE EVIDENCE IS GOING TO SHOW  
16 THAT THE FIRST FLAG WAVING OF THE PUBLIC RELATIONS  
17 WAS THE FRANK STATEMENT HERE IN JANUARY OF 1954.

18 NOW, I AM GOING TO SHOW YOU --  
19 THERE ARE SO MANY DOCUMENTS THAT THERE'S NO WAY I  
20 COULD EVER SHOW THEM ALL.

21 BUT I HAVE SELECTED A COUPLE TO  
22 MAKE SOME HIGHLIGHT POINTS DURING THIS OPENING  
23 STATEMENT TO SHOW WHAT WE INTEND TO PROVE AND  
24 THAT'S WHAT I AM GOING TO DO NOW

25 IN 1954, IN MARCH, NOW, THIS IS A  
26 COUPLE OF MONTHS LATER, THIS IS FROM THE SPEECH  
27 THAT WAS DELIVERED IN CHICAGO, AND THIS SPEECH WAS  
28 BY GEORGE WEISMAN. GEORGE WEISMAN WAS THE

1 VICE-PRESIDENT OF PHILIP MORRIS. AND HE SAID, IN  
2 PART, "IF WE HAD ANY THOUGHT OR KNOWLEDGE THAT, IN  
3 ANY WAY, WE WERE SELLING A PRODUCT HARMFUL TO  
4 CONSUMERS, WE WOULD STOP BUSINESS TOMORROW "

5 HE NEVER LED THE CRUSADE.

6 IN 1959, IN SEPTEMBER, IN AN  
7 INTERNAL MEMO FROM, I THINK IT WAS FROM MR. WAKEHAM  
8 WHOSE NAME YOU WILL HEAR SEVERAL TIMES, IT IS  
9 STATED "IN LABORATORY EXPERIMENTS, IT HAS BEEN  
10 FOUND THAT THE TAR FRACTION AND/OR CERTAIN  
11 COMPOUNDS EXTRACTED FROM CIGARETTE SMOKE GIVES RISE  
12 TO CANCEROUS TUMORS IN MICE. "

13 HOWEVER, IT GOES ON TO SAY,  
14 "WHETHER OR NOT CIGARETTE SMOKING IS A CAUSE OF  
15 LUNG CANCER IS A MATTER OF DEFINITION. "

16 AND SO THE EVIDENCE WILL SHOW THAT  
17 CERTAINLY BY 1959, THE INDUSTRY HAD DONE ITS OWN  
18 RESEARCH AND HAD BEEN ABLE TO DEMONSTRATE THAT  
19 TOBACCO SMOKE CAUSED CANCEROUS TUMORS IN MICE.

20 NOW, THIS MEMO, OF COURSE, IS AN  
21 INTERNAL DOCUMENT AND THIS MEMO, OF COURSE, WAS  
22 NEVER PUBLISHED AT THAT TIME UNTIL EXTREMELY  
23 RECENTLY IT BECAME AVAILABLE.

24 IN 1961, IF MY DATES ARE RIGHT, I  
25 THINK THAT RICHARD BOEKEN WAS PROBABLY A JUNIOR IN  
26 HIGH SCHOOL, IN 1961, BECAUSE I THINK THAT HE  
27 GRADUATED FROM HIGH SCHOOL IN 1962.

28 NOW, THIS DOCUMENT WAS PRESENTED BY

1 DR. WAKEHAM AT A MEETING HELD IN PHILIP MORRIS' S  
2 NEW YORK OFFICES.

3 AND I WANT TO STOP THERE FOR A  
4 SECOND.

5 PHILIP MORRIS OBVIOUSLY IS A GIANT  
6 CORPORATION THAT' S HEADQUARTERED IN NEW YORK CITY.

7 MOST OF THE BIG, BIG, BIG CIGARETTE  
8 MANUFACTURING PLANTS, SOME OF THEM, ARE DOWN IN  
9 RICHMOND.

10 AS FAR AS CORPORATE TOP LEVEL  
11 DECISIONS ARE CONCERNED, YOU WILL SEE MEMOS COMING  
12 OUT OF NEW YORK CITY BECAUSE THAT' S WHERE THE  
13 CORPORATE OFFICES WERE AND ARE.

14 AND ONE OF THE THINGS THAT WAS  
15 DISCUSSED IN NOVEMBER OF 1961 WAS THAT THEY WERE  
16 AWARE OF ARTICLES IN THE BRITISH JOURNAL OF CANCER  
17 THAT STATED EXACTLY WHAT, IN TOBACCO SMOKE, WAS  
18 CAUSING CANCER, PHENOLS, HYDROCARBONS, ORGANIC ACID  
19 ESTERS, FATS, OLEATES, CHOLESTEROL, BENZENE,  
20 IODOACETOPHENONE, PROFLAVINE, ETHANOLAMINE, AND  
21 TURPENTINE.

22 AND SO THE REASON I AM SHOWING YOU  
23 THIS IS BECAUSE WE WILL PROVE THROUGH THIS AND  
24 OTHER DOCUMENTS AND INSIDER TESTIMONY THAT PHILIP  
25 MORRIS, 40 YEARS AGO, KNEW WHAT SOME OF THE THINGS  
26 IN THEIR TOBACCO THAT CAUSE CANCER.

27 AND OBVIOUSLY, THIS IS AN INTERNAL  
28 DOCUMENT, THIS WAS NOT PUBLISHED AND NEVER ADMITTED

1 TO KNOWING ANY SUCH THING AND THIS HAS ALREADY  
2 RECENTLY BECOME AVAILABLE.

3 AND I AM GOING TO STOP THERE FOR A  
4 SECOND, BECAUSE THE NEXT ONE JUMPS OVER TO 1977 AND  
5 THAT'S A PRETTY BIG JUMP, '61 TO '77.

6 SO IT'S TIME TO TALK ABOUT A FEW  
7 OTHER THINGS.

8 I'D LIKE TO TALK ABOUT RICHARD  
9 BOEKEN FOR AWHILE.

10 HE GOT OUT OF HIGH SCHOOL, AVERAGE  
11 STUDENT.

12 HE WAS AN ANIMATOR OR ILLUSTRATOR  
13 AT HANNAH BARBERA FOR A WHILE.

14 YOU WILL HEAR THAT AT DIFFERENT  
15 POINTS IN HIS LIFE HE WENT BACK AND TOOK SOME  
16 JUNIOR COLLEGE CREDITS BUT HE NEVER HAD ANY DEGREES  
17 OF ANY SORT OTHER THAN A HIGH SCHOOL DEGREE.

18 MR. BROKEN WAS A MAN OF HIS TIMES,  
19 AND THE TIMES WERE THE '60'S. AND THE '60'S, SOME  
20 OF YOU MAYBE HAVE HEARD ABOUT THEM OR DON'T KNOW  
21 ABOUT THEM, BUT SOME OF US WERE THERE AND DO  
22 REMEMBER THEM, THE 60'S WERE AN UNUSUAL TIME IN  
23 AMERICA AND THE WORLD.

24 IN THE 60'S THINGS CHANGED A LOT.

25 OUR WAR, THE VIETNAM, WAS AN  
26 EXTREMELY CONTROVERSIAL AND CRUCIAL EVENT THAT  
27 OCCURRED.

28 THE SEXUAL REVOLUTION OCCURRED HERE

1 IN THE UNITED STATES DURING THAT TIME.

2 OUR MUSIC TASTES CHANGED

3 DRASTICALLY ONCE THE BEATLES CAME OVER HERE IN

4 1965, NEVER WENT BACK THE WAY THEY WERE SINCE THEN.

5 AND DRUG USAGE IN THIS COUNTRY,

6 WHICH HAD EXISTED, BUT HADN'T EXISTED VERY MUCH,

7 BECAME POPULAR.

8 AND THAT'S WHEN COLLEGE KIDS

9 STARTED SMOKING DOPE THEN AND THAT'S WHEN THE DRUG

10 CULTURE STARTED A LITTLE BIT HERE IN THE UNITED

11 STATES, OR A LOT.

12 MR. BROKEN WAS A MAN OF THE TIMES

13 AND THE EVIDENCE WILL SHOW THAT HE SMOKED MARIJUANA

14 FOR A COUPLE YEARS. HE DIDN'T LIKE IT VERY MUCH.

15 I THINK HE SMOKED IT FOR ABOUT THREE YEARS AND GAVE

16 IT UP, NEVER TO USE IT AGAIN.

17 AND I THINK THE EVIDENCE WILL SHOW

18 THAT IN THE EARLY 1970'S, MR. BROKEN TRIED HEROIN

19 AND THAT WAS INJECTED. HE DID THAT FOR

20 APPROXIMATELY THREE MONTHS AND IT SCARED HIM TO

21 DEATH. IT SCARED HIM SO MUCH TO DEATH THAT HE GOT

22 OFF OF IT A. S. A. P. AND THE WAY HE GOT OFF OF IT

23 WAS THROUGH A METHADONE MAINTENANCE PROGRAM

24 METHADONE IS A REPLACEMENT FOR

25 HEROIN. I DON'T THINK IT GETS YOU HIGH, BUT IT

26 SATISFIES THE BODY'S CRAVING.

27 AND I THINK THE EVIDENCE IS GOING

28 TO SHOW THAT IN ORDER TO GET INTO THIS METHADONE

1 MAINTENANCE PROGRAM, IF RICHARD BOEKEN HAD SAID TO  
2 THE PEOPLE RUNNING THE PROGRAM, I HAVE ONLY BEEN  
3 DOING THIS FOR THREE MONTHS, THEY WOULDN' T TAKE  
4 HIM

5 AND HE KNEW THEY WOULDN' T TAKE HIM  
6 AND HE WAS SCARED OF WHAT HE WAS DOING. SO HE  
7 OVER-STATED HIS USAGE AND GOT INTO THE PROGRAM

8 AND THE EVIDENCE IS ALSO GOING TO  
9 SHOW THAT OVER THE COURSE OF THE NEXT THREE YEARS  
10 WHEN HE WAS ON METHADONE, HE SLIPPED BACK EVERY  
11 ONCE IN AWHILE AND, I THINK, THE TERM OF ART IS,  
12 CHIPPED. HE WOULD TRY A LITTLE HEROIN NOW AND  
13 THEN. BUT THE EVIDENCE WILL SHOW, AND I THINK -- I  
14 DON' T THINK THERE' S ANY DEPTH, THAT SINCE 1976,  
15 WHEN MR. BROKEN WENT TO A. A. , HE HAS HAD NO DRINKS  
16 OF ANY KIND AND HE HAS HAD NO ALCOHOL, AND FOR THE  
17 LAST 25 YEARS, HE' S BEEN ZERO, ZERO, ZERO, AS FAR  
18 AS SUBSTANCES ARE CONCERNED, BUT FOR TOBACCO.

19 IN THE 19 -- LATE '60' S AND EARLY  
20 '70' S, MR. BROKEN HAD MADE A FAIR AMOUNT OF MONE  
21 FOR A KID OF HIS AGE AS AN ANIMATOR AND HE  
22 BASICALLY TOOK A COUPLE YEARS OFF.

23 AND HE WAS, I THINK WE COULD BEST  
24 SAY THAT HE FOLLOWED THE HIPPIE LIFESTYLE AT THE  
25 TIME.

26 HE HAD A VOLKSWAGEN VAN. AND I  
27 HAVE NO CLUE WHETHER OR NOT IT HAD FLOWERS PAINTED  
28 ON IT, BUT HE HAD A VOLKSWAGEN VAN AND THAT' S WHERE

1 HE LIVED. AND HE SOMETIMES LIVED OVER AT THE BEACH  
2 IN THE VAN. AND ULTIMATELY HE WENT UP TO NORTHERN  
3 CALIFORNIA. HE GOT WITH A FORMER ROCK BAND --  
4 WELL, HE NEVER DID. BUT WHILE IN NORTHERN  
5 CALIFORNIA, THAT'S WHEN HE HOOKED UP WITH THIS  
6 HEROIN THAT I AM GOING TO TALK TO YOU ABOUT. AND  
7 THAT OCCURRED DURING A THREE-MONTH PERIOD, I THINK,  
8 IN SONOMA OR NAPA OR SOME AREA LIKE THAT.

9 MR. BOEKEN CAME BACK TO LOS  
10 ANGELES. AND IN THE EARLY TO MID-1970'S HE WAS  
11 HERE IN LOS ANGELES.

12 HE HAD BEEN IN THE UNITED STATES  
13 NAVY. HE WAS IN THE UNITED STATES NAVY FOR LESS  
14 THAN A YEAR.

15 HE COULDN'T STAY IN THE NAVY  
16 BECAUSE HE HAD A BUM KNEE AND THE NAVY DIDN'T WANT  
17 HIM WITH HIS BUM KNEE SO HE WAS DISCHARGED FROM THE  
18 NAVY.

19 SOME OF THE TESTIMONY WE WILL HEAR  
20 ABOUT IS THAT HE GOT HIS KNEE TREATED OVER AT THE  
21 V. A. HOSPITAL, I THINK, AND I WANT MY STORY NOW  
22 ABOUT MR. BROKEN TO PICK UP AROUND '76, '77.

23 I'D LIKE TO MENTION ONE OTHER  
24 THING, AS A KID, A TEENAGER, IN ADDITION TO SMOKING  
25 CIGARETTES, HE STARTED DRINKING.

26 AND HE DRANK HEAVILY.

27 IN 1976, THE LAST TIME I MENTIONED  
28 HERE, WE HAVE A CLEAN LINE, AND THAT'S A. A. , AND

1 THAT'S THE LINE.

2 HE MET HIS WIFE JUDY AT AN A. A.  
3 MEETING. AND WE ARE GOING TO HEAR PROBABLY FROM  
4 AT LEAST ONE OF THE PEOPLE THAT HE SPONSORED IN  
5 A. A. SINCE THEN.

6 WE WILL HEAR A LITTLE BIT ABOUT THE  
7 12-STEP PROGRAM THAT'S PART OF A. A. AND ONE OF THE  
8 STEPS, AND THESE ARE STEPS, ONE OF THE STEPS IS  
9 THAT A PERSON HAS TO BE RESPONSIBLE FOR THEMSELVES,  
10 HAS TO BE.

11 MR. BROKEN HAS STRIVED MIGHTILY AND  
12 HAS SCORED ABOUT A 99, AND AS WE SEE WHAT HE HAS  
13 ACCOMPLISHED IN LIFE SINCE 1976, WE WILL SEE THAT  
14 THERE'S ONLY BEEN ONE SIGNIFICANT FAILURE, AND THAT  
15 WAS HIS FAILURE TO KICK CIGARETTES.

16 SO I HAVE TAKEN US UP TO  
17 APPROXIMATELY 1976. I'D LIKE TO DISCUSS ONE OTHER  
18 THING THAT HAPPENED IN 1976 THAT THE EVIDENCE HERE  
19 IS GOING TO SHOW

20 A MAN NAMED FARONE, WHO'S GOING TO  
21 TESTIFY IN THIS CASE, WHO IS AN INSIDER OF PHILIP  
22 MORRIS, WAS HIRED IN 1976, I BELIEVE IS THE DATE.  
23 HE HAD A PH. D. IN CHEMISTRY. AND HE HAD HAD A  
24 VERY -- FIRST OF ALL, HE HAD BEEN A COLLEGE  
25 PROFESSOR IN COLLEGE, AND SECOND OF ALL, HE WORKED  
26 OVER AT UNILEVER. UNILEVER IS A GIGANTIC  
27 INTERNATIONAL COMPANY THAT PUTS OUT SOAP AND  
28 DETERGENT AND SHAMPOO AND TOOTHPASTES AND ALL THOSE

1 KINDS OF THINGS.

2 HE WORKED AS A CHEMIST THERE. ONE  
3 OF THE KINDS OF THINGS HE DID WAS TEST SUBSTANCES  
4 ON HUMAN BEINGS TO MAKE SURE THAT HUMAN BEINGS  
5 WOULDN'T BE HARMED BY THE SUBSTANCES THAT THE  
6 COMPANY WAS SELLING. JUST AS ONE EXAMPLE FOR THEM  
7 I THINK THE EVIDENCE WILL SHOW THAT BEFORE UNILEVER  
8 COULD SELL SHAMPOO AT A SUPERMARKET, UNILEVER WOULD  
9 HAVE TO FIND, FIRST ANIMALS, AND I THINK, THEN  
10 PEOPLE, AND TEST THE SHAMPOO TO MAKE SURE IT DIDN'T  
11 HURT ANYBODY.

12 SO THAT WAS PART OF DR. FARONE'S  
13 BACKGROUND BEFORE HE CAME TO PHILIP MORRIS.

14 AND THE EVIDENCE IS GOING TO SHOW  
15 THAT IN 1976, HE HAD HELD ONE OTHER POSITION  
16 OUTSIDE UNILEVER, A HEADHUNTER, BOUNTY MAN HAD  
17 RECRUITED HIM FOR A HIGH-RANKING JOB AS A CHEMIST  
18 AT PHILIP MORRIS.

19 DR. FARONE WILL TELL YOU ABOUT THE  
20 MEETINGS HE HAD WITH VARIOUS HIGH-RANKING, MANY  
21 HIGH-RANKING PEOPLE AT PHILIP MORRIS BEFORE HE WAS  
22 HIRED. DR. FARONE WILL TELL YOU ABOUT WHEN HE WAS  
23 HIRED AND WHAT HIS JOB WAS.

24 AND I THINK I CAN FAIRLY SAY THE  
25 EVIDENCE WILL SHOW THAT ONE OF THE FIRST THINGS HE  
26 HEARD IN 1976 FROM HIGH-RANKING EXECUTIVES AT  
27 PHILIP MORRIS WAS THAT, THEY MANUFACTURED AN  
28 ADDICTIVE CANCER-CAUSING PRODUCT WHICH CREATED SO

1 MUCH HARM THAT GOVERNMENT REGULATION WAS  
2 INEVITABLE. AND SO HE WAS GOING TO HAVE TWO MAJOR  
3 TASKS; ONE, TO HELP US GET OUT OF THE CIGARETTE  
4 BUSINESS AND INTO OTHER BUSINESSES BECAUSE THE  
5 HANDWRITING IS ON THE WALL, AND TWO, HELP US TO TRY  
6 TO MAKE A SAFER CIGARETTE.

7 HE WAS HIRED TO DO THAT JOB. AND  
8 HE WAS AT PHILIP MORRIS FOR EIGHT YEARS UNTIL 1984.

9 AND I AM GOING TO COME BACK TO THIS  
10 IN A LITTLE WHILE TO DISCUSS SOME OF THE THINGS  
11 THAT HE WILL TELL YOU ABOUT, WHAT I EXPECT THE  
12 EVIDENCE TO SHOW IN THIS TRIAL. BUT I SAID THAT  
13 JUST TO HOOK US UP HISTORICALLY.

14 I THINK 1976 IS WHEN RICHARD BOEKEN  
15 WALKED SUCCESSFULLY INTO A. A. AND I THINK 1976 IS  
16 WHEN DR. FARONE WAS HIRED AT THE PHILIP MORRIS  
17 COMPANY, AND THAT LEADS ME TO 1977. THIS IS AN  
18 INTERNAL PHILIP MORRIS DOCUMENT.

19 THIS IS AN INTERNAL PHILIP MORRIS  
20 DOCUMENT.

21 DR. OSDENE WAS PROBABLY THE CHIEF  
22 SCIENTIST AT PHILIP MORRIS AT THE TIME.

23 DR. OSDENE'S NAME WILL BE MENTIONED  
24 MANY, MANY TIMES THROUGHOUT THE COURSE OF THE TRIAL  
25 HERE FROM BOTH SIDES.

26 THE SUBJECT WAS NICOTINE AND THE  
27 SUBJECT WAS WHETHER OR NOT NICOTINE WAS ADDICTIVE.

28 AND THE PART, THE MEMO HERE, IT

1 ISN'T PART, IT IS THE WHOLE MEMO, THAT I HAVE  
2 EXPLODED SO YOU CAN READ IT HERE, IS AS FOLLOWS:

3 "I HAVE GIVEN CAROLINE  
4 APPROVAL TO PROCEED WITH THIS STUDY.  
5 IF SHE IS ABLE TO DEMONSTRATE AS SHE  
6 ANTICIPATES, NO WITHDRAWAL EFFECTS OF  
7 NICOTINE, WE WILL WANT TO PURSUE THIS  
8 AVENUE WITH SOME VIGOR. IF, HOWEVER,  
9 THE RESULTS WITH NICOTINE ARE SIMILAR  
10 TO THOSE GOTTEN WITH MORPHINE AND  
11 CAFFEINE, WE WILL WANT TO BURY THEM  
12 ACCORDINGLY, THERE ARE ONLY TWO COPIES  
13 OF THIS MEMO, THE ONE ATTACHED AND THE  
14 ORIGINAL. "

15 AND SO THE EVIDENCE WILL SHOW, FROM  
16 PHILIP MORRIS'S OWN DOCUMENTS, THAT DESPITE THE  
17 PUBLIC POSTURE THAT WAS TAKEN IN 1954, THAT THEY  
18 DID NOT BELIEVE THEIR PRODUCTS WERE INJURIOUS TO  
19 HEALTH, AND DESPITE THE POSTURE THEY TOOK IN 1954  
20 THAT THEY ACCEPTED AN INTEREST IN PEOPLE'S HEALTH  
21 AS THEIR BASIC RESPONSIBILITY PARAMOUNT TO EVERY  
22 OTHER CONSIDERATION IN THE BUSINESS, THE EVIDENCE  
23 WILL SHOW THAT ACTIONS SPEAK LOUDER THAN WORDS, AND  
24 THAT ON THIS PARTICULAR STUDY, IF THEY GOT BAD  
25 RESULTS, THEY WERE GOING TO BURY THEM

26 LATER IN 1977, THIS IS NOVEMBER 29,  
27 1977, THIS IS FROM DR. OSDENE -- DR. SELIGMAN WAS A  
28 VERY HIGH-RANKING OFFICIAL AT PHILIP MORRIS. I

1 HAVE EXPLODED TWO PARTS OF THIS MEMO.  
2 "C. T. R. ," COMMITTEE FOR TOBACCO  
3 RESEARCH, THIS IS ANOTHER INDUSTRY SPONSORED GROUP.  
4 THIS IS A GROUP COMPOSED OF ALL OF THE MAJOR  
5 TOBACCO MANUFACTURERS IN THE UNITED STATES. THIS  
6 IS A GROUP THAT THE PLAINTIFF CLAIMS WAS PART OF A  
7 CONSPIRACY THAT LASTED FOR DECADES AND DECADES.

8 "I WAS AMAZED AT THE TREND  
9 THAT THE C. T. R. WORK HAS TAKEN. FOR  
10 OPENERS, DR. DONALD H. FORD AND A NEW  
11 STAFF MEMBER MAKE THE FOLLOWING  
12 QUOTES, OPIATE AND NICOTINE MAY BE  
13 SIMILAR IN ACTION. WE ACCEPT THE FACT  
14 THAT NICOTINE IS HABITUATED. THERE IS  
15 A RELATIONSHIP BETWEEN NICOTINE AND  
16 THE OPIATE. "

17 AND I WANT TO STOP THERE FOR A  
18 SECOND.

19 AND I AM GOING TO READ THE REST OF  
20 IT.

21 ANOTHER ONE OF THE EXPERT WITNESSES  
22 WHO'S BEEN KIND ENOUGH TO AGREE TO COME HERE AND  
23 TESTIFY IS A DR. NEIL BENO WITZ.

24 DR. BENO WITZ IS AN INTERNATIONAL  
25 RECOGNIZED EXPERT ON NICOTINE ADDICTION.

26 DR. BENO WITZ HAS BEEN A  
27 DISTINGUISHED CONSULTANT TO THE UNITED STATES  
28 SURGEON GENERAL AND MANY OF THE REPORTS THAT HAVE

1 BEEN WRITTEN ON SMOKING.

2 HE' S BEEN A DISTINGUISHED MEMBER OF  
3 THE WORLD HEALTH ORGANIZATION TEAMS THAT CLASSIFY  
4 NICOTINE AND ITS ADDICTIVENESS.

5 HE HAS PUBLISHED NUMEROUS BOOKS AND  
6 CHAPTERS, UNCOUNTABLE MEDICAL JOURNAL ARTICLES AND  
7 HE IS, WITHOUT QUESTION, ONE OF THE WORLD' S  
8 ABSOLUTE TOP OF THE TOP RANKING EXPERTS ON NICOTINE  
9 ADDICTION.

10 DR. BENOWITZ, FIRST OF ALL, IS  
11 GOING TO AGREE WITH PART OF THAT STATEMENT THAT I  
12 JUST READ FROM PHILIP MORRIS IN 1977, NICOTINE IS  
13 EXTREMELY ADDICTIVE.

14 NICOTINE IS A BYPRODUCT OF SMOKING  
15 TOBACCO.

16 THERE ARE DOCUMENTS THAT I THINK WE  
17 ARE GOING TO HEAR ABOUT THAT TALK ABOUT THE FACT  
18 THAT A CIGARETTE IS A NICOTINE DELIVERY DEVICE.  
19 THE PURPOSE OF SMOKING IS TO GET THIS NICOTINE.

20 SO THE HABIT, SOME PEOPLE CALL IT A  
21 HABIT, PHILIP MORRIS NOW CALLS IT AN ADDICTION, THE  
22 HABIT AND ADDICTION THAT PEOPLE HAVE THAT REQUIRES  
23 THEM TO SMOKE MORE AND MORE AND CONTINUALLY, IS  
24 BECAUSE OF NICOTINE.

25 AND YOU WILL HEAR FROM DR. BENOWITZ  
26 AND OTHER SOURCES THAT NICOTINE ADDICTION IS SO  
27 STRONG THAT IT IS, JUST AS PHILIP MORRIS SAID HERE,  
28 IN A LEAGUE WITH OPIATES, LIKE MORPHINE, LIKE

1 HEROIN, IT'S THAT STRONG.

2 AND YOU WILL ALSO HEAR, JUST AS AN  
3 ASIDE FROM PEOPLE WHO HAVE BEEN THERE, I THINK  
4 INCLUDING RICHARD BOEKEN, THAT DRUG USERS WHO GET  
5 OFF OF HARD, HEAVY DRUGS, BAD, BAD DRUGS, LIKE  
6 HEROIN, OFTEN CANNOT GET OFF OF CIGARETTES.

7 THEY CAN QUIT THE HEROIN, BUT THEY  
8 CAN'T QUIT THE CIGARETTES.

9 SO I AM GOING TO COME BACK HERE,  
10 THE SECOND PART OF THIS MEMO, "IT IS MY --" DON'T  
11 FORGET, THIS IS FROM DR. OSDENE. AND I THINK HE'S  
12 THE CHIEF SCIENTIST OVER AT PHILIP MORRIS.

13 "IT IS MY STRONG FEELING  
14 THAT WITH THE PROGRESS THAT HAS BEEN  
15 CLAIMED, WE ARE IN THE PROCESS OF  
16 DIGGING OUR OWN GRAVE. I BELIEVE THE  
17 PROGRAM AS SET UP HAS THE POTENTIAL OF  
18 GREAT DAMAGE TO THE INDUSTRY AND I  
19 STRONGLY URGE THAT THE WHOLE  
20 RELATIONSHIP OF OUR COMPANY TO THE  
21 C. T. R. BE CAREFULLY REVIEWED. I AM  
22 VERY MUCH AFRAID THAT THE DIRECTION OF  
23 THE WORLD BEING TAKEN BY C. T. R. IS  
24 TOTALLY DETRIMENTAL TO OUR POSITION IN  
25 AND UNDERMINES THE PUBLIC POSTURE WE  
26 HAVE TAKEN TO OUTSIDERS. "

27 AND I'D LIKE TO JUST DISCUSS THAT  
28 LAST PHRASE THERE, BECAUSE THAT'S A CONTINUING



1 IN THE UNITED STATES, THERE WERE, AT THAT TIME, NO  
2 WARNINGS OF ANY KIND REQUIRED.

3 MR. BOEKEN WAS 17 YEARS OLD WHEN  
4 THE FIRST SURGEON GENERAL REPORT CAME OUT IN THIS  
5 COUNTRY. AND THE EVIDENCE WILL SHOW THAT IN 1964,  
6 THE SURGEON GENERAL OF THE UNITED STATES CAME OUT  
7 WITH THE FIRST REPORT, MAJOR REPORT ON SMOKING.

8 MR. BOEKEN WAS 17. HE WAS SMOKING  
9 BETWEEN ONE AND TWO PACKS OF MARLBOROS A DAY. AND  
10 I THINK THE EVIDENCE IN THIS CASE IS GOING TO SHOW  
11 THAT OVER THE COURSE OF HIS LIFE, SINCE HE WAS IN  
12 HIS MID-TEENS UNTIL HE WAS DIAGNOSED WITH CANCER,  
13 DESPITE THE FACT THAT HE HAD TRIED ON SEVERAL  
14 OCCASIONS TO QUIT SMOKING, HE WAS BASICALLY A ONE  
15 AND A HALF TO TWO AND A HALF PACK A DAY SMOKER, IN  
16 THAT RANGE.

17 SOMETIMES IT GOT AS HIGH AS THREE  
18 AND ALMOST NEVER WENT BELOW A PACK AND A HALF.

19 AND IN 1966, THAT'S WHEN THE FIRST  
20 WARNINGS, THE EVIDENCE WILL SHOW, THE FIRST  
21 WARNINGS WENT ON THE TOBACCO PACKAGES IN 1966.

22 THOSE WARNINGS SAID THAT THE  
23 TOBACCO MAY BE HARMFUL, NOT IS HARMFUL, BUT MAY BE  
24 HARMFUL.

25 MR. BOEKEN WAS 22 YEARS OLD WHEN  
26 THAT HAPPENED.

27 AND MR. BOEKEN HAD BEEN SMOKING FOR  
28 NINE YEARS OVER A PACK A DAY WHEN THAT HAPPENED.

1 SO THE EVIDENCE IS GOING TO SHOW  
2 BY THE TIME THE SURGEON GENERAL PUBLISHED AND THE  
3 TIME THE FIRST WEAK WARNINGS WENT ON THE TOBACCO  
4 PACKS, MR. BROKEN HAD BEEN HOOKED ON NICOTINE FROM  
5 APPROXIMATELY '57 TO '66, NINE YEARS.

6 AND LAST, WHILE I AM ON THE  
7 SUBJECT, THE EVIDENCE IS GOING TO SHOW THAT THE  
8 STRONGER WARNINGS THAT SAID "CIGARETTE SMOKING IS  
9 DANGEROUS TO YOUR HEALTH" WENT ON AROUND '69.

10 SO IN 1969, MR. BOEKEN, RICHARD  
11 BOEKEN, HAD BEEN SMOKING CIGARETTES AND HAD BEEN,  
12 AS THE EVIDENCE IN THIS CASE IS GOING TO SHOW, LIKE  
13 MOST, ADDICTED TO THE NICOTINE FOR 12 YEARS. AND  
14 IT WAS IN THAT ERA THAT ADS LIKE THAT DISAPPEARED.

15 AND SO I KNOW THAT THERE ARE MANY  
16 OF YOU, AND I KNOW FOR CERTAIN, MANY OF YOU HAVE  
17 NEVER SEEN SUCH AN AD IN YOUR ENTIRE LIFE. BUT THE  
18 EVIDENCE WILL SHOW THAT THAT WAS COMMON, THOSE ADS  
19 WERE THERE FOR EVERY ONE TO SEE THE MINUTE THEY  
20 TURNED ON THE TUBE.

21 WITH THAT, AND TO JUMP TO THIS NEXT  
22 DOCUMENT. THIS IS, FROM 1972. AND THIS IS, EXCUSE  
23 ME, FROM ONE HIGH-RANKING OFFICIAL OF ONE OF THESE  
24 TOBACCO GROUPS, ALL OF THE COMPANIES AND PHILIP  
25 MORRIS WERE MEMBERS OF THESE GROUPS, TO ANOTHER.

26 AND THIS OFFICIAL, THIS OFFICIAL,  
27 HAS TESTIFIED, UNDER OATH THAT HE WROTE THIS. MR.  
28 PANSER HAS TESTIFIED THAT HE WROTE THIS DOCUMENT,

1 TO HIS BOSS, MR. KORNEGAY.

2 AND THE IMPORTANT THING THAT I WANT  
3 TO FOCUS YOUR ATTENTION ON HERE IS EXPLODED OUT OF  
4 THIS FIRST NOTE.

5 "FOR NEARLY 20 YEARS, THIS  
6 INDUSTRY HAS EMPLOYED A SINGLE  
7 STRATEGY TO DEFEND ITSELF ON THREE  
8 MAJOR FRONTS, LITIGATION, POLITICS,  
9 AND PUBLIC OPINION. WHILE THE  
10 STRATEGY WAS BRILLIANTLY CONCEIVED AND  
11 EXECUTED, OVER THE YEARS, HELPING US  
12 TO WIN IMPORTANT BATTLES, IT IS ONLY  
13 FAIR TO SAY THAT IT IS NOT, NOR WAS IT  
14 INTENDED TO BE, A VEHICLE FOR VICTORY.  
15 ON THE CONTRARY, IT HAS ALWAYS BEEN A  
16 HOLDING STRATEGY CONSISTING OF  
17 CREATING DOUBT ABOUT THE HEALTH CHARGE  
18 WITHOUT ACTUALLY DENYING IT. "

19 AND I HAVE HAD THE ILLUSTRATOR PUT  
20 THAT IN BOLD BECAUSE I THINK THE EVIDENCE IS GOING  
21 TO SHOW THAT MY CLIENT, SPECIFICALLY, RICHARD  
22 BOEKEN, SPECIFICALLY, AND UNDOUBTEDLY, THE EVIDENCE  
23 IS GOING TO SHOW THAT TENS OF MILLIONS OF OTHER  
24 AMERICANS, BUT I AM INTERESTED RIGHT NOW IN RICHARD  
25 BOEKEN, WAS THE DIRECT RECIPIENT OF THIS  
26 BRILLIANTLY CONCEIVED STRATEGY WHERE THEY CREATED  
27 DOUBT IN HIS MIND ABOUT THE HEALTH CHARGE WITHOUT  
28 ACTUALLY DENYING THAT.

1                   SO WHAT I HAVE DONE HERE, BECAUSE I  
2 THINK THIS STATEMENT, AS AN OVERVIEW, PRETTY MUCH  
3 SAYS IT ALL, IS I HAVE TAKEN THAT PHRASE, AND AS I  
4 TALK ABOUT WHAT HAPPENED TO MR. BOEKEN, AS I TALK  
5 ABOUT WHAT HAPPENED NOW FROM '72 TO THE PRESENT, I  
6 HAVE ALREADY GONE THROUGH SEVEN OF THOSE YEARS WITH  
7 YOU, I'D LIKE YOU TO KEEP THIS IN MIND.

8                   MR. BOEKEN, OFF AND ON OVER THE  
9 COURSE OF THE YEARS, LIFTED WEIGHTS. HE WAS INTO  
10 PHYSICAL FITNESS.

11                  MR. BOEKEN, EARLIER ON, RAN.  
12                  HIS SMOKING CAUSED HIM TO HAVE  
13 BRONCHITIS.

14                  HE WAS SHORT OF WIND. AND I THINK  
15 MOST OF US CAN IMAGINE, AND THE EVIDENCE WILL SHOW  
16 THIS, BUT I THINK MOST OF US ARE AWARE OF THIS,  
17 THAT IF YOU SMOKE HEAVILY, YOU ARE PROBABLY NOT  
18 GOING TO BE A GOOD RUNNER.

19                  SO MR. BOEKEN, ON A COUPLE OF  
20 OCCASIONS, DECIDED THAT HE WOULD LIKE TO GIVE UP  
21 SMOKING. AND THE REASON THAT HE WOULD LIKE TO GIVE  
22 UP SMOKING IS BECAUSE HIS HEALTH, NOT BECAUSE HE  
23 WAS GOING TO GET LUNG CANCER, NOT BECAUSE HE WAS  
24 GOING TO GET EMPHYSEMA, NOT BECAUSE HE WAS GOING TO  
25 GET HEART DISEASE, BECAUSE HE BELIEVED THAT, BUT  
26 BECAUSE HIS WIND WASN'T VERY GOOD.

27                  AND HE HAD BRONCHITIS AND SOMETIMES  
28 HE HAD CHRONIC BRONCHITIS. HE WOULD GET IT

1 SOMETIMES EVERY COUPLE YEARS. HE WOULD GET  
2 ANTIBIOTICS FOR IT. AND SO ON SEVERAL OCCASIONS,  
3 THE EVIDENCE IS GOING TO SHOW HE TRIED TO QUIT.

4 AND HERE'S HOW HE TRIED TO QUIT.

5 AND ONCE IT WAS THROUGH A SMOKING  
6 EXPERT. ONCE HE AND HIS SISTER, WHO WAS ALSO A  
7 HEAVY SMDKER, WENT TO A HYPNOTIST. A COUPLE OF  
8 TIMES HE TRIED NICORETTE, NICO-DERM OR A PATCH OR  
9 SOMETHING LIKE THAT.

10 BUT I THINK IN RETROSPECT,  
11 MR. BOEKEN WILL ADMIT, AND I THINK THE WAY THE  
12 EVIDENCE WILL COME OUT WILL BE THAT MOST OF HIS  
13 ATTEMPTS TO QUIT WERE NOT STRONG. BUT THERE WERE  
14 SEVERAL ATTEMPTS TO QUIT AND HE QUIT FOR AS LONG AS  
15 A MONTH ONCE.

16 I THINK THE ONE LITTLE VIGNETTE I  
17 WILL GIVE NOW, THE EVIDENCE WILL SHOW, AND THEN  
18 MOVE ON, IS THE FOLLOWING: WHEN HE WAS IN HIS  
19 EARLY 20'S, HE SAW A WOMAN WHO WAS VERY, VERY  
20 ATTRACTED TO HIM AND PURSUED HER. AND SHE SAID,  
21 "ME OR THE CIGARETTES." SO, OF COURSE, HE CHOSE  
22 HER. BUT HE DIDN'T CHOOSE HER FOR LONG BECAUSE  
23 ALTHOUGH HE HAS TESTIFIED, AND YOU WILL HEAR HIS  
24 TESTIMONY, HE LIKED HER A LOT, SHE'S VERY ATTRACTED  
25 TO HIM, HE COULDN'T STOP THE SMOKING. AND SO WHEN  
26 THE CHOICE ULTIMATELY CAME DOWN TO THE CIGARETTES  
27 OR THE ATTRACTIVE LADY, THE CIGARETTES WON.

28 MR. BOEKEN HAS TESTIFIED THAT

1 CERTAINLY THROUGHOUT THE '70'S, AND CERTAINLY  
2 THROUGHOUT THE '80'S, AND CERTAINLY AT LEAST AS  
3 LATE AS 1994, HE DID NOT BELIEVE THAT CIGARETTE  
4 SMOKING WOULD CAUSE SERIOUS DISEASE.

5 HE THOUGHT IT WAS AN OPEN QUESTION.

6 SOMETHING HAPPENED TO MR. BOEKEN  
7 ALONG THE WAY FROM THE VOLKSWAGEN VAN THAT HE WAS  
8 LIVING IN TO HIS UPPER MIDDLE CLASS EXISTENCE NOW,  
9 BECAUSE DESPITE THE FACT THAT HE HAS NO FORMAL  
10 EDUCATION BEYOND HIGH SCHOOL, MR. BOEKEN BECAME A  
11 VERY SUCCESSFUL BUSINESS MAN.

12 AND MR. BOEKEN REALLY WASN'T THE  
13 ANTI-BUSINESS HIPPIE FROM THE VOLKSWAGEN BUS.

14 MR. BOEKEN WAS SOMEONE WHO  
15 RESPECTED BIG BUSINESS. MR. BOEKEN WAS SOMEONE WHO  
16 RESPECTED THE AMERICAN CAPITALISTIC SYSTEM AND  
17 MR. BOEKEN HAS BEEN A PART OF THAT FOR AT LEAST 20  
18 YEARS NOW.

19 AND THE EVIDENCE IS GOING TO SHOW  
20 THAT HE, AT ONE POINT, HAD A HOME IMPROVEMENT  
21 COMPANY, WHERE HE WOULD BE BUILDING ADDITIONS TO  
22 PEOPLE'S HOUSES.

23 AND THE EVIDENCE WILL SHOW THAT HE  
24 TRIED SELLING VARIOUS THINGS, SOMETIMES WITH HIS  
25 FATHER-IN-LAW AND THE LATE 1980'S HE BECAME  
26 INVOLVED AS A VERY, VERY JUNIOR PERSON SELLING AND  
27 LEASING AND RENTING OIL AND GAS LEASES FOR WEALTHY  
28 INVESTORS. AND IT WAS HIS JOB TO GO FIND INVESTORS

1 WHO WOULD INVEST IN OIL WELLS OR GAS WELLS AND  
2 THINGS LIKE THAT.

3 AND THE EVIDENCE WILL SHOW THAT HE  
4 WAS VERY GOOD AT HIS JOB AND HE'S MADE A  
5 SIGNIFICANT AMOUNT OF INCOME AT HIS JOB.

6 AT ANY RATE, HE HAS TESTIFIED THAT  
7 WHEN THE TOBACCO INDUSTRY SAID, WE DO NOT ADMIT  
8 THAT OUR TOBACCO CAUSES LUNG CANCER, WE DO NOT  
9 ADMIT THAT OUR TOBACCO CAUSES HEART DISEASE, WE DO  
10 NOT ADMIT THAT OUR TOBACCO CAUSES EMPHYSEMA, HE  
11 BELIEVED THEM

12 AND HE HAS FURTHER TESTIFIED THAT  
13 LATER ON, WHEN THE TOBACCO INDUSTRY AND PHILIP  
14 MORRIS, SPECIFICALLY, MADE STATEMENTS LIKE, "WELL,  
15 THE SURGEON GENERAL IS ENTITLED TO HIS OPINION, BUT  
16 IT'S UNPROVEN. IT IS STILL UNPROVEN." HE BELIEVED  
17 THEM

18 AND WHEN THE INDUSTRY AND PHILIP  
19 MORRIS SPECIFICALLY SAYS, "MUCH MORE RESEARCH NEEDS  
20 TO BE DONE," HE BELIEVED THEM

21 AND WHEN THE INDUSTRY SAID, "YOU  
22 KNOW, LUNG CANCER CAN BE CAUSED BY MANY THINGS,  
23 INCLUDING SMDG, INCLUDING ALL KINDS OF THINGS  
24 EVERYWHERE, THERE'S NO REALLY REAL KNOWN REASON FOR  
25 LUNG CANCER, IT'S VERY COMPLICATED," HE BELIEVED  
26 THEM

27 AND THE EVIDENCE VIEWED BY SOME  
28 MIGHT BE THAT HE WAS BEING NAIVE. MIGHT BE THAT AS

1 SOMEONE HOOKED ON NICOTINE, HE WAS LOOKING AT THE  
2 BEST SPIN OUT THERE.

3 BUT THE EVIDENCE VIEWED BY SOME  
4 MIGHT BE THAT MR. BOEKEN WAS THE ABSOLUTE PERFECT  
5 RECIPIENT OF THIS INDUSTRY STRATEGY WHICH WAS  
6 CREATING DOUBT ABOUT THE HEALTH CHARGE, THIS IS THE  
7 TOBACCO INDUSTRY, WITHOUT THEM ACTUALLY DENYING IT.

8 AND YOU WILL SEE FROM THE EVIDENCE  
9 THAT IN THE EARLY DAYS, BACK IN '54, THEY FLAT OUT  
10 DENIED IT.

11 BUT OVER THE COURSE OF TIME, THAT  
12 CHANGED AND IT WASN'T FLAT OUT DENIALS ANY MORE.  
13 IT WAS CREATING DOUBT.

14 AND I'D LIKE TO KEEP GOING.

15 YOUR HONOR, I DON'T KNOW WHEN YOU  
16 WOULD LIKE A BREAK.

17 THE COURT: I HAVE BEEN THINKING FOR A  
18 FEW MINUTES THAT WE NEED TO TAKE A BREAK.

19 WOULD THIS BE A GOOD TIME, MR.  
20 PIUZE?

21 MR. PIUZE: YEAH.

22 THE COURT: THANK YOU, SIR.

23 I, OBVIOUSLY, DO NOT WANT TO BREAK  
24 INTO MY GOOD LAWYERS' OPPORTUNITY TO CHAT WITH YOU,  
25 SO AT THE APPROPRIATE TIMES, I WILL TAKE A BREAK  
26 AND THAT WILL BE FOR OPPOSING COUNSEL AS WELL.

27 TRADITIONALLY, WE WILL TAKE OUR  
28 BREAKS AT ABOUT 10:30 IN THE MORNING AND I USUALLY

1 SAY 15 MINUTES BACK TO THE DOOR. WE WILL PROBABLY  
2 BE BACK IN HERE IN 20 MINUTES. SO TRY TO BE BACK,  
3 LET'S MAKE THIS UNTIL FIVE MINUTES TO 11:00.

4 THANK YOU, LADIES AND GENTLEMEN.  
5 HAVE A GOOD BREAK. LEAVE ALL OF YOUR MATERIALS ON  
6 YOUR CHAIRS, AND, OF COURSE, DO NOT DISCUSS THIS  
7 CASE WITH ANYONE.

8  
9 (AT THIS TIME, A RECESS  
10 WAS TAKEN.)

11  
12 (THE FOLLOWING PROCEEDINGS  
13 WERE HELD IN OPEN COURT IN  
14 THE PRESENCE OF THE JURY.)

15  
16 THE COURT: COUNSEL, THANK YOU.  
17 ALL RIGHT. OUR JURY PANEL IS  
18 PRESENT. COUNSEL ARE PRESENT.

19 MR. PIUZE, YOUR JURY.

20 MR. PIUZE: THANK YOU.

21  
22 OPENING STATEMENT (CONTINUED)

23  
24 BY MR. PIUZE:

25 MR. FARONE, THE CHEMIST, STARTED IN  
26 '76 AT PHILIP MORRIS. HE IS GOING TO TESTIFY ON  
27 SOME OF THE FOLLOWING MATTERS: ONE OF THE WORST  
28 THINGS IN CIGARETTE SMOKE IS SOMETHING CALLED

1 NITROSAMINES. AS FAR AS BEING CARCINOGENIC,  
2 NITROSAMINES ARE ABOUT THE HEAD OF THE LIST.  
3 THESE CAN BE AND IN THE PAST HAVE  
4 BEEN GREATLY REDUCED OR VIRTUALLY ELIMINATED FROM  
5 CIGARETTES BUT CURRENTLY EXIST IN GREAT QUANTITIES  
6 IN CIGARETTES.

7 CO<sub>2</sub>, CARBON DIOXIDE, IS A VERY  
8 HARMFUL AGENT IN CIGARETTE SMOKE.

9 IT CAN BE VIRTUALLY ELIMINATED.

10 AND I MIGHT HAVE SAID, I FORGET  
11 WHETHER WE ARE TALKING DIOXIDE OR MONOXIDE OR BOTH,  
12 BUT WE ARE GOING TO BE TALKING ABOUT ONE OR BOTH,  
13 CARBON MONOXIDE AND DIOXIDE CAN BE VIRTUALLY  
14 ELIMINATED IN CIGARETTE SMOKE. IT'S VERY, VERY  
15 HARMFUL.

16 THERE ARE WAYS OF REENGINEERING  
17 CIGARETTES IN SEVERAL DIFFERENT FASHIONS TO MAKE  
18 THEM FAR LESS CARCINOGENIC THAN PHILIP MORRIS AND  
19 THE INDUSTRY NOW ADMITS THAT THEY ARE.

20 AND THIS IS TECHNICAL KIND OF STUFF  
21 THAT I DON'T WANT TO GET INTO GREAT DETAIL ON HERE,  
22 BUT I WILL TELL YOU A FEW OF THE THINGS THE  
23 EVIDENCE WILL SHOW

24 IN JAPAN, CHARCOAL IS USED IN  
25 FILTERS. CHARCOAL IS A VERY GOOD FILTERING  
26 SUBSTANCE TO TAKE OUT HARMFUL EFFECTS OF TOBACCO  
27 SMOKE.

28 JAPANESE PEOPLE THAT SMOKE HAVE A

1 MUCH LOWER LUNG CANCER RATE. IT'S THOUGHT TO BE  
2 DUE TO THE CHARCOAL IN THE FILTERS.

3                   COULD IT BE DUE TO GENETICS?  
4                   JAPANESE AMERICAN PEOPLE AND  
5 JAPANESE PEOPLE WHO COME TO AMERICA TO LIVE AND  
6 SMOKE AMERICAN CIGARETTES WITH NO CHARCOAL IN THE  
7 FILTERS HAVE LUNG CANCER RATES THE SAME AS ANYONE  
8 ELSE HERE IN THE U. S.

9                   UREA IS ADDED. ALL KINDS OF  
10 COMPOUNDS THAT NEITHER RICHARD BOEKEN NOR ANY OTHER  
11 GENERAL AMERICAN CONSUMER, UNLESS THAT CONSUMER  
12 HAPPENED TO BE A CHEMIST WITH INSIDER INFORMATION,  
13 ALL KINDS OF ADDITIVES ARE PUT INTO TOBACCO THAT  
14 THE USERS DON'T HAVE A CLUE ABOUT.

15                   ONE IS UREA.

16                   DR. FARONE WILL TESTIFY THAT WHEN  
17 UREA GETS HEATED, AND OF COURSE, WHEN YOU LIGHT THE  
18 CIGARETTE WITH A MATCH IT GETS HOT AND IT GETS  
19 HEATED, UREA TURNS INTO AMMONIA.

20                   AND SO FOR THOSE CIGARETTES THAT  
21 HAVE ADDITIVE OF UREA, WHEN THE SMOKER STARTS  
22 SMOKING, THE SMOKER IS INHALING AMMONIA.

23                   AND DR. FARONE WILL TESTIFY THAT  
24 THE REASON FOR THAT IS THAT THE AMMONIA ALLOWS THE  
25 NICOTINE TO BE SOMEHOW SUPER-CHARGED. AND I AM  
26 GOING TO LET THE CHEMIST TALK ABOUT THE CHEMISTRY,  
27 BECAUSE I DON'T WANT TO MESS IT UP. BUT SOMEHOW IT  
28 ALLOWS THE NICOTINE EFFECT TO BE MAGNIFIED SO THE

1 EVIDENCE WILL SHOW THAT PHILIP MORRIS USES UREA  
2 WHICH TURNS INTO AMMONIA, WHICH IS INHALED INTO THE  
3 BODY AND WHICH GIVES THE SMOKER A BIGGER DOSE OF  
4 NICOTINE, WHICH IS AN ADDICTIVE SUBSTANCE THAT THE  
5 SMOKER IS CRAVING FOR, WHICH IS THE REASON THE  
6 SMOKER SMOKES TO START WITH.

7 DR. FARONE WILL DISCUSS THE FACT  
8 THAT SOME OF THE CIGARETTES HAVE CHOCOLATE OR  
9 LICORICE ADDED.

10 WHY IN THE WORLD?

11 BECAUSE IT OPENS UP THE BRONCHIAL  
12 TUBES. THESE SUBSTANCES OPEN UP THE BRONCHIAL  
13 TUBES AND ALLOW MORE OF THE NICOTINE TO PASS INTO  
14 THE SMOKER'S LUNGS.

15 THERE WILL BE EVIDENCE THAT THROUGH  
16 MANIPULATION, SUCH AS THIS, THE AMOUNT OF NICOTINE  
17 THAT THE SMOKER ACTUALLY TAKES IN CAN BE ENGINEERED  
18 BY THE MANUFACTURERS OF THE TOBACCO PRODUCTS,  
19 ESPECIALLY INCLUDING PHILIP MORRIS, THAT HE HAS  
20 FIRSTHAND, INSIDER INFORMATION OF THIS.

21 AND I AM GOING TO SHOW YOU A  
22 DOCUMENT FROM 1978. AND THIS IS A PHILIP MORRIS  
23 DOCUMENT. I WANT TO START WITH THE OBJECTIVE, THE  
24 OBJECTIVE IS DEFENSE RESEARCH, RESEARCH TO HELP  
25 PHILIP MORRIS DEFEND ITSELF, DEFENSE RESEARCH,  
26 PHILIP MORRIS U. S. A. INVIVO IS THE NAME OF A  
27 LABORATORY IN EUROPE.

28 DR. FARONE IS GOING TO TELL YOU

1 THAT UNLIKE UNILEVER WHERE SOME SUBSTANCE THAT'S  
2 RELATIVELY INNOCUOUS LIKE SHAMPOO GETS TESTED ON  
3 HUMAN BEINGS AND GETS TESTED ON ANIMALS TO MAKE  
4 SURE THAT IT ISN'T HARMFUL, CIGARETTE SMOKE AND  
5 TOBACCO SMOKE AND EVERYTHING THAT GOES WITH IT WAS  
6 NOT TESTED ON HUMAN BEINGS HERE. AND AS WE ARE  
7 GOING TO SEE FROM ANOTHER DOCUMENT, I AM GOING TO  
8 SHOW YOU SHORTLY, THE EVIDENCE WILL SHOW THAT  
9 PHILIP MORRIS SPECIFICALLY STAYED AWAY FROM DOING  
10 ANY TYPES OF TESTS TO SEE WHAT WOULD HAPPEN IF  
11 THESE SUBSTANCES WERE TESTED ON HUMAN BEINGS.

12 BUT THERE WERE TESTS IN ASSOCIATED  
13 AREAS THAT WERE DONE IN EUROPE. AND THE EVIDENCE  
14 IS GOING TO SHOW THAT THE REASON THESE TESTS WERE  
15 DONE IN EUROPE WAS SO THAT IF THE TEST RESULTS WERE  
16 HARMFUL TO PHILIP MORRIS, THEY WOULD NOT COME TO  
17 LIGHT.

18 IN OTHER WORDS, IF THE RESEARCH  
19 SHOWED THAT PHILIP MORRIS CIGARETTES AND TOBACCO  
20 AND WHAT'S IN THE TOBACCO SMOKE IS HARMFUL TO HUMAN  
21 BEINGS, THEY WERE GOING TO BURY THE EVIDENCE, JUST  
22 EXACTLY LIKE THAT PRIOR ONE I SAID, THEY WOULD BURY  
23 THE EVIDENCE ON NICOTINE ADDICTION.

24 SO LET'S JUST GO THROUGH THIS.

25 "ALL OF THE DOCUMENTS WILL  
26 BE SHIPPED TO COLOGNE, GERMANY." I  
27 THINK "TOM" IS THOMAS OSDENE.

28 "THE DOCUMENTS WILL BE KEPT

1 IN COLOGNE GERMANY. IT'S OKAY TO  
2 DISCUSS THE FINDINGS BY PHONE AND  
3 TELEX. BUT ANY TELEXES WILL BE  
4 DESTROYED. NO WRITTEN EVIDENCE WILL  
5 BE ALLOWED.

6 "PLEASE MAKE AVAILABLE FILE  
7 CABINET. JIM WILL PUT INTO SHAPE AT  
8 AUGUST OR SEPTEMBER. WE WILL MONITOR  
9 THE FILES IN PERSON EVERY TWO TO THREE  
10 MONTHS.

11 "IF IMPORTANT LETTERS OR  
12 DOCUMENTS HAVE TO BE SENT, PLEASE SEND  
13 TO TOM OSDENE'S HOME, NOT TO PHILIP  
14 MORRIS' HEADQUARTERS," NOT TO PHILIP  
15 MORRIS RESEARCH FACILITIES, BUT TO HIS  
16 HOUSE. "TOM OSDENE WILL THEN ACT ON  
17 THESE MEMOS AND DESTROY THE EVIDENCE."

18 U. H. R. R. AND T. S. O. , I CAN'T TELL  
19 YOU WHAT THEY MEAN RIGHT NOW, SO I AM NOT GOING TO  
20 DISCUSS THEM

21 BUT THE EVIDENCE WILL SHOW THAT 22  
22 YEARS AGO, 23 YEARS AGO, DESPITE HAVING SAID THAT  
23 PARAMOUNT TO EVERY OTHER CONSIDERATION IN OUR  
24 BUSINESS IS THE HEALTH OF THE PEOPLE SPENDING MONEY  
25 FOR THE PRODUCTS, IT WAS THE EXACT OPPOSITE.

26 AND PARAMOUNT TO EVERY  
27 CONSIDERATION IN THEIR BUSINESS WAS IF THEY FOUND  
28 ANYTHING THAT WAS -- COULD BE USED TO SHOW TOBACCO

1 HARMED PEOPLE, THEY ARE GOING TO DEEP SIX IT, BURY  
2 IT, BURN IT, AND NOT MAKE IT AVAILABLE.

3 THIS DOCUMENT ISN'T FROM C. T. R. OR  
4 T. I. R. C. , THIS IS AN INTERNAL PHILIP MORRIS  
5 DOCUMENT. THOMAS OSDENE, I THINK, WAS THE HIGHEST  
6 SCIENTIST AT THE COMPANY. AND THOMAS OSDENE, BY  
7 THIS DOCUMENT, CAN BE SEEN TO BE INVOLVED IN A  
8 CONSPIRACY TO DO THE EXACT OPPOSITE OF WHAT THEY  
9 PUBLICLY PROMISED EVERYBODY, INCLUDING RICHARD  
10 BOEKEN. AND TOM OSDENE IS AT THE HIGHEST LEVELS OF  
11 THAT CORPORATION WAS GOING TO BE DEEP SIXING AND  
12 DESTROYING INFORMATION. THIS STUFF COULDN'T EVEN  
13 BE SENT TO THE COMPANY. IT HAD TO BE SENT TO HIS  
14 HOUSE.

15 HERE'S A DOCUMENT FROM MARCH OF  
16 1980. AND I'D LIKE TO SAY THAT IN MARCH OF 1980,  
17 MR. BOEKEN WAS 36 YEARS OLD. IN MARCH OF 1980,  
18 MR. BOEKEN HAD BEEN SMOKING HEAVILY SINCE 1957, 23  
19 YEARS.

20 AND IN 1980, IN THIS MEMO, SELIGMAN  
21 IS THE VICE-PRESIDENT OF RESEARCH AND DEVELOPING AT  
22 PHILIP MORRIS. AND IT'S TO THESE TWO PEOPLE,  
23 DR. SPEARS AND LORILLARD, AND IT HAS TO DO WITH THE  
24 POTENTIAL LONG-TERM SCIENTIFIC STUDIES THAT PHILIP  
25 MORRIS COULD BE INVOLVED IN.

26 HERE IS WHAT THEY WERE TOLD TO  
27 SPECIFICALLY NOT BE INVOLVED IN.

28 DO NOT BE INVOLVED IN DEVELOPING

1 NEW TESTS TO SEE WHAT CAUSES CANCER,  
2 CARCINOGENICITY, THE CAUSE OF CANCER. DO NOT BE  
3 INVOLVED IN ATTEMPTS TO RELATE HUMAN DISEASE TO  
4 SMOKING. DO NOT BE INVOLVED IN ANY EXPERIMENTS  
5 WHICH REQUIRE LARGE DOSES OF CARCINOGEN TO SHOW  
6 ADDITIVE. AND THAT'S WHAT WE JUST TALKED ABOUT,  
7 WHAT THEY WERE ADDING, ADDITIVE EFFECT OF SMOKING.  
8 AND SO 26 YEARS AFTER THAT FRANK  
9 STATEMENT, WHERE PHILIP MORRIS -- I AM SORRY --  
10 WHERE ALL OF THE INDUSTRY PROMISED THAT THEY WOULD  
11 ALWAYS COOPERATE CLOSELY WITH THOSE WHO'S TASK IT  
12 IS TO SAFEGUARD THE PUBLIC HEALTH, PHILIP MORRIS,  
13 AT THE VERY HIGHEST LEVELS, INSTRUCTED IT'S  
14 PERSONNEL TO STAY AWAY FROM STUDIES THAT MIGHT SHOW  
15 WHAT THEY ALREADY KNEW AND WHAT THEY ALREADY TOLD  
16 DR. FARONE THAT THEY HAD AN ADDICTIVE SUBSTANCE  
17 THAT CAUSED CANCER AND THAT THEY KNEW REGULATION  
18 WAS COMING AND SO LET'S STAY AWAY FROM STUDYING  
19 THIS THING.

20 ACCORDING TO, I AM GOING TO PUT  
21 THIS DOWN FOR A SECOND -- ACCORDING TO THE COVER  
22 SHEET ON THE FULL DOCUMENT, THE CIGARETTE  
23 CONTROVERSY, WHY MORE RESEARCH IS NEEDED, THIS WAS  
24 A REVIEW BY THE TOBACCO INSTITUTE PRESENTED TO THE  
25 UNITED STATES CONGRESSIONAL COMMITTEES. SO  
26 ACCORDING TO THE FACE PAGE HERE, THIS WAS FOR THE  
27 UNITED STATES CONGRESS.

28 IN 1984, MR. BOEKEN WAS 40 YEARS

1 OLD.

2 IN 1984, MR. BOEKEN HAD BEEN  
3 SMOKING AROUND 27 YEARS, IF MY MATH IS CORRECT.  
4 AND IN 1984, MR. BOEKEN HAD BEEN HOOKED ON NICOTINE  
5 FOR 27 YEARS.

6 AND THE TOBACCO INDUSTRY TOLD THE  
7 UNITED STATES CONGRESS:

8 "IT IS NOT KNOWN WHETHER  
9 SMOKING HAS A ROLE IN THE DEVELOPMENT  
10 OF VARIOUS DISEASES. A GREAT DEAL  
11 MORE RESEARCH IS NEEDED TO UNCOVER THE  
12 CAUSES AND MECHANISMS INCLUDING IN  
13 THEIR ONSET. "

14 AND SO WHETHER THE TOBACCO INDUSTRY  
15 ACTUALLY MEANT WHAT THEY TOLD THE U. S. CONGRESS, OR  
16 WHETHER THIS WAS JUST THE NEXT STEP IN THE  
17 BRILLIANT SCHEME THAT STARTED IN THE EARLY 1950' S,  
18 CREATING DOUBT ABOUT THE HEALTH CHARGE WITHOUT  
19 ACTUALLY DENYING IT IS A MATTER OF PERSPECTIVE.  
20 BUT THE INDUSTRY, 30 YEARS AFTER DR. DOLL WILL  
21 SAY -- THAT SENTENCE ISN' T GOING TO MAKE ANY SENSE.  
22 LET ME START OVER.

23 DR. DOLL WILL TELL YOU THAT  
24 CERTAINLY BY ' 54, THERE WAS NO REAL DOUBT SMOKING  
25 CAUSED LUNG CANCER. YOU ARE GOING TO HEAR THAT  
26 AGAIN AND AGAIN FROM VARIOUS SOURCES.

27 AND YET 30 YEARS LATER, THE TOBACCO  
28 INDUSTRY, WITH ALL OF THE RESOURCES AVAILABLE TO

1 IT, THAT IS SUPPOSEDLY DOING RESEARCH AND  
2 CONDUCTING EXPERIMENTS TO KEEP THEIR CUSTOMERS'  
3 HEALTH PARAMOUNT, WAS REALLY, TRULY, THE EVIDENCE  
4 WILL SHOW, UNDENIABLY, CREATING DOUBT ABOUT THE  
5 HEALTH CHARGE WITHOUT ACTUALLY DENYING IT.

6 AND A COUPLE OF THINGS HAPPENED AS  
7 A RESULT OF THAT, ONE THING HAPPENED THAT IS A LOT  
8 OF PEOPLE HOOKED, SOME PEOPLE WHO HADN'T STARTED,  
9 BELIEVED THAT.

10 A LOT OF PEOPLE WHEN THEY HEARD  
11 MAJOR AMERICAN INDUSTRY, SAY, TO THEM, AND HEARD  
12 REPORTS OF IT SAYING TO THE UNITED STATES CONGRESS,  
13 THIS IS AN OPEN ISSUE, KEEP YOUR OPTIONS OPEN, KEEP  
14 YOUR MIND OPEN, THE JURY IS OUT ON THIS ONE, THEY  
15 ARE STILL STUDYING IT, A LOT OF PEOPLE BELIEVE  
16 THAT, RICHARD BOEKEN WAS ONE WHO BELIEVED IT.

17 AND I AM GOING TO SWITCH SUBJECTS  
18 AND TALK JUST A BIT ABOUT LIGHT CIGARETTES.

19 LADIES AND GENTLEMEN, I WANT TO  
20 TELL YOU THIS OPENING STATEMENT THERE IS NO WAY  
21 THAT I WANT TO TALK ABOUT ALL THE STUFF THAT'S  
22 GOING TO BE DISCUSSED HERE IN THIS TRIAL. I AM  
23 TRYING TO GET A COUPLE OF HIGH POINTS, THE THINGS  
24 THAT I CONSIDER TO BE THE HIGH POINTS.

25 THAT'S WHAT MR. BOEKEN STARTED  
26 SMOKING IN 57.

27 THE EVIDENCE WILL SHOW THAT'S FAR  
28 AND AWAY THE WORLD CHAMPION, THE MOST SUCCESSFUL

1 BRAND IN THE WORLD, KNOWN OVER ALL THE WORLD,  
2 PEOPLE RECOGNIZE THIS JUST LIKE THEY RECOGNIZE  
3 COCA-COLA. IT'S ONE OF THE MOST VALUABLE BRANDS IN  
4 THE WORLD.

5 AND WHEN MR. BOEKEN STARTED HAVING  
6 PROBLEMS WITH BRONCHITIS, ONE OF THE THINGS THAT HE  
7 DID, I BELIEVE IT WAS IN THE 70'S, WAS HE DECIDED  
8 THAT MAYBE HE SHOULD SMOKE A LIGHTER CIGARETTE.

9 AND HE EXPERIMENTED FOR A WHILE BY  
10 SMOKING MENTHOLS, WHICH DON'T HURT AS MUCH WHEN YOU  
11 ARE COUGHING, BECAUSE WHEN HE HAD BRONCHITIS AND HE  
12 WAS COUGHING, HE WOULD KEEP SMOKING.

13 AND SO THESE GREEN ONES, THEY  
14 DIDN'T IRRITATE THE THROAT AS MUCH. AND HE TRIED  
15 THESE ALONG THE WAY FOR A WHILE.

16 HISTORICALLY, WE WILL FIND OUT THAT  
17 THE GOVERNMENT REQUIRED TAR -- TAR IS BAD. WHEN  
18 YOU INHALE CIGARETTES AND GET NICOTINE, ONE OF THE  
19 OTHER THINGS THEY GET IN THEIR LUNGS IS TAR. TAR  
20 IS NOT A GOOD THING AT ALL. TAR CARRIES ALL THIS  
21 RESIDUE. BAD.

22 AND ALONG THE LINE, THERE WAS A  
23 REQUIREMENT THAT THE AMOUNTS OF TAR AN MAYBE THE  
24 AMOUNTS OF NICOTINE AND THE AMOUNTS OF OTHER STUFF  
25 THAT ARE BEING INHALED BE PUT RIGHT ON THE LABEL.

26 AND CERTAINLY THIS DIDN'T EXIST  
27 BEFORE WARNINGS WENT UP. BUT IT HAS EXISTED FOR A  
28 LONG TIME.

1                   AND THE IDEA WAS THAT LIGHT  
2 CIGARETTES EITHER WEREN' T AS BAD FOR YOU OR WERE  
3 BETTER FOR YOU.

4                   AND SO MR. BOEKEN, I BELIEVE, IN  
5 THE '70' S, SWITCHED TO THESE (INDICATING), MARLBORO  
6 LIGHTS.

7                   AND THE TAR LEVELS LISTED ON THE  
8 SIDE AND OTHER LEVELS LISTED ON THE SIDE OF THE  
9 PACKAGE WERE LESS THAN THE RED ONES.

10                  AND MR. BOEKEN THOUGHT, WELL, I  
11 BELIEVE THEM WHEN THEY SAY THERE' S NO CAUSE  
12 RELATIONSHIP THAT' S PROVEN BETWEEN REALLY SERIOUS  
13 ILLNESS AND SMOKING. AND I AM READY TO ACCEPT THE  
14 BRONCHITIS BECAUSE I BELIEVE THE BRONCHITIS IS  
15 CERTAINLY AGGRAVATED BY SMOKING.

16                  AND I AM READY TO ACCEPT THE FACT  
17 THAT I CAN' T RUN, CONTINUE TO WORK OUT WITH  
18 WEIGHTS. BUT I AM GOING TO DO MYSELF A FAVOR AND  
19 MAKE IT LESS TAR AND LESS BAD STUFF AND SO HE  
20 SWITCHED TO MARLBORO LIGHTS.

21                  AND THEN IN THE 1980' S, I THINK THE  
22 EVIDENCE WILL SHOW, IF I REMEMBER HIS USAGE  
23 CORRECTLY, THAT HE SWITCHED TO MARLBORO LIGHT  
24 100' S, EVEN LESS BAD STUFF.

25                  BECAUSE HE THOUGHT THAT IF THESE  
26 CIGARETTES WERE GOING TO HARM HIM, IF THEY WERE  
27 GOING TO MAKE HIS BRONCHITIS WORSE, THESE WERE THE  
28 WAY TO GO.

1                   AND IN THE 1990'S, MR. BOEKEN  
2 SWITCHED TO MARLBORO ULTRA LIGHTS, THE LIGHTEST OF  
3 THE LIGHTS. THE SMALLEST PUBLISHED AMOUNT OF TAR  
4 AND OTHER SUBSTANCES.

5                   AND OF COURSE, HE WASN'T THE ONLY  
6 ONE IN AMERICA THAT FOLLOWED EXACTLY THE SAME  
7 PATTERN.

8                   BUT WHAT NEITHER HE NOR PROBABLY  
9 EVEN HALF OF ONE-TENTH OF ONE PERCENT OF THE  
10 CONSUMERS OF THESE CIGARETTES IN AMERICA KNEW, BUT  
11 CERTAINLY WHAT SCIENTISTS KNOW, IS THAT BY SMOKING  
12 THESE CIGARETTES, (A), HE WASN'T CUTTING DOWN ON  
13 THE BAD STUFF, AND IF HE WAS, IT WAS TO A VERY  
14 MINIMAL EXTENT; AND (B), FOR REASONS THAT I AM  
15 GOING TO DESCRIBE HERE IN A MINUTE, SMOKING THESE  
16 KINDS OF CIGARETTES, THE LIGHTER THE CIGARETTES,  
17 THE MORE, WHAT I AM ABOUT TO TELL YOU OCCURS, IT  
18 ACTUALLY INCREASES THE RISK OF CERTAIN TYPES OF  
19 WHAT ARE CALLED PERIPHERAL LUNG TUMORS.

20                   AND HERE ARE THE REASONS FOR THAT.

21                   FIRST OF ALL, ALL OF THESE NUMBERS  
22 THAT ARE WRITTEN ON ANY OF THESE TOBACCO PACKAGES  
23 ARE DERIVED FROM A MACHINE THAT SMOKES CIGARETTES.

24                   AND SO DOWN AT PHILIP MORRIS'  
25 HEADQUARTERS OR OTHER TOBACCO COMPANY HEADQUARTERS,  
26 THERE ARE MACHINES THAT DO NOTHING BUT PUFF AWAY AT  
27 CIGARETTES ALL THE TIME. AND THE TAR AND OTHER  
28 AGENTS GET MEASURED BY THESE MACHINES.

1                   BUT MACHINES, AS ACKNOWLEDGED BY  
2 THEIR OWN COMPANY DOCUMENTS, AS ACKNOWLEDGED BY  
3 SCIENTISTS, DO NOT SMOKE THE WAY HUMANS DO, FOR TWO  
4 IMPORTANT REASONS. ONE, A FEATURE THAT MAKES THESE  
5 CIGARETTES LIGHT IS THAT VENTILATION HOLES ARE PUT  
6 IN, DOWN NEAR WHERE THE FILTER MEETS THE TOBACCO.

7                   AND SO WHEN SOMEONE PUFFS, THE IDEA  
8 IS THAT A LOT OF THIS BAD STUFF GOES OUT THE  
9 VENTILATION HOLES AND NEVER REACHES ANYONE' S LUNGS.

10                  AND FOR A MACHINE, THAT' S FINE.

11                  BECAUSE OF COURSE, THE MACHINE  
12 DOESN' T HOLD THE CIGARETTE.

13                  BUT WHAT WE KNOW IS THAT WHEN  
14 PEOPLE DO HOLD A CIGARETTE, I PROBABLY ACTUALLY  
15 REMEMBER HOW TO DO THIS, WHEN PEOPLE DO HOLD A  
16 CIGARETTE, THEY TEND TO HOLD THE CIGARETTE RIGHT  
17 WHERE THE FILTER MEETS THE TOBACCO.

18                  AND THE PERSON' S THUMB AND  
19 FOREFINGER COVER THE VENTILATION HOLES.

20                  AND SO THE BAD STUFF THAT IS  
21 SUPPOSED TO ESCAPE AND GO AWAY DOESN' T.

22                  AND THE BAD STUFF GOES RIGHT INTO  
23 THE PERSON' S LUNGS BECAUSE THOSE VENTILATION HOLES  
24 ARE COVERED UP.

25                  AND, OF COURSE, THE EVIDENCE IS  
26 GOING TO SHOW THAT IT DOESN' T TAKE A REAL GENIUS TO  
27 FIGURE THAT OUT.

28                  BUT THESE MACHINES THAT PUFF AWAY,

1 PUFF AWAY, AND PUFF AWAY, I'D SAY I AM NERVOUS, THE  
2 MACHINES DON'T HAVE TO HOLD ONTO THE CIGARETTE.  
3 AND THE VENT HOLES ARE WIDE OPEN.

4 AND SO IT'S BEEN KNOWN FOR A LONG  
5 TIME THAT ALL OF THESE FIGURES FOR TAR AND NICOTINE  
6 ARE BOGUS.

7 BECAUSE THAT MACHINE DOES NOT SMOKE  
8 THE WAY A PERSON DOES AND IT DOESN'T HOLD A  
9 CIGARETTE THE WAY A PERSON DOES.

10 SECONDLY, SMOKERS COMPENSATE, THE  
11 TERM YOU ARE GOING TO HEAR IS COMPENSATE  
12 COMPENSATION.

13 WHEN A SMOKER SMOKES A LIGHT  
14 CIGARETTE, HE OR SHE COMPENSATES BY SUCKING IT IN  
15 HARDER, FURTHER, AND HOLDING IT DOWN LONGER.

16 AND SOME PEOPLE ARE AWARE THAT THEY  
17 ARE DOING THIS, MOST PROBABLY AREN'T.

18 BUT I THINK THE EVIDENCE THAT MAY  
19 EVEN NOT EVEN BE CONTRADICTED NOW, YOU WILL SEE,  
20 CERTAINLY THE EVIDENCE THE PLAINTIFF IS GOING TO  
21 PUT ON, IS THAT WHEN PEOPLE SMOKE LIGHT CIGARETTES,  
22 THEY COMPENSATE AND THEY DRAW IT IN FURTHER AND  
23 HOLD IT DOWN LONGER.

24 AND BECAUSE OF THAT, THE TOBACCO  
25 BRANCHES OUT AND GOES INTO MORE PERIPHERAL AREAS OF  
26 THE LUNGS.

27 WORLD CLASS, RESPECTED SCIENTISTS  
28 STUDYING THIS PHENOMENON SAY NOW THAT THERE ARE

1 RISES AND WHOLE NEW CLASSIFICATIONS OF CHEST -- I  
2 AM SORRY, LUNG CANCER, INCLUDING ADENOCARCINOMA,  
3 EXACTLY WHAT MR. BOEKEN HAS, THAT HAVE GONE UP OVER  
4 THE YEARS AND CORRESPOND WITH THE USAGE OF LIGHT  
5 CIGARETTES.

6 NOW, I'D LIKE TO BE ON A SLIGHTLY  
7 BIGGER ISSUE.

8 FOR THOSE OF YOU WHO DON'T SMOKE,  
9 OR FOR THOSE OF YOU WHO DON'T SMOKE VERY MUCH,  
10 HERE'S WHAT YOU ARE GOING TO HEAR ABOUT A HOOKED  
11 SMOKER.

12 WAKE UP IN THE MORNING, THE FIRST  
13 THING IS TO HAVE A CIGARETTE.

14 BEFORE GETTING OUT OF BED, MUST  
15 HAVE A CIGARETTE.

16 THE FIRST THING, AFTER GETTING OUT  
17 OF THE SHOWER, ISN'T EVEN TO TOWEL OFF, HAVE A  
18 CIGARETTE WHILE GETTING DRY.

19 THE FIRST THING FOR SOMEONE THAT IS  
20 HOOKED, ONES A CUP OF COFFEE IS POURED, AND I GUESS  
21 ALL OF US HAVE SEEN THIS, IS TO HAVE A CIGARETTE.

22 FOR SOMEONE WHO IS ADDICTED, NO  
23 MEAL IS COMPLETE WITHOUT A CIGARETTE.

24 AND IT USED TO BE AT A DIFFERENT  
25 TIME IN OUR SOCIETY, AND, AGAIN, THIS IS BEFORE  
26 SOME OF YOU REMEMBER THAT, SMOKING WAS ALLOWED IN  
27 ALL RESTAURANTS, IN ALL BARS, ALL AROUND THE CITY.  
28 SMOKING IS STILL ALLOWED IN RESTAURANTS AND BARS IN

1 DIFFERENT PARTS OF THIS COUNTRY.

2 CIGARETTES BETWEEN COURSES OF  
3 MEALS.

4 AFTER SEX, THE LAST THING BEFORE  
5 GOING TO SLEEP AT NIGHT, HAVE A CIGARETTE.

6 AND FOR SOMEONE WHO IS HOOKED,  
7 THAT'S HOW IT IS, YOU MUST HAVE A CIGARETTE.

8 THE EVIDENCE WILL SHOW HERE IN THIS  
9 TRIAL THAT ADDICTION DOES NOT MEAN BEING TOTALLY,  
10 100 PERCENT UNABLE TO QUIT. AND WE KNOW THAT FROM  
11 MR. BOEKEN.

12 BECAUSE MR. BOEKEN QUIT HEROIN.  
13 MR. BOEKEN QUIT ALCOHOL. AND MR. BOEKEN, IF HE  
14 KNEW HOW BAD THIS STUFF WAS FOR HIM, IF THEY HAD  
15 REALLY TOLD WHAT THEY KNEW, MR. BOEKEN AND PROBABLY  
16 EVERYONE ELSE IN AMERICA WOULD QUIT SMOKING  
17 CIGARETTES.

18 THE EVIDENCE WILL SHOW THAT SOMEONE  
19 WHO IS ADDICTED TO ANYTHING, I DON'T CARE WHAT IT  
20 IS, IF YOU TOOK 100 PEOPLE WITH THIS ADDICTION, PUT  
21 THEM IN A ROOM, AND PUT A GUN TO THEIR HEAD AND  
22 SAID, IF YOU DO NOT STOP THIS, I WILL GO GET YOUR  
23 FAMILY, 99.5 PERCENT OF THOSE PEOPLE WILL QUIT.

24 ADDICTION DOESN'T MEAN IMPOSSIBLE  
25 TO QUIT. ADDICTION MEANS HARD TO QUIT WITH  
26 DIFFERENT AMOUNTS OF DIFFICULTY FOR DIFFERENT  
27 PEOPLE, DEPENDING ON WHICH SUBSTANCE IT IS.

28 BUT IN THIS CASE, I THINK THERE

1 WILL BE NO QUESTION, WHEN YOU HEAR RICHARD BOEKEN'S  
2 TESTIMONY, WHEN YOU HEAR WHAT PEOPLE SAY ABOUT HIM,  
3 THAT HE WAS CERTAINLY ADDICTED TO NICOTINE.

4 I'D LIKE TO SHOW YOU NOW, IF I  
5 COULD, JUST A BIT, ABOUT SOMETHING THAT HAPPENED IN  
6 1994.

7 AND MR. GOLDSTEIN, I NEED YOUR HELP  
8 AGAIN. AND I THINK I AM GOING TO SWITCH UP ON YOU  
9 AND USE THE VIDEO.

10 JUST BEFORE YOU PUSH THE BUTTON AND  
11 GET IT READY TO GO, I NEED TO SAY SOMETHING.

12 1994, MR. BOEKEN'S 50TH BIRTHDAY;  
13 1994, THE 40TH YEAR SINCE HE IS A TEN-YEAR-OLD HE  
14 PICKED UP HIS FIRST CIGARETTE. 1994, THE 37TH YEAR  
15 THAT HE HAD BEEN SMOKING HEAVILY, AND IN 1994,  
16 THIS, CAME TO THE ATTENTION OF MOST ADULTS AT THE  
17 TIME, AND IN 1994, THE WAY THIS CAME TO THE  
18 ATTENTION OF MOST ADULTS, IS RIGHT HERE.

19

20 (VIDEO PLAYED)

21

22 MR. PIUZE: NOW, THAT WAS THE CHIEF  
23 EXECUTIVE OFFICER OF PHILIP MORRIS, SEVEN YEARS  
24 AGO, TELLING THE UNITED STATES CONGRESS THAT HE,  
25 YOU ARE GOING TO SEE IT WASN'T JUST HIM, IT WAS THE  
26 CHIEF EXECUTIVE OFFICER OF EVERY TOBACCO COMPANY IN  
27 THIS COUNTRY, TELLING THE UNITED STATES CONGRESS  
28 THAT THEY HAD NO PROOF AND THEY HAVE NO WAY OF

1 KNOWING THAT SMOKING CIGARETTES, SMOKING TOBACCO,  
2 CAUSED LUNG CANCER.

3                   AND RICHARD BOEKEN HAS TESTIFIED  
4 THAT HE WATCHED THAT ON TELEVISION. AND RICHARD  
5 BOEKEN HAS TESTIFIED THAT BECAUSE OF HIS  
6 SELF-ACKNOWLEDGED, CONSERVATIVE POLITICAL OUTLOOK,  
7 IS BIG BUSINESS BENT, HE DID NOT BELIEVE THAT THE  
8 CHIEF EXECUTIVE OFFICERS, I THINK IT WAS SEVEN, OF  
9 HUGE U. S. CORPORATIONS, COULD STAND BEFORE THE  
10 UNITED STATES CONGRESS AND LIE. HE DIDN' T BELIEVE  
11 IT.

12                   AND MR. BOEKEN CHOSE TO BELIEVE,  
13 AND I AM GOING TO INTERRUPT MYSELF, THE EVIDENCE  
14 WILL NOT SHOW WHAT I AM ABOUT TO SAY DIRECTLY, BUT  
15 BY INFERENCE, I THINK BEING HOOKED, HIS MIND WAS  
16 FILTERING OUT WHAT HE DIDN' T WANT TO HEAR AND HIS  
17 MIND WAS GRABBING ONTO THE STUFF THAT HE DID WANT  
18 TO HEAR.

19                   AND I ACKNOWLEDGE THAT.

20                   BUT MR. BOEKEN HAS TESTIFIED THAT  
21 HE WATCHED THAT MAN, THE CHIEF EXECUTIVE OF ONE OF  
22 THE LARGEST CORPORATIONS IN THIS COUNTRY, STAND UP  
23 AND SWEAR TO GOD, UNDER OATH BEFORE THE UNITED  
24 STATES CONGRESS THAT THEY DIDN' T KNOW THAT  
25 CIGARETTE SMOKING CAUSED LUNG CANCER. AND HE SAID  
26 "I BELIEVED THAT GUY. "

27                   LET' S SEE THE NEXT ONE, PLEASE.

28                   ///       ///       ///

1 (VIDEO PLAYED)

2

3 MR. PIUZE: SAME HEARINGS, 1994, SEVEN  
4 YEARS AGO, SWEARING UNDER OATH THAT THEY BELIEVED,  
5 HE BELIEVED, THE CHIEF EXECUTIVE OFFICER OF PHILIP  
6 MORRIS BELIEVED THAT NICOTINE WAS NOT ADDICTIVE.

7 HE SAID THAT 17 YEARS AFTER HIS  
8 CHIEF SCIENTIST, OSDENE, WROTE, "I WAS AMAZED AT  
9 THE RESEARCH, A NEW STAFF MEMBER SAYS OPIATES AND  
10 NICOTINE MAY BE SIMILAR IN ACTION. "

11 MR. LEITER: I AM SORRY TO INTERRUPT, BUT  
12 CAN I SEE WHAT YOU ARE SHOWING TO THE JURY, PLEASE.

13 OKAY, THANK YOU.

14 MR. PIUZE: "WE ACCEPT THE FACT THAT  
15 NICOTINE IS HABITUATING. THERE IS A RELATIONSHIP  
16 BETWEEN NICOTINE AND THE OPIATES. "

17 AND OSDENE, I DON'T WANT TO  
18 MISSTATE, THAT'S WHY I KEEP SAYING I THINK HE WAS  
19 THE CHIEF SCIENTIST, HE MIGHT HAVE BEEN SECOND, BUT  
20 HE WAS A BIG KHAHUNA THERE, SAID, IT IS MY STRONG  
21 FEELING THAT WITH THE PROGRESS THAT HAS BEEN  
22 CLAIMED, WE ARE IN THE PROCESS OF DIGGING OUR OWN  
23 GRAVE AND BELIEVE THE PROGRAM, AS SET UP, HAS THE  
24 POTENTIAL OF GREAT DAMAGE TO THE INDUSTRY AND  
25 STRONGLY URGE THE WHOLE RELATIONSHIP OF OUR COMPANY  
26 TO C. T. R. BE CAREFULLY REVIEWED AND VERY MUCH A  
27 TRADE THAT THE DIRECTION OF THE WORK BEING TAKEN BY  
28 THE C. T. R. IS TOTALLY DETRIMENTAL TO OUR POSITION

1 AND UNDERMINES THE PUBLIC POSTURING WE HAVE TAKEN  
2 THROUGH OUR SIDE OF THIS.

3 WHAT YOU WILL SEE FROM THE EVIDENCE  
4 IS C. T. R. DUMMED UP AND DIDN' T SAY STUFF LIKE THAT  
5 ANY MORE.

6 C. T. R. TOWED THE LINE, BECAUSE  
7 C. T. R. WAS AN INDUSTRY MOUTHPIECE. BUT WHAT THIS  
8 DOCUMENT SHOWS IS THAT 17 YEARS BEFORE THE CHIEF  
9 EXECUTIVE OFFICER OF PHILIP MRRIS GOT UP AND LIED  
10 TO THE UNITED STATES CONGRESS, THEY WERE ON RECORD  
11 AS SAYING THEY KNEW WHAT THIS WAS ALL ABOUT.

12 I WANT TO SHOW YOU ONE MORE, ALSO  
13 FROM THE 1997, THIS IS EARLIER IN THE MNTH. IF  
14 THE RESULTS OF --

15 MR. LEITER: COULD YOU SHOW IT TO US,  
16 TOO, PLEASE.

17 THANK YOU.

18 MR. PIUZE: THIS HAS TO DO WITH NICOTINE  
19 TO SEE IF IT IS ADDICTIVE.

20 "IF, HOWEVER, THE RESULTS  
21 WITH NICOTINE ARE SIMILAR TO THOSE  
22 WITH MORPHINE AND CAFFEINE, WE WILL  
23 WANT TO BURY IT. ACCORDINGLY, THERE  
24 ARE ONLY TWO COPIES OF THIS MEMO. THE  
25 ONE ATTACHED AND THE ORIGINAL. "

26 AND SO I AM ALMOST DONE AND I  
27 APPRECIATE YOUR ATTENTION.

28 PHILIP MRRIS, ON ITS WEB SITE,

1 TODAY, HAS A MEDIA BACKGROUND, BACKGROUND  
2 INFORMATION FOR THE MEDIA ABOUT THIS CASE.

3 RICHARD BOEKEN VERSUS PHILIP  
4 MRRIS, INCORPORATED, MEDIA BACKGROUND.

5 AND IT GIVES THE OFFICIAL CAPTION  
6 OF THE CASE AND IT GIVES THE SUPERIOR COURT OF LOS  
7 ANGELES AND IT GIVES THE CASE NUMBER AND IT GIVES  
8 MARCH 29, 2000 AS THE TRIAL DATE.

9 AND DISCUSSES SOME OTHER STUFF  
10 WHICH I AM GOING TO GO PAST, BUT HERE' S WHAT I WANT  
11 TO TALK ABOUT, FOR OBVIOUS REASONS, PHILIP MRRIS  
12 FOR THE MEDIA, SUMMARIZES THE PLAINTIFFS' CASE AS  
13 FOLLOWS:

14 "THE PLAINTIFF ASSERTS FIVE  
15 SUBSTANTIVE CAUSES OF ACTION;  
16 NEGLIGENCE, STRICT LIABILITY, DECEIT,  
17 FRAUDULENT CONCEALMENT, FALSE  
18 REPRESENTATION AND EXPRESS OF BREACH  
19 WARRANTY. "

20 THERE IS ALSO A CONSPIRACY CLAIM  
21 HERE' S WHAT I HIGHLIGHTED.

22 "MR. BOEKEN HAS TESTIFIED  
23 THAT HE BECAME A REGULAR SMDKER IN  
24 1957 WHEN HE WAS ABOUT 13 YEARS OLD.  
25 HE WAS A TWO-PACK A DAY SMDKER FOR 40  
26 YEARS. HE WAS DIAGNOSED WITH LUNG  
27 CANCER IN 1999. "

28 AND ALL OF THAT IS TRUE.

1                   AND AS THEIR MEDIA BACKGROUNDER,  
2 THIS IS WHAT PHILIP MORRIS HAS SAID ABOUT ITS CASE.  
3                   I AM READING HERE, WITH REGARD TO  
4 THE PLAINTIFFS' CLAIMS OF DECEIT, FRAUDULENT  
5 CONCEALMENT, FALSE REPRESENTATION AND BREACH OF  
6 EXPRESS WARRANTY, PHILIP MORRIS WILL ARGUE THAT  
7 THERE IS SUBSTANTIAL EVIDENCE THAT MR. BOEKEN HAD  
8 LONG BEEN AWARE OF THE POTENTIAL HEALTH RISKS OF  
9 SMOKING WHICH WERE COMMON KNOWLEDGE THROUGHOUT THE  
10 COMMUNITY BEFORE HE STARTED SMOKING.

11                   MR. BOEKEN STARTED SMOKING IN 1957.  
12                   PHILIP MORRIS WILL ARGUE THAT  
13 MR. BOEKEN HAD LONG BEEN AWARE OF THE POTENTIAL  
14 HEALTH RISKS OF SMOKING WHICH WERE COMMON KNOWLEDGE  
15 THROUGHOUT THE COMMUNITY BEFORE HE STARTED SMOKING  
16 IN 1957.

17                   AND SO I AM SHOWING YOU A TRAIL OF  
18 MEMOS DENYING, CLAIMING THERE ISN'T ENOUGH  
19 EVIDENCE, STAYING AWAY FROM DOING RESEARCH, VARYING  
20 MEMOS, AFTER 50 YEARS OF DENIALS AND 40 OR MORE  
21 YEARS OF CREATING DOUBT ABOUT THE HEALTH CHARGE,  
22 WITHOUT ACTUALLY DENYING IT, PHILIP MORRIS CLAIMS  
23 MR. BOEKEN IS AT FAULT FOR THE MORTAL SIN OF  
24 BELIEVING THEM BECAUSE BEFORE 1957, HE SHOULD  
25 HAVE KNOWN, HOW RISKY THIS WAS, DESPITE THEIR  
26 DENIALS, THEIR OBFUSCATIONS AND LYING TO CONGRESS.

27                   NOW, I AM NOT GOING TO TALK VERY  
28 MUCH ABOUT PHILIP MORRIS ANY MORE. I HAVE ABOUT 11

1 MORE MINUTES. I PROMISED MYSELF THAT I WOULD BE  
2 DONE BY LUNCH.

3 CAN YOU SET THIS THING UP FOR THAT  
4 ELMO THERE, PLEASE.

5 I AM GOING TO TALK ABOUT RICHARD  
6 BOEKEN FOR ROUGHLY 10 MINUTES, PHILIP MORRIS FOR  
7 ONE REMAINING MINUTE.

8 IN THE EARLY DAYS, BEFORE THE  
9 COWBOY BECAME THE ONLY PERSON, HEAR IT WAS  
10 MILITARY. AND TO ME, THAT LOOKS LIKE MARINE CORPS.

11 RUGGED INDIVIDUAL GUY.

12 YANKEE STADIUM

13 THE COWBOY.

14 LADIES AND GENTLEMEN, YOU HAVEN'T  
15 SEEN THE WARNING HERE YET.

16 THE COWBOY HAS TAKEN OVER.

17 AND NOW IT IS ALWAYS COWBOYS. NOW  
18 THERE ARE WARNINGS.

19 AND NOW THERE ARE COWBOYS THAT  
20 SHOULD SMOKE LIGHT CIGARETTES.

21 AND NOW THERE ARE COWBOYS THAT  
22 SHOULD SMOKE MENTHOL CIGARETTES.

23 AND THIS ISN'T NASCAR BECAUSE WE  
24 KNOW NASCAR IS WINSTON CUP. BUT THIS IS ROGER  
25 PENSKY'S TEAM, IF I AM NOT MISTAKEN, AT  
26 INDIANAPOLIS.

27 AND THAT'S ROGER PENSKY'S TEAM  
28 AGAIN. I THINK THOSE THREE PEOPLE ON HIS TEAM

1 FINISHED ONE, TWO, THREE, IN THAT RACE.

2 AND MARLBORO IS ON THE SIDE OF  
3 FERRARIS IN FORMULA ONE RACING. IT'S ON THE SIDE  
4 OF THE MOST SUCCESSFUL RACE TEAM HERE IN THE UNITED  
5 STATES IN WHAT'S CALLED CART RACING AND GUYS,  
6 ESPECIALLY, WHO SEE THEMSELVES, ADVENTUROUS OR  
7 RESOURCEFUL OR STRONG GO FOR THAT.

8 MR. BOEKEN DID. HE SAW HIMSELF AS  
9 THAT MAN.

10 MR. BOEKEN HAS SORT OF BROUGHT  
11 HIMSELF UP, I WON'T SAY FROM THE BOOTSTRAPS,  
12 BECAUSE HE SURE DIDN'T HAVE A DEPRIVED CHILDHOOD.  
13 HIS CHILDHOOD WAS OKAY.

14 BUT MR. BOEKEN HAS DONE VERY WELL  
15 IN LIFE IN ALL REGARDS ACCEPT ONE, AND THAT REGARD  
16 WAS ALTHOUGH HE HAD PREVIOUSLY BEEN HOOKED ON OTHER  
17 SUBSTANCES, INCLUDING ALCOHOL, AND HE HAD A LIGHT  
18 HEROIN HABIT, HE BUSTED AWAY FROM THAT, BECAUSE HE  
19 WAS SCARED. AND HE DIDN'T THINK IT WAS GOOD FOR  
20 HIS LIFE AND HE WAS AFRAID FOR HIS LIFE.

21 HE HAS BEEN CLEAN AND SOBER FOR 25  
22 YEARS. BUT ON THE ISSUE OF TOBACCO, HE WAS REALLY  
23 HOOKED, AND IT IS NOT TO SAY HE COULDN'T HAVE  
24 STOPPED BECAUSE I BELIEVE THE EVIDENCE WILL SHOW  
25 THAT VIRTUALLY ANYONE IN THE WORLD, IF YOU PUT A  
26 GUN TO THEIR HEAD, WILL STOP.

27 BUT MR. BOEKEN COMMITTED THE ACT OF  
28 BEING HOOKED ON THEM SO THAT WHEN PHILIP MORRIS

1 AND THE TOBACCO INDUSTRY, GENERALLY, DID THIS  
2 (INDICATING), HE BIT.

3 MR. LEITER: CAN I SEE THAT, PLEASE.

4 MR. PIUZE: AND HE BELIEVED.

5 AND SO MR. BOEKEN LISTENED TO WHAT  
6 PEOPLE FROM THE TOBACCO INDUSTRY SAID, INCLUDING  
7 THE HIGHEST RANKING OFFICER OF THAT INDUSTRY, AND  
8 MR. BOEKEN BELIEVED HIM, AND I CAN TELL YOU, FROM  
9 MY VIEWPOINT, HE SHOULDN'T HAVE.

10 I AM A MORE CYNICAL PERSON THAN  
11 THAT, I GUESS.

12 THE EVIDENCE IS GOING TO SHOW THE  
13 FOLLOWING: IN 1994, IN ADDITION, IN ADDITION TO  
14 HEARING THE C. E. O. 'S TESTIFY, MR. BOEKEN'S MOTHER  
15 DIED OF LUNG CANCER.

16 MR. BOEKEN'S MOTHER HAD BEEN A  
17 SMOKER SINCE HE CAN REMEMBER, SINCE HE WAS A LITTLE  
18 KID.

19 AND SHE, IF NOT LITERALLY, ALMOST  
20 LITERALLY DIED OF LUNG CANCER WITH A CIGARETTE, IF  
21 NOT IN HER HAND, THAN ONE VERY CLOSE TO HER.

22 MR. BOEKEN, IN 1994, GOT TWO VERY  
23 HEAVILY CONFLICTING MESSAGES, ONE THAT I SHOWED YOU  
24 BEHIND THIS, AND HIS MOTHER DIED.

25 AND IN 1994, HE FINALLY ADMITTED TO  
26 HIMSELF THAT, WELL, IT ISN'T JUST BRONCHITIS AND  
27 COUGHING. I SAW HER DIE. I BELIEVE CIGARETTES CAN  
28 CAUSE LUNG CANCER.

1                   MR. BOEKEN, THE EVIDENCE WILL SHOW  
2 CONTINUED TO SMOKE BECAUSE MR. BOEKEN, LIKE THE  
3 GENERAL POPULOUS, HAS NO IDEA HOW BAD THE ODDS ARE.  
4 I AM GOING TO TELL YOU NOW THAT THE EVIDENCE WILL  
5 SHOW THE FOLLOWING: 40 PERCENT, 4 OUT OF 10  
6 LONG-TERM SMOKERS, AND I AM NOT TALKING ABOUT A  
7 COUPLE A DAY, I AM TALKING ABOUT A PACK OR MORE A  
8 DAY, 40 PERCENT WILL DIE, PRE-MATURELY, PROBABLY 10  
9 OR 15 OR MORE YEARS PREMATURELY, DUE TO  
10 SMOKING-RELATED DISEASE, CAUSED BY SMOKE. AND THE  
11 OTHER 60 PERCENT, 6 OUT OF 10, WILL HAVE SERIOUS  
12 LONG-TERM HEALTH EFFECTS FROM SMOKING CIGARETTES.

13                   AND IF YOU ADD UP 40 PERCENT AND 60  
14 PERCENT, YOU GET 100 PERCENT OF THE PEOPLE THAT USE  
15 THIS PRODUCT FOR A LONG TIME WILL DIE FROM IT OR  
16 WILL BE SICK FROM IT. AND THE GENERAL POPULOUS,  
17 ALL OF US KNOW THAT SMOKING ISN'T GOOD. THIS IS A  
18 DIFFERENT TIME. THIS IS A DIFFERENT PLACE.

19                   I HAVE TAKEN A LOT OF TIME THIS  
20 MORNING TO TRY TO SHOW SOME OF YOU WHO ARE TOO  
21 YOUNG TO REMEMBER THAT IT WAS A DIFFERENT TIME AND  
22 A DIFFERENT PLACE AND A DIFFERENT WORLD. BUT THE  
23 EVIDENCE WILL SHOW THAT EVEN TODAY, THE GENERAL  
24 POPULOUS DOESN'T KNOW 40 PERCENT OF LONG-TERM  
25 SMOKERS ARE GOING TO DIED FROM IT AND 60 PERCENT  
26 ARE GOING TO HAVE SERIOUS HEALTH EFFECTS FROM IT.

27                   THEY DON'T KNOW THAT.

28                   THE EVIDENCE IN THIS CASE WILL BE

1 THAT MR. BOEKEN WAS ONE OF THEM, AND HE KEPT  
2 SMOKING. HIS MOM DIED, HE SAID TO HIMSELF, SMOKING  
3 CAUSES LUNG CANCER, I AM STILL YOUNG. AFTER ALL,  
4 SHE WAS IN HER 80'S, I AM ONLY IN MY 50'S.

5 WHEN HE WAS DIAGNOSED, AND IT WAS  
6 BY ACCIDENT, HE WAS TAKING HIS CHILD TO A DOCTOR  
7 FOR A CHECKUP AND HE HAD A BRONCHITIS KIND OF COUGH  
8 SO THE DOCTOR TOOK AN X-RAY AND LO AND BEHOLD,  
9 THERE WAS THE TUMOR.

10 HE STOPPED, HE STOPPED SMOKING.

11 AND DESPITE THE FACT THAT HE FELL  
12 BACK A LITTLE HERE AND THERE, HE BASICALLY DID NOT  
13 SMOKE ANY MORE. HE STOPPED SMOKING UNTIL HE WAS  
14 DIAGNOSED WITH METASTASIS TO THE BRAIN.

15 "METASTASIS" MEANS THE TUMOR HAD  
16 SPREAD TO HIS BRAIN. HE HAD BRAIN CANCER. AND  
17 MR. BOEKEN, IN HIS MIND, KNEW THE CONSEQUENCE OF  
18 THAT. AND WHEN HE WAS TOLD THAT HE HAD BRAIN  
19 CANCER, ONE OF HIS FIRST ACTS UPON LEAVING THE  
20 DOCTOR'S OFFICE WAS TO GO BUY ONE OF THESE  
21 (INDICATING).

22 IN THIS CASE, THERE IS GOING TO BE  
23 A DISPUTE ABOUT EXACTLY WHAT TYPE OF LUNG CANCER  
24 MR. BOEKEN HAS.

25 MR. BOEKEN'S DOCTOR, THE  
26 PATHOLOGIST AT CEDARS-SINAI HOSPITAL, WHO IS THE  
27 CHIEF PATHOLOGIST AT ONE OF THE FINEST HOSPITALS IN  
28 THE COUNTRY, AND WHO, I BELIEVE, USED TO BE A

1 PROFESSOR AT UCLA, SAYS MR. BOEKEN HAS PAPILLARY  
2 ADENOCARCINOMA. THAT KIND OF CANCER HAS BETWEEN,  
3 AT THE LOW END, A 75 PERCENT, AND ON THE HIGH END,  
4 A 99 PERCENT CORRELATION CAUSED BY SMOKING.

5 EVERYONE WILL ADMIT THAT.

6 PHILIP MORRIS TAKES THE POSITION  
7 THAT HE DOES NOT HAVE WHAT IT SAYS ON THE  
8 DIAGNOSIS, BUT, INSTEAD, HAS SOME DIFFERENT KIND OF  
9 CANCER CALLED B. A. C. , WHICH PROBABLY NO ONE CAN  
10 REALLY PROVE IS CAUSED BY SMOKING.

11 ONE OF THE PEOPLE YOU WILL HEAR  
12 FROM, AND I CANNOT TELL YOU ALL OF THE EXPERTS YOU  
13 ARE GOING TO HEAR FROM, BUT I AM HITTING SOME OF  
14 THE HIGHLIGHTS, IS DR. HAMMER. DR. HAMMER HAS  
15 PUBLISHED ONE OF THE AUTHORITATIVE TEXTBOOKS IN THE  
16 WORLD ON LUNG TUMORS. DR. HAMMER SAYS THIS TUMOR  
17 WAS CAUSED BY SMOKING.

18 DR. HAMMER WAS ALSO A CONSULTANT TO  
19 THE WORLD HEALTH ORGANIZATION. AND DR. HAMMER WAS  
20 THEIR PATHOLOGIST WHEN THEY CHANGED ALL OF THEIR  
21 DEFINITIONS OF WHAT TUMORS ARE WHAT.

22 DR. HAMMER CLEARLY, UNEQUIVOCALLY  
23 SAYS, THIS TUMOR WAS CAUSED BY SMOKING.

24 PHILIP MORRIS SAYS, COINCIDENCE.

25 HERE' S MY LAST MINUTE.

26 I AM GOING TO ASK YOU TO COMPENSATE  
27 MR. BOEKEN FOR HIS LOSS OF WAGES, WHICH WE WILL  
28 SHOW, FOR HIS MEDICAL EXPENSES, WHICH WE WILL SHOW,

1 AND FOR THE LOSS OF SOMETHING LIKE 20 PLUS YEARS OF  
2 AN ENJOYABLE LIFE.

3 AND AT THE CONCLUSION OF THIS CASE,  
4 ON BEHALF OF MR. BOEKEN AND AMERICA, I AM GOING TO  
5 ASK YOU TO AWARD PUNITIVE AND EXEMPLARY DAMAGES  
6 AGAINST PHILIP MORRIS TO GIVE THEM A MAJOR KICK IN  
7 THE PANTS.

8 THANK YOU VERY MUCH FOR LISTENING.

9 THE COURT: THANK YOU, MR. PIUZE.

10 EXACTLY 12 NOON.

11 LADIES AND GENTLEMEN, WE ARE GOING  
12 TO TAKE OUR AFTERNOON OR LUNCH BREAK. WE ARE ALL  
13 TO BE BACK HERE TO START AT 1:30. AND WE WILL TRY  
14 TO GET STARTED PROMPTLY.

15 REMEMBER, DO NOT DISCUSS THIS CASE  
16 WITH ANYONE IN THE INTERIM AND LEAVE YOUR LITTLE  
17 NOTE PADS RIGHT THERE.

18 THANK YOU.

19

20 (AT 12 NOON, THE LUNCH  
21 RECESS WAS TAKEN TO  
22 1:30 P. M OF THE SAME DAY.)

23

24

25

26

27

28

1	MASTER INDEX			
2				
3	DAY	DATE	PAGE	VOLUME
4	MONDAY	APRIL 2ND, 2001	1170	8A
5				
6				
7				
8				
9	PROCEEDINGS		PAGE	VOL.
10				
11	OPENING STATEMENT BY MR. PIUZE		1172	8A
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				
25				
26				
27				
28				