

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 ) )  
) ) CASE NO. BC226593  
7 VS. )  
) )  
8 PHILIP MRRIS, )  
INCORPORATED, A )  
9 CORPORATION; INTERNATIONAL )  
HOUSE OF PANCAKES )  
10 INCORPORATED, A )  
CORPORATION. )  
11 )  
DEFENDANTS. )  
12 )

13 REPORTER' S DAILY TRANSCRIPT OF PROCEEDINGS  
14 WEDNESDAY, APRIL 4TH, 2001

15 APPEARANCES:

|                     |  |
|---------------------|--|
| 16 (FOR PLAINTIFF)  | LAW OFFICES OF<br>MICHAEL J. PIUZE<br>11755 WILSHIRE BLVD.<br>SUITE 1170<br>LOS ANGELES, CA 90025                      |
| 17                  |  |
| 18                  |  |
| 19 (FOR DEFENDANTS) | ARNOLD & PORTER<br>BY: MAURICE A. LEITER<br>JOHN CARLTON<br>777 S. FIGUEROA ST.<br>44TH FLOOR<br>LOS ANGELES, CA 90017 |
| 20                  |  |
| 21                  |  |

22 LISA C. RIDLEY  
23 OFFICIAL REPORTER  
600 S. COMMONWEALTH AVE.  
24 ROOM 308  
LOS ANGELES, CA 90005

25 VOLUME 10A OF  
26 PAGES 1481 THROUGH 1589

27  
28

1 LOS ANGELES, CALIFORNIA; WEDNESDAY, APRIL 4TH, 2001

2 9:00 A.M

3 DEPARTMENT 308 HON. CHARLES MC COY, JUDGE

4

5

6 (THE FOLLOWING PROCEEDINGS

7 WERE HELD IN OPEN COURT IN

8 THE PRESENCE OF THE JURY.)

9

10 THE COURT: THANK YOU, MA'AM

11 GOOD MORNING, LADIES AND GENTLEMEN.

12 GOOD MORNING, COUNSEL, GOOD TO SEE ALL THE OF YOU.

13 GOOD MORNING TO OUR WITNESS.

14 SIR, YOU UNDERSTAND YOU ARE STILL

15 UNDER OATH.

16 THE WITNESS: YES, I DO.

17 THE COURT: LADIES AND GENTLEMEN. LET ME

18 TALK TO YOU FOR A SECOND. EVERY MORNING WE SALUTE

19 THE FLAG AND YOU KNOW IT'S GOT -- IT'S REALLY JUST

20 A BUNDLE OF SYMBOLS, 13 WHITE STRIPES, 13 RED ONES,

21 HOW MANY STARS? 50.

22 AND WE KIND OF, MOST OF US KNOW

23 WHAT MOST OF THOSE SYMBOLS STAND FOR.

24 WHEN YOU LOOK AT THE FLAG, THOUGH,

25 AND YOU SEE THE STARS, YOU SEE THE BLUE THERE, AND

26 HAVE YOU EVER WONDERED WHAT THE BLUE STANDS FOR,

27 WELL, IT IS KIND OF NATIONAL WHEN YOU LOOK AT THE

28 STARS YOU THINK IT HAS TO BE ON A BIG BLUE

1 BACKGROUND LIKE THE HEAVENS AT NIGHT OR SOMETHING.  
2 BUT ACTUALLY THAT BLUE IS A SYMBOL, AND IT'S THERE  
3 FOR A PURPOSE. THE BLUE STANDS FOR JUSTICE AND THE  
4 IDEA IS THAT IT IS JUSTICE THAT HOLDS THE WHOLE  
5 NATION TOGETHER.

6 COUNSEL.

7 COUNSEL, YOU MAY PROCEED.

8 THE CLERK: COUNSEL, EXCUSE ME. COULD  
9 YOU STATE YOUR NAME FOR THE RECORD.

10 THE WITNESS: WILLIAM ANTHONY FARONE,  
11 F-A-R-O-N-E.

12 THE CLERK: THANK YOU VERY MUCH.

13

14

15 WILLIAM ANTHONY FARONE,  
16 CALLED AS A WITNESS BY THE PLAINTIFF, HAVING BEEN  
17 PREVIOUSLY DULY SWORN, RESUMED THE WITNESS STAND  
18 AND TESTIFIED FURTHER AS FOLLOWS:

19

20 DIRECT EXAMINATION (RESUMED)

21

22 BY MR. PIUZE:

23 Q. SO I WORE MY BLUE SHIRT TODAY.

24 YOU ARE A CONSULTANT FOR THE

25 NATIONAL CANCER INSTITUTE?

26 A. YES, I AM

27 Q. ON WHAT SUBJECT?

28 A. THE NATIONAL CANCER INSTITUTE IS

1 GOING TO RELEASE, IF IT HASN'T ALREADY HAPPENED, A  
2 MONOGRAPH ON LOW TAR CIGARETTES. THAT IS DUE ANY  
3 TIME NOW AND I ACTED AS A SO-CALLED PEER REVIEWER  
4 IN THE LATTER PART OF LAST YEAR.

5 Q. WHAT'S THE BOTTOM LINE TO THE  
6 RESULT OF THIS STUDY?

7 A. THAT LOW TAR CIGARETTES HAVE NOT  
8 MADE A MEASURABLE OR SIGNIFICANT IMPACT ON THE  
9 REDUCTION IN LUNG CANCER RATES OR DISEASE CAUSATION  
10 FROM CIGARETTES.

11 Q. I'D JUST LIKE -- YOU KNOW WHAT A  
12 HYPOTHETICAL QUESTION IS, DON'T YOU?

13 A. YES.

14 Q. I WOULD LIKE YOU TO -- IN  
15 HYPOTHETICAL QUESTIONS WHERE I ASK YOU TO ASSUME  
16 SOME FACTS, OKAY?

17 A. YES.

18 Q. I'D LIKE YOU TO ASSUME THAT RICHARD  
19 BOEKEN USED TO SMOKE THESE RED MARLBOROS, AND  
20 THAT'S WHAT HE STARTED ON. AND THEN WITH THE  
21 PASSAGE OF TIME WHEN HE WOULD HAVE BRONCHITIS OR  
22 BECAUSE HE COULDN'T RUN AS FAR AND AS FAST AS HE  
23 USED TO AND HE FIGURED THAT CIGARETTES WERE  
24 RESPONSIBLE FOR THOSE THINGS, HE ULTIMATELY  
25 SWITCHED DOWN TO THESE, MARLBORO LIGHTS, BECAUSE HE  
26 THOUGHT THEY WOULD SORT OF BE BETTER FOR HIM, NOT  
27 AS BAD FOR HIM, WOULDN'T EFFECT HIS WIND SO MUCH.

28 MR. LEITER: YOUR HONOR, I AM GOING TO

1 OBJECT TO THIS, THIS CONTAINS A LOT OF FACTS THAT I  
2 THINK ARE IRRELEVANT.

3 THE COURT: LET ME INSTRUCT THE JURY  
4 ABOUT A HYPOTHETICAL QUESTION. HOW IS THAT?

5 LADIES AND GENTLEMEN, A  
6 HYPOTHETICAL QUESTION OCCURS WHEN A LAWYER, AND  
7 THEY ARE ALLOWED TO DO THIS, WILL ASK A WITNESS TO  
8 ASSUME CERTAIN FACTS. IT'S DONE WITH EXPERT  
9 WITNESSES, TYPICALLY.

10 AND ONCE THOSE -- AND THOSE FACTS  
11 ARE NOT NECESSARILY AT THE TIME WHEN THEY ARE ASKED  
12 TO BE ASSUMED YET PROVED IN THE COURSE OF THE  
13 TRIAL.

14 THE WITNESS MAY THEN TAKE THOSE  
15 ASSUMED FACTS AND OFFER AN OPINION AS TO THE  
16 OUTCOME GIVEN THOSE FACTS.

17 OF COURSE, WHEN YOU EVALUATE,  
18 ULTIMATELY, AT THE END OF THE TRIAL, WHEN YOU  
19 EVALUATE THE WISDOM OR THE REASONABLENESS OF THE  
20 OPINION, YOU MUST LOOK AT THE UNDERLYING FACTS  
21 INVOLVED IN THE HYPOTHETICAL QUESTION AND MAKE SURE  
22 THAT YOU ARE SATISFIED THAT THOSE FACTS HAVE BEEN  
23 PROVEN TO YOUR SATISFACTION.

24 AND YOU USE THAT IN WEIGHING  
25 WHETHER OR NOT YOU BELIEVE OR DISBELIEVE THE  
26 OPINION THAT'S OFFERED ON THE BASIS OF THOSE  
27 HYPOTHETICAL FACTS THAT WERE ORIGINALLY OFFERED.

28 SIR, YOU MAY PROCEED.

1 MR. PIUZE: THANK YOU, YOUR HONOR.

2 Q BY MR. PIUZE: IF HE DIDN'T THINK  
3 THE LIGHT ONES WERE AS HARMFUL TO HIM AS THE RED  
4 ONES, WAS HE WRONG?

5 A. ON THE BASIS OF EVERYTHING WE KNOW  
6 NOW, ANYONE THAT ASSUMED THAT THE LIGHTER ONES WERE  
7 NOT AS HARMFUL AS THE HEAVIER ONES WAS WRONG.

8 Q. AND THEN AT SOME POINT MR. BOEKEN,  
9 FOR BASICALLY THE SAME REASONS THAT I HAVE ALREADY  
10 DISCUSSED, I THINK WENT TO LIGHT 100' S, AND YOU  
11 WOULDN'T CHANGE WHAT YOU JUST SAID ABOUT LIGHT  
12 100' S, WOULD YOU?

13 A. NO, I WOULDN'T.

14 Q. AND ULTIMATELY HE WENT TO ULTRA  
15 LIGHTS. AND I DON'T KNOW, I HAVE CALLED IT  
16 PLATINUM BUT IT LOOKS SILVER TO ME, I GUESS, ULTRA  
17 LIGHTS. AND THE REASON HE WENT TO ULTRA LIGHTS IS  
18 BECAUSE HE DIDN'T THINK ULTRA LIGHTS WOULD BE AS  
19 HARMFUL TO HIM AS THE GOLD OR THE RED. WAS HE  
20 WRONG IN THAT?

21 A. ON THE BASIS OF THE GENERAL  
22 INFORMATION WE HAVE AVAILABLE, ANYONE WHO MADE THAT  
23 ASSUMPTION WOULD BE WRONG.

24 Q. LATER THIS MORNING, ARE YOU  
25 PREPARED TO DISCUSS WHY THAT IS IN SOME DETAIL?

26 A. YES, I AM

27 Q. ARE YOU A CONSULTANT TO THE CENTER  
28 FOR DISEASE CONTROL?

1 A. YES, I HAVE BEEN ASKED TO HELP  
2 THEM

3 Q. ON WHAT ISSUES?

4 A. THE ISSUES OF ADDITIVES IN  
5 CIGARETTES, THINGS THAT ARE ADDED TO CIGARETTES  
6 THAT ARE NOT TOBACCO.

7 Q. WHAT THIS IS IS SOMETHING I AM  
8 GOING TO BE ASKING YOU TO TALK ABOUT LATER TODAY  
9 TOO, BUT JUST MENTION A COUPLE THINGS SO WE CAN  
10 EXPECT THEM LATER ON.

11 A. WELL, THERE ARE CLEARLY HUNDREDS OF  
12 CHEMICALS, FLAVOR AUNT'S, DIFFERENT KINDS OF THINGS  
13 THAT ARE ADDED TO CIGARETTES THAT ARE NOT TOBACCO.

14 AND SOME OF THOSE THINGS HAVE BEEN  
15 SUGGESTED AS HAVING SOME KINDS OF EFFECTS AND I  
16 HAVE BEEN INVOLVED IN DISCUSSIONS, MANY OTHER  
17 PEOPLE HAVE BEEN, ON WHETHER OR NOT THESE VARIOUS  
18 ADDITIVES COULD HAVE DESIRABLE OR UNDESIRABLE  
19 EFFECTS WHEN PUT IN THE CIGARETTE, THE CIGARETTE IS  
20 LIT AND THE SMOKE IS INHALED.

21 Q. ARE YOU PREPARED TO TALK ABOUT THAT  
22 LATER THIS MORNING?

23 A. YES, I AM

24 Q. DID YOU, AT THE REQUEST OF THE FOOD  
25 AND DRUG ADMINISTRATION OF THE U. S. GOVERNMENT,  
26 ASSIST THEM IN CERTAIN STUDIES THEY WERE  
27 CONDUCTING?

28 A. I DID.

1 Q. AND AT THE REQUEST OF THE FOOD AND  
2 DRUG ADMINISTRATION, DID YOU ASSIST THE DEPARTMENT  
3 OF JUSTICE IN REGARD TO CERTAIN THINGS THEY WERE  
4 LOOKING INTO IN REGARD TO THE TOBACCO INDUSTRY?

5 A. I DID.

6 Q. HAVE YOU APPEARED ON "60 MINUTES"  
7 TO TALK ABOUT THE TOBACCO INDUSTRY?

8 A. I BELIEVE SEVERAL TIMES, YES.

9 Q. WHEN WAS THE LAST TIME?

10 A. A COUPLE WEEKS AGO.

11 Q. WHAT WAS YOUR TOPIC THEN?

12 A. LOW TAR CIGARETTES.

13 Q. IN THE PAST, WHEN YOU HAVE BEEN ON  
14 "60 MINUTES," WHAT WAS YOUR TOPIC, PLEASE?

15 A. TALKED ABOUT, AT ONE POINT,  
16 ERECTILE DYSFUNCTION AS RELATED TO SMOKING  
17 CIGARETTES. AND ANOTHER TIME I BELIEVE THERE WAS  
18 INFORMATION REQUESTED OF ME CONCERNING CHANGING THE  
19 LEVELS OF NICOTINE, THE RATIO OF NICOTINE TO TAR IN  
20 CIGARETTES.

21 Q. HAVE YOU APPEARED ON BRITISH  
22 B. B. C. , BRITISH BROADCASTING CORPORATION, IN  
23 DOCUMENTARIES REGARDING TOBACCO?

24 A. YES, I HAVE.

25 Q. YOUR TOPIC, PLEASE.

26 A. THE TOPIC WAS, GENERALLY, ALL THE  
27 THINGS THAT, THAT WE ARE TALKING ABOUT IN THESE  
28 TRIALS. IT WAS VERY GENERAL, COVERED, ESSENTIALLY,

1 CIGARETTE DESIGN, HOW CIGARETTES ARE MADE, HOW THEY  
2 ARE USED, AND THE HAZARDS ASSOCIATED WITH THEM

3 Q. AND LAST, AT LEAST FOR NOW, THE  
4 CANADIAN BROADCASTING SYSTEM, CANADIAN BROADCASTING  
5 CORPORATION, C. B. C. , HAVE YOU APPEARED ON ONE OF  
6 THEIR SHOWS TOO?

7 A. I AM NOT SURE IT HAS AIRED YET. I  
8 THINK IT IS SOMETIME THIS WEEK, IT MAY BE NEXT  
9 WEEK.

10 Q. IN CANADA?

11 A. IN CANADA.

12 Q. AND YOUR TOPIC, PLEASE.

13 A. THAT TOPIC IS, ENVIRONMENTAL  
14 TOBACCO SMOKE.

15 Q. DID YOU GET FIRED BY PHILIP MORRIS?

16 A. YES, I DID.

17 Q. WHEN?

18 A. JULY 6TH, 1984.

19 Q. TELL THE JURY HOW THAT CAME TO BE,  
20 WOULD YOU PLEASE.

21 A. SORT OF, IT'S SORT OF AN INVOLVED  
22 STORY. BUT AT THE END OF 1983, IT WAS ANNOUNCED  
23 THAT I WAS GOING TO BE PROMOTED TO VICE-PRESIDENT  
24 OF RESEARCH AND DEVELOPMENT, SOMETHING THAT I HAD  
25 LOOKED FORWARD TO WITH REGARD TO EXTENDING THE  
26 PROGRAMS THAT WE HAD BEEN WORKING ON.

27 MY SUPERIOR AT THAT TIME WAS A  
28 FELLOW NAMED DR. MAX HAUSERMAN AND HE WAS

1 INSTRUCTED BY HIS SUPERIOR, A FELLOW NAMED MR.  
2 WALLACE MC DONALD, TO MAKE THE ANNOUNCEMENT THAT IN  
3 SIX MONTHS OR SO, I WOULD BECOME HIS REPLACEMENT.  
4 SEVERAL OTHER SUCH ANNOUNCEMENTS WERE MADE.

5 MY WIFE, WHO ALSO WORKED FOR PHILIP  
6 MORRIS, WAS TOLD THAT SHE WAS GOING TO BE PROMOTED  
7 FROM AN ASSISTANT PLANT MANAGER TO A PLANT MANAGER.

8 SUBSEQUENT TO THAT, THERE WERE  
9 SEVERAL CHANGES IN MANAGEMENT AND EACH TIME  
10 MANAGEMENT CHANGED, YOU WONDER WHETHER THINGS HAVE  
11 CHANGED. SO I ASKED WHETHER OR NOT THIS PROMOTION  
12 WAS STILL GOING TO HAPPEN, WHAT THE COURSE OF THE  
13 COMPANY WAS GOING TO BE AND I WAS TOLD THAT THINGS  
14 WERE OKAY WITH EACH OF THESE CHANGES.

15 IN APPROXIMATELY APRIL OF 1984,  
16 THERE WAS A CHANGE IN THE DIRECTION OF A LOT OF THE  
17 RESEARCH THAT WAS BEING DONE AT PHILIP MORRIS, SOME  
18 PROGRAMS WERE SHUT DOWN, THERE WAS, AGAIN, MORE  
19 TURMOIL WITH REGARD TO MANAGEMENT. I HAD A LOT OF  
20 CONVERSATIONS WITH SENIOR MANAGEMENT AT THAT TIME.  
21 AND ONE OF THE THINGS THAT WAS FOCUSED ON IS THE  
22 FACT THAT THE COMPANY DIDN'T WANT TO DO RESEARCH  
23 ANY LONGER THAT WOULD BE USED BY PEOPLE AGAINST THE  
24 COMPANY.

25 SO THEY WEREN'T GOING TO DO ANY  
26 RESEARCH, THAT, FOR EXAMPLE, WOULD PROVE THAT  
27 CIGARETTES WERE ADDICTIVE OR THAT WOULD PROVE THAT  
28 THEY CAUSED CANCER.

1                   SUBSEQUENT TO THAT, MY WIFE WAS  
2 TOLD THAT SHE WAS NOT GOING TO BE PROMOTED.

3                   MY WIFE HAD BEEN INVOLVED WITH  
4 PHILIP MORRIS. SHE HAD WORKED THERE FOR 19 YEARS.

5                   MY WIFE FILED AN E. E. O. C. COMPLAINT  
6 AGAINST PHILIP MORRIS BECAUSE SHE FELT SHE WAS  
7 BEING DISCRIMINATED AGAINST, BEING FEMALE, BEING  
8 MADE A PROMISE --

9                   THE COURT: SIR, ALL RIGHT, WE DON'T NEED  
10 TO GO INTO THE OUTCOME OR DETAILS OF THAT.

11                  THE WITNESS: OKAY.

12                  THE COURT: THANK YOU.

13                  THE WITNESS: I ASKED WHETHER OR NOT THAT  
14 WOULD EFFECT MY PROMOTION. ORIGINALLY I WAS TOLD  
15 NO, THAT IT WOULDN'T HAVE ANYTHING TO DO WITH MY  
16 PROMOTION. AND THEN ONE DAY I WAS CALLED IN TO THE  
17 OFFICE AND INFORMED THAT I WAS NO LONGER GOING TO  
18 BE PROMOTED.

19                  I ASKED MY BOSS, DR. HAUSERMAN,  
20 "WELL, GEE, SHOULD I TALK TO SOMEBODY ABOUT THIS?  
21 WHAT'S HAPPENED?" AND HE ADVISED ME TO SEEK  
22 COUNSEL FROM AN ATTORNEY, WHICH I DID.

23                  DR. HAUSERMAN WAS GOING ON VACATION  
24 SO I INFORMED HIM THAT I HAD DONE THAT, FIGURING  
25 THAT WE WOULD WORK OUT SOMETHING. AND NEXT THING  
26 THAT HAPPENED IS I WAS CALLED INTO AN OFFICE TO  
27 FIND DR. HAUSERMAN CALLED BACK FROM VACATION AND  
28 INFORMED THAT I HAD BEEN TERMINATED FOR

1 INSUBORDINATION.

2 THE WAY I UNDERSTOOD IT AT THE  
3 TIME, THE INSUBORDINATION WAS DUE TO RETAINING THE  
4 ATTORNEY.

5 I FELT THIS WAS A MISTAKE BECAUSE  
6 DR. HAUSERMAN HAD ADVISED ME TO RETAIN THE  
7 ATTORNEY.

8 BUT I KNEW THAT, BECAUSE OF THIS  
9 TROUBLE THAT I SHOULD LEAVE THE COMPANY ANYWAY.

10 SO THAT'S WHAT HAPPENED. MY WIFE  
11 AND I BOTH LEFT.

12 THE COURT: ALL RIGHT, SIR.

13 Q BY MR. PIUZE: THE YEAR?

14 A. 1984.

15 Q. I STILL HAVEN'T, BUT WILL TALK  
16 ABOUT IN DETAIL WHAT YOU DID WITH THE COMPANY FOR  
17 EIGHT YEARS.

18 BUT RATHER THAN GO BACKWARDS, LET'S  
19 COME FORWARD.

20 AFTER YOU LEFT PHILIP MORRIS, WHAT  
21 DID YOU DO?

22 A. I FORMED MY OWN COMPANY, THE  
23 PREDECESSOR COMPANY TO THE ONE THAT I NOW AM  
24 PRESIDENT OF WAS CALLED ADVANCED SCIENTIFIC  
25 APPLICATIONS. IT WAS A VIRGINIA CORPORATION. I  
26 DID APPROXIMATELY THE SAME THING THAT MY CURRENT  
27 COMPANY DOES, THAT IS, TECHNOLOGY DEVELOPMENT.

28 Q. NOW, TECHNOLOGY DEVELOPMENT MEANS

1 SOMETHING TO YOU AND NOTHING TO MOST OF US. SO  
2 GIVE THE JURY AN IDEA OF THE KINDS OF PROJECTS THAT  
3 YOUR COMPANY WORKS AND HAS WORKED ON, PLEASE.

4 A. OKAY. THERE'S THREE BASIC KINDS.  
5 THE DEVELOPMENT OF CHEMICAL AND BIOCHEMICAL  
6 PROCESSES TO DEVELOP CHEMICALS THAT ARE  
7 ENVIRONMENTALLY FRIENDLY, THAT ARE BASED ON NATURAL  
8 PRODUCTS THAT CAN BE USED FOR PURPOSES THAT  
9 CURRENTLY, POTENTIALLY MORE DANGEROUS CHEMICALS ARE  
10 USED FOR.

11 FOR EXAMPLE, WE ARE USING A SUGAR  
12 BASED CHEMICAL AS AN INSECTICIDE. IF YOU SPRAY IT  
13 ON INSECTS, IT WILL KILL THE INSECTS. BUT ON THE  
14 OTHER HAND, IT IS APPROVED BY THE F. D. A. FOR USE AS  
15 A FOOD, YOU CAN EAT IT.

16 AND THIS, RIGHT NOW, IS BEING  
17 APPROVED BY THE E. P. A.

18 WE HAVE DEVELOPED OTHER CHEMICALS  
19 THAT CAN BE INJECTED IN THE GROUND, FOR EXAMPLE, TO  
20 HELP BACTERIA EAT POLLUTION, LIKE, UNDERGROUND  
21 SPILLS OF DRY CLEANING SOLVENTS AND THINGS OF THAT  
22 SORT. THOSE ARE ALL COMMERCIAL.

23 SO THOSE ARE THE KINDS OF  
24 TECHNOLOGY THAT WE HAVE BEEN INVOLVED IN.

25 Q. IN THE YEARS FOLLOWING YOUR  
26 DEPARTURE FROM PHILIP MORRIS, '84, '85, '86, '87,  
27 '88, '89, '90, THAT'S A PRETTY GOOD RUN, LET'S STOP  
28 AT '90, DID YOU GO OUT AND DO ANYTHING AGAINST OR

1 TO PHILIP MRRIS OR ATTEMPT TO DO SO?

2 A. NO. IN 1985, I WAS THREATENED BY  
3 PHILIP MRRIS WITH A LAWSUIT FOR GIVING AN  
4 INTERVIEW TO MY COLLEGE NEWSPAPER TYPE PERSON WHO  
5 WAS INTERESTED IN SOME OF THE WORK WE WERE DOING ON  
6 FUEL ALCOHOL. AND DURING THE COURSE OF THE  
7 INTERVIEW, HE ASKED ME WHETHER OR NOT CIGARETTES  
8 CAUSED CANCER, AND I SAID, WELL, YES.

9 AND HE PUBLICIZED THAT IN THE  
10 ARTICLE AND THAT WAS FOUND OBJECTIONABLE BY  
11 ATTORNEYS FOR PHILIP MRRIS. AND THEY CONSIDERED  
12 THAT A BREACH OF MY TERMINATION AGREEMENT, THAT I  
13 WOULD ADMIT THAT SMOKING --

14 MR. LEITER: YOUR HONOR, I AM GOING TO  
15 OBJECT TO THE SPECULATION AS TO WHAT PHILIP MRRIS  
16 BELIEVED.

17 THE COURT: ALL RIGHT. IT IS NOT WHAT  
18 THEY BELIEVED BUT WHAT HE WAS TOLD. WHAT DID THEY  
19 SAY TO YOU?

20 THE WITNESS: I DON'T HAVE THE LETTER.  
21 THEY ACTUALLY WROTE ME A LETTER.

22 THE COURT: WHAT DO YOU RECALL THEM  
23 SAYING TO YOU?

24 THE WITNESS: I RECALL IN THE LETTER  
25 SAYING THAT I SHOULDN'T BE TALKING TO ANYBODY ABOUT  
26 ANYTHING DEALING WITH PHILIP MRRIS, INCLUDING  
27 FACTS THAT EVERYBODY KNEW AT PHILIP MRRIS AND I  
28 HAD TALKED ABOUT PUBLICLY WHEN I WAS AT PHILIP

1 MORRIS.

2 Q BY MR. PIUZE: THANK YOU.

3 WELL, MY QUESTION WAS, NATURALLY,  
4 DID YOU GO OUT AND TRY TO GET THEM OR DO SOMETHING  
5 TO THEM? ARE YOU SAYING THIS FELL INTO THE  
6 CATEGORY OF YOU WERE TRYING TO DO SOMETHING TO  
7 THEM?

8 A. NO. ACTUALLY, I THOUGHT IT WAS  
9 JUST AN OFF-HAND COMMENT, BECAUSE I DIDN'T SAY ANY  
10 MORE OR LESS THERE THAN I SAID WHEN I WORKED AT  
11 PHILIP MORRIS. I DIDN'T THINK ANY MORE ABOUT IT.  
12 I SENT A LETTER BACK AND THAT WAS THE END OF IT. I  
13 DIDN'T CONSIDER IT, YOU KNOW, SERIOUS OR ANYTHING  
14 LIKE THAT.

15 Q. BEFORE I LEAVE THE TOPIC, JUST GIVE  
16 US AN IDEA HOW BIG YOUR SCHOOL -- NOW THEY HAVE A  
17 SCHOOL NEWSPAPER, HOW BIG A SCHOOL WAS IT?

18 A. WELL, THE STUDENT BODY TOTALS ABOUT  
19 2,000 PER YEAR. THE GRADUATING CLASSES ARE ABOUT  
20 2- TO 300. ALUMNI, IT'S SORT OF AN ALUMNI  
21 NEWSLETTER SO MAYBE 5,000, 6,000 PEOPLE GOT COPIES  
22 OF IT.

23 Q. OKAY. AND WHEN YOU SAID THAT TO  
24 THE EDITOR OF YOUR COLLEGE NEWSPAPER, THAT SMOKING  
25 CAUSED CANCER, DID YOU BELIEVE THAT TO BE TRUE?

26 A. YES. I HAVE ALREADY -- I BELIEVED  
27 IT TO BE TRUE WHEN I WENT TO WORK FOR PHILIP  
28 MORRIS.

1 Q. OKAY.

2 SO '90, '91, '92, '93, I THINK WE  
3 HAVE ESTABLISHED HERE, MAYBE THIS MORNING WHEN WE  
4 STARTED TALKING ABOUT THE F. D. A. IN 1993, IS THAT A  
5 PROPER STATEMENT?

6 A. IT WAS, DECEMBER WAS THE VERY LAST  
7 MONTH OF 1993, AROUND CHRISTMASTIME, YES.

8 Q. HOW DID THAT COME TO BE, PLEASE?

9 A. I RECEIVED A TELEPHONE CALL,  
10 APPARENTLY --

11 MR. LEITER: YOUR HONOR, I AM GOING TO  
12 OBJECT, RELEVANCE. WE ARE GETTING BEYOND THE SCOPE  
13 OF ISSUES AND INTO OTHER AREAS.

14 THE COURT: FOUNDATION.

15 MR. PIUZE: LET ME RE-ASK THE QUESTION.

16 Q BY MR. PIUZE: WHENEVER IT WAS YOU  
17 STARTED TALKING WITH THE F. D. A. , YOU DIDN'T GO TO  
18 THEM TO MAKE TROUBLE FOR PHILIP MORRIS. F. D. A. ,  
19 FEDERAL DRUG ADMINISTRATION CAME TO YOU?

20 A. FOOD AND DRUG ADMINISTRATION CALLED  
21 ME.

22 Q. OKAY.

23 A. YES.

24 Q. THAT'S ALL I WANTED TO HEAR.  
25 THEY CAME TO YOU, YOU DIDN'T GO TO  
26 THEM?

27 A. CORRECT.

28 THE COURT: GENERAL SUBJECT MATTER OF THE

1 DISCUSSIONS.

2 MR. PIUZE: I DON'T NEED IT UNLESS THE  
3 COURT WANTS IT. I GOT WHAT I WANT.

4 THE COURT: VERY WELL. PASS ON IT.

5 Q BY MR. PIUZE: ARE YOU A  
6 DISGRUNTLED, "I AM MAD AT YOU," EMPLOYEE, WHO'S  
7 HERE TRYING TO GET EVEN WITH PHILIP MORRIS FOR  
8 SOMETHING THAT HAPPENED 17 YEARS AGO?

9 A. NO, I AM NOT.

10 Q. WHY ARE YOU HERE?

11 A. I AM HERE BECAUSE I FEEL SOMEWHAT  
12 RESPONSIBLE FOR 400,000 DEATHS A YEAR ATTRIBUTABLE  
13 TO SMOKING THAT I WORKED ON THOSE PROJECTS, TRIED  
14 TO IMPROVE THE SITUATION AND, IN FACT, IT'S 25  
15 YEARS HAVE GONE BY AND WE STILL HAVE THE PROBLEM  
16 SO MY REASON FOR BEING HERE IS TO  
17 RAISE EVERYBODY'S CONSCIOUSNESS ABOUT THE EXTENT OF  
18 THIS PROBLEM IN FACT, THAT THINGS CAN BE DONE  
19 ABOUT IT. THAT'S WHY I AM HERE.

20 Q. OKAY, THANK YOU.

21 NOW, LET ME START YOU OFF WITH --  
22 CAN I CONFER HERE FOR JUST A SECOND, YOUR HONOR.

23 THE COURT: PLEASE.

24 MR. LEITER: YOUR HONOR, WE HAVE AN  
25 OBJECTION TO THIS DOCUMENT THAT HE IS ABOUT TO SHOW  
26 THE WITNESS.

27 THE COURT: THE LEGAL BASIS?

28 MR. LEITER: NO PERSONAL KNOWLEDGE, NOT

1 WRITTEN DURING THE TIME HE WAS AT PHILIP MORRIS.

2 THE COURT: ALL RIGHT. YOU WANT TO TRY  
3 TO ESTABLISH A FOUNDATION.

4 MR. PIUZE: YEAH, I WASN'T GOING TO USE  
5 IT IN THAT WAY. I THINK I CAN DO THIS.

6 THE COURT: WORK ON FOUNDATION ONLY  
7 FIRST.

8 MR. LEITER: WE ARE NOT OBJECTING TO THE  
9 FOUNDATION, WE ARE OBJECTING TO THIS WITNESS  
10 TESTIFYING ABOUT THE DOCUMENT BECAUSE HE HAS NO  
11 KNOWLEDGE ABOUT IT.

12 THE COURT: WELL, HE MAY NOT HAVE  
13 KNOWLEDGE DIRECTLY OF THE DOCUMENT BUT HE MAY HAVE  
14 KNOWLEDGE OF THE SUBJECT MATTER AND STATEMENTS  
15 SIMILAR TO THIS. AND THEREFORE, THE DOCUMENT WOULD  
16 NOT BE ADMITTED BECAUSE OF HIS PERSONAL KNOWLEDGE  
17 BUT MERELY AS BACKGROUND FOR HIS DISCUSSION.

18 I ASSUME THERE WILL BE AN EFFORT TO  
19 MAKE THE DOCUMENT ADMISSIBLE BY OTHER MEANS LATER  
20 ON IN THE CASE.

21 MR. PIUZE: SURE.

22 THE COURT: VERY WELL. PROCEED, COUNSEL.

23 Q BY MR. PIUZE: SEE WHAT I HAVE  
24 EXPLODED UP HERE?

25 A. YES.

26 Q. AND CHECK OUT THE YEAR THERE, WOULD  
27 YOU PLEASE.

28 A. I SEE THAT.

1 Q. WHERE WERE YOU IN 1954?

2 A. I WAS 14 YEARS OLD AND I WAS IN  
3 HIGH SCHOOL, I GUESS.

4 Q. WHEN YOU WALKED IN THE DOOR AT  
5 PHILIP MORRIS, IN 1976 TO BE THE ASSISTANT  
6 PRINCIPLE SCIENTIST --

7 A. ASSOCIATE.

8 Q. -- ASSOCIATE PRINCIPLE SCIENTIST,  
9 WITHIN A COUPLE OF WEEKS, WOULD YOU HAVE BEEN  
10 ABLE -- WOULD YOU HAVE BEEN ABLE TO SAY, IF WE HAD  
11 ANY THOUGHT -- IF I HAD ANY THOUGHT, IF I, WILLIAM  
12 FARONE, HAD ANY THOUGHT OR KNOWLEDGE THAT IN ANY  
13 WAY YOU WERE SELLING A PRODUCT HARMFUL TO  
14 CONSUMERS, WE WOULD STOP BUSINESS TOMORROW?

15 MR. LEITER: OBJECTION, VAGUE.

16 THE COURT: THE OBJECTION WAS VAGUE.

17 HE IS ASKING FOR YOUR OWN PERSONAL  
18 STATE OF MIND.

19 THE WITNESS: MY PERSONAL STATE OF MIND  
20 WAS WHEN I JOINED PHILIP MORRIS WAS THAT I KNEW  
21 THAT THE PRODUCT WAS HARMFUL.

22 Q BY MR. PIUZE: HOW?

23 A. BECAUSE FROM ABOUT 1960 ON MY  
24 EDUCATIONAL BACKGROUND RELATED TO THE SUBJECT OF  
25 AEROSOLS AND POLLUTION AND BURNING THINGS AND  
26 CHEMICALS THAT ARE MADE WHEN YOU BURN THINGS THAT  
27 CAUSE CANCER.

28 SO I WAS AWARE OF THE CHEMISTRY,

1 THE BIOCHEMISTRY OF THE CHEMICAL COMPOUNDS THAT ARE  
2 INVOLVED IN THIS PRODUCT.

3 Q. WHEN YOU WENT TO PHILIP MORRIS, DID  
4 YOU UNDERSTAND THAT ONE OF YOUR PRIMARY JOB  
5 RESPONSIBILITIES WAS TO MAKE THESE PRODUCTS LESS  
6 HARMFUL?

7 A. THAT, YES, THAT WAS ONE OF THE  
8 PRIMARY REASONS THAT IT WAS EXPLAINED TO ME. IT  
9 WAS PART OF MY JOB DESCRIPTION AS TO WHY I WAS  
10 HIRED BY PHILIP MORRIS.

11 Q. I FORGET IF I ASKED YOU THIS  
12 YESTERDAY. DID WE ALREADY DISCUSS THIS YESTERDAY,  
13 ABOUT WHAT THEY TOLD YOU YOUR PRIMARY JOB  
14 DESCRIPTIONS WERE GOING TO BE?

15 A. I DON'T THINK WE DID.

16 Q. THEN THANK YOU. THIS IS THE TIME.  
17 FIRST OF ALL, LET'S PUT A WHO UNDER  
18 "THEY. "

19 WHO TOLD YOU -- I AM GOING TO  
20 WITHDRAW THAT.

21 I RAN PAST THIS YESTERDAY AFTERNOON  
22 TO TRY TO GET TO A POINT.

23 ROUGHLY, HOW MANY PEOPLE DID YOU  
24 INTERVIEW WITH AFTER THE HEAD HUNTER CAME TO YOU?

25 A. OH, THERE WAS ABOUT A HALF A DOZEN.

26 Q. HIGH-RANKING SCIENTISTS IN THE  
27 COMPANY?

28 A. YES.

1 Q. YES. CAN YOU GIVE US SOME NAMES,  
2 PLEASE.

3 A. YES, BASIC TWO INTERVIEWS IN NEW  
4 YORK CITY I TALKED WITH DR. ROBERT B. SELIGMAN WHO  
5 WOULD BECOME MY BOSS IF I ACCEPTED THE OPPORTUNITY,  
6 CLIFFORD GOLDSMITH WHO, AT THAT TIME, WAS THE  
7 PRESIDENT OF THE PHILIP MORRIS, U. S. A. AND THEN I  
8 WENT TO RICHMOND, TALKED WITH MR. FRANK RESNIK WHO  
9 WAS THE OVERALL DIRECTOR OF RESEARCH.

10 DOCTOR HELMUT WAKEHAM WHO WAS THE  
11 VICE-PRESIDENT OF RESEARCH AND DEVELOPMENT AT THAT  
12 TIME BUT WAS GOING TO BE LEAVING THAT POSITION.

13 DR. THOMAS S. OSDENE, DR. WALTER  
14 GANNON. DR. PAUL ICORN, DR. WILLIAM DUNN, AND  
15 MAYBE ONE OR TWO MORE THAT I FORGET RIGHT NOW BUT  
16 THOSE ARE THE ONES THAT I REMEMBER.

17 Q. ALL THOSE DOCTORS THAT YOU JUST RAN  
18 OFF IN A ROW, ARE THOSE MEDICAL DOCTORS OR CHEMISTS  
19 OR WHAT?

20 A. THEY ARE ALL PH. D. 'S AND THEY ARE  
21 MOSTLY CHEMISTS, THOUGH. I THINK ALL OF THEM ARE  
22 CHEMISTS.

23 Q. ALL RIGHT, THANK YOU.

24 NOW, BEFORE YOU ACTUALLY GOT HIRED  
25 AND WALKED IN THE DOOR, WERE YOUR JOB DUTIES IN  
26 MIND, IN YOUR MIND?

27 A. YES. DOCTOR SELIGMAN, WHO BECAME  
28 MY BOSS, WAS VERY, VERY CLEAR ON THE TWO MAIN

1 FUNCTIONS THAT THEY WERE INTERESTED IN MY HELPING  
2 THEM WITH. BASED ON MY BACKGROUND, ONE WAS  
3 DIVERSIFICATION INTO AREAS OTHER THAN CIGARETTE  
4 PRODUCTS. AND THE SECOND WAS MAKING THE PRODUCT,  
5 CIGARETTE PRODUCTS, SAFER.

6 Q. DID ONE OF THESE HIGH-RANKING  
7 PEOPLE AT PHILIP MORRIS TELL YOU WHY THEY WERE  
8 INTERESTED IN DIVERSIFICATION?

9 A. YES.

10 Q. WHO?

11 A. DR. SELIGMAN AND DR. WAKEHAM AND  
12 MR. RESNIK, THOSE THREE PEOPLE.

13 Q. SAID WHAT?

14 A. INDICATED THAT THEY WERE CONCERNED  
15 THAT THE CIGARETTE INDUSTRY WOULD FACE INCREASING  
16 REGULATION, THE PRODUCTS WOULD BE EITHER BANNED OR  
17 CHANGED APPROXIMATELY IN FIVE TO TEN YEARS, THEY  
18 WERE THINKING, THAT THEY WOULD HAVE A GREAT DEAL OF  
19 DIFFICULTY SELLING PRODUCTS, AND THEREFORE, THEY  
20 WANTED TO TAKE THE OPPORTUNITY TO MOVE INTO OTHER  
21 BUSINESSES, WHILE, AT THE SAME TIME, TRYING TO  
22 IMPROVE THE SAFETY OF THE PRODUCT.

23 Q. THANK YOU.

24 DID ANY OF THESE HIGH-RANKING  
25 PEOPLE FROM PHILIP MORRIS, EITHER BEFORE YOU WERE  
26 HIRED OR SHORTLY AFTER YOU WERE HIRED, EXPRESS ANY  
27 STATEMENTS REGARDING THE CARCINOGENICITY, THE FACT  
28 THAT THE PRODUCT CAUSED CANCER, CARCINOGENICITY OF

1 CIGARETTES OR THE ADDICTIVENESS OF CIGARETTES?

2           A.     AS MOST OF THE DISCUSSIONS I HAD,  
3 ALL OF THE ONES HAD TO DO WITH SCIENTIFIC ISSUES  
4 LIKE WHICH OF THE CHEMICALS OF WHICH THERE ARE  
5 THOUSANDS IN CIGARETTES MIGHT BE THE MOST DANGEROUS  
6 WITH REGARD TO CAUSING CANCER.

7                     IN OTHER WORDS, IN THE DISCUSSIONS,  
8 IT WASN'T AN ISSUE OF WHETHER, IT WAS AN ISSUE OF  
9 EXACTLY HOW CANCER WAS BEING CAUSED AND WHICH  
10 CHEMICALS WE MIGHT BE ABLE TO -- I WAS INTERESTED  
11 IN WHAT WAS PHILIP MORRIS DOING AT THAT TIME TO  
12 REMOVE SOME OF THESE CHEMICALS FROM THE PRODUCT,  
13 WHAT HAD THEY ALREADY DONE AND WHAT WERE THE PLANS  
14 ON WHAT FURTHER COULD BE DONE.

15                     SO WE DISCUSSED THE PLANS FOR  
16 REMOVING THE CHEMICAL CLASSES THAT WERE GENERALLY  
17 FELT TO BE CARCINOGENIC IN TOBACCO.

18           Q.     THAT WAS ONE OF THE TWO ISSUES I  
19 RAISED AND THE OTHER WAS ADDICTIVENESS.

20                     DID ANY OF THESE HIGH-RANKING  
21 PEOPLE, EITHER BEFORE YOU JOINED THERE OR SHORTLY  
22 AFTER YOU JOINED THERE, EXPRESS OPINIONS ON WHETHER  
23 OR NOT THE PRODUCT WAS ADDICTIVE?

24           A.     THE ONLY PERSON THAT, AT THAT TIME,  
25 WHEN I FIRST JOINED, THAT I DISCUSSED THAT WITH WAS  
26 DR. DUNN, DR. WILLIAM DUNN. AND WE DISCUSSED  
27 VARIOUS ISSUES REGARDING THE AMOUNT OF NICOTINE  
28 THAT PEOPLE SEEM TO REQUIRE FROM CIGARETTES.

1                   IN OTHER WORDS, THAT IF YOU LOOKED  
2 UPON A CIGARETTE AS A MEANS OF DELIVERING NICOTINE,  
3 DO YOU NEED 10 GRAMS A DAY, 10 MILLIGRAMS A DAY, 2  
4 MILLIGRAMS, HOW MUCH DO YOU NEED AND HOW MANY  
5 CIGARETTES IT TAKES TO GIVE YOU THAT AMOUNT.

6                   Q.     ALL RIGHT, LET'S GO FORWARD IN TIME  
7 THEN.

8                   WERE THERE DISCUSSIONS WITH  
9 OTHER -- I WANT TO BE AT HIGH LEVELS NOW,  
10 HIGH-RANKING PHILIP MORRIS OFFICIALS, LATER WHO  
11 SAID, WELL, THIS IS ADDICTIVE, THIS ISN'T  
12 ADDICTIVE?

13                  A.     WELL, YOU KNOW, AS I SAID, IT'S  
14 DIFFICULT TO -- I WOULDN'T CHARACTERIZE IT AS  
15 PEOPLE RUNNING AROUND THE HALL SAYING THIS IS  
16 ADDICTIVE. THE POINT IS I CAME THERE WITH THE  
17 UNDERSTANDING THAT NICOTINE WAS THE REASON WHY  
18 PEOPLE SMOKED, THAT WAS IN ALL THE LITERATURE, IT'S  
19 IN THE BOOKS. I BROUGHT SOME BOOKS WITH ME. WE  
20 BOUGHT A BUNCH MORE AND WE TALKED TO THE SCIENTISTS  
21 ABOUT IT.

22                  SO THE OPERATION, DURING MY ENTIRE  
23 PERIOD OF TIME THERE, WE OPERATED ON THE BASIS THAT  
24 NICOTINE IS ADDICTIVE. THAT'S WHY PEOPLE SMOKED,  
25 FOR THE NICOTINE. AND THAT THE PRODUCT CAUSES  
26 CANCER. AND IT WAS OUR JOB TO REMOVE THOSE  
27 CANCER-CAUSING MATERIALS FROM THE CIGARETTE SMOKE.

28                  Q.     OKAY, THANK YOU.

1                           LET ME FLIP THIS, THIS IS WHERE I  
2 WENT YESTERDAY AND THEN I WILL MOVE RIGHT ON.

3                           DURING YOUR TIME THERE, DID YOU  
4 EVER HEAR ANY HIGH-RANKING OFFICIALS DENY THAT IT  
5 WAS ADDICTIVE?

6                   A.     NO.

7                   Q.     DENY THAT I WAS CARCINOGENIC?

8                   A.     I DID NOT.

9                   Q.     THANK YOU.

10                   I' D LIKE, AS THE FIRST SUBJECT AREA  
11 HERE THIS MORNING, IN DETAIL, TO TALK ABOUT,  
12 BIOLOGICAL TESTING.

13                   ARE YOU READY TO DO THAT?

14                  A.     SURE.

15                  Q.     FIRST OF ALL, TELL THE JURY WHAT  
16 BIOLOGICAL TESTING IS.

17                  A.     THERE ARE TWO BASIC TYPES, WE ARE  
18 TALKING ABOUT TESTING THE EFFECTS OF CHEMICALS ON  
19 LIVING SYSTEMS. THE SYSTEM IS GOING TO BE LIVING.  
20 THERE' S SYSTEMS WHICH ARE LIVING AT THE SINGLE CELL  
21 LEVEL, VERY PRIMITIVE CELLS, LIKE BACTERIA AND  
22 YEAST AND THINGS OF THAT SORT. AND THOSE KINDS OF  
23 TESTS ARE DONE IN TEST TUBES AND PETRE DISHES AND  
24 THOSE KINDS OF TESTS ARE CALLED IN VITRO,  
25 I-N-V-I-T-R-O, THEY ARE NOT IN ANIMAL SYSTEMS, NOT  
26 IN FULL ANIMALS, THEY ARE IN CELLULAR SYSTEMS.

27                   THE OTHER KIND OF BIOLOGICAL  
28 TESTING IS TESTING IN ANIMALS WHICH INCLUDES

1 HUMANS, BY THE WAY, IN THE ULTIMATE SENSE, BUT YOU  
2 DON' T START THERE.

3 AND TYPICALLY, IF YOU SUSPECT THAT  
4 THERE' S A PROBLEM IN HUMANS, YOU TRY TO FIND  
5 ANIMAL -- WHAT ARE CALLED MODEL ANIMALS THAT WILL  
6 SHOW EFFECTS SIMILAR TO THE HUMANS SO THAT YOU CAN  
7 STUDY THOSE EFFECTS IN THE ANIMALS.

8 Q. ALL RIGHT. NOW, WAS THERE IN PLACE  
9 SOME SORT OF METHOD FOR DOING ANY KIND OF  
10 BIOLOGICAL TESTING AT PHILIP MORRIS WHILE YOU WERE  
11 THERE?

12 A. WELL, WHEN I FIRST JOINED, IT WAS  
13 INTERESTING THAT THEY WERE, DURING THE ENTIRE  
14 COURSE OF MY RESEARCH THERE AT PHILIP MORRIS IN  
15 RICHMOND, VIRGINIA, WE DID A LOT OF IN VITRO  
16 TESTING, THAT IS THE TEST TUBES AND THE PETRE  
17 DISHES WITH THE BACTERIA.

18 BUT THE ANIMAL TESTING HAD TO DO  
19 ONLY WITH NICOTINE, THE EFFECTS OF NICOTINE ON  
20 RATS, PRIMARILY.

21 THERE WAS NO ANIMAL TESTING AT  
22 PHILIP MORRIS, UNLIKE LEVER BROTHERS WHERE WE HAD  
23 ALL KINDS OF ANIMALS BEING TESTED FOR SAFETY, THERE  
24 WAS NO ANIMAL TESTING FOR SAFETY.

25 Q. WELL, YOU KNOW, ALTHOUGH I HADN' T  
26 PLANNED TO TALK ABOUT RATS AND NICOTINE RIGHT NOW,  
27 SEEING THAT YOU PUT IT OUT THERE AND JUST SO I  
28 WON' T FORGET, I' D LIKE TO SPEND A COUPLE MINUTES ON

1 THAT.

2 DESCRIBE WHAT WAS BEING DONE, WHAT  
3 KIND OF TESTS WERE BEING DONE AS FAR AS RATS AND  
4 NICOTINE.

5 MR. LEITER: OBJECTION, FOUNDATION,  
6 PERSONAL KNOWLEDGE.

7 THE COURT: ALL RIGHT. A LITTLE PERSONAL  
8 KNOWLEDGE, PLEASE.

9 Q BY MR. PIUZE: DO YOU HAVE  
10 PERSONAL KNOWLEDGE OF THIS?

11 A. YES, I DO, BOTH PERSONAL AND  
12 SCIENTIFIC FROM REVIEWING THE DOCUMENTS, BUT I WAS  
13 THERE DURING THE TIME THE TESTING WAS DONE, YES,  
14 TALKED WITH ALL THE SCIENTISTS WHO DID IT, THEIR  
15 SUPERVISORS, READ ALL THE REPORTS, ATTENDED ALL THE  
16 MEETINGS WHERE THE REPORTS WERE DISCUSSED.

17 Q. GO AHEAD.

18 IT IS YOUR TURN TO TALK.

19 THE COURT: QUESTION PLEASE.

20 Q BY MR. PIUZE: THE QUESTION IS,  
21 EXPLAIN TO THE JURY WHAT WAS BEING DONE AS FAR AS  
22 TESTING OF RATS AND NICOTINE?

23 A. OKAY. ONE OF THE THINGS ABOUT  
24 NICOTINE, NICOTINE, ITSELF, AS FAR AS WE KNOW,  
25 DOESN'T CAUSE CANCER. IT'S NOT A CARCINOGEN.

26 HOWEVER, IT HAS SOME OTHER NEGATIVE  
27 EFFECTS. IT WILL INCREASE HEART RATE IN HUMANS AND  
28 IT ALSO CAUSES CONSTRUCTION OF BLOOD VESSELS AND,

1 THEREFORE, IT CAN INCREASE BLOOD PRESSURE. AND  
2 IT'S ASSOCIATED WITH OR SUSPECTED AS BEING NOT VERY  
3 GOOD FOR HEART, PEOPLE WITH HEART PROBLEMS.

4 SO WHAT WE WANTED TO DO WAS TO  
5 DEVELOP A CLASS OF CHEMICAL COMPOUNDS THAT COULD DO  
6 THE BENEFICIAL THINGS THAT WE THOUGHT NICOTINE WAS  
7 DOING, THAT IS, STICK TO A CERTAIN PART OF YOUR  
8 BRAIN CALLED THE CHOLENERGIC RECEPTOR, WHICH GIVES  
9 YOU THE FEELING OF SOMETHING PLEASURABLE WITHOUT  
10 CAUSING THE, WHAT WE CALL PERIPHERAL NERVOUS SYSTEM  
11 EFFECT.

12 SO WE WANTED TO MAKE A CHEMICAL OR  
13 CHEMICALS TO REPLACE NICOTINE.

14 AND SINCE YOU CAN'T DO THAT KIND OF  
15 STUDY ON HUMANS, WHAT YOU DO IS YOU TRY TO USE AN  
16 ANIMAL MODEL THAT WILL SHOW SOME OF THOSE SAME  
17 EFFECTS AND RATS WERE SELECTED AS THE ANIMAL MODEL  
18 TO USE TO SHOW THOSE EFFECTS.

19 AND THE RATS WERE EITHER INJECTED  
20 WITH IT OR THEY DRANK IT OR THEY PUSHED THE LEVER  
21 THAT PUT IT INTO THEIR BRAIN, WHICH ACTUALLY LITTLE  
22 PIPES GOING INTO THE BRAIN ON SOME OF THE ANIMALS.  
23 THEY WOULD HOOK THEM UP, AND BY WATCHING THE WAY  
24 THE RATS BEHAVED IN RESPONSE TO A BUNCH OF  
25 STIMULATION, YOU COULD DETERMINE WHETHER OR NOT  
26 SOME OF THE CHEMICALS WERE LIKE NICOTINE IN THE  
27 CHEMISTRY, IN THE BIOCHEMISTRY OF THOSE CHEMICALS.

28 Q. DID THE RATS SEEM TO LIKE NICOTINE

1 A LOT?

2 A. RATS LIKED NICOTINE, THEY LIKED A  
3 LOT OF THE ANALOGS, ALSO.

4 Q. SO THE ANALOGS HAD, THE UP SIDE  
5 GAVE THE ANIMAL THE HIT THAT NICOTINE GIVES BUT  
6 PRESUMABLY DIDN'T HAVE THE DOWN SIDE?

7 A. THAT WAS THE IDEA, YES.

8 Q. SO HAVING TALKED ABOUT THAT, LET'S  
9 GO BACK TO THE MAIN THREAD WHICH I THINK WAS ANIMAL  
10 TESTS NOT FOR NICOTINE, BUT FOR CARCINOGENICITY.  
11 WAS THERE ANYTHING LIKE THAT?

12 A. NO.

13 Q. WHILE YOU WERE AT PHILIP MORRIS,  
14 AND AT LEAST FOR NOW, I WANT TO KEEP MY QUESTIONS  
15 TO WITHIN THE 50 UNITED STATES, OKAY. WHILE YOU  
16 WERE AT PHILIP MORRIS, WERE MARLBORO REDS EVER  
17 TESTED FOR CARCINOGENICITY?

18 A. NOT THAT I AM AWARE OF.

19 Q. GOLDS?

20 A. NEVER SAW ANY DATA ON  
21 CARCINOGENICITY TESTING OF MARLBORO GOLDS OR REDS.

22 Q. THIS MAYBE TOO NEW WAS THIS  
23 AROUND WHEN YOU WERE THERE, A SILVER, LIGHT?

24 A. WE HAD A VERSION TOWARD THE END BUT  
25 I DON'T KNOW THAT IT WAS CALLED ULTRA LIGHTS. BUT  
26 THERE WERE THREE LEVELS OF TAR THAT I REMEMBER.

27 Q. REGARDLESS OF WHAT IT WAS CALLED,  
28 WAS THE THIRD LEVEL, TO YOUR KNOWLEDGE, EVER TESTED

1 FOR CARCINOGENICITY WHILE YOU WERE AT PHILIP  
2 MORRIS?

3 A. I HAVE NEVER SEEN DATA THAT SAID  
4 THAT IT WAS.

5 Q. OKAY.

6 LET ME CHANGE IT A LITTLE.

7 ARE YOU AWARE OF ANY TESTS EVER  
8 BEING DONE AT PHILIP MORRIS WHERE ONE OF THESE, THE  
9 REDS, LET'S SAY, WERE TESTED AGAINST THE GOLDS, OR  
10 THE GOLDS WERE TESTED AGAINST WHATEVER WAS IN PLACE  
11 OF SILVER AT THE TIME, TO SEE IF THERE WAS A  
12 DIFFERENCE IN CARCINOGENICITY BETWEEN ONE AND THE  
13 OTHER OR THE OTHER AND THE NEXT?

14 A. NOT AT THE TIME THAT I WAS THERE.  
15 I AM NOT AWARE OF ANY SUCH TESTS THAT WERE DONE BY  
16 PHILIP MORRIS.

17 Q. NOW, THIS IS AN OPINION QUESTION.  
18 I WANT TO ASK YOU, I AM INTERESTED IN TALKING ABOUT  
19 CONSUMER PRODUCTS. IT DOESN'T HAVE TO BE  
20 CIGARETTES, BUT CONSUMER PRODUCTS, THE KIND OF  
21 PRODUCTS YOU EITHER EAT, INHALE, PUT ON YOUR SKIN.

22 FIRST OF ALL, THERE IS SOME SORT OF  
23 A TERM, A SINGLE TERM THAT WOULD COVER THAT TYPE OF  
24 SWALLOW, BREATHE IN OR PUT ON YOUR SKIN, IS THERE  
25 ONE TERM THAT WOULD COVER THAT OR DO I HAVE TO GO  
26 WITH THAT THROUGHOUT THE QUESTION?

27 A. WELL, THOSE ARE EXPOSURE ROUTES,  
28 BUT THINGS WHICH ARE, THAT PEOPLE, HUMANS, CAN COME

1 IN CONTACT WITH. THERE'S VARIOUS ROUTES OF  
2 EXPOSURE. THOSE ARE THREE COMMON EXPOSURE ROUTES.

3 Q. FOR CONSUMER PRODUCTS THAT CAN BE  
4 INHALED OR INGESTED OR PUT ON THE SKIN, IN  
5 INDUSTRY, CONSUMER PRODUCT INDUSTRY, IS BIOLOGICAL  
6 TESTING TYPICALLY DONE?

7 A. YES. YES. IT IS DONE. TYPICALLY,  
8 IN MANY CASES, IT'S ACTUALLY REQUIRED. BUT IN ALL  
9 CASES I CAN THINK OF, IT'S ACTUALLY DONE.

10 Q. NOW, WHEN YOU WERE TELLING US  
11 YESTERDAY ABOUT SOME OF THE, YOU KNOW, A FEW LITTLE  
12 VIGNETTES FROM LEVER BROTHERS, IS THAT AN EXAMPLE  
13 OF WHAT YOU WERE TALKING ABOUT?

14 A. YES. YOU WOULDN'T THINK OF FEEDING  
15 SOMEBODY SOMETHING WITHOUT MAKING SURE IT WAS SAFE  
16 TO EAT.

17 Q. SO IF THAT WAS NORMAL IN THE  
18 CONSUMER PRODUCTS INDUSTRY, DO YOU HAVE AN OPINION  
19 ABOUT WHETHER OR NOT THAT IS A GOOD THING TO DO IN  
20 THE CONSUMER PRODUCT INDUSTRY FOR GOODS THAT ARE  
21 INHALED, INGESTED, PUT ON THE SKIN, THAT IT IS A  
22 GOOD THING TO DO BIOLOGICAL TESTING?

23 A. YES, I HAVE AN OPINION, THAT IT IS  
24 A GOOD THING TO DO AND IT'S A NECESSARY THING TO  
25 DO.

26 Q. NOW, IN YOUR VIEW, WHAT IS IT ABOUT  
27 CIGARETTES, IF ANYTHING, THAT TAKES THEM OUT OF THE  
28 CLASSIFICATION OF CONSUMER PRODUCT THAT GET EATEN,

1 INHALED OR PUT ON THE SKIN?

2 A. NOTHING TAKES THEM OUT OF THAT  
3 CLASSIFICATION.

4 Q. THEY ARE IN THAT CLASSIFICATION?

5 A. CERTAINLY.

6 Q. DO YOU HAVE AN OPINION ABOUT  
7 WHETHER OR NOT BIOLOGICAL TESTING SHOULD HAVE BEEN  
8 DONE TO SEE IF THESE CONSUMER PRODUCTS WERE  
9 DANGEROUS?

10 A. I DO. AND MY OPINION IS THAT THEY  
11 SHOULD HAVE BEEN TESTED.

12 Q. HAVE YOU EVER HEARD OF THE  
13 GENTLEMEN' S AGREEMENT?

14 A. YES, I HAVE.

15 Q. AND AS IT RELATES TO OUR CASE HERE,  
16 WHAT IS THE GENTLEMEN' S AGREEMENT?

17 A. THE GENTLEMEN' S AGREEMENT, AS I  
18 UNDERSTOOD IT, EXPLAINED TO ME BY, OH, EIGHT, TEN  
19 PEOPLE AT PHILIP MORRIS, WAS AN AGREEMENT BETWEEN  
20 THE MAJOR CIGARETTE COMPANIES NOT TO TEST THE  
21 PRODUCTS THE WAY THEY ARE MARKETED FOR THEIR  
22 SAFETY, AND NOT TO USE ANY RESULTS FROM SUCH  
23 TESTING TO COMPETE WITH EACH OTHER ON THE PRODUCT,  
24 LIKE, MARLBORO HAS LESS CANCER IN RATS, THAN, SAY,  
25 WINSTON, THAT KIND OF COMPETITION. AND IN CARRYING  
26 THAT OUT, THEY HAD AGREED NOT TO DO ANIMAL TESTING  
27 OF THE TYPE THAT WE ARE TALKING ABOUT BEFORE, THE  
28 IN VIVO ANIMAL TESTS AS OPPOSED TO THE CELL TESTS,

1 IN THEIR OWN COMPANIES, IN-HOUSE, SO TO SPEAK.

2 Q. I AM GOING TO SHOW YOU A DOCUMENT,  
3 SHOW EVERYBODY A DOCUMENT, NUMBER 67. 00.

4

5 \* (EXHIBIT 67. 00, 7-PAGE  
6 DOCUMENT, MARKED FOR I. D.)

7

8 MR. PIUZE: IT IS SEVEN PAGES BUT I AM  
9 ONLY GOING TO CONCENTRATE ON ONE.

10 MR. LEITER: YOUR HONOR, I AM GOING TO  
11 OBJECT TO THE DOCUMENT, NOT WRITTEN WHILE HE WAS AT  
12 PHILIP MORRIS, NO PERSONAL KNOWLEDGE.

13 THE COURT: THERE WON'T BE A MOTION TO  
14 ADMIT?

15 MR. PIUZE: THERE WILL BE.

16 THE COURT: AT THIS POINT? SEE IF YOU  
17 CAN ESTABLISH A FOUNDATION.

18 MR. PIUZE: I DON'T THINK THERE'S AN  
19 OBJECTION TO FOUNDATION, YOUR HONOR.

20 MR. LEITER: YOUR HONOR, THE OBJECTION IS  
21 TO HIM TESTIFYING ABOUT THE DOCUMENT WITHOUT  
22 ESTABLISHING THAT HE KNOWS ANYTHING ABOUT IT.

23 THE COURT: EXACTLY. I UNDERSTAND. ALL  
24 RIGHT. IF THIS WITNESS IS GOING TO BE THE SOURCE  
25 OF THE INFORMATION THAT WOULD MAKE THE DOCUMENT  
26 ADMISSIBLE AT THIS TIME, THE FOUNDATION NEEDS TO BE  
27 LAID. IF IT IS GOING TO BE USED FOR SOME OTHER  
28 PURPOSE WITH THIS WITNESS, I NEED TO KNOW WHAT THAT

1 PURPOSE WILL BE.

2 MR. PIUZE: YES. THE OTHER PURPOSE IS TO  
3 ESTABLISH HOW LONG IN THE PAST THE GENTLEMEN'S  
4 AGREEMENT HAD GONE. SELF-AUTHENTICATING, OFF OF  
5 THEIR WEB SITE.

6 THE COURT: WELL, THAT STILL DOESN'T  
7 AUTHENTICATE IT AT THIS POINT IF IT'S THAT  
8 PARTICULAR WEB SITE.

9 MR. LEITER: THE ISSUE, YOUR HONOR, IS  
10 THIS WITNESS CONFIRMING THE CONTENTS OF THE  
11 DOCUMENT AS ACCURATE.

12 THE COURT: ALL RIGHT. LET'S TALK ABOUT  
13 THIS PARTICULAR ISSUE OUTSIDE THE PRESENCE OF THE  
14 JURY AT A CONVENIENT MOMENT IN THE TRIAL.

15 THANK YOU VERY MUCH, COUNSEL.

16 Q BY MR. PIUZE: DID PEOPLE,  
17 HIGH-RANKING PEOPLE AT PHILIP MORRIS, DISCUSS THE  
18 GENTLEMEN'S AGREEMENT WITH YOU?

19 A. YES, THEY DID.

20 Q. TELL US SOME NAMES, PLEASE.

21 A. DR. ROBERT B. SELIGMAN, DR. THOMAS  
22 S. OSDENE, DR. HELMUT WAKEHAM, MR. FRANK RESNIK,  
23 MR. ROBERT B. -- NO -- ROBERT D. CARPENTER, MR.  
24 WILLIAM KUHN, K-U-H-N, DR. ROBERT PAGES, P-A-G-E-S,  
25 DR. MAX HAUSERMAN, H-A-U-S-E-R-M-A-N-N, AND DOCTOR  
26 HELMUT GAISCH, G-A-I-S-C-H.

27 Q. OKAY. NOW, WHY, AS THEY TOLD IT TO  
28 YOU, WHY NOT PUT UP A MARLBORO AGAINST A WINSTON OR

1 A WINSTON AGAINST A KOOL OR A KOOL AGAINST -- I  
2 FORGET WHAT'S OUT THERE NOWADAYS.

3 A. BECAUSE THE INFORMATION COULD BE  
4 USED IN COURT PROCEEDINGS LIKE THIS TO PROVE THAT  
5 THE PRODUCTS WERE CARCINOGENIC.

6 Q. WELL, HOW WOULD THAT BE, PLEASE.

7 A. WELL, IF YOU DO AN ANIMAL TEST  
8 AND -- WHEN YOU DO THE ANIMAL TEST, WHAT YOU ARE  
9 DOING IS YOU ARE SAYING THAT THE ANIMAL IS A MODEL  
10 FOR HUMANS, YOU CAN NEVER USE AN ANIMAL TO EXACTLY  
11 MIMIC A HUMAN WITHOUT USING HUMANS, BUT YOU ARE NOT  
12 GOING TO USE HUMANS IN TESTS -- WELL, AS IT TURNS  
13 OUT, EPIDEMIOLOGY IS A HUMAN TEST, BUT YOU DON'T  
14 INTEND TO TEST YOUR PRODUCTS IN HUMANS TO START OFF  
15 WITH.

16 SO IF YOU TESTED YOUR CHANGES IN  
17 WINSTON VERSUS MARLBORO AND YOUR MARLBORO CHANGES  
18 AND YOU SHOWED THAT THEY CAUSED CANCER IN ANIMALS  
19 ALL THE TIME THAT YOU DID THIS, THEN IT WOULD BE  
20 VERY, VERY DIFFICULT TO SAY THAT YOU DIDN'T HAVE  
21 ANY EVIDENCE THAT IT CAUSED CANCER BECAUSE YOU HAVE  
22 LOTS OF EVIDENCE THAT IT CAUSED CANCER IN ANIMALS.

23 SO IT JUST ADDS TO THE INFORMATION  
24 THAT WE KNOW ABOUT THOSE PRODUCTS.

25 AND IF, IN FACT, THERE WAS A  
26 DIFFERENCE BETWEEN TWO BRANDS THAT WERE BEING SOLD,  
27 THE CONCERN WAS THAT PEOPLE WOULD ALWAYS MIGRATE TO  
28 THE SAFER ONE, OBVIOUSLY. AND THAT A LOT OF

1 BUSINESS WOULD BE LOST. YOU WOULD HAVE TO CHANGE  
2 THE PRODUCTS VERY OFTEN.

3 Q. WHEN DID YOU FIRST HEAR ABOUT THE  
4 GENTLEMEN'S AGREEMENT?

5 A. 1976, WITHIN ABOUT A WEEK AFTER I  
6 JOINED THE COMPANY.

7 Q. I DON'T WANT YOU TO, I AM  
8 SPECIFICALLY ASKING YOU NOT TO SPECULATE ON THIS  
9 NOW

10 DID ANYONE TELL YOU, AND I AM  
11 TALKING ABOUT A HIGH-RANKING PHILIP MORRIS PERSON  
12 NOW, THAT'S ALL I AM INTERESTED IN, DID ANYONE  
13 HIGH-RANKING AT PHILIP MORRIS TELL YOU HOW LONG  
14 THAT GENTLEMAN'S AGREEMENT HAD BEEN IN EFFECT?

15 A. DR. WAKEHAM WHO IS THE HIGHEST  
16 RANKING INDIVIDUAL THAT I TALKED TO ABOUT IT SAYS  
17 THAT IT WENT BACK, THIS WAS IN 1976, AND HE SAID IT  
18 WENT BACK APPROXIMATELY 20 YEARS, SOMETHING LIKE  
19 THAT.

20 Q. NOW, ARE YOU AWARE OF IN-HOUSE  
21 PHILIP MORRIS PROTOCOLS ABOUT WHETHER OR NOT -- I  
22 WILL WITHDRAW THAT.

23 WAS THERE DISCUSSION AT PHILIP  
24 MORRIS, AND I AM STILL WITH HIGH-RANKING PEOPLE,  
25 ABOUT UNDER WHAT CIRCUMSTANCES ANIMAL TESTING MIGHT  
26 BE DONE --

27 MR. LEITER: OBJECTION. PERSONAL  
28 KNOWLEDGE DISCUSSIONS WITH DR. FARONE?

1 MR. PIUZE: YES.

2 THE WITNESS: YES, LOTS OF PERSONAL  
3 KNOWLEDGE ABOUT THE CONDITIONS UNDER WHICH ANIMAL  
4 TESTING WOULD AND COULD BE DONE.

5 Q BY MR. PIUZE: OKAY. WELL, WHAT I  
6 AM INTERESTED IN THEN, I WANT TO POINT YOU IN THE  
7 DIRECTION -- WERE THERE DISCUSSIONS ABOUT  
8 GEOGRAPHICALLY OR POLITICALLY UNDER WHOSE AUSPICES  
9 OR WHERE SUCH TESTS WOULD BE DONE?

10 A. YES. DR. OSDENE, WHO I HAD  
11 MENTIONED A COUPLE TIMES, DR. THOMAS S. OSDENE WAS  
12 A COLLEAGUE OF MINE. IT WAS HIS RESPONSIBILITY TO  
13 DO SAFETY TESTING ON CIGARETTES. AND THE WAY THIS  
14 WAS DONE WAS TO HAVE THE TESTS DONE IN EUROPE AND  
15 PHILIP MORRIS -- AT THE TIME, I DIDN'T KNOW PHILIP  
16 MORRIS ACTUALLY OWNED A FACILITY, BUT PHILIP MORRIS  
17 USED A FACILITY IN GERMANY CALLED THE, IN GERMAN,  
18 THE INSTITUTES FOR BIOLOGICAL TECHNOLOGY, THE  
19 ACRONYM IS I-N-B-I-F-O, INBIFO, AND THAT WAS A  
20 LABORATORY IN GERMANY WHERE PRODUCTS WERE SENT TO  
21 BE TESTED FOR ALL OF THE KINDS OF TESTING THAT WE  
22 JUST TALKED ABOUT, THE IN VIVO TESTING AS WELL AS  
23 THE IN VITRO TESTING.

24 Q. I AM GOING TO ASK YOU A QUESTION  
25 ABOUT DOCUMENT NUMBER 507.00. AND 507.00 IS A  
26 HANDWRITTEN NOTE WITH THE INITIALS T. S. O. ON THE  
27 BOTTOM

28 ARE YOU FAMILIAR WITH THAT

1 DOCUMENT?

2 A. YES, I AM

3

4 \* (EXHIBIT 507.00, HANDWRITTEN  
5 DOCUMENT, MARKED FOR I. D.)

6

7 MR. LEITER: OBJECTION. CAN WE ESTABLISH  
8 A FOUNDATION.

9 THE COURT: WELL, IT'S NOT BEEN SHOWN TO  
10 THE JURY AT THIS POINT, SO I WILL ALLOW THE  
11 QUESTIONS.

12 Q BY MR. PIUZE: HOW ARE YOU  
13 FAMILIAR WITH IT?

14 A. AS AN EXPERT WITNESSES IN MANY OF  
15 THESE CASES I HAVE BEEN SHOWN THAT DOCUMENT FOR THE  
16 PURPOSE OF AUTHENTICATING THE HANDWRITING OF THE  
17 PERSON WHO WROTE IT.

18 Q. DO YOU RECOGNIZE THE HANDWRITING OF  
19 THE PERSON WHO WROTE IT?

20 A. I RECEIVED HUNDREDS OF NOTES FROM  
21 THE PERSON WHO WROTE IT AND I CAN EXPLAIN EXACTLY  
22 HOW I RECOGNIZE THE HANDWRITING.

23 Q. GO AHEAD.

24 A. THE PERSON IN QUESTION IS  
25 DR. THOMAS S. OSDENE, T. S. O. IS HIS INITIALS. AND  
26 HE HAS A VERY DESCRIPTIVE WAY OF MAKING THE T. S. O.  
27 AND I HAVE RECEIVED, OVER THE COURSE OF MY TENURE  
28 AT PHILIP MORRIS, HUNDREDS OF THOSE FROM HIM AND

1 IT'S HIS HANDWRITING.

2 AND THE OTHER THING ABOUT IT,  
3 DR. OSDENE, HE HAD A HABIT, IN MANY OF THE PAGES OF  
4 HIS DOCUMENTS THAT I HAVE BEEN GIVEN TO READ OF  
5 REFERRING TO HIMSELF IN THE THIRD PERSON. "T. S. O.  
6 WILL DO THIS, T. S. O. WILL DO THAT," AND WE USED TO  
7 GET THESE NOTES. "T. S. O. WILL COME AND SEE YOU,"  
8 THAT KIND OF THING. IT WAS JUST A LITTLE HABIT  
9 THAT HE HAD.

10 Q. OKAY. SO THIS IS HIS HANDWRITING  
11 HERE?

12 A. YES, I HAVE SEEN THAT DOCUMENT AND  
13 NO DOUBT IN MY MIND THAT THAT WAS WRITTEN BY  
14 DR. OSDENE.

15 Q. ALL RIGHT. YOUR HONOR, I WOULD  
16 LIKE TO DISCUSS THIS DOCUMENT AND SHOW IT TO THE  
17 JURY.

18 THE COURT: I NEED A MOTION.  
19 MOTION TO ADMIT?

20 MR. PIUZE: OKAY.

21 MR. LEITER: NO OBJECTION.

22 THE COURT: ADMITTED.

23

24 \* (EXHIBIT 507.00, HANDWRITTEN  
25 DOCUMENT, RECEIVED IN EVIDENCE.)

26

27 THE COURT: ALL RIGHT, LADIES AND  
28 GENTLEMEN. THE SIGNIFICANCE OF THIS, THIS IS THE

1 FIRST TIME THIS HAS HAPPENED WHERE WE HAVE HAD A  
2 MOTION TO ADMIT A DOCUMENT. SO I WILL JUST EXPLAIN  
3 IT TO YOU NOW

4                   WHEN A DOCUMENT IS ADMITTED INTO  
5 EVIDENCE, WHAT THAT MEANS IS IT, IN ESSENCE,  
6 BECOMES A WITNESS FOR ITSELF, IN A WAY. BUT ALSO,  
7 THE SIGNIFICANCE IS THAT YOU, WHEN YOU ULTIMATELY  
8 GO BACK INTO THE JURY ROOM, WILL BE ABLE TO TAKE  
9 THE DOCUMENTS THAT ARE ADMITTED INTO EVIDENCE BACK  
10 THERE INTO THE JURY ROOM WITH YOU OR, IF WE HAVE  
11 TOO MANY DOCUMENTS FOR YOU TO DO THAT ALL AT ONE  
12 TIME, YOU CAN ASK FOR SPECIFIC DOCUMENTS TO BE  
13 BROUGHT BACK TO YOU INTO THE JURY ROOM

14                   SO AS YOU SEE DOCUMENTS COME INTO  
15 EVIDENCE, IF THERE ARE CERTAIN DOCUMENTS THAT YOU  
16 HAVE AN INTEREST IN, JUST MAKE A NOTE IN YOUR NOTES  
17 AND THEN AT SOME POINT YOU CAN REQUEST THAT WHEN  
18 YOU GO BACK IN THE JURY ROOM

19                   THANK YOU, LADIES AND GENTLEMEN.  
20                   SIR.

21                   MR. PIUZE: THANK YOU, YOUR HONOR.

22                   Q BY MR. PIUZE: ALL RIGHT, NOW,  
23 DR. FARONE, YOU TESTIFIED ABOUT THIS PARTICULAR  
24 DOCUMENT IN THE PAST?

25                   A. YES, I HAVE.

26                   Q. NOW, LET'S HEAR WHAT DR. THOMAS S.  
27 OSDENE'S OFFICIAL TITLE WAS.

28                   A. WELL, IT CHANGED OVER THE PERIOD OF

1 TIME.

2 DR. OSDENE, WHEN I FIRST WENT  
3 THERE, WAS DIRECTOR OF RESEARCH. AND DURING THE,  
4 MY DISCUSSIONS WITH DR. SELIGMAN, THE IDEA WAS THAT  
5 DR. OSDENE WAS GOING TO BECOME, OVER THE COURSE OF  
6 TIME, FOCUS SOLELY ON THE BIOLOGICAL TESTING. SO  
7 HIS TITLE CHANGED. BUT IT WAS SOMETHING LIKE,  
8 DIRECTOR OF BIOCHEMISTRY OR BIOCHEMICAL RESEARCH  
9 AND EXTRAMURAL ACTIVITIES.

10 THE EXTRAMURAL ACTIVITIES BEING  
11 THINGS THAT HAPPENED OUTSIDE PHILIP MORRIS, DEALING  
12 WITH BIOCHEMICAL, MEANING THE SAFETY TESTING  
13 RESEARCH.

14 SO THAT BASICALLY WAS THE AREA OF  
15 HIS RESPONSIBILITY AND THOSE OF US WHO GAINED  
16 RESPONSIBILITY FOR DOING, MAKING THE PRODUCTS,  
17 WOULD TAKE OUR IDEAS AND PRODUCTS TO DR. OSDENE SO  
18 THAT THEY COULD BE TESTED FOR SAFETY.

19 Q. DID HE TELL YOU WHERE HE WAS  
20 TESTING THEM?

21 A. WELL, SOME OF THEM, YES. THEY WERE  
22 BEING TESTED IN COLOGNE AT INBIFO, THE LABORATORY  
23 THAT WE TALKED ABOUT BEFORE, COLOGNE, GERMANY.

24 Q. DID PHILIP MORRIS HAVE ANY  
25 LABORATORIES HERE IN THE UNITED STATES?

26 A. YES, WE DID. WE DID SOME IN VITRO  
27 TESTING THERE, AS I SAID, BUT NEVER A FINISHED  
28 PRODUCT. THEY WERE ALWAYS ON THINGS LIKE BURLEY

1 TOBACCO, BRIGHT TOBACCO, THINGS OF THAT TYPE.

2 SO THERE WAS LOTS OF BIOLOGICAL  
3 TESTING DONE IN THE UNITED STATES BUT NOT ON  
4 MARLBORO RED VERSUS GOLD OR NOT ON FINISHED  
5 PRODUCTS. NO TESTING OF FINISHED PRODUCT AT THAT  
6 TIME.

7 Q. WELL, I KNOW GERMANS MAKE REALLY  
8 GOOD CARS. WAS THEIR LABORATORY SO MUCH BETTER  
9 THAN OURS THAT WE COULDN'T DO IT HERE IN AMERICA?

10 A. IT WAS A GOOD LABORATORY. I WAS  
11 AWARE OF IT EVEN BEFORE I JOINED PHILIP MORRIS, BUT  
12 NOTHING THAT WE COULDN'T HAVE DONE.

13 AS A MATTER OF FACT, WE HAD THE  
14 ANIMAL LABS, WE HAD RAT LABS THERE. WE WERE DOING  
15 THE NICOTINE STUDIES. SO THERE IS NOTHING WE COULD  
16 NOT HAVE DONE. BUT MY UNDERSTANDING IS, AS I HAVE  
17 TESTIFIED JUST A FEW MOMENTS AGO, WAS THAT BECAUSE  
18 OF THE AGREEMENT, WE WERE NOT GOING TO DO THAT.

19 Q. IN ADDITION TO THE AGREEMENT  
20 CALLING FOR TESTING WITH GEOGRAPHICAL BOUNDARIES ON  
21 IT, MEANING AWAY, DID THE AGREEMENT, AS IT WAS  
22 EXPLAINED TO YOU, ALSO HAVE SOME SORT OF POLITICAL  
23 BOUNDARIES, MEANING THAT IT COULD BE CONDUCTED  
24 UNDER SOMEONE ELSE'S AUSPICES BESIDES PHILIP  
25 MORRIS?

26 A. WELL, NO, NOT REALLY. I MEAN, THE  
27 POINT IS THAT PHILIP MORRIS, THE AGREEMENT WAS THAT  
28 IF RESEARCH WAS GOING TO BE DONE, THAT WAS THE

1 WHOLE IDEA BEHIND THE C. T. R. , CENTER FOR TOBACCO  
2 RESEARCH, WAS THAT THE INDUSTRY WOULD GET TOGETHER,  
3 SO THEY WOULD ALL HAVE THE EFFECTS OF THE SAME  
4 RESEARCH. BUT, AGAIN, THE PRODUCTS WE ARE TALKING  
5 ABOUT, MARLBORO REGULAR VERSUS MARLBORO LIGHT, WERE  
6 NEVER TESTED IN ANY OF THAT RESEARCH.

7 THE ONLY PLACE THAT I AM AWARE OF  
8 THAT SUCH TESTS WERE CONDUCTED, WAS AT INBIFO UNDER  
9 THE AUSPICES OF PHILIP MORRIS.

10 Q. ALL RIGHT, THANK YOU.

11 LET'S STAY WITH THE POLITICAL FOR A  
12 SECOND, WHAT I CALL POLITICAL.

13 WHAT IS C. T. R. ?

14 A. CENTER FOR TOBACCO RESEARCH.

15 Q. WHO COULD JOIN?

16 A. WELL, THE CIGARETTE COMPANIES JOIN  
17 THE CENTER FOR TOBACCO RESEARCH. TOBACCO COMPANIES  
18 IN GENERAL, DIDN'T HAVE TO BE BUT THE IDEA WAS TO  
19 SPONSOR RESEARCH RELATING TO TOBACCO RELATED  
20 ISSUES, SAFETY.

21 Q. DID YOU EVER DEAL WITH THEM?

22 A. NO, I DID NOT.

23 Q. NOW, DID ANY OF YOUR STUFF, THINGS  
24 YOU WERE WORKING ON, GET SENT TO GERMANY?

25 A. YES, IT DID.

26 Q. SUCH AS?

27 A. WE HAD DEVELOPED SEVERAL  
28 POTENTIALLY SAFER MATERIALS. FOR EXAMPLE, WE HAD,

1 REMOVED CERTAIN CHEMICALS FROM, IN TOBACCO. ONE OF  
2 THE THINGS, WE HAVEN'T TALKED ABOUT, BUT THEY USE A  
3 RECONSTITUTED TOBACCO. RECONSTITUTED LEAF THEY  
4 CALL IT.

5 IT'S SCRAPS AND PIECES OF TOBACCO  
6 THAT WOULD FALL OUT IF WE JUST PUT THEM IN A  
7 CIGARETTE.

8 AND WHAT THEY DO IS THEY MAKE PAPER  
9 OUT OF IT, PAPER-LIKE MATERIAL.

10 PHILIP MORRIS HAS HUGE PLANTS THAT  
11 MAKE, IT'S CALLED SYNTHETIC CIGARETTE -- SYNTHETIC  
12 TOBACCO. IT'S MADE FROM REAL PARTS OF TOBACCO, BUT  
13 THEY ADD ALL KINDS OF CHEMICALS TO IT AND THEY MAKE  
14 A PAPER.

15 IN THE PROCESS OF MAKING THAT  
16 PAPER, YOU HAVE THE OPPORTUNITY TO REMOVE CERTAIN  
17 CHEMICALS THAT YOU DON'T WANT. AND ONE OF THOSE  
18 CHEMICALS IS NITRATES, POTASSIUM NITRATE, ALSO  
19 KNOWN AS SALT PETER.

20 WHEN YOU BURN THAT, IT GIVES OFF  
21 THE OXIDES OF NITROGEN, THE STUFF THAT CAUSES THE  
22 BROWN HAZE ON BAD POLLUTION DAYS IN L. A. WHEN YOU  
23 LOOK OUT OVER THE HORIZON. AND THAT'S NASTY STUFF.  
24 WE DON'T WANT IT.

25 THAT STUFF ALSO REACTS WITH  
26 NICOTINE IN THE SMOKE TO MAKE THINGS CALLED  
27 NITROSAMINES WHICH ARE DEADLY CARCINOGENS.

28 SO THE IDEA WAS IF WE REMOVED THE

1 NITRATE FROM THE SHEET, THIS ARTIFICIAL  
2 RECONSTITUTED TOBACCO, AND WE USED THAT IN THE  
3 CIGARETTE, THAT WE COULD REDUCE THE AMOUNT OF BAD  
4 STUFF.

5 IN FACT, WE PREPARED SOME OF THAT  
6 SHEET, IT WAS MADE INTO MARLBORO TYPE CIGARETTES,  
7 AND THAT'S THE ONLY TIME IN MY EIGHT-YEAR CAREER  
8 WHERE I ACTUALLY SAW THE RESULT OF A TEST ON  
9 MARLBORO WAS A MARLBORO TEST RUN WITH THE NORMAL  
10 WAY WE MAKE IT PLUS THIS MODIFIED, RECONSTITUTED  
11 SHEET. AND THAT WAS TESTED IN GERMANY, AS I  
12 UNDERSTAND IT. THERE DR. OSDENE WHO SHOWED ME A  
13 DOCUMENT, THAT SHOWED THAT IT WAS LESS  
14 CARCINOGENIC.

15 Q. THAN WHICH?

16 A. THE MODIFICATION, THE NITRATE  
17 REMOVED MATERIAL, ALL OF THE NITRATES REMOVED.

18 Q. WHEN WAS THAT?

19 A. THAT WAS ABOUT 1979. 1979.

20 Q. IN YOUR NEXT FIVE YEARS THERE, WAS  
21 THAT MODIFICATION EVER PUT INTO EFFECT?

22 A. NO, IT WASN'T.

23 Q. DID DR. OSDENE, WE HAVE GOT A  
24 COUPLE MEMOS IN HERE, THEY SORT OF SPEAK FOR  
25 THEMSELVES. DID YOU EVER ASK DR. OSDENE WHY  
26 TESTING HAD TO BE DONE OVERSEAS?

27 A. WELL, YEAH. TO DISCUSS SOMETHING,  
28 THE GENTLEMEN'S AGREEMENT PREVENTED DOING IT

1 IN-HOUSE. AND THERE WAS ALSO THE IDEA THAT THEY  
2 DIDN'T WANT THE DOCUMENTS ON THIS SHEET -- HE TALKS  
3 ABOUT SENDING THEM TO HIS HOME AND DESTROYING THEM  
4 AND AS A MATTER OF FACT, THE DOCUMENT THAT I JUST  
5 TALKED ABOUT WHERE I SAID THAT I SAW THE RESULT OF  
6 THE MARLBORO VERSUS -- HE TOOK THAT DOCUMENT BACK  
7 FROM ME AND HE SAID, "I SHOULDN'T HAVE SHOWN YOU  
8 THIS. I HAVE TO DESTROY IT."

9 AND HE TOLD ME THAT HIS GENERAL  
10 POLICY WAS TO HAVE ALL OF THE DOCUMENTS THAT  
11 CONTAINED INFORMATION THAT THEY DIDN'T WANT TO BE  
12 DISCOVERABLE IN THE UNITED STATES, WAS SENT TO HIS  
13 HOUSE, AND THAT HE WOULD READ IT. AND THEN I WAS  
14 TOLD BY BOTH BOSSES THAT I HAD WHILE I WAS THERE  
15 THAT IF I HAD ANY QUESTIONS ABOUT THE RESULTS OF  
16 THESE TESTS, I WAS TO ASK DR. OSDENE.

17 DR. OSDENE WOULD TELL ME WHAT HE  
18 HAD READ AT HOME. HE WAS SUPPOSED TO BRING THE  
19 DOCUMENTS IN AND TELL ME WHETHER OR NOT THE TEST  
20 WAS GOOD OR THE TEST WAS BAD AND THEN HE WOULD  
21 DESTROY THE DOCUMENTS AT HIS HOME. AND THEY WOULD  
22 BE SENT FROM INBIFO TO HIS HOME.

23 Q. HOW LONG HAVE YOU BEEN IN THE  
24 INDUSTRY NOW?

25 A. YOU MEAN -- SINCE 1967.

26 Q. MEANING YOU WERE A COLLEGE  
27 PROFESSOR FOR A COUPLE YEARS AND, YOU KNOW, THE  
28 CLOISTERED HALLS, AND EVERYONE IS IN AN IVORY

1 TOWER, HOW LONG HAVE YOU BEEN IN THE REAL WORLD OF  
2 BUSINESS?

3 A. SINCE '67, SINCE 1967.

4 Q. HAVE YOU EVER RUN INTO, AT ALL, IN  
5 ANY OF YOUR DEALINGS SINCE 1967 IN PRIVATE  
6 INDUSTRY, A COMPANY THAT MAKES PRODUCTS FOR  
7 CONSUMERS THAT -- AND IT IS LIKE THE C. I. A. LIKE  
8 THIS?

9 THE COURT: SUSTAINED.

10 MR. LEITER: OBJECTION.

11 THE COURT: SUSTAINED.

12 THE QUESTION IS HAVE YOU EVER  
13 PERSONALLY ENCOUNTERED ANY SUCH PROCEDURE AT ANY  
14 OTHER COMPANY YOU HAVE EVER WORKED FOR?

15 THE WITNESS: NO, I HAVE NOT.

16 THE COURT: THANK YOU.

17 Q BY MR. PIUZE: NOW, I'D LIKE TO,  
18 BECAUSE WE ARE TALKING ABOUT DR. OSDENE RIGHT NOW,  
19 I'D LIKE TO STAY -- I WILL TAKE THAT BACK. I AM  
20 GOING TO LEAVE THAT FOR LATER.

21 LET'S TALK ABOUT LIGHT CIGARETTES A  
22 LITTLE BIT NOW. READY?

23 A. SURE.

24 Q. BEFORE WE TALK ABOUT LIGHT  
25 CIGARETTES, LET'S TALK ABOUT CIGARETTES. ARE YOU  
26 READY TO DO THAT?

27 A. YES.

28 Q. I'D LIKE YOU TO TELL THE JURY WHAT

1 A CIGARETTE IS, HOW COMPLICATED IT IS, HOW IT IS  
2 MADE, HOW IT WORKS, HOW IT CAN BE CHANGED, HOW IT  
3 BE CAN BE MODIFIED. AND I DON'T WANT YOU TO DO IT  
4 ALL IN ONE GULP, BUT THOSE ARE SOME OF THE AREAS I  
5 WANT TO TOUCH ON. ALL RIGHT.

6 A. OKAY.

7 Q. I HAVE GOT SOME BLOW-UPS OVER HERE  
8 THAT MIGHT -- I CAN HAVE YOU USE. WOULD YOU LIKE  
9 TO USE THEM?

10 A. IT WOULD BE EASIER IF THAT'S  
11 ACCEPTABLE TO EVERYBODY.

12 Q. LET ME SHOW YOU --

13 MR. LEITER: OKAY.

14 Q BY MR. PIUZE: JUST TELL ME WHICH  
15 ORDER YOU WOULD LIKE THEM IN, WHICH ONE IS --

16 A. I THINK THEY ARE NUMBERED.

17 Q. LIKE THAT, THE ONE ON THE GROUND  
18 FIRST AND THEN THAT AND THEN THAT.

19 A. YEAH, THAT'S FINE.

20 THEY SHOULD BE NUMBERED 1, 2 AND 3  
21 AT THE TOP.

22 Q. THAT'S A WAY TOO.

23 OKAY, START WITH NUMBER 1.

24 EXPLAIN, PLEASE.

25 A. MAY I GO UP THERE.

26 I WILL TRY AND TALK LOUD.

27 THIS IS A DRAWING OF A TYPICAL

28 FILTER CIGARETTE. THIS IS THE FILTER AND THIS IS

1 WHAT WE CALL THE ROD, WHICH CONTAINS THE TOBACCO.  
2 THE TOBACCO IN THE ROD IS CALLED  
3 FILLER. AND THE IMPORTANT POINT IS IT'S MADE UP OF  
4 LOTS OF DIFFERENT MATERIALS.

5 THERE'S BRIGHT TOBACCO, WHICH IS  
6 CALLED FLUE CURED. WHEN THEY CUT THIS TOBACCO,  
7 THEY PUT IT IN A HOT, HEATED BARN FOR A PERIOD OF  
8 TIME TO CURE IT. CHANGES ITS CHARACTER.

9 THERE'S BURLEY TOBACCO. BURLEY  
10 TOBACCO IS CUT AND AIR DRIED. THEY DON'T PUT IT IN  
11 THIS BARN WITH THIS HEAT. THEY JUST HANG IT OUT  
12 AND LET THE AIR DRY IT.

13 AND THEN FROM THE AREA OF EASTERN  
14 EUROPE, BULGARIA, ROUMANIA AND PLACES LIKE THAT,  
15 THEY HAVE WHAT THEY CALL ORIENTAL AND TURKISH  
16 TOBACCO. THAT'S A DIFFERENT KIND OF TOBACCO PLANT.  
17 IT HAS SMALL LEAVES AND THEY DON'T HAVE TO REMOVE  
18 THE STEMS OUT OF THOSE LEAVES.

19 BRIGHT AND BURLEY HAVE, THE LEAVES  
20 ARE BIG AND THEY HAVE VERY COARSE STEMS IN IT. AND  
21 THE FIRST THING THEY DO WHEN THEY MAKE A CIGARETTE  
22 IS TO HAMMER THAT, TAKE OUT THE STEMS. AND THE  
23 PART IN BETWEEN THE STEMS IS CALLED MID-RIB OR THE  
24 LEAF, THAT'S CALLED TOBACCO LEAF.

25 THE STEMS AND PARTS OF OLD  
26 CIGARETTES THAT DIDN'T PASS QUALITY CONTROL AND  
27 OTHER PARTS OF MATERIAL THAT THEY WOULD NORMALLY  
28 THROW AWAY ARE MADE INTO RECONSTITUTED TOBACCO.

1 THAT'S THE MATERIAL I TALKED ABOUT A LITTLE WHILE  
2 AGO WHERE THEY ACTUALLY TAKE ALL THESE PIECES,  
3 GRIND THEM UP, ADD CHEMICALS TO IT, AND MAKE LIKE  
4 SHEETS OF PAPER WHICH THEY THEN CUT UP. AND THOSE  
5 PIECES OF PAPER, WHICH LOOK LIKE TOBACCO LEAF, ALSO  
6 GO INTO THE FILLER.

7 THE OTHER THING THAT IS USED IS  
8 EXPANDED TOBACCO. WHEN THEY DRY THIS TOBACCO IT  
9 SHRIVELS UP. IF YOU PUT VARIOUS CHEMICALS IN IT  
10 AND HEAT IT UP, YOU CAN CAUSE IT TO EXPAND BACK TO  
11 ITS FULL SIZE. AND IT TAKES UP MORE SPACE IN THE  
12 ROD.

13 AND THE BENEFIT OF THAT IS WHEN YOU  
14 BURN IT, YOU DON'T GET AS MUCH TAR. SO IT'S A WAY  
15 OF REDUCING TAR. SO THAT'S CALLED EXPANDED  
16 TOBACCO.

17 STEMS, AND THEN THEY ADD FLAVORS,  
18 AND CASING, CASING MAKES IT EASIER TO CHOP UP THE  
19 TOBACCO, GENERALLY.

20 AND THE FLAVORS AND CASING CAN  
21 ACCOUNT FOR ABOUT 20 PERCENT OF THE WEIGHT OF  
22 WHAT'S INSIDE THIS ROD.

23 SO IT'S ONLY ABOUT 80 PERCENT  
24 TOBACCO AND 20 PERCENT THINGS THAT ARE ADDED TO IT.

25 WHEN YOU BURN THE CIGARETTE, THE  
26 PART THAT YOU DON'T SUCK THROUGH THE CIGARETTE IS  
27 CALLED SIDESTREAM AND THE SIDESTREAM HAS A GAS  
28 PART AND IT HAS A PARTICULATE PART, TAR. TAR IS

1 FORMED BECAUSE WE BURN SOMETHING. WE HEAT IT UP.

2 THE THINGS THAT WE BURN TURN INTO GAS.

3 AS IT COOLS BACK DOWN, AND THE

4 TEMPERATURES ARE VERY HOT, THE GAS TURNS INTO

5 LIQUID AND WHERE THERE'S LITTLE INORGANIC

6 PARTICLES, IT'S LIKE THE SAME THING THAT CAUSES THE

7 CLOUDS IN THE SKY, THE GAS DEPOSIT ON THOSE LITTLE

8 INORGANIC PARTICLES, AND WE MAKE WHAT WE CALL THE

9 AEROSOL OR THE SMOKE.

10 AND THERE'S DIFFERENT SIZES IN

11 THERE. SOME OF THEM ARE SMALL, TINY. SOME OF THEM

12 ARE BIG. SOME OF THEM, IF YOU INHALE THEM AND YOU

13 EXHALE, THEY COME BACK OUT AGAIN. SOME OF THEM

14 NEVER MAKE IT DOWN. AND THAT'S A CERTAIN PARTICLE

15 SIZE WHICH IS IN THE RESPIRABLE RANGE THAT WILL GO

16 INTO YOUR LUNGS AND STAY THERE.

17 SO THE MAINSTREAM IS WHAT COMES

18 THROUGH TO THE SMOKER, A GAS PHASE. A SIDESTREAM

19 SIDESTREAM THERE'S A GAS PHASE AND A PARTICULATE

20 PHASE.

21 THE TEMPERATURE CAN HIT 900 TO

22 1,000 DEGREES CELSIUS, ABOUT 2,000 DEGREES

23 FAHRENHEIT, VERY HOT.

24 COMBUSTION AND PYROLYSIS, TWO

25 DIFFERENT TYPES OF CHEMISTRY.

26 COMBUSTION, THINGS COMBINE WITH

27 OXYGEN AND MAKE CHEMICALS THAT COMBINE WITH OXYGEN.

28 PYROLYSIS IS IN THE ABSENCE OF

1 OXYGEN AND THE INSIDE OF THE -- AS THIS BURNS,  
2 BEHIND THE COAL, WE CAN'T GET ENOUGH OXYGEN THERE,  
3 SO A LOT OF BAD CHEMICALS THAT ARE MADE, THAT CAUSE  
4 CANCER IN CIGARETTES, ARE MADE BY PYROLYSIS, THAT  
5 OCCUR IN THE, RIGHT BEHIND THE COAL.

6                   AND MANY COMPOUNDS LIKE NICOTINE  
7 ARE WHAT WE CALLED DISTILLED, THAT IS, THEY DON'T  
8 CHANGE THEIR CHEMISTRY. AS IT GETS HOT, THEY  
9 SIMPLY MOVE THROUGH THE CIGARETTE INTO THE SMOKER.  
10 THEY ARE CALLED DISTILLABLES. AND NICOTINE IS A  
11 DISTILLABLE. ONLY ABOUT 5 PERCENT IS DESTROYED IN  
12 THE BURNING PROCESS.

13                   AND THE THING THAT A LOT OF PEOPLE  
14 DON'T REALIZE, ESPECIALLY WITH REGARD TO SOME OF  
15 THE CANCER-CAUSING MATERIALS IS THAT THE REACTIONS  
16 CONTINUE AFTER THE SMOKE IS PRODUCED.

17                   THAT IS, EVEN AFTER I TAKE THE  
18 SMOKE OUT OF HERE OR OUT OF THE SIDESTREAM FOR  
19 EXAMPLE, THE REACTIONS OF NICOTINE TO MAKE  
20 NITROSAMINES CONTINUE IN THE ROOM, THEY CONTINUE IN  
21 THE ASHTRAY, THEY CONTINUE IN THE SMOKE THAT'S  
22 COMING OUT.

23           Q.     LEAVE THAT FOR A SECOND, WOULD YOU  
24 PLEASE.

25                   I'D LIKE YOU TO -- 900 TO A  
26 THOUSAND DEGREES CELSIUS MEANS SOMETHING TO YOU,  
27 BUT GIVE US AN IDEA OF HOW HOT THAT IS.

28           A.     IT IS ABOUT 2,000 DEGREES

1 FAHRENHEIT. IT'S NOT HOT ENOUGH TO MELT GLASS BUT  
2 WE ARE GETTING PRETTY CLOSE.

3 Q. LET'S PUT IT THIS WAY, WHEN YOU  
4 BOIL WATER?

5 A. 100 DEGREES. WATER IS 100. YOUR  
6 OVEN, YOUR HOME OVEN IS ABOUT 200, 300 DEGREES. SO  
7 WE ARE TALKING ABOUT A TEMPERATURE HERE THAT'S  
8 RIGHT UP AT THE TEMPERATURE NEAR THE RED HOT  
9 GLOWING -- IF YOU HAVE AN ELECTRIC RANGE, WHEN YOU  
10 SEE IT GLOW REAL RED LIKE THAT, THAT'S ABOUT 900.

11 Q. THANK YOU. BEFORE YOU TAKE IT  
12 DOWN, ONE OTHER THING. YOU MENTIONED SIDESTREAM  
13 WHEN YOU STARTED TALKING. SIDESTREAM IS THE SMOKE  
14 THAT DOES NOT COME THROUGH THE CIGARETTE TO THE  
15 PERSON'S MOUTH, I TAKE IT?

16 A. THAT IS CORRECT.

17 Q. MAINSTREAM DOES?

18 A. RIGHT.

19 Q. I DON'T KNOW IF YOU TALKED ABOUT  
20 THE GAS PHASE AND PARTICULATE PHASE. AND IF YOU  
21 DID, I DIDN'T HEAR IT. WOULD YOU SAY THAT.

22 A. THE PARTICULATE IS THE PART THAT  
23 CONDENSES ON THE LITTLE PARTICLES TO MAKE THE  
24 AEROSOL. THE GAS PHASE IS EVERYTHING THAT'S  
25 LEFTOVER, LIKE CARBON MONOXIDE IS IN THE GAS PHASE.

26 Q. SO IT IS THE SAME ON BOTH THE BLUE  
27 AND THE RED?

28 A. YES.

1 Q. GAS PHASE AND PARTICULATE PHASE,  
2 SAME GENERAL IDEA?

3 A. RIGHT. AND THE CHEMICALS ARE  
4 BASICALLY THE SAME. THE COMBUSTION PROCESS CREATES  
5 THE CHEMICALS AND THE PARTS THAT AREN'T DRAWN IN BY  
6 THE SMOKER END UP GOING UP THAT SIDESTREAM

7 Q. OKAY.

8 A. NOW, THIS IS A VERY -- IT SEEMS  
9 RELATIVELY SIMPLE WHEN YOU LOOK AT A CIGARETTE, BUT  
10 THESE ARE ALL THE THINGS YOU CAN DO TO ENGINEER A  
11 CIGARETTE. THAT'S WHY THIS ONE IS CALLED  
12 "CIGARETTE ENGINEERING."

13 AND WHILE I WAS AT PHILIP MORRIS  
14 PEOPLE WORKING FOR ME DEVELOPED A MODEL OF 57  
15 DIFFERENT THINGS THAT CHANGE THE TAR THAT'S  
16 DELIVERED, THAT CHANGE THE NICOTINE TO TAR RATIO,  
17 THAT CHANGE THE CHEMISTRY THAT GOES ON HERE.

18 THE LENGTH OF THE CIGARETTE, THE  
19 DIAMETER, FILLER TYPE, THAT IS THE KIND OF TOBACCO  
20 I PUT IN HERE, THE WEIGHT OF WHAT I PUT IN HERE,  
21 THE FILTER TYPE AND DENSITY, THE PAPER, WHETHER I  
22 HAVE GOT POROUS PAPER WITH HOLES IN IT TO LET AIR  
23 IN AND GASES OUT.

24 THE DIFFERENT KINDS OF ADDITIVES  
25 THAT ONE CAN USE, ADDITIVES ARE THE ONES THAT BURN,  
26 CREATE CHEMICALS FROM THEIR OWN BURNING, LIKE SUGAR  
27 WHEN IT BURNS CREATES CERTAIN KINDS OF CHEMICALS.

28 THE CUT SIZE, THE FILLER THAT'S IN

1 HERE. IN ABOUT THE 1920'S, THERE WAS A MASSIVE  
2 CHANGE IN THE WAY THE FILLER WAS CUT. BEFORE THAT,  
3 THE TOBACCO IN CIGARETTES WAS CLOSER TO PIPE  
4 TOBACCO. IT WAS BIG CHUNKS AND THEN THEY STARTED  
5 CUTTING IT UP VERY, VERY FINE.

6 WHAT HAPPENS WHEN YOU HAVE FINER  
7 FILLER IS IT BURNS MORE QUICKLY, LIKE EASIER TO  
8 BURN. AND IT MAKES SMALLER PARTICLES. YOU HAVE  
9 BIGGER CHUNKS, IT MAKES BIGGER PARTICLES.

10 SO THE FILLER SIZE IS IMPORTANT.

11 THE COATINGS YOU PUT ON THE PAPER,  
12 ALL MODERN CIGARETTES NOW ARE WHAT WE CALL  
13 VENTILATED OR DILUTED. THEY, IN THIS FILTER,  
14 THERE'S A SERIES OF HOLES. AND THE HOLES ARE  
15 INTENDED THAT WHEN THE SMOKER SUCKS ON THIS END,  
16 SOME AIR COMES THROUGH THE HOLES, OKAY, AND THAT  
17 MEANS THEY DON'T GET AS MUCH TAR AS THEY WOULD HAVE  
18 NORMALLY GOTTEN BECAUSE IN ADDITION TO SUCKING IN  
19 TAR, THEY ARE SUCKING IN AIR.

20 SO THE MORE HOLES YOU PUT HERE AND  
21 THE BIGGER YOU MAKE THE HOLES, THE MORE AIR YOU  
22 SUCK IN.

23 AND AS A MATTER OF FACT, YOU CAN  
24 MAKE THIS, PUT ENOUGH HOLES THERE THAT WHEN YOU  
25 SUCK ON IT, NOTHING, NO TAR COMES THROUGH, A LITTLE  
26 BIT OF GAS PHASE AND THAT'S IT. SO YOU CAN MAKE A  
27 CIGARETTE THAT DELIVERS ZERO TAR.

28 THE FILLER, FILTER TO ROD LENGTH,

1 IF I CHANGE THESE TWO LENGTHS, THAT CHANGES  
2 EVERYTHING THAT HAPPENS.

3 THE WAY I PROCESS THE TOBACCO, AND  
4 THEN I CAN ACTUALLY REPLACE TOBACCO WITH OTHER  
5 MATERIAL.

6 I COULD PUT PAPER IN HERE. I COULD  
7 PUT DIFFERENT KINDS OF THINGS IN IT. SO THERE'S A  
8 WHOLE VARIETY OF THINGS THAT CAN BE DONE THAT  
9 CHANGES THE CHEMICAL NATURE OF THE SMOKE AND  
10 THEREBY ITS EFFECT ON ANIMALS AND HUMANS.

11 Q. THANK YOU.

12 WHILE YOU ARE UP THERE, I WAS  
13 STEERING YOU IN THE DIRECTION OF TALKING ABOUT  
14 LIGHT CIGARETTES.

15 AND BEFORE I HAD YOU DO THAT, I  
16 WANTED YOU TO TALK ABOUT CIGARETTES GENERALLY JUST  
17 SO WE CAN GET SORT OF AN INTRODUCTORY COURSE IN IT.

18 KNOWING THAT I AM GOING TO BE  
19 ASKING YOU ABOUT LIGHT CIGARETTES AND YOU HAVE  
20 THOSE DRAWINGS AVAILABLE TO YOU RIGHT NOW, RIGHT  
21 THERE, IS THERE ANYTHING ELSE YOU WOULD LIKE TO SAY  
22 ABOUT THOSE DRAWINGS AS IT RELATES TO LIGHT  
23 CIGARETTES?

24 A. THE DESIGN OF A LIGHT CIGARETTE IS  
25 BASED ON MAKING SOME OF THESE CHANGES SO THAT THE  
26 TAR THAT'S DELIVERED TO THE SMOKER IS LESS.

27 WE TALKED ABOUT THE HOLES. SO I  
28 PUT HOLES IN THIS FILTER. I MAKE IT LIGHTER, LESS

1 TAR COMES THROUGH.

2 IF I USE THIS EXPANDED TOBACCO,  
3 THAT'S LESS WEIGHT UP HERE, SO THAT MAKES IT  
4 LIGHTER.

5 IF I USE MORE POROUS PAPER, THAT  
6 MAKES IT LIGHTER.

7 SO WHEN WE TALK ABOUT THE DIFFERENT  
8 LEVELS OF TAR, WHAT WE ARE TALKING ABOUT IS  
9 CHANGING THESE, WHAT WE CALL IN ENGINEERING TERMS,  
10 PARAMETERS, THESE THINGS THAT WE CAN DO TO A  
11 CIGARETTE THAT REDUCE THE TAR DELIVERY TO THE  
12 SMOKER. AND THAT'S GENERALLY JUDGED BY PUTTING THE  
13 CIGARETTE IN A SMOKING MACHINE AND SUCKING ON IT  
14 WITH A GIVEN FORCE THAT IS A CERTAIN NUMBER OF  
15 PUFFS AT A CERTAIN TIME.

16 IT'S A PROGRAM THAT DRAWS PUFFS IN  
17 HERE OF ABOUT 30 CUBIC CENTIMETERS. AND IT DOES IT  
18 MAYBE SEVEN OR EIGHT TIMES DOWN THE COURSE OF THE  
19 CIGARETTE.

20 OKAY. SO THAT'S UNDER A  
21 MEASURED -- A MACHINE MEASURED THING. WE CAN SHOW  
22 THAT THESE VARIOUS CHANGES THAT WE MAKE REDUCE THE  
23 AMOUNT OF TAR.

24 AND THOSE ARE THE TAR NUMBERS THAT  
25 YOU SEE ON PACKS OR THAT YOU SEE IN REPORTS THAT  
26 ARE PUBLISHED BY THE FEDERAL TRADE COMMISSIONER.

27 Q. THANK YOU.

28 YOU SAID -- WHY DON'T YOU JUST STAY

1 THERE JUST FOR A LITTLE WHILE LONGER BECAUSE I MAY  
2 ASK YOU TO DO ONE OTHER THING.

3 YOU SAID A LITTLE EARLIER I THOUGHT  
4 THAT YOU COULD MAKE A NO TAR CIGARETTE?

5 A. YES.

6 Q. IS TAR THE WORST THING IN A  
7 CIGARETTE, AS FAR AS CAUSING CANCER IS CONCERNED?

8 A. WELL, TAR IS THOUSANDS OF  
9 CHEMICALS. THE CARCINOGENS ARE IN THE TAR.  
10 NICOTINE ITSELF IS NOT A CARCINOGEN.

11 SO IF YOU THINK ABOUT NICOTINE AND  
12 YOU THINK ABOUT TAR, THE CARCINOGENS ARE IN THE  
13 TAR.

14 SO IF YOU HAVE NO TAR, YOU HAVE NO  
15 CARCINOGENS.

16 Q. AND YOU SAY YOU CAN MAKE A  
17 CIGARETTE WITH NO TAR AND NO CARCINOGENS?

18 A. VIRTUALLY -- YES, VIRTUALLY NO TAR.

19 Q. HANG ON ONE SECOND, PLEASE.

20 NOW, SOMETIME ON DOWN THE LINE THIS  
21 MORNING, WE ARE GOING TO BE TALKING ABOUT WHY, IN  
22 YOUR VIEWPOINT, IT IS THAT LIGHT CIGARETTES -- ARE  
23 THEY ALSO CALLED LOW TAR CIGARETTES?

24 A. YES.

25 Q. LIGHT CIGARETTES OR LOW TAR  
26 CIGARETTES ARE NOT SAFER THAN REGULAR CIGARETTES?

27 A. THAT IS CORRECT.

28 Q. IS THIS SOMETHING THAT YOU HAVE

1 JUST COME UP WITH LATELY?

2 A. NO.

3 Q. ARE YOU AWARE OF INTERNAL PHILIP  
4 MORRIS DOCUMENTS THAT PRE-DATE EVEN YOUR BEING  
5 THERE TO THAT EFFECT?

6 A. YES, I AM

7 Q. TELL US.

8 A. WELL, THE PROBLEM IS THAT GIVEN THE  
9 WAY THIS CIGARETTE WORKS, IT'S EASY FOR THE SMOKER  
10 TO DEFEAT THE PURPOSE OF A LOW TAR CIGARETTE. THAT  
11 IS, IF YOU SUCK HARDER ON THE LOW TAR CIGARETTE  
12 THAN ON THE HIGH TAR CIGARETTE, YOU ARE GOING TO  
13 GET MORE TAR OUT OF THE LOW TAR CIGARETTE.

14 IF YOU COVER THE HOLES, YOU WILL  
15 GET MORE.

16 IF YOU TAKE MORE PUFFS, YOU WILL  
17 GET MORE.

18 SO THE FACT THAT ONE DESIGNS  
19 SOMETHING THAT CAN DELIVER MORE, DOES NOT MEAN THAT  
20 IT ACTUALLY WILL DELIVER MORE TO THE SMOKER.

21 ESPECIALLY IF THE SMOKER DOESN'T  
22 KNOW HOW TO USE THAT PRODUCT. THEY DON'T KNOW WHAT  
23 IT IS THEY ARE SUPPOSED TO DO TO MAKE IT DELIVER  
24 WHAT THE MACHINE SAID IT HAD.

25 Q. YOU SAID "MORE" TWICE. DID YOU  
26 MEAN TO SAY "LESS," THE LIGHT CIGARETTE IS DESIGNED  
27 TO DELIVER LESS?

28 A. YES. PARDON ME IF I SAID THAT.

1 THE LIGHT CIGARETTE IS DESIGNED TO DELIVER LESS.  
2 BUT IF YOU SUCK ON IT MORE, YOU WILL GET MORE OUT  
3 OF IT.

4 IF YOU COVER THE HOLES, YOU WILL  
5 GET MORE OUT OF IT. SO YOU ARE GETTING MORE THAN  
6 IT WAS DESIGNED TO GIVE YOU. THAT IS CALLED  
7 COMPENSATION OR IT'S CALLED -- WELL, THAT'S THE  
8 NORMAL TERM APPLIED TO IT.

9 Q. WELL, NOW, I THINK THE QUESTION  
10 WAS, ARE YOU AWARE OF PHILIP MORRIS DOCUMENTS THAT  
11 SHOW THAT THEY KNEW EXACTLY THAT BEFORE YOU EVER  
12 GOT THERE?

13 A. YES, I WAS AWARE OF IT. IT WAS  
14 EXPLAINED TO ME WHEN I GOT THERE IN 1976, THAT  
15 PEOPLE DON'T SMOKE THE WAY A MACHINE DOES. AND AS  
16 A MATTER OF FACT, PHILIP MORRIS HAD CATEGORIZED  
17 DIFFERENT TYPES OF SMOKERS. THEY HAD MEASURED HOW  
18 THEY SMOKED AND THEY KNEW HOW MUCH MORE TAR PEOPLE  
19 WOULD GET THAN WHAT WAS ON THE PANEL.

20 Q. HOW?

21 A. THEY HAD -- TAKE THE SMOKING  
22 MACHINE AND THEY DID WHAT WE CALL HUMAN SMOKE  
23 SIMULATION. THEY ACTUALLY MEASURE BY WATCHING  
24 PEOPLE, HOW MUCH THEY INHALE. THEY MEASURED THEIR  
25 PUFF DURATIONS. THEY MEASURE HOW STRONG THEY DRAW  
26 ON THE CIGARETTE AND THEY TOOK THOSE PARAMETERS AND  
27 THEY BROKE IT INTO GROUPS OF SMOKERS AND THEY HAD  
28 WHAT THEY CALL A HUMAN SMOKE SIMULATOR. THIS IS A

1 COMPUTER PROGRAM THAT RAN A SMOKING MACHINE, SO  
2 THAT THE SMOKING MACHINE WOULD SMOKE MORE LIKE A  
3 HUMAN THAN LIKE THE CONDITIONS THAT WERE USED IN  
4 THE FEDERAL TRADE COMMISSION TEST.

5 Q. ALL RIGHT. YOUR HONOR, IF MY INPUT  
6 IS WORTH ANYTHING, IS THIS AN OKAY TIME?

7 THE COURT: VERY WELL. THIS IS AN  
8 EXCELLENT TIME FOR US TO BREAK.

9 THANK YOU, LADIES AND GENTLEMEN.  
10 DO NOT DISCUSS THE CASE WITH ANYONE DURING THE  
11 BREAK.

12 WE WILL BE BACK AT -- WE WILL START  
13 AT EXACTLY 10 MINUTES TO 11:00.

14

15 (AT THIS TIME, A RECESS  
16 WAS TAKEN.)

17

18 (THE FOLLOWING PROCEEDINGS  
19 WERE HELD IN OPEN COURT OUT  
20 OF THE PRESENCE OF THE JURY:)

21

22 MR. PIUZE: I NEED A LITTLE GUIDANCE FROM  
23 THE COURT AND HERE IS WHY: SOME OF THESE DOCUMENTS  
24 I WANT TO SHOW TO THE WITNESS ARE  
25 SELF-AUTHENTICATING, MEANING, THERE IS NO  
26 FOUNDATION OBJECTION. IT CAME OFF OF PHILIP  
27 MORRIS'S WEB SITE. THE WEB SITE WAS SPECIFICALLY  
28 PUT UP THERE AS FAR AS THE ATTORNEY'S GENERAL SUIT

1 SO PEOPLE LIKE ME AND YOUR HONOR AND THE JURY WOULD  
2 HAVE ACCESS TO THESE DOCUMENTS.

3 SECONDLY, THE DOCUMENTS ARE  
4 RELEVANT, IN OTHER WORDS, THEY DON'T NEED A WITNESS  
5 TO BLESS THEM AND TOUCH THEM OR ANYTHING. IF THE  
6 COURT DETERMINES THEY ARE RELEVANT, THEY JUST COME  
7 ON IN BECAUSE THERE IS NO FOUNDATION. THERE IS NO  
8 FOUNDATION.

9 THESE ARE ALL ADMISSIONS AGAINST  
10 INTEREST.

11 HAVING SAID THAT -- WELL, LET ME  
12 STOP THERE. DOES THE COURT DISAGREE WITH ANY OF  
13 THAT?

14 BECAUSE IF THE COURT DOES, THEN I  
15 AM GOING TO HAVE TO CHANGE AROUND A LITTLE.

16 MR. LEITER: I DON'T THINK THIS REALLY  
17 ADDRESSES THE PROBLEM

18 DOCUMENTS ARE NOT AUTHENTIC BECAUSE  
19 THEY HAVE COME OFF THE WEB SITE. WE HAVE  
20 STIPULATED TO THE AUTHENTICITY OF MANY OF THESE  
21 DOCUMENTS.

22 THE ISSUE IS NOT WHETHER OR NOT  
23 THESE DOCUMENTS ARE AUTHENTIC. AND IN MOST  
24 INSTANCES, THE ISSUE ISN'T EVEN WHETHER THEY ARE  
25 RELEVANT TO THE CASE.

26 THE ISSUE IS PUTTING THEM IN FRONT  
27 OF A PARTICULAR WITNESS AND HAVING THAT WITNESS  
28 TESTIFY ABOUT THE DOCUMENT, ABOUT THE CONTENTS OF

1 THE DOCUMENT, WHERE THAT WITNESS HAS NO PERSONAL  
2 KNOWLEDGE OF THE DOCUMENT. EVEN IF THE DOCUMENT IS  
3 ADMISSIBLE INTO EVIDENCE, WHAT WE ARE OBJECTING TO  
4 IS USING DR. FARONE AS AN EXAMPLE, PUTTING THE  
5 DOCUMENT IN FRONT OF DR. FARONE WITHOUT  
6 ESTABLISHING HE SAW IT WHEN HE WAS AT PHILIP  
7 MORRIS, THAT HE IS FAMILIAR WITH IT, IT'S CONTENTS,  
8 BECAUSE HE SAW IT AT PHILIP MORRIS, AND HAVE HIM  
9 TALK ABOUT WHAT THAT DOCUMENT SAYS OR MEANS.

10 THE COURT: WHAT HE CAN SAY, AND WHAT I  
11 THINK HE HAS DONE HERE IS SAY I HAVE DISCUSSED THAT  
12 SUBJECT MATTER, DISCUSSED WHILE I WAS THERE AND  
13 THAT WOULD FURTHER AUTHENTICATE THE DOCUMENT, IF  
14 YOU WILL, AND SUPPORT ITS GENUINENESS.

15 MR. LEITER: THE OBJECTION IS NOT TO THE  
16 GENUINENESS OF THE DOCUMENT, IT'S TO DR. FARONE WAS  
17 AT PHILIP MORRIS FROM 1976 TO 1984, SHOWING HIM A  
18 PHILIP MORRIS DOCUMENT FROM 1965, FOR EXAMPLE, AND  
19 SAY WHAT DOES THIS DOCUMENT TELL YOU. THIS  
20 DOCUMENT TELLS ME THAT THE GENTLEMEN'S AGREEMENT  
21 WAS IN EFFECT IN 1965.

22 THE COURT: I WOULDN'T ALLOW THAT.

23 MR. LEITER: THAT'S MY CONCERN AND  
24 THAT'S WHAT I BELIEVE COUNSEL IS INTENDING TO DO  
25 WITH THOSE DOCUMENTS.

26 MR. PIUZE: IT ISN'T, BUT AS LONG AS WE  
27 ARE TALKING A MINUTE HERE, LET ME TAKE ONE MORE.

28 FOUNDATION ISN'T, WE DON'T HAVE TO

1 TALK ABOUT FOUNDATION IN ANY OF THIS.

2 THE COURT: I AGREE.

3 MR. PIUZE: IF THESE ARE GOING TO BE IN  
4 EVIDENCE AT THE END OF THE CASE, OBVIOUSLY, THESE  
5 ARE DAMNING DOCUMENTS, AND OBVIOUSLY, KNOWING THAT  
6 THEY ARE GOING TO COME IN EVIDENCE AT THE END OF  
7 THE CASE, THE DEFENSE WOULD LIKE THEM UNDER THE  
8 RADAR THROUGHOUT THE WHOLE CASE. AND I DON'T BLAME  
9 THEM I GUESS IF I WAS DEFENDANT PHILIP MORRIS, SO  
10 WOULD I. AND ALL OF THE SUDDEN THEY APPEAR AT THE  
11 END OF THE CASE, I DON'T WANT TO DO THAT.

12 WHAT I HAD INTENDED TO DO WITH SOME  
13 OF THESE, ONE OR TWO, I WILL TELL THE COURT RIGHT  
14 NOW, ONE OR TWO THAT WE ALREADY PASSED ON THIS MAN  
15 DOES HAVE PERSONAL KNOWLEDGE ON AND I WILL GO BACK  
16 THERE. BUT WHAT I HAD INTENDED TO DO WAS SAY,  
17 LOOK, THIS IS A DOCUMENT FROM ANOTHER ERA. THE  
18 JURY IS GOING TO SEE THIS LATER ON. NOW, I WANT TO  
19 KNOW, IS THIS THE WAY BUSINESS WAS CONDUCTED WHILE  
20 YOU WERE THERE, HAD ANYTHING CHANGED, IS THIS THE  
21 WAY IT WAS.

22 THE COURT: THAT'S FAIR, THAT'S A FAIR --  
23 THAT'S A FAIR THING.

24 MR. LEITER: HERE'S THE ISSUE. TAKE ONE  
25 MORE SECOND.

26 PLAINTIFF'S STRATEGY ASIDE, HIS  
27 STRATEGY DOESN'T ENTITLE HIM TO HAVE WITNESSES  
28 WITHOUT PERSONAL KNOWLEDGE TALK ABOUT DOCUMENTS AND

1 PERSONAL KNOWLEDGE, PARTICULARLY WITH DR. FARONE,  
2 MEANS TWO DIFFERENT THINGS, I THINK, TO EACH OF US.  
3 TO US IT MEANS, WHILE HE WAS AT PHILIP MORRIS, DID  
4 HE SEE THIS DOCUMENT. DOES HE HAVE ANY  
5 RELATIONSHIP TO THIS DOCUMENT. TO PLAINTIFF, I  
6 BELIEVE, IT MEANS, DR. FARONE, IN HIS CAREER,  
7 TESTIFYING AGAINST PHILIP MORRIS, HAS SEEN AND  
8 REVIEWED LOTS AND LOTS OF DOCUMENTS. I DON'T THINK  
9 THAT GIVES HIM FAMILIARITY WITH THE DOCUMENT IN THE  
10 EVIDENTIARY SENSE.

11 THE COURT: NO.

12 MR. LEITER: TO COME TALK ABOUT IT, SO  
13 WHAT WE ARE SAYING IS IF HE IS GOING TO TESTIFY  
14 ABOUT A DOCUMENT, IT OUGHT TO BE A DOCUMENT THAT  
15 WAS CREATED WHEN HE WAS AT PHILIP MORRIS, THAT HE  
16 SAW WHEN HE WAS AT PHILIP MORRIS, AND THAT HE HAS  
17 SOME KNOWLEDGE ABOUT. NOT SOMETHING HE HAS PICKED  
18 UP IN STUDYING TO BE AN EXPERT WITNESS.

19 THE COURT: I AM GOING TO RESOLVE THIS  
20 RIGHT NOW

21 I WILL ALLOW THE DISCUSSION AS LONG  
22 AS IT IS LIMITED TO A PRESENTATION OF THE SUBJECT  
23 MATTER OF THE DOCUMENT AND ITS CONTENT.

24 AND THEN A DISCUSSION FROM THIS  
25 WITNESS AS TO HIS PERSONAL KNOWLEDGE OF DISCUSSIONS  
26 ALONG THOSE LINES OR POLICIES ALONG THOSE LINES  
27 THAT WERE IN EFFECT WHILE HE WAS AT THE COMPANY.

28 BUT HE OBVIOUSLY CANNOT TESTIFY AS

1 TO THE PRIOR EXISTENCE OF THE DOCUMENT AND THE FACT  
2 THAT HE GOT THE, SAW THE DOCUMENT ITSELF IN  
3 CONNECTION WITH LITIGATION, DOESN'T, IN ANY WAY,  
4 SUPPORT ITS ADMISSIBILITY OR AUTHENTICITY.

5 AS LONG AS IT IS LIMITED WHO THOSE  
6 CONFINES, WE ARE FINE.

7 START GETTING OUTSIDE THOSE, I WILL  
8 START BARKING.

9 MR. LEITER: THANK YOU, YOUR HONOR.

10 THE COURT: THANK YOU, COUNSEL.

11

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

15

16

17 WILLIAM ANTHONY FARONE,  
18 CALLED AS A WITNESS BY THE PLAINTIFF, HAVING BEEN  
19 PREVIOUSLY DULY SWORN, RESUMED THE WITNESS STAND  
20 AND TESTIFIED FURTHER AS FOLLOWS:

21 THE COURT: OUR JURY PANEL IS PRESENT,  
22 COUNSEL, WITNESSES PRESENT.

23 SIR, YOU UNDERSTAND YOU ARE STILL  
24 UNDER OATH?

25 THE WITNESS: YES, I DO.

26 THE COURT: PROCEED.

27 MR. PIUZE: THANK YOU.

28 /// /// ///

1 MR. PIUZE: YOUR HONOR, I FORGET, CAN I  
2 JUST WALK UP WITHOUT ASKING.

3 THE COURT: PLEASE.

4

5 DIRECT EXAMINATION (RESUMED)

6

7 BY MR. PIUZE:

8 Q. I WANT TO SHOW YOU A DOCUMENT  
9 NUMBER 67.00. TAKE A LOOK AT IT, PLEASE. IT'S  
10 THAT PARTICULAR PAGE THAT IS HIGHLIGHTED IN YELLOW  
11 SPEND YOUR TIME AND LOOK AT IT.

12 THE WITNESS: YES.

13

14 \* (EXHIBIT 67.00, MEMO,  
15 MARKED FOR I. D.)

16

17 Q BY MR. PIUZE: NOW, FIRST OF ALL,  
18 DID YOU EVER DISCUSS THIS DOCUMENT WHILE YOU WERE  
19 AT PHILIP MORRIS?

20 A. YES, I DID.

21 Q. WITH WHOM?

22 A. DR. WAKEHAM

23 Q. I KNOW, I MEAN, I, OBVIOUSLY, YOU  
24 KNOW ALL THESE PEOPLE. BUT THE REST OF US HAVE  
25 HEARD ALL THESE NAMES THAT ARE BEING THROWN AT US  
26 THIS MORNING. SO JUST REMIND US, DR. WAKEHAM IS?

27 A. AT THE TIME WE DISCUSSED IT,  
28 DR. WAKEHAM BEFORE I CAME TO WORK, WHEN HE WAS THE

1 VICE-PRESIDENT OF RESEARCH AND DEVELOPMENT THAT HE  
2 WAS PROMOTED TO A CORPORATE POSITION, I THINK IT  
3 WAS VICE-PRESIDENT OF RESEARCH AND TECHNOLOGY OR  
4 SOMETHING LIKE THAT. AND THE MAN WHO TOOK HIS  
5 PLACE, DR. SELIGMAN, DR. ROBERT B. SELIGMAN, BECAME  
6 THE VICE-PRESIDENT OF RESEARCH AND DEVELOPMENT AND  
7 HE WAS MY BOSS, DR. SELIGMAN.

8 BUT DR. WAKEHAM HAD BEEN THERE FOR  
9 MANY YEARS AND HAD CONFRONTED MANY OF THESE ISSUES.

10 AND IN MY FIRST YEAR WHERE I WAS  
11 LEARNING AS MUCH AS I COULD ABOUT THE HISTORY OF  
12 THE COMPANY, DR. WAKEHAM STILL HAD AN OFFICE IN  
13 RICHMOND. AND I WOULD FREQUENTLY GO IN AND DISCUSS  
14 VARIOUS ISSUES WITH HIM AND THAT'S HOW I CAME TO  
15 SEE THAT DOCUMENT. WE WERE DISCUSSING  
16 PRESENTATIONS THAT HE HAD MADE IN THE PAST.

17 Q. OKAY. SO THE PAGE THAT I AM  
18 INTERESTED IN DISPLAYING HERE IS PAGE 4 OF DOCUMENT  
19 67.00.

20 MR. LEITER: NO OBJECTION.

21 Q BY MR. PIUZE: OKAY, IT'S A POOR  
22 QUALITY FOR WHICH I APOLOGIZE TO EVERYONE BUT I  
23 HAVE HIGHLIGHTED THE YELLOW

24 HERE'S WHAT IT SAYS:

25 "WE HAVE REASON TO BELIEVE  
26 THAT IN SPITE OF THE GENTLEMEN'S  
27 AGREEMENT FROM THE TOBACCO INDUSTRY IN  
28 PREVIOUS YEARS, THAT AT LEAST SOME OF

1 THE MAJOR COMPANIES HAVE BEEN  
2 INCREASING BIOLOGIC STUDIES WITHIN THE  
3 THEIR OWN FACILITIES. "

4 OKAY. NOW, UNDER WHAT  
5 CIRCUMSTANCES WAS IT THAT YOU DISCUSSED THIS  
6 PARTICULAR DOCUMENT?

7 A. WELL, I WAS TRYING TOP UNDERSTAND  
8 THE PARAMETERS UNDER WHICH THE SAFETY TESTING WOULD  
9 BE DONE. AND THIS IS A DRAFT, ACTUALLY, OF ANOTHER  
10 DOCUMENT THAT WAS THE ONE THAT HE ACTUALLY  
11 PRESENTED BECAUSE THERE WAS ONLY A LIMITED NUMBER  
12 OF PEOPLE WHO KNEW ABOUT THE GENTLEMEN' S AGREEMENT.

13 BUT THIS WAS HIS WAY OF EXPLAINING  
14 TO ME WHAT I MENTIONED BEFORE, THAT THE WAY WE WERE  
15 GOING TO DO THE TESTING WAS THAT WE WERE GOING TO  
16 DEVELOP THE PRODUCTS, GIVE THEM TO DR. OSDENE,  
17 DR. OSDENE WOULD HAVE THEM TESTED SOMEWHERE ELSE  
18 AND THEN THOSE RESULTS WOULD COME BACK TO  
19 DR. OSDENE AND DR. OSDENE WOULD TELL US WHAT THE  
20 RESULTS WERE.

21 THAT WAS THE WAY WE WERE GOING TO  
22 HANDLE THE TESTING.

23 Q. NOW, YOU SAY THE FINAL DOCUMENT  
24 DIDN' T HAVE THESE WORDS IN IT?

25 A. THAT IS CORRECT.

26 Q. HERE. I' D LIKE TO SHOW YOU ANOTHER  
27 ONE NOW

28 MR. LEITER: NO OBJECTION TO

1 ADMISSIBILITY -- NO OBJECTION TO ADMISSIBILITY. I  
2 NEED TO ESTABLISH PERSONAL KNOWLEDGE.

3 THE WITNESS: OH, YES.

4 MR. PIUZE: OH, YES.

5 Q BY MR. PIUZE: DO YOU RECOGNIZE  
6 THAT DOCUMENT?

7 A. I DO.

8 Q. WHAT IS IT, PLEASE?

9 A. IT'S A DOCUMENT THAT I HAD  
10 DISCUSSED WITH DR. WILLIAM DUNN ABOUT SOME OF THE  
11 WORK THAT WAS BEING DISCUSSED THERE.

12 Q. THIS IS EXHIBIT NUMBER, THE  
13 DOCUMENT IS 130.00. THE BLOWUP IS 8058.00.

14

15 \* (EXHIBIT 130.00, DOCUMENT,  
16 MARKED FOR I. D.)

17

18 Q BY MR. PIUZE: AND BEFORE I ASK  
19 YOU ANY QUESTIONS, THAT LAST ONE I SHOWED YOU, I  
20 GUESS I IDENTIFIED THAT FOR THE RECORD SO WE ARE  
21 OKAY.

22 SO AS TO THE THING THAT'S UP ON THE  
23 BOARD NOW, UP WHERE THE JURY CAN SEE IT, HOW DID  
24 YOU COME TO BE DISCUSSING THAT DOCUMENT?

25 A. THIS IS ABOUT A YEAR AND A HALF  
26 AFTER I HAD BEEN THERE. AND I HAD BEEN TOLD BY  
27 DR. OSDENE ON SEVERAL OCCASIONS THAT ONE OF HIS  
28 MAIN MISSIONS, AS HE PUT IT, WAS TO MAINTAIN THE

1 CONTROVERSY, MEANING, KEEP SHEDDING DOUBT ON  
2 WHETHER OR NOT NICOTINE WAS ADDICTIVE AND WHETHER  
3 OR NOT SMOKING CAUSED DISEASE.

4 Q. STOP, PLEASE.  
5 LET ME INTERRUPT YOUR ANSWER.  
6 T. S. OSDENE SAID THAT?

7 A. YES, HE DID.

8 Q. IT WAS HIS JOB TO MAINTAIN THE  
9 CONTROVERSY?

10 A. THAT IS CORRECT.

11 Q. ABOUT WHETHER NICOTINE WAS  
12 ADDICTIVE?

13 A. YES.

14 Q. BUT YOU KNEW THAT TO BE ADDICTIVE?

15 A. YES.

16 Q. ABOUT WHETHER TOBACCO CAUSED  
17 DISEASE?

18 A. YES.

19 Q. BUT YOU KNEW THAT CAUSED DISEASE?

20 A. THAT IS CORRECT.

21 Q. ALL THE SCIENTISTS THERE KNEW IT  
22 CAUSED DISEASE?

23 A. WELL, I DON'T KNOW HOW MANY WOULD  
24 ADMIT IT PUBLICALLY. BUT NO ONE, AS I SAID BEFORE,  
25 EVER DENIED IT. AND WHEN WE DISCUSSED IT, WE WERE  
26 ALL WORKING UNDER THE ASSUMPTION THAT WE DID, THAT  
27 WAS NOT AN ASSUMPTION -- THE INFORMATION AVAILABLE  
28 SAID THAT IT DID AND WE WERE TRYING TO REMOVE THE

1 BAD MATERIALS FROM IT, FROM THE SMOKE.

2 Q. SO THE CONTROVERSY THAT T. S. OSDENE  
3 SAID IT WAS HIS JOB TO MAINTAIN, THAT WAS A FALSE  
4 CONTROVERSY, WASN'T IT?

5 A. WELL, IT'S AN ISSUE OF -- IF YOU  
6 LOOK AT IT SCIENTIFICALLY, IT'S A FALSE  
7 CONTROVERSY, YES.

8 IF YOU LOOK AT IT FROM HOW YOU  
9 DEFINE PROOF, YOU KNOW, IF YOU TAKE THE POSITION,  
10 WHICH I THINK SOME OF THE PEOPLE TOOK, THAT UNLESS  
11 YOU CAN PROVE IT 100 PERCENT, WHICH YOU CAN NEVER  
12 PROVE ANYTHING, THEN THERE'S STILL A SHADOW OF A  
13 DOUBT.

14 A. BUT THAT'S NOT THE WAY SCIENCE  
15 WORKS. AND SO TO US, OR TO ME, IT WAS A FALSE  
16 CONTROVERSY.

17 Q. ALL RIGHT. I INTERRUPTED. SO YOU  
18 WERE AT THE POINT WHERE HE SAID IT WAS HIS MISSION  
19 TO MAINTAIN THE CONTROVERSY?

20 A. RIGHT. RIGHT. SO THIS RESEARCH IS  
21 VERY USEFUL, REGARDLESS OF WHY YOU USE IT. AND I  
22 WAS DISCUSSING WITH DOCTOR -- DR. DUNN WORKED FOR  
23 DR. OSDENE. SO HE'S REPORTING TO HIS BOSS SAYING  
24 WE ARE GOING TO DO THIS WORK.

25 AND I DISCUSSED IT WITH BOTH  
26 DR. LEVY AND DR. DUNN BECAUSE I FELT THAT THAT  
27 SHOULDN'T BE, WHEREVER THE RESULTS COME OUT, THEY  
28 SHOULD COME OUT, AND YOU SHOULDN'T BE HIDING ANY

1 RESULTS. THAT'S NOT THE PROPER WAY TO CARRY OUT  
2 SCIENCE.

3 Q. WELL, I ASKED YOU A SIMILAR  
4 QUESTION TO THIS EARLIER THIS MORNING. IN OTHER  
5 INDUSTRIES IN WHICH YOU HAVE BEEN INVOLVED, OR  
6 WHICH YOU HAVE CONSULTED, HAVE YOU SEEN OTHER  
7 CONSUMER PRODUCTS IN INDUSTRY WHERE WHEN THEY ARE  
8 DOING TESTS TO SEE IF SOMETHING IS GOOD OR BAD FOR  
9 PEOPLE, THEY DECIDE THEY ARE GOING TO BURY THE  
10 EVIDENCE IF IT TURNS OUT TO BE A BAD ANSWER?

11 A. I ACTUALLY HAVE EXPERIENCE WITH A  
12 COUPLE CASES WHERE PEOPLE TRIED TO DO THAT, THE  
13 PEOPLE WERE TERMINATED.

14 Q. OKAY. LET ME SHOW YOU. AND I AM  
15 NOT DISPLAYING THIS FOR THE JURY.

16 MR. LEITER: I AM GOING TO OBJECT. HE  
17 TESTIFIED ON THAT ISSUE EARLIER.

18 MR. PIUZE: HE DID.

19 MR. LEITER: HE SAID HE HAD NO  
20 INVOLVEMENT.

21 MR. PIUZE: MY MEMORY IS GOING.

22 Q BY MR. PIUZE: NO ONE CAN SEE THAT  
23 BUT YOU AND THE JUDGE RIGHT NOW DO YOU RECOGNIZE  
24 THAT DOCUMENT?

25 THE WITNESS: I HAD NO INVOLVEMENT WITH  
26 C. T. R. , BUT I CERTAINLY AM AWARE OF THAT MEMO. I  
27 SAT IN A CONFERENCE BETWEEN THE TWO GENTLEMEN.

28 MR. LEITER: CAN WE HAVE A QUESTION.

1 THE COURT: ALL RIGHT. FOUNDATION.

2 Q BY MR. PIUZE: DON'T TALK ABOUT  
3 THE CONTENTS OF THIS MEMO YET, PLEASE.

4 WHAT IS YOUR KNOWLEDGE ABOUT THE  
5 MEMO PLEASE? IT'S NOVEMBER 29, 1977.

6 A. WEEKLY, WE WOULD HAVE MEETINGS  
7 BETWEEN DR. SELIGMAN AND THE DIRECTORS THAT  
8 REPORTED TO HIM, WHICH INCLUDED, AT THAT TIME,  
9 MYSELF AND DR. OSDENE, DR. GANNON AND MR. THOMPSON,  
10 AND DR. SELIGMAN WOULD HAND OUT ASSIGNMENTS AT  
11 THESE MEETINGS. AND HE HANDED OUT THE ASSIGNMENT  
12 TO DR. OSDENE TO PREPARE A MEMO FOR HIM WHICH WOULD  
13 DESCRIBE WHAT, IN DR. OSDENE'S OPINION, THE C. T. R.  
14 SHOULD DO AND WHAT THEY SHOULD NOT DO. AND THAT  
15 WAS A SUBJECT FOR THE DIRECTORS' MEETING.

16 DR. OSDENE WROTE IN MEMO TO  
17 DR. SELIGMAN, WHICH I ALSO HAVE SEEN, WHERE HE  
18 DESCRIBED HIS REASONING AND HE DISCUSSED IT AT THIS  
19 MEETING, FOR WHAT SHOULD BE DONE WITH REGARD TO  
20 PHILIP MORRIS'S RELATIONSHIP WITH C. T. R. AND WHAT  
21 ADVICE SHOULD BE GIVEN INTO C. T. R.

22 DR. SELIGMAN, AT THIS MEETING,  
23 SAID, OKAY, WELL, I WILL JUST TAKE THE, YOUR  
24 SUGGESTIONS, SPECIFIC ONES, AND ATTACH IT TO A  
25 LETTER THAT I AM GOING TO WRITE. AND THAT WAS THE  
26 RESULT, THAT LETTER IS THE RESULT OF REMOVING, I  
27 THINK IT'S THREE PAGES FROM THE BACK OF  
28 DR. OSDENE'S MEMO TO DR. SELIGMAN AND ATTACHING IT

1 TO DR. SELIGMAN'S LETTER TO MR. SPEARS, DR. SPEARS.

2 Q. ALL RIGHT. YOUR HONOR, MAY I  
3 DISPLAY THIS NOW?

4 THE COURT: YOU MAY.

5 MR. PIUZE: I WANT TO CREATE A NEW  
6 NUMBER, 8058.01.

7

8 \* (EXHIBIT 8058.01, MEMO,  
9 MARKED FOR I. D.)

10

11 THE COURT: IS THERE A MOTION AS TO THE  
12 LAST DOCUMENT PUT BEFORE THE JURY?

13 Q BY MR. PIUZE: NOW, THAT, I GUESS,  
14 SPEAKS FOR ITSELF, BUT HERE'S WHAT I WANT TO KNOW

15 THIS THOUGHT THAT THE COMPANY  
16 SHOULD NOT PUBLICALLY ACCEPT THE FACT THAT NICOTINE  
17 IS HABITUATING, JUST LIKE AN OPIATE, WAS THAT A  
18 THOUGHT THAT WAS MAINTAINED FOR PUBLIC CONSUMPTION  
19 THROUGHOUT YOUR TIME AND PHILIP MORRIS?

20 MR. LEITER: OBJECTION, ARGUMENTATIVE AND  
21 MISSTATES WHAT THE DOCUMENT SAYS.

22 THE COURT: WELL, WAS THAT YOUR  
23 UNDERSTANDING OF THE COMPANY'S POSITION AT THE  
24 TIME?

25 THE WITNESS: YES.

26 Q BY MR. PIUZE: THE THREE PAGES  
27 THAT AREN'T THERE, WHAT DID THEY DISCUSS?

28 A. WELL, WHAT CAME TO BE OR WHAT IS

1 THE CONCEPT OF HABITUATING, AS BEING DISTINCT FROM  
2 ADDICTION, THAT'S JUST A HABIT. THAT WAS A THOUGHT  
3 THAT DR. OSDENE AND --

4 MR. LEITER: YOUR HONOR, I AM GOING TO  
5 OBJECT. THIS ISN'T RESPONSIVE TO THE QUESTION.  
6 THE QUESTION IS WHAT WAS DONE IN THE THREE PAGES.

7 THE COURT: FAIR ENOUGH. SHARPEN THE  
8 QUESTION.

9 Q BY MR. PIUZE: WHAT WAS THE  
10 SUBJECT MATTER -- WHAT WAS THE SUBJECT MATTER OF  
11 THE OTHER THREE PAGES?

12 A. WAS THE KINDS OF THINGS, RESEARCH,  
13 THAT SHOULD BE DONE WITH REGARD TO NICOTINE. I  
14 DON'T REMEMBER THEM ALL, BUT THERE WAS A BUNCH OF  
15 THINGS THAT COULD BE THE SUBJECT FOR C. T. R. WORK  
16 CONCERNING NICOTINE.

17 Q. ALL RIGHT. AND WAS ONE OF THE  
18 THINGS LISTED THERE TO DIFFERENTIATE HABITUATING  
19 SOMEHOW FROM ADDICTIVE?

20 A. I DON'T RECALL.

21 Q. WAS THAT A SUBJECT THAT WAS  
22 DISCUSSED IN REGARD TO THIS PARTICULAR MEMO?

23 A. YES, IT WAS. IT WAS A SUBJECT THAT  
24 WAS DISCUSSED AMONG US WITH REGARD TO THIS MEMO.  
25 BUT I DON'T RECALL WHETHER THAT IS SPECIFICALLY ON  
26 OSDENE'S LIST.

27 Q. FINE, THANK YOU.

28 WHY, WHAT'S THE BIG DEAL ABOUT A

1 DEFINITION OF HABITUATING VERSUS ADDICTIVE, TRYING  
2 TO SPLIT ONE AWAY FROM THE OTHER?

3 A. WELL, I MEAN, THE IDEA IS SOMETHING  
4 IS A HABIT THAT'S DIFFERENT THAN AN ADDICTION.  
5 IT'S A QUESTION OF WHERE DOES A HABIT STOP AND AN  
6 ADDICTION BEGIN. AND CHARACTERIZING SOMETHING AS  
7 BEING A HABIT MAKES IT SEEM LESS ONEROUS THAN AN  
8 ADDICTION. SO THAT WAS THE THOUGHT, ANYWAY, THAT  
9 WAS BEING DISCUSSED.

10 Q. I JUST WANT TO GET THAT OUT.  
11 THIS ISN'T YOU TALKING NOW THIS  
12 IS THESE TWO GUYS TALKING BETWEEN THEMSELVES?

13 A. THIS IS, YEAH, THIS IS FORMULATING  
14 WHAT ARE WE GOING TO CALL THE RESPONSE TO NICOTINE.  
15 ARE WE GOING TO SAY THAT THE SMOKERS ARE ADDICTED  
16 OR ARE WE GOING TO SAY THEY ARE HABITUATED.  
17 HABITUATED SOUNDS BETTER, SO WE ARE GOING TO SAY  
18 THEY ARE HABITUATED, IT'S A HABIT.

19 Q. AND THAT DISCUSSION TOOK PLACE  
20 ALMOST 25 YEARS AGO?

21 A. YES.

22 Q. AND I'D LIKE TO SHOW YOU ONE MORE  
23 OF THESE LARGE ONES, MAYBE, AND THEN I WANT TO GO  
24 BACK TO THE SMALLER ONES AND BACK TO OUR  
25 DISCUSSION.

26 THIS PARTICULAR DOCUMENT, THE SMALL  
27 VERSION IS 422.00, AND THE BIG ONE IS 8061.00.

28 /// /// ///

1                                   \* (EXHIBIT 422.00, MEMO,  
2                                   MARKED FOR I. D.)

3

4                   Q     BY MR. PIUZE: THIS WAS WRITTEN  
5 AFTER YOU LEFT, I WANT YOU TO NOTE THAT TO START  
6 WITH.

7                                   DO YOU SEE THAT -- AM I WRONG?

8                   A.     YOU ARE WRONG.

9                   Q.     MY MATH IS WRONG.

10                                  1980 WAS STRAIGHT IN THE MIDDLE OF  
11 WHEN YOU WERE THERE?

12                   A.     THAT IS CORRECT.

13                   Q.     DO YOU HAVE PERSONAL KNOWLEDGE OF  
14 THIS MEMO?

15                   A.     I DO.

16                   Q.     HOW?

17                   A.     IT ALSO WAS DISCUSSED AT A  
18 DIRECTORS' MEETING.

19                   Q.     WHY DON'T WE HEAR A LITTLE BIT  
20 ABOUT -- I KNOW YOU HAVE TOUCHED UPON SOME OF THIS.  
21 BUT WHEN YOU MET WITH OTHER HIGH-RANKING SCIENTISTS  
22 AT THE COMPANY, HOW OFTEN YOU MET WITH OTHER  
23 HIGH-RANKING SCIENTISTS AT THE COMPANY, WAS THE  
24 PURPOSE OF THE MEETINGS WITH OTHER HIGH-RANKING  
25 SCIENTISTS AT THE COMPANY, CAN YOU JUST GIVE US AN  
26 OVERVIEW OF THAT.

27                                  THE COURT: TOO BROAD.

28                   Q     BY MR. PIUZE: WAS THERE A

1 REGULARLY SCHEDULED MEETING, LET'S PUT IT THAT WAY?

2 A. YES.

3 Q. HOW REGULAR?

4 A. TWO KINDS. ONE, THIS DIRECTORS'  
5 MEETING WAS THE PEOPLE THAT REPORTED TO  
6 DR. SELIGMAN WAS APPROXIMATELY ONCE A WEEK.  
7 SOMETIMES WE WOULD SKIP A WEEK. AND THEN THERE IS  
8 A PROJECT REVIEW PROCESS WHERE EVERY FRIDAY, ONE  
9 SCIENTIST WOULD PRESENT A SUMMARY, EITHER OF HIS  
10 ANNUAL RESEARCH RESULTS OR SEMI-ANNUAL, IN OTHER  
11 WORDS, SOME OF THEM DID IT EVERY SIX MONTHS. SOME  
12 DID IT EVERY YEAR, DEPENDING UPON THE PRIORITY OF  
13 THE PROJECT, IN WHICH ALL OF THE MANAGERS AS WELL  
14 AS THE DIRECTORS WOULD BE THE AUDIENCE AND THE  
15 SCIENTISTS WOULD PRESENT THEIR PAPER.

16 SO THAT WAS REGULARLY SCHEDULED  
17 MEETINGS OF THE RESEARCH PEOPLE.

18 AND THEN ONCE A MONTH THERE WAS A  
19 SO-CALLED RICHMOND MEETING WHERE THE SENIOR  
20 EXECUTIVES FROM NEW YORK CITY WOULD COME DOWN TO  
21 RICHMOND, VIRGINIA TO BE TOLD TOPICS THAT WE  
22 DETERMINE THEY WOULD BE INTERESTED IN. SO THOSE  
23 ARE THE THREE REGULARLY SCHEDULED MEETINGS.

24 Q. GOT IT.

25 AND IN A GIVEN YEAR, WHAT WOULD YOU  
26 SAY, HOW OFTEN WOULD YOU BE AT ONE OR THE OTHER OF  
27 THESE MEETINGS? A HUNDRED TIMES?

28 A. WELL, IT'S --

1 Q. 50 TIMES?

2 A. 12 TIMES FOR THE RICHMOND MEETING  
3 AND 50 TIMES FOR THE PROJECT REVIEWS AND PROBABLY  
4 30 TIMES FOR THE DIRECTORS' MEETINGS.

5 Q. ALL RIGHT.

6 SO SOME NUMBER THAT'S APPROACHING  
7 100 TIMES A YEAR?

8 A. SOMETHING LIKE THAT.

9 Q. AND AT ALL OF THESE MEETINGS WE ARE  
10 TALKING ABOUT HIGH-RANKING PEOPLE FROM THE COMPANY?

11 A. HIGH-RANKING PEOPLE EITHER FROM  
12 R&D, WHICH IS THE PROJECT MEETINGS, AND THE  
13 DIRECTORS' MEETING AND THEN THE ONLY ONES WHERE I  
14 MET ROUTINELY WITH HIGH-RANKING PEOPLE FOR THE  
15 COMPANIES WERE THE MONTHLY RICHMOND MEETINGS.

16 Q. ALL RIGHT. THANKS.

17 SO HERE IS THIS EXHIBIT THAT WE  
18 HAVE BEEN TALKING ABOUT A LITTLE BIT. AND IT'S  
19 FROM DR. SELIGMAN TO SOMEONE WHO WE HAVE BEEN TOLD  
20 WAS AT LORILLARD TOBACCO COMPANY?

21 A. YES, DR. SPEARS.

22 Q. DO YOU KNOW DOCTOR SPEARS?

23 A. NOT PERSONALLY, BUT I KNOW OF HIM

24 Q. SO HOW DO YOU HAVE PERSONAL  
25 KNOWLEDGE OF THIS PARTICULAR MEMO?

26 A. WELL, THIS IS ANOTHER DOCUMENT  
27 WHERE DR. OSDENE PREPARED, THERE'S ATTACHMENTS TO  
28 THAT DOCUMENT THAT WERE PREPARED BY DR. OSDENE AND

1 THEY WERE DISCUSSED AT OUR DIRECTORS' MEETING AND  
2 DR. SELIGMAN TOOK THOSE ATTACHMENTS AND PUT THEM  
3 BEHIND HIS MEMO. THERE'S A LETTER TO DR. SPEARS.

4 Q. THANKS.

5 I AM DRAWING YOUR ATTENTION,  
6 EVERYONE'S ATTENTION TO THIS, THE PART WHERE WE  
7 HAVE EXPLODED OUT SUBJECTS TO BE AVOIDED.

8 CAN YOU READ THAT FROM WHERE YOU  
9 ARE?

10 A. YES.

11 Q. "DEVELOPING NEW TESTS FOR  
12 CARCINOGENICITY." I GUESS YOU HAVE ALREADY TOUCHED  
13 UPON THAT. BUT THE REASON THAT SUBJECT WAS  
14 AVOIDED --

15 A. I MEAN, OBVIOUSLY, THEY DIDN'T WANT  
16 TO DEVELOP ANY NEW TESTS FOR CARCINOGENICITY THAT  
17 COULD PROVE THAT THE PRODUCT CAUSED CANCER.

18 Q. ATTEMPT TO RELATE HUMAN DISEASE TO  
19 SMOKING. SAME?

20 A. EPIDEMIOLOGY, YES, SAME.

21 Q. CONDUCT EXPERIMENTS WHICH REQUIRE  
22 LARGE DOSES OF CARCINOGEN TO SHOW ADDITIVE EFFECT  
23 OF SMOKING.

24 FIRST OF ALL, DO YOU WANT TO TELL  
25 US WHAT THAT MEANS.

26 A. YES. FREQUENTLY ONE OF THE SAFETY  
27 CRITERIA THAT'S APPLIED IS TO DETERMINE WHAT WE  
28 CALL A DOSE RESPONSE.

1                   WE TAKE ANIMALS AND KEEP GIVING  
2 THEM MORE OF A CHEMICAL AND YOU FIND OUT HOW MUCH  
3 IT TAKES TO CAUSE A CERTAIN REACTION.

4                   ONCE YOU KNOW HOW MUCH IT TAKES TO  
5 CAUSE IT, YOU CAN SET A SAFETY LIMIT AS BEING 100  
6 TIMES OR A THOUSAND TIMES SAFER THAN THAT LIMIT  
7 WHICH CAUSES A PROBLEM

8                   FOR WORKERS, SOMETIMES THEY USE 100  
9 AND FOR ENVIRONMENTAL TOXIC MATERIALS THEY USE  
10 1,000.

11                  SO, FOR EXAMPLE, IF WE KNOW THAT  
12 BENZENE CAUSES CANCER IN HUMANS BECAUSE BENZENE  
13 WORKERS GET A LOT OF CANCER, AND THEN WE WANT TO  
14 MAKE A SAFETY CRITERIA TO APPLY TO PEOPLE WHO ARE  
15 GOING TO BE EXPOSED TO THAT, WE MAY MAKE THE  
16 CRITERIA BEEN 1,000 TIMES LESS THAN WHAT THE  
17 WORKERS WERE EXPOSED TO THAT CAUSED A PROBLEM

18                  BUT WHAT THIS IS REFERRING TO IS  
19 NOT FINDING THE EFFECT LEVEL, IN OTHER WORDS, IF  
20 YOU KEEP TESTING HIGHER DOSES, YOU ARE LIKELY TO  
21 FIND AN EFFECT LEVEL. THEN YOU WOULD BE, IT WOULD  
22 BE INCUMBENT UPON YOU TO APPLY THE SAFETY CRITERIA  
23 OF A HUNDRED TIMES OR 1,000 TIMES THE EFFECT LEVEL.  
24 AND IF YOU CAN'T FIND THE EFFECT LEVEL, YOU CAN SAY  
25 YOU DON'T KNOW WHAT THE FACTOR IS.

26                  Q.     WELL, IS THIS MEMO REPRESENTATIVE  
27 OF THE THINKING YOU WERE PERSONALLY EXPOSED TO AS  
28 FAR AS SAFETY AVOIDANCE DURING YOUR WHOLE TENURE AT

1 PHILIP MORRIS?

2 MR. LEITER: OBJECTION AS VAGUE.

3 THE COURT: OVERRULED.

4 THE WITNESS: UNFORTUNATELY, YES.

5 Q BY MR. PIUZE: WAS THERE A "SEE NO  
6 EVIL, HEAR NO EVIL," KIND OF ATMOSPHERE AS FAR AS  
7 SAFETY OR NON-SAFETY WAS CONCERNED DURING YOUR  
8 TENURE?

9 MR. LEITER: OBJECTION, ARGUMENTATIVE,  
10 LEADING.

11 THE COURT: IT'S NOT LEADING.

12 WAS THERE SUCH AN ATTITUDE, SIR?

13 THE WITNESS: YES, THERE WAS.

14 Q BY MR. PIUZE: NOW, AGAIN, I JUST  
15 WANT TO JUMP OUT OF TOBACCO AND TO A CONSUMER  
16 PRODUCT COMPANY THAT MAKES STUFF FOR PEOPLE TO EAT  
17 OR INHALE OR PUT ON THEIR SKIN.

18 THE WAY IT WORKS IN THE CONSUMER  
19 PRODUCT SAFETY INDUSTRY -- I AM SORRY -- IN THE  
20 CONSUMER PRODUCT INDUSTRY, IS SAFETY SOMETHING THAT  
21 IS TYPICALLY AVOIDED?

22 A. OF COURSE NOT. THAT'S THE WHOLE  
23 BASIS IS TO MAKE IT SAFE. AND IN CIGARETTES, THE  
24 ISSUE WAS WHAT IT IS YOU ARE AVOIDING. YOU ARE  
25 AVOIDING TALKING ABOUT IT. THAT'S THE "SEE NO  
26 EVIL, HEAR NO EVIL," BUT YOU ARE NOT AVOIDING  
27 LEARNING ABOUT WHAT YOU CAN DO TO MAKE IT SAFE.

28 AND THAT WAS THE DICHOTOMY THAT YOU

1 HAVE.

2 Q. SO PEOPLE THERE KNEW THINGS?

3 A. THEY KNEW THINGS.

4 MR. LEITER: OBJECTION.

5 MR. PIUZE: I WILL TELL YOU WHAT, I

6 WITHDRAW THE QUESTION.

7 THE COURT: SUSTAINED, FAIR ENOUGH.

8 Q BY MR. PIUZE: YOU KNEW THINGS?

9 MR. LEITER: OBJECTION, VAGUE.

10 THE COURT: OVERRULED.

11 THE WITNESS: YES.

12 Q BY MR. PIUZE: I THINK THAT BRINGS

13 US BACK TO LIGHT CIGARETTES.

14 I AM GOING TO DISPLAY A SEPTEMBER

15 '75 MEMO. THIS PREDATES YOUR BEING WITH PHILIP

16 MORRIS. BUT I AM GOING TO ASK YOU A COUPLE OF

17 QUESTIONS ABOUT HOW THIS RELATES TO COMPANY

18 THINKING ON LIGHT CIGARETTES WHILE YOU WERE THERE.

19 OKAY?

20 A. OKAY.

21 Q. THIS IS 120.

22

23 \* (EXHIBIT 120, '75 MEMO,

24 MARKED FOR I. D.)

25

26 Q BY MR. PIUZE: LET'S JUST TAKE A

27 MINUTE TO IDENTIFY SOME OF THE PEOPLE WHO ARE

28 MENTIONED HERE AGAIN. CERTAINLY WE HAVE MENTIONED

1 MR. RESNIK SEVERAL TIMES AND MR. DUNN.

2                               COULD YOU TELL US, STARTING WITH  
3 GANNON AND GOING ON DOWN, SKIPPING DUNN, WHO THEY  
4 ARE, IF YOU KNOW?

5                   A.     YEAH. I KNOW, MR. RESNIK, AT THIS  
6 POINT, WAS THE DIRECTOR OF RESEARCH.

7                               DR. GANNON WAS DIRECTOR OF  
8 DEVELOPMENT WHO REPORTED TO MR. RESNIK. AND L. F.  
9 MEYER, WAY AT THE TOP, MR. L. F. MEYER WAS MANAGER  
10 OF PRODUCT DEVELOPMENT WHO REPORTED TO DR. GANNON  
11 AND LATER BECAME THE DIRECTOR OF DEVELOPMENT.

12                              MR. CLAFLIN IS AN ASSOCIATE  
13 PRINCIPLE SCIENTIST.

14                              MR. GAUVIN WAS SOMEBODY WHO WORKED  
15 FOR MR. LEO MEYER. AND MR. KELLEY WORKED WITH MR.  
16 GAUVIN. AND MR. FRANK RYAN, THE LAST NAME ON  
17 THERE, WORKED WITH DR. DUNN. HE WAS AN ASSOCIATE  
18 OF DR. DUNN IN A LOT OF THE SMOKING, PEOPLE, HOW  
19 THEY SMOKED AND PUFF VOLUMES THEY TOOK AND THE  
20 KINDS OF THINGS WE WERE TALKING ABOUT BEFORE.

21                              BARBARO GOODMAN IS A SCIENTIST WHO  
22 WAS IN CHARGE OF THE HUMAN SMOKE SIMULATOR PROGRAM  
23 WHICH WAS A MAJOR PROGRAM THAT SHE PRESENTED  
24 DISCUSSIONS OF HER RESEARCH WORK EVERY YEAR, AT  
25 LEAST, AND MORE FREQUENTLY DURING MY TENURE THERE  
26 AT PHILIP MORRIS.

27                   Q     BY MR. PIUZE: NOW, THIS IS THE  
28 YEAR BEFORE YOU GOT THERE, AND I AM GOING TO READ

1 THE HIGHLIGHTED PART, "IN EFFECT, THE MARLBORO 85,"  
2 I AM GOING TO HAVE TO STOP RIGHT THERE. WHAT'S A  
3 MARLBORO 85?

4 A. 85 SIMPLY REFERS TO THE MILLIMETER,  
5 HOW LONG THE CIGARETTE IS. SO IT'S 85 MILLIMETERS  
6 LONG. THAT'S THE REGULAR PRODUCT. BUT NOT THE  
7 HUNDRED MILLILITER ONE.

8 Q. SO THAT'S AN 85, THESE ARE 85'S?

9 A. I CAN'T -- I THINK THEY MAY BE  
10 100'S ACTUALLY. IT DOESN'T SAY ON THEM I THINK  
11 THESE ARE THE 85'S.

12 Q. I DIDN'T MEASURE THEM

13 A. WELL, THAT'S THE ONLY WAY YOU CAN  
14 REALLY TELL UNLESS IT SAYS IT ON THE BOX, UNLESS  
15 YOU HAVE THEM SIDE BY SIDE. IF YOU HAVE LONGER  
16 ONES, DO YOU HAVE THE SOFT PACK ONE?

17 YEAH, YOU CAN SEE THE DIFFERENCE  
18 NOW THE 100'S ARE THE BOX FURTHEST AWAY FROM THE  
19 JURY, RIGHT, SO THEY ARE ALL 85'S, THE OTHER ONES.

20 SO THIS 85 IS THE RED ONE THAT YOU  
21 HAVE.

22 Q. THERE WAS A RED ONE?

23 A. YEAH.

24 Q. "IN EFFECT, THE MARLBORO 85 SMOKERS  
25 IN THIS STUDY DID NOT ACHIEVE ANY REDUCTION IN  
26 SMOKE INTAKE BY SMOKING A CIGARETTE, SUCH AS  
27 MARLBORO LIGHTS, NORMALLY CONSIDERED LOWER IN  
28 DELIVERY. "

1 I GOT THAT RIGHT, DIDN' T I?

2 A. YOU READ IT CORRECTLY.

3 Q. WHAT DOES THAT MEAN?

4 A. IT MEANS THAT ACCORDING TO THEIR  
5 HUMAN SMOKE SIMULATOR STUDIES, ACCORDING TO THE WAY  
6 PEOPLE SMOKED, THAT SMOKING THAT RED MATERIAL, YOU  
7 GET A CERTAIN DELIVERY LEVEL. WHEN YOU SWITCH TO  
8 THE LOWER TAR CIGARETTE, THE LIGHT, YOU DIDN' T  
9 GET -- ACTUALLY, THE SMOKER DIDN' T GET LESS TAR.

10 Q. AND THAT WAS DOWN IN BLACK AND  
11 WHITE THE YEAR BEFORE YOU GOT THERE?

12 MR. LEITER: OBJECTION, ARGUMENTATIVE.

13 THE COURT: SUSTAINED.

14 Q BY MR. PIUZE: I' D LIKE TO SHOW  
15 YOU ANOTHER DOCUMENT. HERE WE GO. SORRY FOR THE  
16 DELAY.

17 LET ME SHOW YOU THE COVER OF THIS  
18 SO YOU KNOW WHAT I AM TALKING ABOUT. DOCUMENT  
19 NUMBER 9426.

20

21 \* (EXHIBIT 9426, DOCUMENT,  
22 MARKED FOR I. D.)

23

24 THE WITNESS: YES.

25 Q BY MR. PIUZE: YOU ARE SHOWING ME  
26 THAT YOUR NAME IS ON IT?

27 A. YES.

28 Q. WELL, LET' S SEE YOUR NAME, NOT AS

1 THE PERSON WHO WROTE IT BUT SOMEONE WHO GOT IT;  
2 RIGHT?

3 A. THAT IS CORRECT.

4 Q. RIGHT THERE.

5 OKAY. THE DATE ON THIS PARTICULAR  
6 DOCUMENT IS AUGUST 19, RECEIVED AUGUST 19, 1977, R.  
7 B. SELIGMAN.

8 AND I'D LIKE TO JUMP OVER TO PAGE  
9 11, IF YOU MIGHT, WHICH IS THE CONCLUSION PAGE, AND  
10 I HAVE HIGHLIGHTED THE AREA THAT I WANT YOU TO TALK  
11 ABOUT, IT SAYS "AVERAGE TOTAL VOLUMES, PUFF COUNT  
12 IN AVERAGE PUFF VOLUME, AND TAR DELIVERIES FOR  
13 SMOKING PANELS AT R&D ARE AT LEAST 45 PERCENT  
14 LARGER THAN THE STANDARD C. I. VALUES. THE LOWER  
15 THE C. I. TAR RANGE, THE LARGER THE INCREASE IN PUFF  
16 VOLUMES AND DELIVERIES. "

17 I READ THAT RIGHT, DIDN'T I?

18 A. YOU DID.

19 Q. WHAT DOES THAT MEAN?

20 A. THE C. I. VALUES ARE TALKING ABOUT  
21 CIGARETTE INFORMATION, ARE THE SAME AS THE  
22 PARAMETERS USED BY THE FEDERAL TRADE COMMISSION.

23 AND WHAT THIS DOCUMENT SIMPLY SAYS  
24 IS SOMETHING THAT WAS WELL KNOWN BY THIS TIME, THAT  
25 IF YOU GIVE SOMEBODY A LOW TAR CIGARETTE, THEY SUCK  
26 ON IT HARDER. THAT'S WHAT INCREASED PUFF VOLUMES  
27 MEANS.

28 THEY SUCK ON IT HARDER, GET MORE

1 VOLUME THAN WHAT THE MACHINE GETS. AND BECAUSE YOU  
2 SUCK ON IT HARDER, YOU GET MORE TAR THAN WHAT IT  
3 SAYS ON THE BOX. YOU GET MORE NICOTINE THAN WHAT  
4 IT SAYS ON THE BOX.

5 Q. WE HEARD THAT THIS ISN'T NEWS, IT'S  
6 SOMETHING THAT'S BEEN KNOWN TO THE PEOPLE IN THE  
7 INDUSTRY FOR A LONG, LONG TIME. WOULD YOU AGREE  
8 WITH THAT?

9 A. YES, I WOULD.

10 Q. THIS IS SOMETHING THAT'S BEEN KNOWN  
11 TO GOVERNMENT FOR A LONG, LONG, TIME, WOULD YOU  
12 AGREE WITH THAT?

13 A. I AM NOT SURE -- YES, I MEAN,  
14 GENERALLY, I THINK THEY HAVE BEEN AWARE OF IT. BUT  
15 THEY OBVIOUSLY DIDN'T KNOW, AT LEAST THE PEOPLE  
16 THAT I HAVE TALKED TO --

17 MR. LEITER: OBJECTION.

18 THE COURT: SUSTAINED.

19 Q BY MR. PIUZE: I WILL GET THERE.

20 IT HAS BEEN REPRESENTED TO THE JURY  
21 HERE DURING OPENING STATEMENTS THAT GOVERNMENT HAS  
22 KNOWN ABOUT THIS CONCEPT FOR A LONG TIME. WOULD  
23 YOU AGREE WITH THAT?

24 A. WELL, I DON'T KNOW WHAT "THE  
25 GOVERNMENT" MEANS IN THAT CONTEXT. THAT'S WHAT I  
26 WAS TRYING TO GET AT.

27 MR. PIUZE: OKAY. I WILL ABANDON IT.

28 IT WAS WELL REPRESENTED THAT THE

1 CONSUMERS HAVE KNOWN ABOUT THIS FOR A LONG TIME.  
2 EVERYONE KNOWS. I WANT YOUR OPINION, DO THE  
3 CONSUMERS OF CIGARETTES KNOW ABOUT THIS?

4 MR. LEITER: OBJECTION, FOUNDATION.

5 THE COURT: SUSTAINED. LET'S NOT HAVE A  
6 REPRESENTATION. JUST ASK A STRAIGHT QUESTION.

7 Q BY MR. PIUZE: IN YOUR OPINION, DO  
8 THE PEOPLE WHO PUT DOWN THEIR MONEY TO BUY THESE  
9 CIGARETTES TO SMOKE KNOW THAT WHEN THEY GO BUY  
10 LIGHTS OR ULTRA LIGHTS, THEY ARE PUTTING JUST AS  
11 MUCH POISON INTO THEIR SYSTEM AS IF THEY WERE  
12 PUFFING ON THE FULL STRENGTH BRAND?

13 MR. LEITER: OBJECTION, ARGUMENTATIVE.  
14 NO FOUNDATION.

15 THE COURT: FOUNDATION. SUSTAINED.

16 Q BY MR. PIUZE: WERE ANY SURVEYS  
17 DONE WHILE YOU WERE THERE, WHAT THE PEOPLE WHO WERE  
18 BUYING THE LIGHT CIGARETTES AND THE ULTRA LIGHT  
19 CIGARETTES THOUGHT THEY WERE GETTING AS FAR AS TAR  
20 AND NICOTINE?

21 A. SURVEYS OF PEOPLE, NOT THAT I AM  
22 AWARE OF.

23 Q. OKAY. OFF OF THAT SUBJECT THEN.

24 HERE'S THE LAST DOCUMENT IN THIS  
25 SERIES, AND THIS IS 9425. LET ME SHOW YOU THE  
26 FRONT PAGE.

27 SO I HAVEN'T ASKED ANYTHING YET.  
28 BUT I AM ABOUT TO.

1 ARE YOU FAMILIAR WITH THIS  
2 DOCUMENT?

3 A. THIS IS THE ONE THAT -- NOT AT THE  
4 TIME THAT I WAS THERE.

5 Q. OKAY. WHAT'S THE DATE ON THE  
6 DOCUMENT?

7 A. I DON'T SEE A DATE. '74.

8 Q. IS THIS SOMETHING THAT'S ONLY COME  
9 TO YOUR ATTENTION SINCE YOU HAVE LEFT?

10 A. THAT IS CORRECT.

11 Q. I WILL LEAVE IT ALONE.

12 PHILIP MORRIS MADE SOME CIGARETTES  
13 AT ONE TIME WHERE A FLIER, BASICALLY, A LITTLE  
14 INSTRUCTION SHEET WAS PUT INTO THE CIGARETTES TO  
15 TELL THE SMOKERS EXACTLY HOW TO USE THESE  
16 PARTICULAR CIGARETTES?

17 A. NOT EXACTLY HOW TO USE IT. THEY  
18 PUT A FLIER IN THE CIGARETTE THAT, THE ONE THAT I  
19 RECALL, TO TELL THEM HOW TO LIGHT IT BECAUSE IT WAS  
20 DIFFICULT TO LIGHT.

21 Q. WHAT WAS THAT?

22 A. THAT WAS, IN 1980 OR '81, I FORGET  
23 WHEN THEY PUT IT. IT WAS CAMBRIDGE,  
24 C-A-M-B-R-I-D-G-E. WAS THE NAME OF THE CIGARETTE.

25 Q. WAS THERE EVER ANY KIND OF A  
26 CIGARETTE -- EXCUSE ME FOR A SECOND -- DOWN AT  
27 PHILIP MORRIS ABOUT PUTTING SOME SORT OF FLIER OR A  
28 LITTLE INSTRUCTION SHEET INTO A LIGHT CIGARETTE TO

1 TELL PEOPLE HOW TO SMOKE THEM SO THAT THEY WOULDN' T  
2 BE UNWITTINGLY GETTING AS MUCH BAD TAR AS THEY WERE  
3 WITH THE NON --

4 THE COURT: PERSONAL KNOWLEDGE, ANY  
5 DISCUSSIONS YOU WERE INVOLVED IN.

6 THE WITNESS: YES.

7 Q BY MR. PIUZE: WITH WHOM?

8 A. IT WAS WHEN THE SUBJECT CAME UP AT  
9 ACTUALLY ONE OF THE RICHMOND MEETINGS WITH SENIOR  
10 MANAGEMENT PERSONNEL.

11 MR. LEITER: YOUR HONOR, I AM SORRY. I  
12 BELIEVE WITH THAT QUESTION WE ARE TREADING INTO  
13 PREEMPTION AREAS.

14 THE COURT: PROCEED. OVERRULED AT THIS  
15 POINT.

16 I WILL INSTRUCT THE JURY IF WE GET  
17 THERE.

18 MR. PIUZE: THANK YOU.

19 Q BY MR. PIUZE: SO WHO WAS DOING  
20 THE TALKING?

21 A. WELL, THIS WAS AT THE TIME OF THE  
22 BARCLAY CIGARETTE, COMPETITIVE COMPANY HAD  
23 INTRODUCED A CIGARETTE PRODUCT THAT WAS SO EASY TO  
24 PUT YOUR LIPS OVER THE HOLES THAT YOU WOULD GET WAY  
25 MORE TAR THAN WHAT WAS ON THE PACK.

26 AND PHILIP MORRIS ACTUALLY FILED A  
27 COMPLAINT WITH THE FEDERAL TRADE COMMISSION  
28 CONCERNING THIS UNFAIR PRODUCT THAT ONE OF THE

1 COMPETITION HAD SOLD.

2 IT WAS SO EASILY MISUSED BY THE  
3 CONSUMER. AND DURING THE DISCUSSIONS OF THAT  
4 COMPLAINT THAT WE HAD MADE AGAINST B&W, IT CAME UP  
5 THAT, WELL, SHOULDN'T WE SAY SOMETHING ABOUT OUR  
6 OWN PRODUCT TO MAKE SURE THAT PEOPLE WHO USE OUR  
7 PRODUCTS DON'T ACCIDENTALLY COVER UP THE HOLES OR  
8 DON'T PRECLUDE IT.

9 SO THAT'S WHERE IT CAME UP IN THE  
10 CONTEXT OF THE COMPLAINT THAT PHILIP MORRIS FILED  
11 AGAINST THE BROWN & WILLIAMSON COMPANY.

12 Q. GOT IT.

13 WELL, WAS ANY TYPE OF -- I DON'T  
14 KNOW WHAT TO CALL IT, FLIER, INSTRUCTION MANUAL OR  
15 WHATEVER, TELLING THE CONSUMERS HOW TO HOLD IT SO  
16 THAT THEY WOULDN'T DEFEAT THE PURPOSE OF THE  
17 CIGARETTE, WAS THAT EVER TRIED?

18 A. NO. THE THING WE DID DO WAS TO  
19 PUBLISH SOME REPORTS ON THE EFFECTS OF DOING THAT.  
20 SO SOME PUBLICATION WAS MADE, BUT NO FLIER ON THE  
21 BOX.

22 Q. PUBLICATION MADE WHERE, PLEASE.

23 A. SCIENTIFIC MAGAZINES.

24 Q. THANKS.

25 NOW, LET'S TALK ABOUT, I HAVE ONLY  
26 GOT TWO BIG SUBJECT AREAS LEFT, AT LEAST AS OF  
27 RIGHT NOW. LET'S TALK ABOUT CAMBRIDGE CIGARETTES A  
28 LITTLE BIT. READY?

1 A. YES.

2 Q. YOU JUST MENTIONED A LITTLE WHILE  
3 AGO -- FIRST OF ALL, WAS CAMBRIDGE A PHILIP MORRIS  
4 BRAND?

5 A. YES, IT WAS.

6 Q. WHAT WAS THERE ABOUT CAMBRIDGE THAT  
7 DISTINGUISHED IT FROM OTHER CIGARETTES PHILIP  
8 MORRIS MADE, PLEASE.

9 A. AT THE TIME CAMBRIDGE WAS  
10 INTRODUCED, WE HAD DEVELOPED LASER PERFORATION  
11 TECHNOLOGY. WE WERE LEADERS, MEANING THAT WE COULD  
12 PUT THE HOLES IN THE FILTER BIGGER, BETTER, FASTER,  
13 QUICKER, MORE ACCURATELY THAN OTHER PEOPLE.

14 AND CAMBRIDGE USED THAT DILUTION OR  
15 VENTILATION TECHNOLOGY SO THAT YOU COULD PRODUCE A  
16 PRODUCT THAT ESSENTIALLY DIDN'T DELIVER ANY TAR AT  
17 ALL.

18 IT STILL HAD A LITTLE BIT OF  
19 NICOTINE IN IT.

20 SO THE IDEA WAS THAT THIS PRODUCT  
21 SHOULD BE THE LOWEST TAR PRODUCT AND IT WAS GOING  
22 TO BE ADVERTISED, WAS ADVERTISED AS BEING LOWER  
23 THAN CARLTON. CARLTON HAD HELD THE RECORD FOR  
24 BEING THE LOWEST TAR UP TO THAT POINT.

25 Q. I AM GOING TO SHOW YOU DOCUMENT  
26 NUMBER 2476.00.

27 IT'S DATED OCTOBER 15, 1979.

28 DO YOU RECOGNIZE THAT, PLEASE?

1 A. YES, I DO.

2 Q. HOW?

3 A. I AM A RECIPIENT OF THE MEMO, ONE  
4 OF THE RECIPIENTS.

5 Q. IT WAS TO YOU?

6 A. WELL, I ATTENDED THE MEETING AT  
7 WHICH IT WAS DISCUSSED AND I WAS ON THE COPY LIST  
8 OF THE -- THAT'S THE MINUTES OF THE MEETING.

9 Q. SO THERE YOU ARE RIGHT THERE?

10 A. YES.

11

12 \* (EXHIBIT 2476.00, MEMO,  
13 MARKED FOR I. D.)

14

15 Q BY MR. PIUZE: I AM DIRECTING YOUR  
16 ATTENTION TO WHAT'S BEEN HIGHLIGHTED IN YELLOW  
17 WHERE IT DISCUSSES TAR AND MILLIGRAMS AND NICOTINE  
18 AND MILLIGRAMS.

19 WAS THIS THE FIRST ZERO ZERO TAR  
20 CIGARETTE YOU HAD SEEN?

21 A. YES. THIS WAS, THE PROJECT WAS  
22 INTENDED TO MAKE IT BE AS LOW AS WE POSSIBLY COULD  
23 AND ZERO ZERO OR 0.01, THE CODE NAME FOR THE  
24 PROJECT WHICH BECAME CAMBRIDGE WAS TRINITY.

25 Q. TAR IS THE BAD STUFF?

26 A. YES.

27 Q. NO TAR?

28 A. NO TAR. NO TAR, NO CARCINOGENS,

1 NOTHING TO ATTACK THE LUNG TISSUES.

2 Q. SOUNDS LIKE A GOOD IDEA.

3 A. EXCELLENT IDEA. WE WERE VERY HAPPY  
4 WITH THIS.

5 Q. LET'S DROP DOWN TO NICOTINE.

6 WHAT'S THE SIGNIFICANCE OF THE .03?

7 A. THAT'S -- THE SIGNIFICANCE IS IT'S  
8 THERE BUT IT IS VERY LOW. SO THE PROBLEM WITH THIS  
9 PRODUCT WAS THAT IN ORDER TO MAKE IT PROVIDE ENOUGH  
10 NICOTINE, WE WOULD HAVE HAD TO ADD NICOTINE TO THE  
11 FILTER, SO THAT WHEN YOU SUCKED ON THE CIGARETTE,  
12 YOU GOT NOT ONLY THE NICOTINE, THAT LITTLE BIT THAT  
13 WAS COMING THROUGH THE ROD, IN THE GAS PHASE, BUT  
14 YOU ACTUALLY GOT SOME THAT WAS BEING GIVEN OFF BY  
15 THE AIR THAT WAS GOING THROUGH THE FILTER SO THAT A  
16 PERSON COULD GET THE NICOTINE FOR WHICH THEY SMOKED  
17 WITHOUT GETTING THE CANCER-CAUSING MATERIALS IN THE  
18 TAR.

19 Q. ALL RIGHT. SO IF PEOPLE ARE  
20 SMOKING TO GET NICOTINE AND THEY ARE NOT GETTING  
21 VERY MUCH NICOTINE, IT SOUNDS LIKE THAT'S A PRODUCT  
22 THAT PROBABLY ISN'T GOING TO SELL VERY WELL.

23 A. THAT IS CORRECT.

24 Q. WAS IT FEASIBLE TO ADD NICOTINE TO  
25 THE FILTER?

26 A. YES, IT WAS.

27 Q. HOW DO YOU DO THAT?

28 A. YOU CAN IMBED THE NICOTINE INTO THE

1 TOE, NICOTINE CHEMICALS THAT RELEASE NICOTINE INTO  
2 THE MATERIAL THAT MAKES UP THE FILTER.

3 IT'S THE WHITE MATERIAL THAT MAKES  
4 UP THE FILTER, THAT IS CELLULOUS ACETATE IS THE  
5 TECHNICAL NAME FOR IT. BUT THEY PUT THINGS IN IT,  
6 THEY PUT VARIOUS CHEMICALS TO MIX IT RIGHT IN WITH  
7 THE FILTER MATERIAL.

8 Q. DIDN'T CAMBRIDGE CIGARETTES HAVE A  
9 DOWN SIDE TO THEM?

10 A. I AM SORRY, I MISSED THE QUESTION.

11 Q. DIDN'T CAMBRIDGE CIGARETTES HAVE  
12 ANOTHER DOWN SIDE TO THEM?

13 A. WELL, THAT WAS ONE WE DISCUSSED,  
14 THEY WERE HARD TO LIGHT.

15 Q. LET'S DISCUSS THAT JUST A LITTLE  
16 BIT MORE.

17 IT SOUNDS LIKE IT IS PRETTY EASY TO  
18 LIGHT A CIGARETTE.

19 A. WELL, YES, BUT BECAUSE SO MUCH OF  
20 THE AIR WAS COMING THROUGH THE VENTILATION HOLES IN  
21 THE CIGARETTE, WHEN YOU SUCKED ON IT, VERY LITTLE  
22 CAME THROUGH THE ROD ITSELF. SO THEREFORE, IT WAS  
23 VERY HARD TO LIGHT THE CIGARETTE.

24 SO THIS, THIS REQUIRED PLACING  
25 INSIDE THE PACK INSTRUCTIONS ON HOW TO LIGHT IT.

26 Q. SOUNDS LIKE THAT WOULD BE PRETTY  
27 DEMEANING TO AN ADULT TO HAVE INSTRUCTIONS ON HOW  
28 TO LIGHT A CIGARETTE.

1 MR. LEITER: OBJECTION.

2 THE COURT: SUSTAINED.

3 Q BY MR. PIUZE: WHAT HAPPENED TO  
4 THAT BRAND?

5 A. WELL, INTERESTINGLY ENOUGH, ABOUT  
6 TWO YEARS AFTER I LEFT, THE BRAND WAS ELEVATED FROM  
7 0.00 MILLIGRAMS, NEAR THE LOWEST IT EVER WAS, TO 12  
8 FOR THE LIGHTS, 12 MILLIGRAMS OF TAR AND 16  
9 MILLIGRAMS OF TAR FOR THE REGULAR. IN OTHER WORDS,  
10 WAY MUCH HIGHER.

11 Q. I'D LIKE TO SHOW YOU DOCUMENT  
12 NUMBER 2721 AND ASK YOU IF YOU RECOGNIZE THIS  
13 DOCUMENT. THE DATE IS COVERED UP BY THAT LITTLE  
14 STICKER?

15 A. YES, I DO.

16

17 \* (EXHIBIT 2721, MEETING  
18 MINUTES, MARKED FOR I. D.)

19

20 Q BY MR. PIUZE: HOW DO YOU  
21 RECOGNIZE IT, PLEASE?

22 A. THE DOCUMENT IN QUESTION WAS  
23 WRITTEN BY TOM GOODALL WHO SAT NEXT TO ME AT THE  
24 RICHMOND MEETING, ACTUALLY ALL THE RICHMOND  
25 MEETINGS. TOM WAS THE MINUTE KEEPER OF THE  
26 RICHMOND MEETINGS.

27 THIS IS THE MEETINGS THAT WERE HELD  
28 ONCE A MONTH WHERE THE MANAGEMENT FROM NEW YORK

1 CAME DOWN TO FIND OUT WHAT WE WERE DOING IN R&D AND  
2 TOM WAS NOT A TECHNICAL PERSON. SO THEY PUT HIM  
3 NEXT TO ME SO THAT I COULD ANSWER HIS TECHNICAL  
4 QUESTIONS, SO IF HE HAD A QUESTION DURING THE  
5 COURSE OF THE MEETING, HE WOULD ASK ME ABOUT IT AND  
6 I RECALL DISCUSSING ITEMS ON THIS PROJECT WHICH WAS  
7 VERY IMPORTANT TO US BECAUSE IT USED THIS NEW  
8 TECHNOLOGY THAT I TOLD YOU ABOUT BEFORE THAT WE HAD  
9 DEVELOPED.

10 Q. IT SAYS "RICHMOND MEETING,  
11 10/15/79, PROJECT, TRINITY. "

12 AND NOW I HAVE HIGHLIGHTED  
13 SOMETHING IN YELLOW

14 CAN YOU READ THAT?

15 A. YES.

16 Q. WOULD YOU.

17 A. IT SAYS "HIT MARKET BELOW CARLTON,  
18 TAR, AFTERWARDS, CAN DRIFT HIGHER. "

19 Q. WHEN WAS THE CIGARETTE RELEASED TO  
20 THE PUBLIC?

21 A. 1980.

22 Q. WAS IT DISCUSSED AT THIS MEETING  
23 THAT THE CARLTON CIGARETTE WAS GOING TO BE  
24 RELEASED, IN PUBLICITY TO THE PUBLIC THAT IT WAS  
25 THE LOWEST TAR CIGARETTE IN THE HISTORY OF THE  
26 UNIVERSE --

27 A. YOU SAID "CARLTON, " I THINK YOU  
28 MEANT "CAMBRIDGE. "

1 Q. SORRY. I HAVE NO BRAND LOYALTY.  
2 WAS IT DISCUSSED AT THAT MEETING  
3 THAT THE CAMBRIDGE CIGARETTE WOULD BE RELEASED TO  
4 PUBLIC ACCLAIM THAT IT WAS THE LOWEST TAR CIGARETTE  
5 EVER WITH A PLAN LAID OUT IN ADVANCE THAT THE TAR  
6 LEVEL WAS GOING TO BE RAISED LATER ON?

7 A. YES.

8 Q. GIVE US A HINT, IF IT WAS GOING TO  
9 BE RAISED TO THE LEVELS THAT YOU MENTIONED, WHAT  
10 DID YOU SAY, 12?

11 A. THERE WAS NO HINT GIVEN AS TO WHAT  
12 IT WAS GOING TO BE RAISED TO.

13 Q. ONE LAST MATTER. EXCUSE ME FOR A  
14 SECOND. THIS IS 2457.00.

15 DO YOU RECOGNIZE THAT DOCUMENT,  
16 PLEASE.

17 A. YES, I DO.

18 Q. WHAT'S THIS?

19 A. ANOTHER MINUTES OF MEETING,  
20 RICHMOND MEETING.

21

22 \* (EXHIBIT 2457.00, MEETING  
23 MINUTES, MARKED FOR I. D.)

24

25 Q BY MR. PIUZE: LET ME SHOW YOU THE  
26 FIRST -- SHOW US ALL THE FIRST PAGE FIRST AND  
27 ALTHOUGH IT IS NOT VERY CLEAR, THE DATE IS NOVEMBER  
28 16, 1970. DO YOU KNOW WHAT THAT IS, OFFHAND?

1 A. 1979, I BELIEVE.

2 Q. 1979.

3 I AM GOING TO TAKE YOU TO THE  
4 SECOND PAGE OF THIS MEMO WHICH I HAVE HIGHLIGHTED  
5 IN YELLOW, AND WHERE IT SAYS "SOFT PACK 100'S," CAN  
6 YOU READ THAT?

7 A. I COULD IF THE BOARD WASN'T IN MY  
8 WAY.

9 "PRELIMINARY RESULTS OF THE -- "  
10 MAYBE IF I GET A LITTLE BIT CLOSER TO SEE IT, MAYBE  
11 WALK UP THERE.

12 THE COURT: WOULD COUNSEL PLEASE READ IT.

13 MR. PIUZE: I WAS HAVING PROBLEMS.

14 THE COURT: IF YOU NEED THE WITNESS --

15 MR. PIUZE: IF I LOOK HERE --

16 "PRELIMINARY RESULTS OF THE MULTI-PACK P. C. L. 7034  
17 INDICATES THAT THE TOBACCO LIKE," AND IT HAS W, AND  
18 THE HIGH SWEEP T "ARE BETTER THAN CARLTON." I  
19 THINK I READ THAT CORRECTLY.

20 THE WITNESS: ALMOST. IT'S "P. O. L.,"

21 NOT P. C. L. IT STANDS FOR PRODUCT OPINION

22 LABORATORY.

23 Q. WHAT'S THAT?

24 A. IT IS A CONSUMER TEST. AND WHAT  
25 THAT SAYS IS THAT TWO DIFFERENT VERSIONS OF  
26 FLAVORINGS USED ON THE TRINITY TYPE PRODUCTS WERE  
27 MORE ACCEPTABLE TO SMOKERS THAN THE CARLTON  
28 CIGARETTE.

1 Q. DID YOU PUT FLAVORINGS INTO  
2 CIGARETTES, TYPICALLY?

3 A. OH, YES, CIGARETTES HAVE FLAVORINGS  
4 IN THEM AND THIS INDICATED THAT THIS PARTICULAR  
5 VERSION OF THE PRODUCT SHOULD BE A MARKET SUCCESS  
6 OR AT LEAST SHOULD BE AS SUCCESSFUL AS THE CARLTON  
7 PRODUCT.

8 Q. HERE'S A DIFFERENT SUBJECT.  
9 DO YOU KNOW WHAT A NICOTINE TO TAR  
10 RATIO IS?

11 A. YES, I DO.

12 Q. TELL US.

13 A. WHEN YOU MEASURE THE AMOUNT OF TAR  
14 AND NICOTINE IN A CIGARETTE, GENERALLY SPEAKING,  
15 YOU USE THE SMOKING MACHINES WE TALKED ABOUT  
16 BEFORE. THE CHEMICALS ARE COLLECTED ON A PAD  
17 BEHIND THE CIGARETTE. A LITTLE BROWN-BLACK SPOT  
18 SHOWS UP ON THIS PAD. AND THAT'S ANALYZED.

19 THE TOTAL WEIGHT THAT'S CALLED TOP,  
20 AND THEN THE AMOUNT OF NICOTINE THAT DEPOSITS IS  
21 MEASURED. AND SO YOU HAVE THE NUMBERS THAT YOU SEE  
22 ON PACKS WHERE IT SAYS IT'S 1 MILLIGRAM OF TAR AND  
23 A TENTH OF A MILLIGRAM OF NICOTINE.

24 SO IF YOU HAVE ONE MILLIGRAM OF  
25 TAR, FOR EXAMPLE -- WELL, LET'S TAKE A TYPICAL  
26 CIGARETTE. YOU HAVE 1 MILLIGRAM OF NICOTINE AND WE  
27 HAVE 16 MILLIGRAMS OF TAR. IF YOU DIVIDE THE  
28 TAR -- THE NICOTINE, THE ONE BY 16, OKAY, I GET A

1 RATIO OF 1/16TH.

2 IF I HAVE 1 MILLIGRAM OF TAR, AND A  
3 10TH OF A MILLIGRAM OF NICOTINE, THEN I DIVIDE THE  
4 10TH BY 1 AND GET A RATIO OF 1 TO 10.

5 SO WHAT HAS HAPPENED IN THE ONE  
6 WHERE I HAVE 1/10TH NICOTINE IN ONE TAR, THE  
7 NICOTINE TO TAR RATIO IS HIGHER. IN OTHER WORDS,  
8 IF I CONSUME THE SAME AMOUNT OF TAR, I WOULD END UP  
9 GETTING MORE NICOTINE THAN I GOT WITH THE OTHER  
10 CASE THAT I GAVE YOU WHERE I HAD ONE MILLIGRAM OF  
11 NICOTINE AND 16 MILLIGRAMS OF TAR. SO THAT'S THE  
12 NICOTINE TO TAR RATIO.

13 AND SOME PEOPLE FLIP IT UPSIDE DOWN  
14 AND LOOK AT THE TAR AND NICOTINE RATIO. BUT THE  
15 WHOLE IDEA HERE IS HOW MUCH OF WHAT THE SMOKER IS  
16 GETTING IS NICOTINE AND HOW MUCH OF IT IS TAR.

17 Q. THE MORE NICOTINE, THE LESS TAR,  
18 THE BETTER OFF A PERSON IS?

19 A. THAT WAS THE GENERALLY ACCEPTED  
20 HYPOTHESIS UNDER WHICH WE WORKED, THAT IS, IF THE  
21 TAR HAS GOT THE BAD STUFF IN IT, AND WE ARE TRYING  
22 TO GIVE PEOPLE THE NICOTINE THAT THEY WANT, WE WILL  
23 TRY TO MAKE THAT RATIO OF NICOTINE TO TAR AS HIGH  
24 AS WE CAN.

25 Q. AT PHILIP MORRIS, WHILE YOU WERE  
26 THERE, WAS IT POSSIBLE TO ADJUST OR INFLUENCE THE  
27 AMOUNT OF NICOTINE THERE WAS IN A CIGARETTE?

28 A. WELL, NOT -- YOU COULD, YOU COULD

1 PUT MORE NICOTINE IN, FOR EXAMPLE, BY USING  
2 TOBACCOES THAT HAD HIGHER NICOTINE IN THEM  
3 BUT IN TERMS OF CHANGING THE RATIO  
4 OF NICOTINE TO TAR, YOU COULD DO THAT BY MANY, MANY  
5 DIFFERENT KINDS OF MANIPULATIONS. BUT IN SOME  
6 CASES, WE ACTUALLY WENT OUT AND BOUGHT MORE BURLEY  
7 TOBACCO OR USED MORE BURLEY WHICH HAS HIGHER  
8 NICOTINE, AND USED THAT AS A GREATER PERCENTAGE OF  
9 THE TOBACCO TO INCREASE THE ACTUAL AMOUNT OF  
10 NICOTINE IN A CIGARETTE.

11 Q. OKAY. WERE THERE OTHER WAYS?

12 A. MANY OTHER WAYS.

13 WE JUST LOOKED AT ONE, ACTUALLY, WE  
14 HAD UP THERE WHERE WE HAD .03 NICOTINE AND WE HAD  
15 ZERO TAR.

16 I MEAN, AS' S ALMOST AN INFINITE  
17 RATIO. THAT IS AN INFINITE. YOU DIVIDE .03 BY  
18 ZERO, YOU CAN MAKE THAT HAPPEN OVER A VERY WIDE  
19 RANGE BY PHYSICAL CHANGES THAT YOU MAKE, THE LENGTH  
20 OF THE CIGARETTE, THE DIAMETER AND THERE ARE MANY,  
21 MANY WAYS TO CHANGE THAT RATIO.

22 THE THING THAT YOU NEED TO KEEP IN  
23 MIND IS THAT THE TOBACCO THAT' S IN A CIGARETTE HAS  
24 IN IT SOMEWHERE BETWEEN 12 AND 18 MILLIGRAMS OF  
25 TAR -- I MEAN, OF NICOTINE -- PARDON ME, 12 TO 18  
26 MILLIGRAMS OF NICOTINE. IT' S FAR MORE THAN THE  
27 SMOKER GETS.

28 WE ARE ONLY GIVING THE SMOKER, EVEN

1 IN THE HIGH DELIVERY CIGARETTE, SAY, 1 OUT OF 18  
2 MILLIGRAMS. SO THERE'S PLENTY MORE NICOTINE INSIDE  
3 THAT TOBACCO. AND ALL WE HAVE TO DO IS TO MAKE  
4 SOME SORT OF PHYSICAL OR CHEMICAL CHANGES TO THAT  
5 TOBACCO AND WE CAN SQUEEZE OUT MORE OF THAT  
6 NICOTINE COMPARED TO THE TAR.

7 Q. SUCH AS HOW?

8 A. SUCH AS BY ADDING CHEMICALS THAT  
9 HAVE TO HELP SWEEP OUT THE NICOTINE, FOR EXAMPLE,  
10 WE CAN USE UREA WHICH, WHEN IT IS BURNED, GIVES YOU  
11 SOME AMMONIA AND THAT HELPS PUSH OUT SOME NICOTINE.

12 Q. WHAT IS UREA?

13 A. UREA IS THE COMMON CONSTITUENT OF  
14 HUMAN URINE AND IT HAS THE PROPERTY THAT WHEN YOU  
15 BURN IT, IT TURNS INTO AMMONIA.

16 Q. SO WHAT?

17 A. WELL, AMMONIA, WHEN IT CONTACTS WET  
18 TOBACCO, MOIST TOBACCO, WILL PUSH OUT SOME OF THE  
19 NICOTINE.

20 Q. TO WHERE?

21 A. INTO THE GAS PHASE OR INTO THE  
22 PARTICULATE PHASE. IT JUST PUSHES IT OUT OF THE  
23 TOBACCO SO IT ENDS UP IN THE SMOKE.

24 Q. SO BY ADDING UREA TO THE TOBACCO,  
25 YOU SAID WE NEEDED WET TOBACCO. TOBACCO ISN'T WET,  
26 IS IT?

27 A. WELL, IT'S WETTED WHEN YOU LIGHT A  
28 CIGARETTE. PEOPLE HAVING SMOKED DON'T REALIZE THAT

1 BUT WHEN YOU BURN STUFF, YOU MAKE WATER AND THE  
2 WATER DEPOSITS BEHIND THE COAL. AND IF YOU FEEL A  
3 CIGARETTE BEHIND A BURNING COAL, IT IS SOFT AND  
4 MUSHY. IT IS WET. THE TOBACCO IS WET BEHIND THAT  
5 COAL BECAUSE THE WATER CONDENSING ON IT. SO  
6 TOBACCO, WHEN IT IS SMOKE, DOES GET WET.

7 Q. SO YOU HAVE UREA, YOU LITE IT AND  
8 IT HEATS UP AND YOU GET AMMONIA, IT IS WETTED AND  
9 THEREFORE WHAT?

10 A. PUTS MORE NICOTINE INTO THE SMOKE,  
11 BUT THAT'S ONLY ONE OF FIVE OR SIX DIFFERENT WAYS  
12 TO DO IT.

13 Q. I STAYED AWAY FROM THE TERM  
14 "MANIPULATED" BUT YOU USED IT. I WILL USE IT. WAS  
15 NICOTINE MANIPULATION COMMONLY DONE?

16 A. COMMONLY DONE IN THE INDUSTRY, YES.

17 Q. THE WHOLE TIME YOU WERE THERE?

18 A. YEAH, THAT'S THE -- NICOTINE TO TAR  
19 RATIOS AND LOW DELIVERY CIGARETTES ARE MUCH HIGHER  
20 THAN THEY ARE IN HIGH TAR CIGARETTES.

21 SO IF YOU DIDN'T DO SOMETHING, THEY  
22 WOULD BE THE SAME.

23 SO THEY WERE CHANGED AND THEY WERE  
24 CHANGED DELIBERATELY. AND AT THE TIME I WAS THERE,  
25 WE THOUGHT THAT WAS A GOOD THING.

26 Q. TELL THE JURY WHY YOU THOUGHT THAT  
27 WAS A GOOD THING?

28 A. LESS TAR, LESS CANCER CAUSING

1 MATERIAL, GIVE THE PEOPLE WHAT THEY WANT, THE  
2 NICOTINE, BUT TRY TO GET THE TAR AS LOW AS YOU  
3 POSSIBLY CAN.

4 Q. WELL, THAT SOUNDS LIKE A GOAL.  
5 DID THE COMPANY, PHILIP MORRIS,  
6 DENY THAT IT WAS MANIPULATING NICOTINE?

7 A. THEY DID.

8 Q. EVEN THOUGH YOU THOUGHT THAT IT WAS  
9 A GOOD THING, WHY DENY IT?

10 MR. LEITER: OBJECTION.

11 MR. PIUZE: LET ME REPHRASE IT. I DIDN'T  
12 LIKE THE SOUND OF THAT.

13 THE COURT: FAIR ENOUGH.

14 Q BY MR. PIUZE: THEY WERE DENYING  
15 SOMETHING THAT YOU DIDN'T THINK THERE WAS ANYTHING  
16 WRONG WITH, IS THAT A FAIR SUMMARY?

17 A. THAT IS CORRECT.

18 Q. OKAY. NOW, SUBSTANCES SUCH AS  
19 CHOCOLATE OR LICORICE ARE SOMETIMES ADDED INTO  
20 THESE CIGARETTES?

21 A. YES, THEY ARE.

22 Q. WHY, PLEASE?

23 A. THE SUBSTANCES, CHOCOLATE AND  
24 LICORICE, WHEN BURNED, WHEN HEATED, GIVE OFF  
25 FLAVORS, CHOCOLATE, LICORICE, AND IT TURNS OUT THAT  
26 THAT'S ONE THING THAT CAN HAPPEN. BUT THE OTHER  
27 THING IS THAT THE ACTIVE INGREDIENTS IN THOSE  
28 PARTICULAR MATERIALS, ARE CHEMICALS, CHOCOLATE IS

1 CALLED THEOBROMINE, AND LICORICE, IT'S A THING  
2 CALLED GLYCERHIZZIN. THESE ARE CHEMICAL NAMES OF  
3 THE PRIMARY INGREDIENT IN THOSE MATERIALS.

4 AND IT JUST -- IT HAPPENS THAT BOTH  
5 OF THOSE THINGS ARE WHAT WE CALL BRONCODILATORS. IF  
6 YOU LOOK THEM UP IN A CHEMISTRY BOOK, IT SAYS IF  
7 YOU INHALE THOSE THINGS, IT'S LIKE TAKING PRIMATENE  
8 MUST, IT WILL HELP YOU OPEN UP YOUR LUNGS, YOU CAN  
9 BREATHE EASIER.

10 DIFFERENT THAN EATING IT.

11 YOU HAVE TO REMEMBER, WE ARE NOT  
12 EATING CHOCOLATE AND LICORICE HERE, WE ARE ACTUALLY  
13 INHALING THE INGREDIENTS INTO OUR LUNGS AND THEY  
14 ARE LISTED THAT WAY IN CHEMISTRY TEXTBOOKS.

15 Q. SO WHAT'S THE BENEFIT OF EVEN  
16 HAVING IT?

17 A. EASIER TO INHALE.

18 Q. GETS MORE NICOTINE TO THE PERSON?

19 A. WELL, THOSE STUDIES -- THOSE  
20 STUDIES, AS PART OF THE WORK FOR THE C. D. C. ,  
21 RECOMMENDED THAT STUDIES BE DONE TO FIND WHAT THE  
22 EFFECT LEVELS ARE OF THOSE COMBINED WITH NICOTINE.  
23 SO WE REALLY DON'T KNOW HOW MUCH IT TAKES TO  
24 INCREASE IT BY HOW MUCH.

25 BUT AT THE TIME THAT I WAS AT  
26 PHILIP MORRIS AND I EVEN WROTE MINUTES OF A MEETING  
27 WHERE THIS WAS DISCUSSED, WE CONSIDERED THIS TO BE  
28 A BENEFICIAL ADDITIVE THAT IS SOMETHING THAT COULD

1 HELP MAKE PRODUCT -- IT COULD BE USED BOTH WAYS,  
2 HELP MAKE A PRODUCT SAFER, BUT IT COULD ALSO MAKE  
3 IT, BY ALLOWING YOU TO INHALE MORE OF A LOW LEVEL  
4 OF NICOTINE, LIKE, FOR EXAMPLE, IN THE CAMBRIDGE  
5 THAT WE TALKED ABOUT UP THERE, THAT ONLY HAD .03,  
6 IT COULD MAKE IT EASIER TO INHALE THAT. SO IT  
7 COULD BE USED BOTH TO ENHANCE A LOW TAR CIGARETTE  
8 OR TO SIMPLY GIVE YOU A BIGGER HIT OFF THE NICOTINE  
9 THAT'S IN A REGULAR CIGARETTE.

10 Q. WITH THAT ANSWER, YOU JUST WENT TO  
11 12 O'CLOCK STRAIGHT UP AND DOWN ON THE CLOCK BEHIND  
12 YOU.

13 SO, YOUR HONOR, I THINK THAT'S IT  
14 FOR ME.

15 THE COURT: ALL RIGHT. THANK YOU, GOOD  
16 COUNSEL.

17 YOU KNOW, LADIES AND GENTLEMEN, LET  
18 ME TELL YOU SOMETHING, YOU NOTICED IN MY COURTROOM  
19 THERE ARE CLOCKS STRATEGICALLY PLACED. SEE THE ONE  
20 RIGHT BEHIND THE WITNESS HERE, THAT'S SO MY LAWYERS  
21 CAN SEE IT. ALSO, IF YOU WILL NOTICE RIGHT UP  
22 BEHIND YOU, THERE'S A CLOCK RIGHT UP ON THE WALL,  
23 THAT'S SO THE LAWYERS, WHEN THEY ARE TALKING TO YOU  
24 IN OPENING STATEMENTS, THEY WILL KNOW HOW MUCH TIME  
25 THEY ARE USING.

26 ALL RIGHT. VERY WELL. THANK YOU  
27 LADIES AND GENTLEMEN. WE WILL SEE YOU AT 1:30.

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

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MASTER INDEX

| DAY       | DATE            | PAGE | VOLUME |
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| WEDNESDAY | APRIL 4TH, 2001 | 10A  | 1481   |

W I T N E S S E S

| WITNESS | DIRECT    | CROSS | REDIRECT | RECROSS |
|---------|-----------|-------|----------|---------|
| FARONE, | 1482      |       |          |         |
| WILLIAM | (RESUMED) |       |          |         |

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## E X H I B I T S

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|       | DESCRIPTION                   | FOR<br>IDENTIFICATION | IN<br>EVIDENCE | VOL. |
|-------|-------------------------------|-----------------------|----------------|------|
| 5     |                               |                       |                |      |
| 6     | 67.00 - 7 PAGE<br>DOCUMENT    | 1512                  |                | 10A  |
| 7     |                               |                       |                |      |
| 8     | 507 - HANDWRITTEN<br>DOCUMENT | 1517                  | 1518           | 10A  |
| 9     | 67.00 - MEMO                  | 1546                  |                | 10A  |
| 10    | 130.00 - DOCUMENT             | 1549                  |                | 10A  |
| 11    | 8058.01- MEMO                 | 1554                  |                | 10A  |
| 12    | 422.00 - MEMO                 | 1557                  |                | 10A  |
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