

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	Civil No. 99-CV-02496 (GK)
v.	)	
	)	Next scheduled court appearance:
PHILIP MORRIS USA INC.,	)	July 15, 2004
f/k/a PHILIP MORRIS INC., <u>et al.</u> ,	)	
	)	
Defendants.	)	

**UNITED STATES' TRIAL OUTLINE**

Pursuant to Order #471, § III., the United States submits the following outline of its currently anticipated presentation at trial, specifically noting that its anticipated trial presentation may be modified during the course of final preparation for trial during the next three months. The outline does not include issues that the United States may address, if necessary, as rebuttal. Points at which interim summation are expected to be most appropriate are indicated with an asterisk.

- I. Formation of Scientific Consensus Concerning the Causal Link Between Smoking and Disease and Defendants' Response to the Emerging Scientific Consensus
- II. Adverse Health Effects Caused By Smoking
  - A. Diseases and Other Adverse Effects of Direct Smoking
  - B. Diseases and Other Adverse Effects of Passive Exposure (Exposure to Secondhand Smoke, or Environmental Tobacco Smoke (ETS))
  - C. Effects of Direct Smoking and Passive Exposure on Children

III. The Establishment of Defendants' Association-in-Fact RICO Enterprise and Pattern of Racketeering Activity

A. Formation of the Enterprise

1. Formation and Activities of Defendant Tobacco Industry Research Committee/Council for Tobacco Research
2. Formation and Activities of Defendant Tobacco Institute
3. Formation and Activities of Center for Indoor Air Research
4. Role of Defendants' Lawyers in the Formation of the Enterprise
5. Formation and Activities of Other Bodies and Organizations Used by Defendants to Further the Goals of the Enterprise

B. Suppression and Concealment of Information by Members of the Enterprise

C. Affect of Enterprise Activities on Interstate and Foreign Commerce

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IV. Defendants' Development of and Execution of a Scheme to Defraud Consumers and Potential Consumers of the Purchase Price of Cigarettes

A. Defendants' Fraud and Misrepresentation Surrounding the Adverse Health Effects of Direct Smoking

B. Development and Implementation of an Agreement Not to Compete on Health Issues

C. Defendants' Agreement Not to Perform Certain In-House Biological Research That Would Confirm or Acknowledge That Smoking Cigarettes Causes Disease

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- E. Defendants' Fraudulent Denial of the Adverse Health Effects of Exposure to Secondhand Smoke/ETS.
  - F. Defendants' Fraudulent Commitment to Conduct Independent Research to Find the Truth About the Health Effects of Smoking
    - 1. Defendant CTR Was Not an Independent Entity
    - 2. Defendants' Close Control of Research, Including Research Intended to Serve the Public Relations Scheme and Litigation Defense.
    - 3. Defendants' Concealment of Scientific Evidence Adverse to Their Public Denials of the Harms Associated With Smoking
  - G. Defendants' Fraudulent Conduct Concerning Nicotine and Addiction
    - 1. Smoking is Addictive and Nicotine is the Primary Cause of Addiction to Smoking
    - 2. Defendants' Fraudulent Denial That Cigarettes and Nicotine Are Addictive
    - 3. Defendants' False and Misleading Public Statements Regarding Defendants' Control of the Nicotine Content and Delivery of Their Products
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- 4. Defendants' Deceptive Cigarette Design
  - 5. Defendants' Efforts to Control or Optimize the Amount of Nicotine Delivered to Smokers

H. Defendants' Fraudulent Conduct Regarding "Light" and "Low Tar/Low Nicotine" Cigarettes

1. Defendants' Deceptive Communications to the American Public That Their Low Tar Cigarettes Were Less Harmful than Regular Cigarettes
2. Defendants' Knowledge that "Light" Cigarettes Were Unlikely To Be Safer Than Other Cigarettes
3. Defendants' Design of Low Tar Cigarettes to Facilitate Smoker Compensation

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I. Defendants' Fraudulent Conduct Relating to Marketing Cigarettes to Young People

1. Defendants' False and Misleading Public Statements Regarding Their Marketing to Youth
2. Defendants' Marketing To Youth

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V. Defendants' Efforts to Destroy, Suppress, and Conceal Information, Including the Improper Use of Privilege

VI. Defendants' Use of Mailings and Wire Transmissions in Furtherance of the Scheme to Defraud

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VII. Remedies

- A. United States' \$280 Billion Disgorgement Request Is a Reasonable Approximation of the Proceeds Defendants Obtained from Their Decades-Long Scheme to Defraud
  - 1. Disgorgement Request Is Limited to a Segment of Youth Addicted Population
  - 2. Disgorgement Request Is Reasonable Approximation of the Proceeds Causally Related to Defendants' Scheme to Defraud the American People
- B. Other Remedies Sought by United States Are Reasonable in Light of the Reasonable Likelihood of Ongoing or Future Misconduct by Defendants

Respectfully submitted,

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