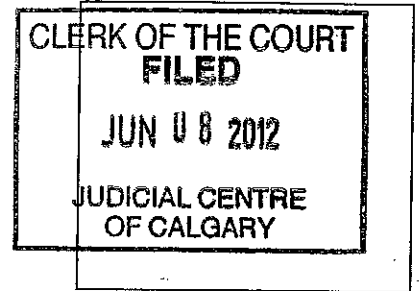


Clerk's stamp



FORM 10
[RULE 3.25]

COURT FILE NUMBER

1201- 07314

COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE

CALGARY

PLAINTIFF(S)

HER MAJESTY IN RIGHT OF ALBERTA

DEFENDANT(S)

ALTRIA GROUP, INC.; B.A.T. INDUSTRIES P.L.C.;
BRITISH AMERICAN TOBACCO (INVESTMENTS)
LIMITED; BRITISH AMERICAN TOBACCO P.L.C.;
CANADIAN TOBACCO MANUFACTURERS COUNCIL;
CARRERAS ROTHMANS LIMITED; IMPERIAL
TOBACCO CANADA LIMITED; JTI-MACDONALD
CORP.; PHILIP MORRIS INTERNATIONAL, INC.;
PHILIP MORRIS USA, INC.; R.J. REYNOLDS
TOBACCO COMPANY; R.J. REYNOLDS TOBACCO
INTERNATIONAL, INC.; ROTHMANS BENSON &
HEDGES INC.; and ROTHMANS INC.

DOCUMENT

STATEMENT OF CLAIM

ADDRESS FOR SERVICE AND CONTACT
INFORMATION OF PARTY FILING THIS
DOCUMENT

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NOTICE TO DEFENDANT(S)

You are being sued. You are a defendant.
Go to the end of this document to see what you can
do and when you must do it.

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INTRODUCTION AND SUMMARY OF CLAIM

1. Her Majesty in right of Alberta (**Crown**) brings this claim to recover its cost of health services caused or contributed to by the Defendants' breaches of common law, equitable and statutory duties, and obligations owed to persons in Alberta who have been, or might become, exposed to tobacco products (**Breaches of Duty**). The claim is based on the statutory cause of action created in s. 42 of the *Crown's Right of Recovery Act (Act)*, it is not a subrogated claim. Furthermore, the Crown claims joint and several liability against the Defendants on the basis of s. 44 of the Act and the Defendants' conspiratorial conduct.
2. In this claim, *insured persons* as defined in the Act, are referred to as **Albertans**. The terms **Tobacco Products, Tobacco-Related Diseases, Health Services and Exposure** (and their derivatives) are used in this claim as defined in the Act.
3. While committing the Breaches of Duty, the Defendants, and their predecessors, parents, affiliates, and related companies, have, at various times, manufactured or promoted cigarettes, and loose tobacco intended for incorporation into cigarettes, and other Tobacco Products. During the same period, Tobacco Products were offered for sale in Alberta.
4. The Breaches of Duty include:
 - (a) deliberately designing Tobacco Products to be highly addictive,
 - (b) deceiving Albertans by making misrepresentations minimizing the addictiveness of Tobacco Products,
 - (c) failing and refusing to warn Albertans about the addictiveness of Tobacco Products,
 - (d) deceiving Albertans by making misrepresentations minimizing the harm associated with Exposure to Tobacco Products, including through second hand smoke,
 - (e) failing and refusing to research, reveal and remedy the hazards connected with Tobacco Products, and failing to warn Albertans about the harm associated with Exposure to them, including with respect to second hand smoke,
 - (f) deceiving Albertans by making misrepresentations that light, low tar, mild and filtered Tobacco Products are less harmful and pose less risk of Tobacco-Related Diseases and addiction caused or contributed to by Exposure to Tobacco Products, than Tobacco Products not described with those terms,

- (g) first falsely denying the health risks of Exposure to Tobacco Products, then concocting and perpetuating a fallacious controversy as to whether there was a real health risk, and ultimately, deceptively minimizing the negative health effects of Exposure to Tobacco Products, including through second hand smoke, and
 - (h) targeting youth and adolescents with these misrepresentations and deceptions knowing their particular vulnerabilities.
5. Many Albertans have been and will be exposed to Tobacco Products. Albertans exposed to Tobacco Products would not have been exposed to them were it not for these Breaches of Duty.
 6. Exposure to Tobacco Products causes and contributes to a number of Tobacco-Related Diseases and the risk of Tobacco-Related Diseases in human beings.
 7. The Crown has incurred billions of dollars of costs in providing Health Services to treat and care for Albertans who suffer Tobacco-Related Diseases and who are at risk for Tobacco-Related Diseases. The Crown will incur billions of dollars of costs in providing Health Services to treat and care for Albertans who will, in the future, suffer Tobacco-Related Diseases and who will be risk for Tobacco-Related Diseases.
 8. The Defendants have jointly committed the Breaches of Duty and are jointly and severally liable for the Crown's cost of Health Services as provided in the Act. In particular, the Defendants would, at common law, equity or by statute, be held to:
 - (a) have conspired or acted in concert with respect to the Breaches of Duty,
 - (b) be in relationships of principal and agent in respect of the Breaches of Duty, or
 - (c) be jointly or vicariously liable for the Breaches of Duty if damages would have been awarded to a person who suffered as a consequence of them.

THE DEFENDANTS

9. The Defendants are all **Manufacturers** within the meaning of the Act.
10. The Defendant, Altria Group, Inc., is a corporation registered in the state of Virginia in the United States of America, with a registered office at 6601 West Broad Street in Richmond, Virginia.
11. The Defendant, B.A.T. Industries p.l.c., is a company incorporated pursuant to the laws of the United Kingdom, with a registered office located at Globe House, 4 Temple Place in London, England.

12. The Defendant, British American Tobacco (Investments) Limited, is a company incorporated pursuant to the laws of the United Kingdom, with a registered office located at Globe House, 1 Water Street in London, England.
13. The Defendant, British American Tobacco p.l.c., is a company incorporated pursuant to the laws of the United Kingdom, with a registered office located at Globe House, 4 Temple Place in London, England.
14. The Defendant, Canadian Tobacco Manufacturers Council (CTMC), is a company incorporated pursuant to the laws of Canada, with an office at 1808 Sherbrooke St. West, in Montreal and 6 Rue D'Angers, in Gatineau, Quebec.
15. The Defendant, Carreras Rothmans Limited., is a company incorporated pursuant to the laws of the United Kingdom, with a registered office located at Globe House, 1 Water Street in London, England.
16. The Defendant, Imperial Tobacco Canada Limited, is a company federally incorporated pursuant to the laws of Canada. It has a head office located at 3711 Saint-Antoine Street West in Montreal, Quebec. Imperial Tobacco Canada Limited is extra-provincially registered in Alberta and carries on business in Alberta.
17. The Defendant, JTI-MacDonald Corp., is a company registered in Nova Scotia, with a head office located at 1 Robert Speck Parkway, Suite 1601, in Mississauga, Ontario. JTI-MacDonald Corp. is extra-provincially registered in Alberta and carries on business in Alberta.
18. The Defendant, Philip Morris International, Inc., is a company incorporated pursuant to the laws of Virginia, in the United States of America. It has a head office located at 120 Park Avenue in New York, New York.
19. The Defendant, Philip Morris USA, Inc., is a company incorporated pursuant to the laws of Virginia in the United States of America, with a registered office at 6601 West Broad Street in Richmond, Virginia.
20. The Defendant, R.J. Reynolds Tobacco Company, is a company incorporated pursuant to the laws of North Carolina in the United States of America, with a head office located at 401 North Main Street in Winston-Salem, North Carolina.
21. The Defendant, R.J. Reynolds Tobacco International, Inc., is a company incorporated pursuant to the laws of Delaware in the United States of America, with a registered office in Dover, Delaware. Its principle place of business is Winston-Salem, North Carolina.
22. The Defendant, Rothmans, Benson & Hedges Inc., is a federally incorporated company pursuant to the laws of Canada. It has a head office located at 1500 Don Mills Road in

Toronto, Ontario. Rothmans, Benson & Hedges Inc. is extra-provincially registered in Alberta and carries on business in Alberta.

23. The Defendant, Rothmans Inc., is a company incorporated pursuant to the laws of Canada, with a registered office located at 1500 Don Mills Road in North York, Ontario.
24. Where this claim is served on Defendants outside Alberta, it will be served on the basis that a real and substantial connection exists between Alberta and the facts on which it is based. That connection arises from the following:
 - (a) the claim is governed by the law of Alberta,
 - (b) the claim arises from breaches of duty owed to people in Alberta,
 - (c) some of the Defendants carry on business in Alberta,
 - (d) the *situs* of the cause of action is Alberta,
 - (e) the damages claimed occurred , and will occur, in Alberta, and
 - (f) the Defendants are all necessary or proper parties to the action.

-
25. The Defendant, Imperial Tobacco Canada Limited, is Canada's biggest tobacco company. It is a wholly owned subsidiary of the Defendant, British American Tobacco p.l.c.
 26. Imperial Tobacco Company of Canada Limited (incorporated in 1912) changed its name to Imasco Limited in 1970. At about the same time a portion of its tobacco business was moved to its wholly owned subsidiary Imperial Tobacco Limited. In 2000 a majority of the shares of Imasco Limited were sold to British American Tobacco (Canada) Limited, which is wholly owned by British American Tobacco p.l.c., and which already held the remaining shares of Imasco Limited. Imasco Limited and British American Tobacco (Canada) Limited then amalgamated, along with Imperial Tobacco Limited, and the company was renamed Imperial Tobacco Canada Limited.
 27. The Defendant, B.A.T. Industries p.l.c., was formerly known as B.A.T. Industries Limited and before that, Tobacco Securities Trust Limited.
 28. The Defendant, British American Tobacco (Investments) Limited, was formerly known as British-American Tobacco Company Limited. It is also a wholly owned subsidiary of the Defendant, British American Tobacco p.l.c.
 29. Brown & Williamson Holdings, Inc. (formerly Brown & Williamson Tobacco Corporation) is wholly owned by British American Tobacco p.l.c. In 2004, Brown & Williamson Tobacco Corporation's North American operations merged with Reynolds American, Inc.

30. The Defendant, Rothmans, Benson & Hedges Inc., is Canada's second largest tobacco company. It was created through the amalgamation, in 1986, of Benson & Hedges (Canada) Inc. (incorporated in 1934) and Rothmans of Pall Mall Limited (incorporated in 1960).
31. In 1985, Rothmans of Pall Mall Limited acquired a portion of the tobacco business of the Defendant, Rothmans Inc. Prior to that, Rothmans Inc. was known as Rothmans of Pall Mall Canada Limited (incorporated in 1956).
32. The Defendant, Rothmans, Benson & Hedges Inc., is owned directly or indirectly by the Defendant, Philip Morris International, Inc., which has a 40% stake, and by the Defendant, Rothmans Inc., which has a 60% stake.
33. The Defendant, Carreras Rothmans Limited., was a predecessor and amalgamating company to the Defendant, Rothmans, Benson & Hedges Inc.
34. The Defendant, R.J. Reynolds Tobacco Company, is a wholly owned subsidiary of publicly traded Reynolds American, Inc. 42% of Reynolds American, Inc. is owned by the Brown & Williamson Holdings, Inc., which is wholly owned by the Defendant, British American Tobacco p.l.c. Reynolds American, Inc. was also formerly known as R.J. Reynolds Tobacco Company.
35. The Defendant, R.J. Reynolds Tobacco International, Inc., is a wholly owned subsidiary of Reynolds American, Inc.
36. The Defendant, JTI-MacDonald Corp., is Canada's third largest tobacco company.
37. W.C. MacDonald Incorporated (incorporated in 1930) changed its name to MacDonald Tobacco Inc. in 1957. It then became a wholly owned subsidiary of R.J. Reynolds Tobacco Company in 1973. In 1978 it was sold to, and became part of, RJR-MacDonald Inc. which was a wholly owned subsidiary of RJR Nabisco Holdings Corp. When RJR-MacDonald Inc. was sold to Japan Tobacco Inc. in 1999, it was renamed JTI-MacDonald Corp.
38. The Defendant, Altria Group, Inc. was, until 2003, known as Philip Morris Companies, Inc., which was incorporated in 1985. The Defendant, Philip Morris USA, Inc. (formerly Philip Morris Incorporated), is a wholly owned subsidiary of the Defendant, Altria Group, Inc.
39. Until 2008, the Defendant, Philip Morris International, Inc., was wholly owned by the Defendant, Altria Group, Inc. It was spun off from the Defendant, Altria Group, in March 2008.
40. Most Tobacco Products currently sold, promoted and marketed in Alberta, are sold, promoted and marketed by, or on behalf of, the following Defendants:

- (a) Imperial Tobacco Canada Limited,
- (b) Rothmans, Benson & Hedges Inc., and
- (c) JTI-MacDonald Corp.

41. The Defendant, Imperial Tobacco Canada Limited, previously or currently manufactures and distributes the following brands of cigarettes in Alberta, among others: Cameo, du Maurier, Hudson, Matinee, Medallion, Pall Mall, Peter Jackson, Player's, Sweet Caporal and Vogue.
42. The Defendant, Rothmans, Benson & Hedges Inc., previously or currently manufactures and distributes the following brands of cigarettes in Alberta, among others: Accord, Belmont, Belvedere, Benson & Hedges, Craven "A", Dunhill, Mark Ten, Number 7, Rothmans, Silk Cut and Viscount.
43. The Defendant, JTI-MacDonald Corp., previously or currently manufactures and distributes the following brands of cigarettes in Alberta, among others: Export "A", MacDonald and Vantage.
44. All the Defendants, at various times, worked closely with affiliated and related companies in groups, although those relationships changed over time. Certain companies acted as lead companies for the various groups. The **Lead Companies** were organized as follows:

B.A.T. Companies	Group	Lead	British American Tobacco p.l.c. B.A.T. Industries p.l.c. (formerly B.A.T. Industries Limited and prior to that Tobacco Securities Trust Limited) British American Tobacco (Investments) Limited (formerly British-American Tobacco Company Limited)
Rothmans Companies	Group	Lead	Carreras Rothmans Limited Rothmans Inc. Rothmans, Benson & Hedges Inc.
RJR Group Lead Companies			R.J. Reynolds Tobacco Company R.J. Reynolds Tobacco

	International, Inc.
Philip Morris Group Lead Companies	Altria Group (formerly Philip Morris Companies, Inc.) Philip Morris USA, Inc. (formerly Philip Morris Incorporated) Philip Morris International, Inc.

45. The companies in each **Group** have, at various times, included:

B.A.T. Group	British American Tobacco p.l.c. B.A.T. Industries p.l.c. (formerly B.A.T. Industries Limited and prior to that Tobacco Securities Trust Limited) British American Tobacco (Investments) Limited (formerly British-American Tobacco Company Limited) Imperial Tobacco Limited and Imasco Limited (now Imperial Tobacco Canada Limited) Brown & Williamson Holdings, Inc. (formerly Brown & Williamson Tobacco corporation) American Tobacco Company
Rothmans Group	Carreras Rothmans Limited Rothmans Inc. Rothmans, Benson & Hedges Inc. Rothmans of Pall Mall Limited

RJR Group	R.J. Reynolds Tobacco Company R.J. Reynolds Tobacco International, Inc. JTI-MacDonald Corp. MacDonald Tobacco Inc.
Philip Morris Group	Altria Group (formerly Philip Morris Companies, Inc.) Philip Morris USA, Inc. (formerly Philip Morris Incorporated) Philip Morris International, Inc. Rothmans, Benson & Hedges Inc. Benson & Hedges (Canada) Inc.

46. Each Group member was an agent for the Lead Companies of that group, with respect to the Breaches of Duty and conspiracy described in this claim.
47. The Defendant, CTMC, was formed in 1969 out of a previously existing *ad hoc* committee and was later incorporated in 1970. The inaugural members of CTMC included Imperial Tobacco Canada Limited, MacDonald Tobacco Inc., Rothmans of Pall Mall Canada Limited, Benson & Hedges (Canada) Limited.
48. CTMC's current membership is made up of major Canadian cigarette manufacturers, including the Defendants, Imperial Tobacco Canada Limited, Rothmans, Benson & Hedges Inc. and JTI-MacDonald Corp.
49. CTMC is the lobbying and trade association of the Canadian tobacco industry and is engaged in:
 - (a) the advancement of the interests of tobacco manufacturers,
 - (b) the promotion of Tobacco Products, and
 - (c) activities causing, directly or indirectly, other people to engage in the promotion of Tobacco Products.
50. The Defendants, and their predecessors, parents, affiliates, and related companies, have in the past, or currently, including at the times of the Breaches of Duty:

- (a) caused, directly or indirectly, the production, assembly, or packaging of Tobacco Products, including through arrangements with contractors, subcontractors, licensees, franchisees or others,
- (b) derived at least 10% of their revenues from the manufacture or promotion of Tobacco Products by themselves, or by other persons,
- (c) engaged in, or cause directly or indirectly, other persons to engage in the promotion of Tobacco Products, or
- (d) sold, promoted or marketed, directly or indirectly, Tobacco Products in Alberta and are related to other Defendants who have done one of the things described above.

TOBACCO-RELATED WRONGS COMMITTED BY THE DEFENDANTS

51. The Defendants', and their predecessors', parents', affiliates', and related companies', breaches of duty not to misrepresent or deceive, breaches of duty of care, breaches of duty to warn, and breaches of the *Competition* and *Fair Trading Acts*, all of which are described in the following paragraphs, constitute breaches of common law, and equitable, and statutory duties and obligations, owed to people in Alberta who have been Exposed, or might become Exposed, to Tobacco Products, and constitute **Tobacco-Related Wrongs** within the meaning of the Act.

Breaches of Duty not to Misrepresent or Deceive

52. The Defendants, and their predecessors, parents, affiliates, and related companies, owed a duty to Albertans, including those Exposed to Tobacco Products, not to make misrepresentations, or to deceive them. The Defendants, and their predecessors, parents, affiliates, and related companies, have made the following representations to the public, including Albertans Exposed to Tobacco Products in various ways including through second hand smoke:
- (a) Tobacco Products are not addictive,
 - (b) there is no, or limited, evidence that Tobacco Products are addictive,
 - (c) they did not design or formulate Tobacco Products to maximize their addictiveness,
 - (d) Exposure to Tobacco Products does not cause illness, disease or death,
 - (e) there is no, or limited, evidence that Exposure to Tobacco Products poses a risk of causing illness, disease or death,

- (f) Exposure to Tobacco Products poses only a minimal risk of causing illness, disease or death,
- (g) illness, disease and death commonly thought to be caused by Exposure to Tobacco Products are actually caused by environmental or genetic factors,
- (h) quitting smoking is easy and smoking Tobacco Products is only a matter of habit or custom,
- (i) light, low tar, mild and filtered Tobacco Products are less harmful and pose less risk of causing Tobacco-Related Diseases and addiction than Tobacco Products not described with those terms,
- (j) Exposure to Tobacco Products is consistent with good health, and
- (k) smoking cigarettes, and use of other Tobacco Products, is sophisticated, attractive, rebellious, and otherwise desirable,

knowing them to be false, with the intention that the public rely on them, and with the result that many Albertans were Exposed to Tobacco Products, and suffered Tobacco-Related Diseases as a consequence. The Defendants thereby breached their duty to Albertans.

53. Furthermore, the Defendants, and their predecessors, parents, affiliates, and related companies, hid facts inconsistent with the misrepresentations described above, suppressed research into these issues, and discouraged the expression of contrary views, in order to prevent the inaccuracy of their representations from becoming known by the public. The Defendants thereby further breached their duty to Albertans.

Breach of Duty of Care

54. Tobacco Products are dangerous because, even when used as intended, they:
- (a) are highly addictive,
 - (b) deliver harmful and addictive substances, like nicotine and other toxic chemicals found in tobacco, commonly referred to as *tar*, to the organs and tissues of those Exposed to them,
 - (c) cause Tobacco-Related Diseases,
 - (d) significantly increase the risk of Tobacco-Related Diseases,
 - (e) exacerbate other illnesses and diseases, and
 - (f) are deleterious to human health.

55. The Defendants, and their predecessors, parents, affiliates, and related companies, owed, and continue to owe, a duty of care to Albertans, including those Exposed to Tobacco Products in various ways, including through second hand smoke, and have breached that duty. Particulars of their breaches of duty of care include:
- (a) adding substances, and designing their products, to ease, intensify, and amplify the absorption of the nicotine in Tobacco Products by the organs and tissues of those who are Exposed to them,
 - (b) designing, manufacturing and promoting Tobacco Products with filters and with descriptions such as light, low tar, mild and filtered, all of which give the appearance of being less harmful and addictive than Tobacco Products not described with those terms, when such Tobacco Products are not safer than other Tobacco Products,
 - (c) designing, formulating, and manufacturing Tobacco Products to maximize their addictiveness,
 - (d) designing, formulating, and manufacturing Tobacco Products to maximize their inhalability, which increases and reinforces their addictiveness and makes them more dangerous,
 - (e) targeting youth and adolescents with the misrepresentations described in paragraph 52 knowing that:
 - (i) they are more susceptible to such misrepresentations than adults;
 - (ii) most youth and adolescents who smoke cigarettes and use other Tobacco Products become addicted to nicotine,
 - (iii) the onset of addiction in youth and adolescence leads to stronger and longer lasting addiction, which in turn leads to greater Tobacco-Related Disease and associated harm, and
 - (iv) people who do not begin smoking cigarettes in their teenage years tend never to take up smoking,
 - (v) cigarette and other Tobacco-Product advertising increases smoking and other Tobacco Product use among youth and adolescents to a greater extent than with adults.
 - (f) failing to research the health effects of their Tobacco Products until the publicity generated by public health researchers prompted such product research and ostensibly health-oriented product innovations,

- (g) combating and interfering with public health authorities' efforts and messages in order to limit the reduction in sales of Tobacco Products that might result from them,
 - (h) designing and carrying out public relations and advertising campaigns tailored to falsely minimize the health risk associated with Exposure to Tobacco Products, particularly with respect to those who are addicted, knowing such people are more susceptible to such a message because of their addiction,
 - (i) failing to fully and promptly share information they obtained regarding the addictiveness of Tobacco Products and the health effects associated with Exposure to them,
 - (j) failing to design and manufacture Tobacco Products in a way that would minimize their addictiveness and the other dangers associated with them, and
 - (k) generally failing to take all reasonable steps to reduce the risk of Tobacco-Related Diseases associated with Exposure to their Tobacco Products and to reduce the addictiveness of them.
56. Alternatively, the Defendants, and their predecessors, parents, affiliates, and related companies, were reckless and wilfully blind to the truth with respect to the misrepresentations described in paragraph 52 and took no, or only token, steps to verify the truth of the representations they were making. The Defendants thereby further breached their duty of care to Albertans.

Breach Of Duty To Warn

57. The Defendants, and their predecessors, parents, affiliates and related companies, know and have known (or should have known) since at least the early 1950s, that:
- (a) Tobacco Products are highly addictive,
 - (b) there is extensive, credible evidence that Tobacco Products are addictive,
 - (c) Exposure to Tobacco Products, including through second hand smoke, causes illness, disease or death,
 - (d) there is extensive, credible evidence that Exposure to Tobacco Products, including through second hand smoke, poses a risk of causing illness, disease or death,
 - (e) Exposure to Tobacco Products, including through second hand smoke, significantly increases the risk of illness, disease and death,

- (f) illness, disease and death commonly thought to be caused by Exposure to Tobacco Products is actually caused by Exposure to Tobacco Products, not by environmental or genetic factors,
 - (g) quitting smoking cigarettes is very difficult, and even more so for those who started smoking before adulthood,
 - (h) light, low tar, mild and filtered Tobacco Products are no less harmful and pose as much risk of Tobacco-Related Diseases and addiction as Tobacco Products not described with those terms, and
 - (i) Exposure to Tobacco Products is deleterious to health.
58. As purveyors of dangerous products, the Defendants, and their predecessors, parents, affiliates, and related companies, had a duty to warn the public, including Albertans Exposed to Tobacco Products, of these facts and failed to do so in any way prior to 1972, and in an inadequate and ineffective way since then.
59. Even to the extent the Defendants, and their predecessors, parents, affiliates, and related companies, incorporated package warnings after 1972, they undermined those warnings by continuing to make the misrepresentations described in this claim, designing the warnings to blend into the surrounding packaging and otherwise be less effective, and purporting to warn against doing the very things which those products were designed for, like inhaling. They thereby further breached their duty to warn.

Deceptive Marketing Practices - *Competition Act* (Canada)

60. The Defendants, and their predecessors, parents, affiliates, and related companies, have, for the purpose of promoting, directly or indirectly, the supply or use of their Tobacco Products, made representations and warranties to the public, including Albertans, that are false and misleading in a material respect, as described in paragraph 52, and have concealed knowledge such as that described in paragraph 57.
61. In doing so, the Defendants, and their predecessors, parents, affiliates and related companies, have made representations to the public with respect to the performance, efficacy, safety, and suitability for their intended purpose, of Tobacco Products as described in paragraph 52, that are not based on adequate and proper tests, and in some cases were based on deliberately flawed tests.
62. The Defendants, and their predecessors, parents, affiliates, and related companies, have, for the purpose of promoting, directly or indirectly, the supply or use of their Tobacco Products, made representations to the public that tests have been made as to the performance or efficacy of their Tobacco Products, without being able to establish that:

- (a) such representations were previously made or published by the person by whom the test was made, and
- (b) the representations accorded with the representation previously made, published or approved.

63. The Defendants, and their predecessors, parents, affiliates, and related companies, have breached their statutory duties, as imposed by the *Competition Act* as well as its predecessor, the *Combines Investigation Act*, by doing the things described here.

Unfair Trading Practices - *Fair Trading Act* (Alberta)

64. The Defendants', and their predecessors', parents', affiliates' and related companies', misrepresentations and failure to warn of the dangers of Tobacco Products described in this claim were calculated to, and did, exert undue pressure and influence on Albertans, particularly children and adolescents, to use Tobacco Products.

65. The Defendants, and their predecessors, parents, affiliates, and related companies, used language in the promotion of Tobacco Products that was calculated to obfuscate the dangers and addictiveness of Tobacco Products. As a result, some Albertans were unable to understand the character and nature of the risks and addictiveness associated with Tobacco Products and the harmful effects associated with Exposure to them.

66. The Defendants, and their predecessors, parents, affiliates, and related companies, exaggerated the uncertainty with respect to the dangers of Tobacco Products, implied they were not dangerous or addictive, and sowed doubt and ambiguity with respect to the nature and extent of the risks associated with Tobacco Products and their addictiveness, while concealing knowledge such as that described in paragraph 57.

67. The Defendants, and their predecessors, parents, affiliates, and related companies, engaged in a campaign calculated to interfere with and undermine the public health community's research into, and public pronouncements on, the addictiveness and health effects associated with Exposure to Tobacco Products.

68. The Defendants, and their predecessors, parents, affiliates, and related companies, promoted and supplied Tobacco Products that were used by Albertans knowing that the consumers of those products would be unable to receive any reasonable benefit from them.

69. The Defendants', and their predecessors', parents', affiliates', and related companies', misrepresentations, described in paragraph 52, did, or alternatively, might reasonably be expected to, deceive and mislead consumers of Tobacco Products.

70. Consumers of Tobacco Products did, or in the alternative, were likely to, rely on the misrepresentations and opinions described in paragraph 52, to the consumer's disadvantage, as described in this claim.

71. The Defendants', and their predecessors', parents', affiliates', and related companies', misrepresentations described in paragraph 52, attribute certain characteristics and benefits to Tobacco Products which they do not have.
72. The Defendants', and their predecessors', parents', affiliates', and related companies', misrepresentations described in paragraph 52, constitute representations that their Tobacco Products are of a particular standard and quality, which they are not.
73. The Defendants', and their predecessors', parents', affiliates', and related companies', misrepresentations described in paragraph 52, about the performance, and capability of their Tobacco Products:
 - (a) were not based on adequate and proper independent testing done before the representation was made,
 - (b) were not based on testing that substantiates the claims, and
 - (c) did not accurately and fairly reflect the results of any testing that was done.
74. The Defendants', and their predecessors', parents', affiliates', and related companies', misrepresentations described in paragraph 52, were made directly and also appeared in objective formats, including editorials, documentaries and scientific reports (without any statement to the effect that they were advertisements or promotions) when the misrepresentations were primarily made to sell Tobacco Products.
75. The Defendants, and their predecessors, parents, affiliates, and related companies, are suppliers within the meaning of the *Fair Trading Act*. They have breached their statutory duties, as imposed by the *Fair Trading Act* and its predecessor the *Unfair Trade Practices Act*, by doing the things described here.

Conspiracy - Generally

76. The Defendants, and their predecessors, parents, affiliates, and related companies, conspired among themselves (the **Conspiracy**) by agreeing to and, in concert with a common design, jointly breaching the duties described in this claim as constituting Tobacco-Related Wrongs. In particular, they did the following unlawful things:
 - (a) prevented the public from learning that:
 - (i) Tobacco Products are highly, and deliberately, addictive,
 - (ii) youth and adolescents are particularly susceptible to addiction to Tobacco Products,
 - (iii) Exposure to Tobacco Products, directly and in the form of second hand smoke, causes illness, disease and death, and

- (iv) addiction to Tobacco Products is a substantial contributing factor in causing Tobacco-Related Diseases,
- (b) created and perpetuate the myths that:
 - (i) Tobacco Products are not addictive,
 - (ii) there is no, or limited, evidence that Tobacco Products are addictive,
 - (iii) Exposure to Tobacco Products, directly and in the form of second hand smoke, poses only a minimal risk of causing illness, disease or death,
 - (iv) there is no, or limited, evidence that Exposure to Tobacco Products, directly and in the form of second hand smoke, poses a risk of causing illness, disease or death,
 - (v) illness, disease and death commonly thought to be caused by Exposure to Tobacco Products are actually caused by environmental or genetic factors,
 - (vi) quitting smoking cigarettes is easy and smoking is only a matter of habit or custom,
 - (vii) light, low tar, mild and filtered Tobacco Products are less harmful and pose less risk of causing Tobacco-Related Diseases and addiction than Tobacco Product not described with those terms, and
 - (viii) Exposure to Tobacco Products is consistent with good health,
- (c) designed or formulated Tobacco Products to maximize their addictiveness,
- (d) created a false belief among the public that the tobacco industry was absolutely committed to good health in order to allay the public's concerns about smoking and health, reassure cigarette smokers, and provide them with an effective rationale for continuing to smoke,
- (e) destroyed documents that implicate them in wrongdoing, including the Tobacco-Related Wrongs described in this claim, for the purpose of hiding those wrongs and reducing the likelihood of successful litigation against them,

knowing and intending the result of the Conspiracy would be that many Albertans were Exposed to Tobacco Products, and suffered Tobacco-Related Diseases. They conspired also knowing that, as a result, the Crown would incur costs in treating and caring for those Albertans, all of which occurred.

77. The Defendants, and their predecessors, parents, affiliates, and related companies, through committees, meetings and various communications, all involving senior employees, officers and directors, coordinated policies and systems to achieve the objectives described in paragraph 76. Some of them also determined and directed the position others would, and did, advance on their own and within the CTMC and Tobacco Institute, Inc. (TI), in order to achieve their common purpose and design.
78. TI was incorporated in New York in 1958 as a Domestic Not-for-Profit Corporation, and was dissolved in 2000. TI, was a manufacturers' association comprised of tobacco industry companies, including the Defendants, and their predecessors, parents, affiliates, and related companies. TI was actively involved in disseminating misinformation on behalf of the tobacco industry, including the Defendants, and their predecessors, parents, affiliates, and related companies. Its principal place of business was Washington DC, USA, but its public relations and advertising material was received by the public throughout North America in the form of television, newspaper, magazine and other advertising. TI spent hundreds of millions of dollars over its 42 years of operation, most of which came in the form of contributions from the tobacco industry, including the Defendants, and their predecessors, parents, affiliates, and related companies, particularly, Philip Morris USA, Inc. and R.J. Reynolds Tobacco Company.
79. The meetings, communications and other acts in furtherance of the Conspiracy occurred in Canada and other places around the world.
80. Some particulars of the manner in which the Conspiracy was entered into or continued, and of the breaches of duty committed in furtherance of the Conspiracy, are described below. Further details are unknown to the Crown, but within the knowledge of the Defendants.

Particulars of Conspiracy - Internationally

81. The Conspiracy began secretly in 1953 and early 1954 in a series of meetings and communications among the following, and others: Philip Morris Incorporated, R.J. Reynolds Tobacco Company, Brown & Williamson Tobacco Corporation (in its own capacity and as agent for British-American Tobacco Company Limited), American Tobacco Company and the industry created and jointly funded Tobacco Industry Research Committee (TIRC), which was renamed the Council for Tobacco Research (CTR) in 1964. The TIRC and CTR were comprised of representatives from the agents, parents, predecessors and affiliates of the Defendants, among others. Through the course of these meetings and communications, the participants agreed they and their principals, parents, affiliates, related companies and successors would:
 - (a) refrain from seeking a competitive advantage over each other by inferring their cigarettes were less risky than others,

- (b) jointly disseminate false and misleading information in the United States, Canada and elsewhere regarding the risks of smoking cigarettes, including publication of their:
 - (i) *Frank Statement to Cigarette Smokers* published in 448 newspapers throughout the United States on 4 January 1954, with 205 000 copies sent to about 176 800 doctors around the United States, and another 1 400 to various radio stations,
 - (ii) Pamphlet *Smoke Without Fear* published in 1954,
 - (iii) *White Paper* entitled *A Scientific Perspective on the Cigarette Controversy* published in April 1954, and
 - (iv) *Tobacco and Health Newsletter* first published by TIRC in October 1957, reaching a circulation of 520 000 by 1962,all of which asserted cigarette smoking was not a proven cause of lung cancer,
- (c) make no statement or admission that smoking cigarettes caused disease,
- (d) suppress or conceal research regarding the risks of smoking cigarettes, and
- (e) orchestrate a public relations campaign on smoking and health issues with the object of:
 - (i) promoting cigarettes,
 - (ii) protecting cigarettes from governmental restrictions and attack based on health risks,
 - (iii) reassuring the public that smoking cigarettes was not hazardous, and
 - (iv) fomenting false doubt and controversy around the medical science concerning cigarettes and the health effects of smoking.

82. The first of the meetings referenced in paragraph 81 occurred on 14 December 1953 at the Plaza Hotel in New York, NY, USA. The TIRC was formally created at a continuation of that meeting on 18 December 1953.

83. The Conspiracy was continued through secret committees, conferences and meetings involving senior personnel and through written and oral directives.

84. A structure emerged whereby the following companies took the lead in the Conspiracy on behalf of all of the major tobacco manufacturers in North America, as well as many in

Europe, including some or all of the Defendants, and their predecessors, parents, affiliates, and related companies:

- (a) British American Tobacco p.l.c.,
- (b) B.A.T. Industries Limited (now B.A.T. Industries p.l.c.),
- (c) British-American Tobacco Company Limited (now British American Tobacco (Investments) Limited),
- (d) Carreras Rothmans Limited (now Rothmans, Benson & Hedges Inc.),
- (e) Rothmans Inc.,
- (f) Rothmans, Benson & Hedges Inc.,
- (g) R.J. Reynolds Tobacco Company,
- (h) R.J. Reynolds Tobacco International, Inc.,
- (i) Philip Morris Companies Inc. (now Altria Group, Inc.),
- (j) Philip Morris Incorporated (now Philip Morris USA, Inc.), and
- (k) Philip Morris International, Inc.

These are the Lead Companies described in paragraph 44.

- 85. Between late 1953 and the early 1960s, the Lead Companies formed or joined several research organizations including the TIRC and the CTR, the Centre for Cooperation in Scientific Research Relative to Tobacco (**CORESTA**), TI, the Tobacco Industry Research Commission, which subsequently became the Tobacco Research Council (**TRC**) and in the United Kingdom, the Tobacco Manufacturers' Standing Committee (**TMSC**).
- 86. The Lead Companies publicly misrepresented that they, or their affiliated and related companies, along with TIRC, CTR, CORESTA, TI, TRC, TMSC and similar organizations, would objectively conduct research and gather data concerning the link between smoking cigarettes and disease, and would publicize the results of this research throughout the world, even though they had no intention of doing so.
- 87. In reality, the Lead Companies used TIRC, CTR, CORESTA, TI, TRC, TMSC and similar organizations, as foras and contrivances to conspire and to further the Conspiracy, to suppress, conceal, and distort the research and to publicize misleading information to undermine awareness of the truth about the link between smoking cigarettes and disease. The Defendants, and their predecessors, parents, affiliates, and related

companies, intended to mislead the public into believing that there was a real medical or scientific controversy about whether smoking caused addiction and disease.

88. Tobacco industry documents refer to this campaign of misinformation as a *holding strategy*. It was intended to capitalize on smokers' addiction by creating a psychological crutch and self-rationale to continue smoking cigarettes.
89. In 1963 and 1964, the Lead Companies agreed to coordinate their research with research conducted by TIRC in North America, for the purpose of suppressing any findings that might indicate cigarettes were a harmful and dangerous product.
90. In April and September 1963, the Lead Companies agreed to develop a public relations campaign to counter a Royal College of Physicians Report in England, a then forthcoming Surgeon General's Report in the United States and a report of the Canadian Medical Association, for the purpose of misleading smokers that their health would not be endangered by smoking cigarettes and to otherwise advance their conspiratorial aims.
91. In September 1963 in New York, the Lead Companies agreed they would not issue warnings about the link between smoking cigarettes and disease unless and until they were forced to do so by government action, and even then would do so only to the extent absolutely required. As a result, over time, the Defendants, and their predecessors, parents, affiliates, and related companies, lobbied against clear and emphatic warnings, and designed their products and marketing to avoid or minimize the impact of smoking and advertising restrictions.
92. The Lead Companies further agreed they would continue to suppress and conceal information concerning the harmful effects of cigarettes.
93. In the early 1970s, the Lead Companies and some or all of the Defendants, and their predecessors, parents, affiliates, and related companies, and others, began to combine their resources and coordinate their activities, specifically with respect to second hand smoke. In 1975, they formed the first of several committees to specifically address second hand smoke. Although they claimed the committees were formed to conduct sound science regarding the emerging issue of second hand smoke, their actual purpose was to fund projects that would counter the public's growing concern regarding the harmful effects of second hand smoke, despite their knowledge of these harmful effects. The committees formed in 1975 and their various successors, including the Committee for Indoor Air Research founded in 1987, carried out their mandate of challenging the growing scientific consensus regarding second hand smoke by:
 - (a) coordinating and funding efforts to generate dubious evidence to support the false notion that there remained an open controversy as to the health implications of second hand smoke,

- (b) leading the attack on government and public health community efforts to make known the evidence linking second hand smoke to disease and to generally reduce the number of anti-smoking advertisements, and
 - (c) acting as a front organization for directing tobacco industry funds to research projects so that the various committees appeared to be independent organizations and the role of the tobacco industry was hidden.
94. By the mid-1970s, the Lead Companies, and some or all of the Defendants, and their predecessors, parents, affiliates, and related companies, decided that an increased international misinformation campaign was required to mislead smokers and potential smokers in order to protect the interests of the tobacco industry, because of fear that any admissions to the link between smoking cigarettes (and second hand smoke) and disease could lead to a domino effect to the detriment of the industry around the world.
95. As a result, on 2 and 3 June 1977, the Lead Companies, and some or all of the Defendants, and their predecessors, parents, affiliates, and related companies, met at Shockerwick House near Bath, England to establish Operation Berkshire and the International Committee on Smoking Issues (ICOSI) which was to serve as the forum and agent for its planning and implementation. Operation Berkshire was aimed at Canada and other major markets, to further advance their campaign of misinformation and to promote cigarette smoking. Operation Berkshire was lead by the Philip Morris Lead Companies, Rothmans Lead Companies and B.A.T. Lead Companies, along with some or all of the other Defendants, and their predecessors, parents, affiliates, and related companies.
96. Various meetings among some or all of the Lead Companies, the Defendants, their predecessors, parents, affiliates, and related companies, and ICOSI, or subsets thereof, took place, including: 21 and 22 July 1977, 11 and 12 November 1977 at Brillancourt, Lausanne, Switzerland; and 2 and 3 May 1979 at Zurich, Switzerland.
97. Through ICOSI, the Defendants, and their predecessors, parents, affiliates and related companies, resisted attempts by governments to require adequate warnings about smoking cigarettes (and second hand smoke) and disease, and agreed to and did:
- (a) jointly disseminate false and misleading information regarding the risks of smoking and second hand smoke,
 - (b) make no statement or admission that smoking and second hand smoke cause disease,
 - (c) suppress research regarding the risks of smoking and second hand smoke,

- (d) not compete with each other by making health claims with respect to their cigarettes, and thereby avoided direct or indirect admissions about the risks of smoking and second hand smoke, and
 - (e) participate in a public relations program on smoking and health issues with the object of promoting cigarettes, protecting cigarettes from attack based upon health risks, and reassuring smokers, the public and governments, that smoking was not hazardous.
98. In and after 1977, the members of ICOSI, including each of the Lead Companies, as well as the Defendants, and their predecessors, parents, affiliates and related companies, agreed orally and in writing to, and did, ensure that:
- (a) they would act in accordance with the ICOSI position on cigarette smoking (and second hand smoke) and health, including the decision to mislead the public about the link between smoking and disease,
 - (b) initiatives pursuant to the ICOSI positions would be carried out, whenever possible, by national associations of cigarette manufacturers (**NMAs**) including TI and, in Canada, CTMC, to ensure compliance in the various tobacco markets world wide,
 - (c) when it was not possible for NMAs to carry out ICOSI's initiatives, they would be carried out by themselves, and
 - (d) they would, when required, suspend or subvert their local or national interests in order to assist in the preservation and growth of the tobacco industry as a whole.
99. In 1981, ICOSI was renamed the International Tobacco Information Centre/Centre International d'Information du Tabac - **INFOTAB**. In or before 1992, INFOTAB changed its name to the Tobacco Documentation Centre (**TDC**) (ICOSI, INFOTAB and TDC are referred to collectively as **ICOSI Organization**).
100. At all times, the policies of ICOSI Organization were identical to the policies of the NMAs, including TI and CTMC, and were presented as the policies and positions of the NMAs and their member companies so as to conceal from the public and from governments, the existence of the Conspiracy.
101. The Lead Companies and the Defendants, and their predecessors, parents, affiliates and related companies, at all times acted to ensure that those associated with ICOSI Organization complied with, and did not deviate from, the official ICOSI Organization position on the adverse health effects of smoking cigarettes.
102. In addition to the foregoing, the Defendants, and their predecessors, parents, affiliates, and related companies, denied that second hand smoke caused or contributed to

Tobacco-Related Disease, even though they knew that not to be the case since at least as early as 1970. They thereby furthered the Conspiracy.

103. Since at least as early as the early 1950s, the Defendants, and their predecessors, parents, affiliates, and related companies, systematically culled their documents, particularly those relating to research and development, in order to eliminate or hide evidence that they knew Tobacco Products caused Tobacco-Related Diseases and that they were conspiring as described in this claim. These efforts were the result of anticipated litigation against them. In Canada, various meetings and communications address these issues. For example, at a meeting of some of the Defendants, and their predecessors, parents, affiliates, and related companies on 21 and 22 June 1990, hosted by Imperial Tobacco Canada, it was agreed that a *document retention policy* would be adopted that would require the destruction of research and development documentation generated by, or in the possession of, some of the Defendants, and their predecessors, parents, affiliates, and related companies, particularly those affiliated with, or related to, the B.A.T. Lead Companies and RJR Lead Companies, after they had been retained for 5 years. It was also agreed the destruction of documents which had already been retained for more than 5 years would take place in September 1990. As a result of those agreements, many documents relating to research and development were destroyed, including those relating to:

- (a) mouse skin painting experiments inquiring into the carcinogenic properties of nicotine,
- (b) smoke inhalability,
- (c) mutagenic activity of cigarette tobacco,
- (d) retention of smoke components in the human respiratory system,
- (e) properties of nicotine, and
- (f) toxicity of various cigarette additives.

Particulars Of Conspiracy - Inter-provincially throughout Canada

104. The Conspiracy described above was continued in Canada when:

- (a) the language and message of the *Frank Statement to Cigarette Smokers*, referenced in paragraph 81(b)(i), was disseminated in Canada, by some or all of the Defendants, particularly Imperial Tobacco Canada Limited, and their predecessors, parents, affiliates, and related companies, including to the Deputy Minister of Health for Canada in January 1954,
- (b) in or about 1962, some or all of the Defendants, and their predecessors, parents, affiliates, and related companies, agreed not to compete with each other in

Canada by making health claims with respect to their cigarettes so as to avoid any admission, directly or indirectly, concerning the risks of smoking cigarettes,

- (c) in or about 1962, some or all of the Defendants, particularly Imperial Tobacco Canada Limited, and their predecessors, parents, affiliates, and related companies, agreed not to make reference to tar, nicotine or other smoke constituents with similar connotations, in advertising, packaging and other documentation and communication designed for public use, in order to obfuscate the health risks associated with cigarettes,
 - (d) in 1963, some or all of the Defendants, and their predecessors, parents, affiliates, and related companies, misrepresented to the Canadian Medical Association that there was no causal connection between smoking cigarettes and disease,
 - (e) in or about 1963, some or all of the Defendants, and their predecessors, parents, affiliates, and related companies, formed the Ad Hoc Committee on Smoking and Health (renamed the CTMC in 1969, and then incorporated in 1970) in order to maintain a united front on cigarette smoking and health issues, and
 - (f) in or about 1969, some or all of the Defendants, and their predecessors, parents, affiliates, and related companies, misrepresented to the House of Commons, Standing Committee on Health, Welfare and Social Affairs, that there was no causal connection between smoking cigarettes and disease.
105. TI and CTMC provided a means and method to continue and advance the Conspiracy, and participated in the Conspiracy.
106. CTMC has sought to advance the interest of Manufacturers, and promoted Tobacco Products throughout Canada since about 1963 by a variety of means, including misrepresenting the risks of cigarette smoking to the public, in accordance with the tobacco industry's position, as described in this claim.
107. CTMC has co-ordinated, with some or all of the Defendants, and their predecessors, parents, affiliates, and related companies, and international tobacco industry associations, the Canadian cigarette industry's positions on cigarette smoking and health issues and the associated misrepresentations.
108. In furtherance of the Conspiracy, TI and CTMC (and the Defendants, and their predecessors, parents, affiliates, and related companies through those organizations):
- (a) disseminated false and misleading information regarding the risks of smoking cigarettes and second hand smoke, including making false and misleading submissions to governments,

- (b) refused to admit that smoking cigarettes and second hand smoke caused disease when they knew it did,
 - (c) suppressed research regarding the risks of smoking cigarettes and second hand smoke,
 - (d) participated in a public relations program on cigarette smoking and health issues with the object of promoting cigarettes, protecting cigarette sales, and protecting cigarettes and smoking from attack by misrepresenting the link between smoking and disease, and
 - (e) lobbied the federal and various provincial governments in order to delay and minimize government initiatives with respect to cigarette smoking and health.
109. In the 1960s and 1970s, the Defendants, and their predecessors, parents, affiliates, and related companies, particularly those related to, or affiliated with, the B.A.T. Lead Companies, destroyed documents detailing research which showed cigarettes marketed and described as low tar were no less harmful than others, in part because smokers compensated by smoking those cigarettes more intensely. As a result of destroying and denying the existence of the associated research, information about the harm connected with low tar cigarettes was kept from the public and the health community for several decades. The destruction of those documents was pursuant to the Conspiracy among the Defendants, and their predecessors, parents, affiliates, and related companies, to destroy documents that contradicted their misrepresentations.
110. Between 1978 and 1987, Imperial Tobacco Canada Limited destroyed at least 60 documents reporting research it had undertaken which showed cigarette smoking and second hand smoke causes lung cancer and other diseases, pursuant to the Conspiracy. Imperial Tobacco Canada Limited then publicly denied the existence of internal research showing smoking and second hand smoke causes lung cancer and other diseases.
111. In 1990, the president of the CTMC made a written submission to the Government of Canada objecting to proposed health warnings regarding the risks of second hand smoke and denying the existence of credible or reliable evidence that second hand smoke is a health hazard. However, the CTMC and its members had previously destroyed documents which constituted exactly that evidence pursuant to their conspiratorial agreement to destroy documents that contradicted their misrepresentations.
112. At all material times, TI and CTMC acted, with express or implied authority, as the agent for some or all of the Defendants, and their predecessors, parents, affiliates, and related companies.

Particulars Of Conspiracy Among Affiliated Corporations

B.A.T. Group

113. The B.A.T. Group Companies participated in the Conspiracy, and continued the Conspiracy at or through committees, conferences and meetings established, organized and convened by the B.A.T. Lead Companies and attended by senior personnel of all of the Groups' Companies and through written and oral directives and communications amongst them.
114. The committees used by the B.A.T. Lead Companies to direct or coordinate common policies on cigarette smoking and health, include the *Chairman's Policy Committee*, the *Research Policy Group*, the *Scientific Research Group*, the *Tobacco Division Board*, the *Tobacco Executive Committee*, and the *Tobacco Strategy Review Team* (which later became known as the *Tobacco Strategy Group*).
115. The conferences used by the B.A.T. Lead Companies to direct or coordinate common policies on cigarette smoking and health, include the *Chairman's Advisory Conferences*, *BAT Research Conferences*, and *BAT Marketing Conferences*. Some of these conferences took place in Canada.
116. At certain times, the B.A.T. Lead Companies further directed or co-ordinated common policies on cigarette smoking and health, by preparing and distributing written directives and communications including *Smoking Issues: Claims and Responses*, *Consumer Helplines: How To Handle Questions on Smoking and Health and Product Issues*, *Smoking and Health: The Unresolved Debate*, *Smoking: The Scientific Controversy*, *Smoking: Habit or Addiction?*, and *Legal Considerations on Smoking and Health Policy*. These directives and communications set out a common position on smoking and health issues to ensure all of these companies understood, disseminated, and followed the common position, which they did.
117. The B.A.T. Lead Companies further directed or coordinated the cigarette smoking and health policies of Imperial Tobacco Limited and Imasco Limited, by directing or advising how they should vote in committees of Canadian cigarette manufacturers and at meetings of TI and CTMC on issues relating to smoking and health, including the approval and funding of research by Canadian cigarette manufacturers and by TI and CTMC.

Rothmans Group

118. The Rothmans Group Companies participated in the Conspiracy, and continued the Conspiracy at or through committees, conferences and meetings established, organized, convened by the Rothmans Lead Companies and attended by senior personnel of all of the Groups' companies, and through written and oral directives and communications amongst them.

119. At certain times, the Rothman's Lead Companies were involved in directing or coordinating the common policies of these companies on cigarette smoking and health, by preparing and distributing statements that set out their position on smoking and health issues, which were adopted by these companies.
120. At certain times, the Rothman's Lead Companies were also involved in directing or coordinating the cigarette smoking and health policies of these companies, by influencing or advising how they should vote in committees of Canadian cigarette manufacturers and at meetings of TI and CTMC on issues relating to smoking and health, including the approval and funding of research by Canadian cigarette manufacturers and by TI and CTMC.

RJR Group

121. The RJR Group Companies participated in the Conspiracy, and continued the Conspiracy at or through committees, conferences and meetings established, organized and convened by the RJR Lead Companies and attended by senior personnel of all of the Groups' Companies and through written and oral directives and communications amongst them.
122. The meetings used by the RJR Lead Companies to direct or co-ordinate the common policies on cigarette smoking and health included the *Winston-Salem Smoking Issues Coordinator Meetings* and the *Hound Ears* and *Sawgrass conferences*.
123. At certain times, the RJR Lead Companies further directed or co-ordinated a position on cigarette smoking and health by means of a system of reporting whereby each global area had a *smoking issue designee* who was supervised by R.J. Reynolds Tobacco International, Inc. and who reported to the *Manager of Science Information* in the R.J. Reynolds Tobacco Company. In the case of *Area II (Canada)*, this designee was, from 1974, a senior executive of MacDonald Tobacco Inc., and later of JTI-MacDonald Corp.
124. At certain times, the RJR Lead Companies further directed or co-ordinated the policies on cigarette smoking and health by preparing and distributing written directives and communications including an *Issues Guide*. These directives and communications set out the position on smoking and health issues to ensure that they were understood, disseminated and followed, which they were.
125. The RJR Lead Companies further directed or co-ordinated the cigarette smoking and health policies of JTI-MacDonald Corp. and its predecessors by directing or advising how they should vote in committees of Canadian cigarette manufacturers and at meetings of TI and CTMC on issues relating to smoking and health, including the approval and funding of research by Canadian cigarette manufacturers and by TI and CTMC. JTI-MacDonald Corp. and its predecessors complied with these directives.

Philip Morris Group

126. The Philip Morris Group Companies participated in the Conspiracy, and continued the Conspiracy at or through committees, conferences and meetings established, organized and convened by the Philip Morris Lead Companies and attended by senior personnel of all of the Groups' Companies and through written and oral directives and communications amongst them.
127. The committees used by the Philip Morris Lead Companies to direct or co-ordinate common policies on cigarette smoking and health, include the *Committee on Smoking Issues and Management*, the *Corporate Products Committee*, the *Conference on Smoking and Health*, and the *Corporate Affairs World Conference*.
128. At various times, the Philip Morris Lead Companies further directed or co-ordinated common policies on cigarette smoking and health by means of their respective Corporate Affairs and Public Affairs Departments, which directed or advised various departments of the other companies concerning a coordinated position on smoking and health issues.
129. At various times, the Philip Morris Lead Companies further directed or co-ordinated the common policies on cigarette smoking and health by preparing and distributing written directives and communications including *Smoking and Health Quick Reference Guides* and *Issues Alerts*. These directives and communications set out the coordinated position on smoking and health issues to ensure that they understood, disseminated and followed the same position, which they did.
130. At various times, the Philip Morris Lead Companies further directed or co-ordinated the cigarette smoking and health policies of Rothmans, Benson & Hedges Inc. and its predecessors by directing or advising how they should vote in committees of Canadian cigarette manufacturers and at meetings of TI and CTMC on issues relating to smoking and health, including the approval and funding of research by Canadian cigarette manufacturers and by TI and CTMC. Rothmans, Benson & Hedges Inc. and its predecessors complied with these directives.

Joint and several liability

131. In participating in the Conspiracy, the Defendants and their predecessors, parents, affiliates, and related companies, have conspired, acted in concert and jointly committed the Breaches of Duty and are jointly and severally liable to the Crown for the cost of healthcare services caused by those breaches.
132. Some of the Defendants were acting in a principal and agent relationship with each other in participating in the Conspiracy and committing the Breaches of Duty, and are jointly and severally liable to the Crown to the extent of those relationships.

133. The Defendant, R.J. Reynolds Tobacco Company, was the alter ego and guiding mind directing JTI MacDonald Corp. (then MacDonald Tobacco Inc.) in its activity relating to the Conspiracy for at least a portion of the time when it occurred. R.J. Reynolds Tobacco Company is liable for the breaches of duty of JTI-MacDonald Corp. which occurred during that period.
134. The Defendants, British American Tobacco (Investments) Limited and B.A.T. Industries p.l.c., were the alter egos and guiding minds directing Imperial Tobacco Canada Limited (then Imperial Tobacco Limited and Imasco Limited) and Brown & Williamson Holdings, Inc. (then Brown & Williamson Tobacco Corporation) in their activities relating to the Conspiracy for at least a portion of the time when it occurred. They are liable for the breaches of duty of Imperial Tobacco Canada Limited and Brown & Williamson Holdings, Inc. which occurred during that period.
135. The Defendants, Philip Morris USA, Inc. and Philip Morris International, Inc. were the alter egos and guiding minds directing Rothmans, Benson & Hedges Inc. (and its predecessors Benson & Hedges (Canada) Inc. and Rothmans of Pall Mall Limited) in their activities relating to the Conspiracy for at least a portion of the time when it occurred. They are liable for the breaches of duty of Rothmans, Benson & Hedges Inc. which occurred during that period.
136. The Defendant, Carreras Rothmans Limited, was the alter ego and guiding mind directing Rothmans, Benson & Hedges Inc. (and its predecessors Benson & Hedges (Canada) Inc. and Rothmans of Pall Mall Limited) and of Rothmans Inc. in their activity relating to the Conspiracy for at least a portion of the time when it occurred. Carreras Rothmans Limited is liable for the breaches of duty of Rothmans, Benson & Hedges Inc. and Rothmans Inc. which occurred during that period.

THE CROWN'S COST OF HEALTH SERVICES

137. Smoke from Tobacco Products contains carbon monoxide, nitrogen oxides, cyanide, benzopyrenes, radioactive polonium, arsenic, aldehydes, nitrosamines, numerous toxins, and other human carcinogens. These carcinogens and toxins are absorbed by the lungs and into the bloodstream during Exposure to Tobacco Products, including through inhalation of smoke.
138. Exposure to Tobacco Products in various ways, including through second hand smoke, causes, and contributes to, Tobacco-Related Diseases.
139. The following, among others, are Tobacco-Related Diseases:
 - (a) lung cancer,
 - (b) cardiovascular disease, including myocardial infarction, coronary heart disease, and atherosclerosis,

- (c) chronic obstructive pulmonary disease and related respiratory diseases like chronic bronchitis and emphysema,
- (d) bladder cancer,
- (e) cerebrovascular disease,
- (f) esophageal cancer,
- (g) kidney cancer,
- (h) laryngeal cancer,
- (i) oral cancer,
- (j) pancreatic cancer,
- (k) peptic ulcer disease,
- (l) aortic aneurysm,
- (m) cataracts,
- (n) low bone density in post-menopausal women,
- (o) reduced fertility,
- (p) adverse reproductive outcomes including pre-mature rupture of the membranes, placenta previa, placental abruption, pre-term delivery and shortened gestation, foetal growth restriction, low birth weight, and sudden infant death syndrome,
- (q) acute myeloid leukemia,
- (r) stomach cancer,
- (s) uterine and cervical cancer,
- (t) liver cancer,
- (u) Buerger's disease, and
- (v) overall diminished health and increased risk of morbidity and mortality.

140. For at least a portion of the time since they first committed a Tobacco-Related Wrong, Tobacco Products manufactured or promoted by the Defendants, and their predecessors, parents, affiliates, and related companies, have been sold in Alberta.

141. Albertans Exposed to Tobacco Products would not have been Exposed to Tobacco Products, or at least not to the same extent, but for the Tobacco-Related Wrongs.
142. Exposure to Tobacco Products caused or contributed to Tobacco-Related Diseases or the risk of Tobacco-Related Diseases among many of those Albertans Exposed to Tobacco Products. Many Albertans have been and will be exposed to Tobacco Products.
143. The Crown has provided, and will provide, Health Services in treating and caring for those with Tobacco-Related Diseases caused or contributed to by Tobacco-Related Wrongs, including:
 - (a) inpatient and outpatient services provided in a hospital or other facilities, and
 - (b) Health Services as defined in the Act and in the *Alberta Health Care Insurance Act*.

Remedy Sought:

144. The Crown seeks judgment against the Defendants, jointly and severally, to recover its cost of Health Services caused or contributed to by Tobacco-Related Wrongs, as well as the present value of its anticipated costs of Health Services caused or contributed to by Tobacco-Related Wrongs, in the amount of at least \$10 billion, as well as:
 - (a) an order prohibiting the Defendants from continuing their misrepresentations, deceptive marketing practices and unfair trading practices, as described in this claim,
 - (b) interest under the *Judgment Interest Act*,
 - (c) costs, and
 - (d) such further and other relief the Court may deem just.

NOTICE TO THE DEFENDANT(S)

You only have a short time to do something to defend yourself against this claim:

20 days if you are served in Alberta

1 month if you are served outside Alberta but in Canada

2 months if you are served outside Canada.

You can respond by filing a statement of defence or a demand for notice in the office of the

clerk of the Court of Queen's Bench at CALGARY, Alberta, AND serving your statement of defence or a demand for notice on the plaintiff's(s') address for service.

WARNING

If you do not file and serve a statement of defence or a demand for notice within your time period, you risk losing the law suit automatically. If you do not file, or do not serve, or are late in doing either of these things, a court may give a judgment to the plaintiff(s) against you.