

Jan. 11. 1996 5:59PM

No. 0993 P. 24/68

APPENDIX 3

2078112695

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

FILED
MAR 30 1994
U.S. DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

DIANNE CASTANO,
ERNEST PERRY,
GEORGE SOLOMON and ALL OTHERS
SIMILARLY SITUATED

* DOCKET NO: 94-1044 *J*
*
* DIVISION: _____
* JUDGE Section "B"
*
* MAGISTRATE "3"

VERSUS

THE AMERICAN TOBACCO COMPANY,
LORILLARD, INC., LORILLARD
TOBACCO COMPANY,
PHILIP MORRIS COMPANIES, INC.,
PHILIP MORRIS INCORPORATED,
RJR NABISCO, INC., R.J. REYNOLDS
TOBACCO COMPANY,
LIGGETT GROUP, INC.,
and REYNOLDS R.J. TOBACCO CO, INC.

**TEMPORARY RESTRAINING ORDER WITHOUT NOTICE
AND ORDER TO SHOW CAUSE WHY PRELIMINARY INJUNCTION
SHOULD NOT ISSUE**

Upon the annexed application for temporary restraining order of the Plaintiff Dianne Castano and upon the annexed verified complaint and annexed affidavit of Plaintiff's attorney Wendell Gauthier, let the defendants THE AMERICAN TOBACCO COMPANY, LORILLARD, INC., LORILLARD TOBACCO COMPANY, PHILIP MORRIS COMPANIES, INC., PHILIP MORRIS INCORPORATED, RJR NABISCO, INC., R.J. REYNOLDS TOBACCO COMPANY, LIGGETT GROUP, INC., and REYNOLDS R.J. TOBACCO CO, INC., show cause before this Court, at 10:00 o'clock A.m., on the 19th day of August, 1994 in courtroom 501 why a preliminary injunction

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should not be entered herein enjoining each defendant, its agents, servants, employees, attorneys, and any other person who or which may act at the discretion or direction of any defendant herein, including those persons in active concert and participation with any defendant herein, from destroying, alienating, disposing of, altering or defacing any and all documents of any nature, including but not limited to, all writings and documentary materials whether written or otherwise recorded of any kind or nature whatsoever, both originals and copies, and drafts of such materials, including but not limited to correspondence, letters, envelopes, memoranda, notes, reports, papers, files, books, records, contracts, agreements, statements, deposition transcripts, telegrams, telexes, facsimile transmissions, account records, message slips, print-outs, diary entries and calendars, investigative reports, maintenance records, opinion letters, charts, graphs, tables, plots, compilation tabulations, recommendations, worksheets, logs, papers, minutes, desk calendars, summaries and other written records or recordings of meetings or telephone calls, bills, invoices, records of obligations or expenditures, vouchers, receipts, ledgers, journals, purchase orders, financial and statistical data, analyses, surveys, audio and video tape and transcripts thereof, affidavits, printed matter, and other data compilations concerning the nicotine content of tobacco and tobacco products manufactured and/or marketed by the defendants from which information can be obtained including materials used in electronic data processing and that defendants preserve all such materials pending hearing and disposition of the preliminary injunction in this matter and pending full and meaningful discovery as shall be requested by Plaintiffs and propounded on

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defendants for purposes of the CLASS ACTION complaint.

And it appearing to the Court that defendants are in a position to dispose of and have cause to dispose any and all materials included by reference or implication hereinabove and will carry out such acts unless restrained by order of this Court; and it further appearing that immediate and irreparable injury, loss and damage will result to Plaintiff before notice can be given to defendant or defendant's attorney and a hearing can be had upon Plaintiff's application for a temporary restraining order and before defendant or his attorney can be heard in opposition, in that destruction or loss of materials necessary to prove Plaintiff's are at the sole disposal of defendants and are not a matter of public record, and should they be altered or lost by any means, such materials cannot be replaced and shall severely prejudice Plaintiff's cause and deny Plaintiff a "day in Court" to call defendants to answer for the wrongful conduct and damages to Plaintiff as alleged in Plaintiff's CLASS ACTION complaint attached hereto, and it further appearing that Plaintiff's attorney certified to the Court in writing the reasons supporting Plaintiff's claim that notice should not be required, it is

ORDERED that pending hearing and determination of this application, or the expiration of ten days from the date hereof, whichever shall occur first, that each defendant THE AMERICAN TOBACCO COMPANY, LORILLARD, INC., LORILLARD TOBACCO COMPANY, PHILIP MORRIS COMPANIES, INC., PHILIP MORRIS INCORPORATED, RJR NABISCO, INC., R.J. REYNOLDS TOBACCO COMPANY, LIGGETT GROUP, INC., and REYNOLDS R.J. TOBACCO CO, INC., its agents, servants, employees, attorneys, and any other person who or which may act at the

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discretion or direction of any defendant herein, including those person in active concert and participation with any defendant herein, are ENJOINED from destroying, alienating, disposing of, altering or defacing documents of any nature including but not limited to all writings and documentary materials, whether written or otherwise recorded of any kind or nature whatsoever, both originals and copies, and drafts of such materials, including but not limited to correspondence, letters, envelopes, memoranda, notes, reports, papers, files, books, records, contracts, agreements, statements, deposition transcripts, telegrams, telexes, facsimile transmissions, account records, message slips, print-outs, diary entries and calendars, investigative reports, maintenance records, opinion letters, charts, graphs, tables, plots, compilation tabulations, recommendations, worksheets, logs, papers, minutes, desk calendars, summaries and other written records or recordings of meeting or telephone calls, bills, invoices, records of obligations or expenditures, vouchers, receipts, ledgers, journals, purchase orders, financial and statistical data, analyzes, surveys, audio and video tape and transcripts thereof, affidavits, printed matter, and other data compilations from which information can be obtained including materials used in electronic data processing and that defendants are further ORDERED to preserve all such materials pending hearing and disposition of preliminary injunction in this matter and pending full and meaningful discovery as shall be requested by Plaintiffs and propounded on defendants for purposes of prosecuting the CLASS ACTION complaint.

It is further ORDERED that security shall be dispensed with and Plaintiff shall not be required to post bond for issuance of the Temporary Restraining Order issued

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herein.

It is further ORDERED that service of a copy of this Order to Show Cause and affidavit annexed hereto shall be made upon the said defendants on or before midnight of the 30th day of March, 1994.

Dated: This 30th day of March, 1994, at New Orleans, Louisiana.

Frederic H. Cook

UNITED STATES DISTRICT JUDGE

Respectfully submitted,

D. Kim Cormier

Wendell H. Gauthier
D. Kim Cormier
Gauthier & Murphy
3500 N. Hullen Street
Metairie, Louisiana 70002
(504) 456-8800
fax (504) 456-8624

CERTIFICATE

I hereby certify that I have caused the foregoing to be served with complainant's CLASS ACTION complaint and summons to appear to all parties named herein.