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ATTORNEYS FOR plaintiffs Rose D. Cipollone and Antonio Cipollone

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

-----X
ROSE D. CIPOLLONE and ANTONIO)
CIPOLLONE, her husband,) DOCKET NO. 83-2844 SA
Plaintiffs,)
vs.)
LIGGETT GROUP, INC., a Delaware)
Corporation; PHILIP MORRIS)
INCORPORATED, a Virginia)
Corporation and LOEWS CORPORATION) COMPLAINT AND DEMAND
a Delaware Corporation,) FOR TRIAL BY JURY
Defendants.)
-----X

Rose D. and Antonio Cipollone, her husband, residing
at 96 Berlotto Avenue in the town of Little Ferry County of
Bergen, State of New Jersey, by way of Complaint against the
defendants say:

FIRST COUNT

1. Plaintiffs are citizens of the State of New
Jersey.

2. Defendant Liggett Group, Inc. is a corporation, incorporated under the laws of the State of Delaware and has its principal place of business in a state other than New Jersey.

3. Defendant Philip Morris Incorporated is a corporation, incorporated under the laws of the State of Virginia and has its principal place of business in a state other than New Jersey.

4. Defendant Luews Corporation is a corporation, incorporated under the laws of the State of Delaware and has its principal place of business in a state other than New Jersey.

5. The matter in controversy exceeds, exclusive of interest and costs, the sum of \$10,000.00.

6. This court has original jurisdiction over the within matter under 2A U.S.C. §1332(a)(1).

SECOND COUNT

1. From approximately 1942 through 1981 defendant Liggett Group Incorporated individually and/or its predecessors in interest, hereafter referred to as "LIGGETT GROUP, INC.," was in the business of manufacturing and selling Chesterfield cigarettes and L & M cigarettes and placed them in the stream of commerce.

2. From approximately 1942 through 1981 defendant Philip Morris Incorporated individually and/or its pre-

decessors in interest, hereafter referred to as "PHILIP MORRIS, INCORPORATED" was in the business of manufacturing and selling Virginia Slims cigarettes and Parliament cigarettes and placed them in the stream of commerce.

3. From approximately 1942 through 1981 defendant Loews Corporation individually and/or its predecessors, hereafter referred to as "LOEWS CORPORATION," was in the business of manufacturing and selling True cigarettes and placed them in the stream of commerce.

4. From approximately 1942 through 1955 plaintiff Rose D. Cipollone purchased and smoked Chesterfield cigarettes.

5. From approximately 1955 through 1968 plaintiff Rose D. Cipollone purchased and smoked L & M cigarettes.

6. From approximately 1968 through 1972 plaintiff Rose D. Cipollone purchased and smoked Virginia Slims cigarettes.

7. From approximately 1972 through 1974 plaintiff Rose D. Cipollone purchased and smoked Parliament cigarettes.

8. From approximately 1974 through 1981 plaintiff Rose D. Cipollone purchased and smoked True cigarettes.

9. The cigarettes manufactured and sold by defendants LIGGETT GROUP, INC., PHILIP MORRIS INCORPORATED, and LOEWS CORPORATION presented a risk to the plaintiff far greater than any social utility.

10. The cigarettes manufactured and sold by the defendants LIGGETT GROUP, INC., PHILIP MORRIS INCORPORATED, and LOEWS CORPORATION and purchased and used by

plaintiff Rose D. Cipollone, were in an unsafe and defective condition.

11. The cigarettes manufactured and sold by the defendants LIGGETT GROUP, INC., PHILIP MORRIS INCORPORATED, and LOEWS CORPORATION were purchased by plaintiff Rose D. Cipollone without substantial change in the condition in which they were manufactured and sold by said defendants.

12. As a direct and proximate result of the use of defendants, LIGGETT GROUP, INC.'s, PHILIP MORRIS INCORPORATED's, and LOEWS CORPORATION's defective products, Rose D. Cipollone, has developed bronchogenic carcinoma, was caused to sustain other personal injuries, has undergone and in the future will undergo great pain and suffering, was and is unable to attend to her usual occupation and activities, was and in the future will be required to expend monies for medical care and has sustained and will sustain other losses thereby.

WHEREFORE, plaintiff, Rose D. Cipollone hereby demands damages against defendants, LIGGETT GROUP, INC., PHILIP MORRIS INCORPORATED, and LOEWS CORPORATION individually, jointly and in the alternative, together with interest and costs of suit.

THIRD COUNT

1. Plaintiff, Rose D. Cipollone repeats each and every allegation contained in the First and Second Counts of this Complaint as if set forth fully herein.

2. The cigarettes manufactured and sold by defendants LIGGETT GROUP, INC., PHILIP MORRIS INCORPORATED, and LOEWS CORPORATION were defective as a result of said defendants' failure to provide adequate warnings of the health consequences of cigarette smoking.

3. As a direct and proximate result of the aforesaid defect, plaintiff, Rose D. Cipollone has developed bronchogenic carcinoma, was caused to sustain other personal injuries, has undergone and in the future will undergo great pain and suffering, was and is unable to attend to her usual occupation and activities, was and in the future will be required to expend monies for medical care and has sustained and will sustain other losses thereby.

WHEREFORE, plaintiff, Rose D. Cipollone hereby demands damages against defendants, LIGGETT GROUP, INC., PHILIP MORRIS INCORPORATED, and LOEWS CORPORATION individually, jointly and in the alternative, together with interest and costs of suit.

FOURTH COUNT

1. Plaintiff, Rose D. Cipollone repeats each and every allegation contained in the First, Second and Third Counts of this Complaint as if set forth fully herein.

2. During all times relevant hereto, defendants, LIGGETT GROUP, INC., PHILIP MORRIS INCORPORATED, and

LOEWS CORPORATION knew or should have known that the inhalation of cigarette smoke by the plaintiff could result in cancer, heart disease and other adverse health consequences.

3. The defendants, LIGGETT GROUP, INC., PHILIP MORRIS INCORPORATED, and LOEWS CORPORATION were negligent in the manner they tested, researched, sold, promoted and advertised the cigarettes which said defendants manufactured and sold.

4. The defendants LIGGETT GROUP, INC., PHILIP MORRIS INCORPORATED, and LOEWS CORPORATION were negligent in failing to adequately warn of the health consequences of cigarette smoking.

5. As a direct and proximate result of the defendants, LIGGETT GROUP, INC.'s, PHILIP MORRIS INCORPORATED's, and LOEWS CORPORATION's negligence, plaintiff Rose D. Cipollone has developed bronchogenic carcinoma, was caused to sustain other personal injuries, has undergone and in the future will undergo great pain and suffering, was and is unable to attend to her usual occupation and activities, was and in the future will be required to expend monies for medical care and has sustained and will sustain other losses thereby.

WHEREFORE, plaintiff, Rose D. Cipollone hereby demands damages against defendant, LIGGETT GROUP, INC.,

SIXTH COUNT

1. Plaintiff Rose D. Cipollone repeats each and every allegation contained in the Counts of the Complaint as if set forth fully herein.

2. The defendants, LIGGETT GROUP, INC., PHILIP MORRIS INCORPORATED and LOEWS CORPORATION individually and as members of the tobacco industry, intentionally, wilfully and wantonly, through their advertising, attempted to neutralize the warnings that were given regarding the adverse affects of cigarette smoking.

3. As a direct and proximate result of the defendants LIGGETT GROUP, INC.'s, PHILIP MORRIS INCORPORATED's and LOEWS CORPORATION's wilfull and wanton acts and omissions, gross negligence, conscious indifference and utter disregard for the life, health, safety and welfare of the plaintiff, Rose D. Cipollone has developed bronchogenic carcinoma, was caused to sustain other personal injuries, has undergone and in the future will undergo great pain and suffering, was and is unable to attend to her usual occupation and activities, was and in the future will be required to expend money for medical care and has sustained and will sustain other losses thereby.

WHEREFORE, plaintiff, Rose D. Cipollone hereby demands punitive damages against defendants, LIGGETT GROUP, INC., PHILIP MORRIS INCORPORATED and LOEWS CORPORATION together with interest and costs of suit.

SEVENTH COUNT

1. Plaintiff Rose D. Cipollone repeats each and every count contained in all Counts of this Complaint as if set forth, fully herein.

2. Defendants LIGGETT GROUP, INC., PHILIP MORRIS INCORPORATED, and LOEWS CORPORATION expressly warranted that smoking the cigarettes which they manufactured and sold did not present any significant health consequences.

3. As a direct and proximate result of the defendants, LIGGETT GROUP, INC.'s, PHILIP MORRIS INCORPORATED's, and LOEWS CORPORATION's negligence, plaintiff Rose D. Cipollone has developed bronchogenic carcinoma, was caused to sustain other personal injuries, has undergone and in the future will undergo great pain and suffering, was and is unable to attend to her usual occupation and activities, was and in the future will be required to expend monies for medical care and has sustained and will sustain other losses thereby.

WHEREFORE, plaintiff, Rose D. Cipollone hereby demands damages against defendant, LIGGETT GROUP, INC., PHILIP MORRIS INCORPORATED, and LOEWS CORPORATION together with interest and costs of suit.

EIGHTH COUNT

1. Plaintiff, Rose D. Cipollone repeats each and every allegation contained in all Counts of this Complaint as if set forth fully herein.

2. The defendants, LIGGETT GROUP, INC., PHILIP MORRIS INCORPORATED, and LOEWS CORPORATION individually and as members of the tobacco industry were or should have been, at all times relevant hereto, in possession of medical and scientific data which indicated that the use of its cigarettes were hazardous to the health of consumers, but, prompted by pecuniary motives, the defendant, LIGGETT GROUP, INC., PHILIP MORRIS INCORPORATED, and LOEWS CORPORATION individually and as members of the tobacco industry ignored and failed to act upon said medical and scientific data and conspired to deprive the public, and particularly the consumers of the defendant's product, of said medical and scientific data.

3. As a direct and proximate result of the defendants, LIGGETT GROUP, INC.'s, PHILIP MORRIS INCORPORATED's, and LOEWS CORPORATION's wilful and wanton acts and omissions, gross negligence, conscious indifference and utter disregard for the life, health, safety and welfare of the plaintiff, Rose D. Cipollone has developed bronchogenic carcinoma, was caused to sustain other personal injuries, has undergone and in the future will undergo great pain and suffering, was and is unable to attend to her usual occupation and activities, was and in the future will be required to expend monies for medical care and has sustained and will sustain other losses thereby.

WHEREFORE, plaintiff, Rose D. Cipollone hereby demands punitive damages against defendants, LIGGETT GROUP, INC., PHILIP MORRIS INCORPORATED, and LOEWS CORPORATION together with interest and costs of suit.

NINTH COUNT

1. Plaintiff Rose D. Cipollone repeats each and every allegation in all Counts of the Complaint as if set forth fully herein.

2. The cigarettes manufactured and sold by defendants LIGGETT GROUP INC., PHILIP MORRIS INCORPORATED and LOEWS INCORPORATED were defective as a result of the cigarettes causing addiction and dependency and therefore rendering any warning meaningless.

3. As a direct and proximate result of the defendants LIGGETT GROUP INC.'s, PHILIP MORRIS INCORPORATED's and LOEWS CORPORATION's defective products, Rose D. Cipollone has developed bronchogenic carcinoma, was caused to sustain other personal injuries, has undergone and in the future will undergo great pain and suffering, was and is unable to attend to her usual occupation and activities, was and in the future will be required to expend monies for medical care and has sustained and will sustain other losses thereby.

TENTH COUNT

1. Plaintiff Rose D. Cipollone repeats each and

every allegation contained in all counts
set forth fully herein.

successor in interest

every allegation contained in all counts
if set forth fully herein.

2. Loews Corporation is the successor in interest
to Lorillard Corporation.

WHEREFORE, plaintiff, Rose D. Cipollone hereby
demands damages against defendant Loews Corporation, together
with interest and costs of suit.

ELEVENTH COUNT

1. Plaintiff Rose D. Cipollone repeats each and
every allegation contained in all Counts of the Complaint as
if set forth fully herein.

2. Philip Morris Incorporated is the successor
in interest to Benson & Hedges.

WHEREFORE, plaintiff, Rose D. Cipollone hereby
demands damages against defendant Philip Morris Incorporated,
together with interest and costs of suit.

TWELFTH COUNT

1. Plaintiff Rose D. Cipollone repeats each and
every allegation contained in all Counts of the Complaint as
if set forth fully herein.

2. Liggett Group Inc. is the successor in interest
to Liggett & Meyers Inc. and Liggett and Meyers Tobacco Co.

WHEREFORE, plaintiff, Rose D. Cipollone hereby
demands damages against

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WHEREFORE, plaintiff, Rose D. Cipollone hereby demands damages against defendant Liggett Group Inc., together with interest and costs of suit.

THIRTEENTH COUNT

1. Plaintiff, Rose D. Cipollone repeats each and every allegation contained in all Counts of this Complaint as if set forth fully herein.

2. Antonio Cipollone, at all times relevant hereto was and remains the husband of plaintiff, Rose D. Cipollone.

3. As a direct and proximate result of the defective condition of defendants, LIGGETT GROUP, INC.'s, PHILIP MORRIS INCORPORATED's, and LOEWS CORPORATION's products, as set forth in the First and Second Counts of this Complaint, plaintiff Antonio Cipollone, has been and will be in the future, obliged to expend monies in an endeavor to heal and cure the plaintiff, Rose D. Cipollone, and he has suffered and will in the future suffer the loss of comfort, companionship and consortium of his wife, Rose D. Cipollone.

WHEREFORE, the plaintiff, Antonio Cipollone, hereby demands damages against the defendants, LIGGETT GROUP, INC., PHILIP MORRIS INCORPORATED, and LOEWS CORPORATION together with interest and costs of suit.

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DEMAND FOR TRIAL BY JURY

... by jury on all

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DEMAND FOR TRIAL BY JURY

Plaintiffs hereby demand a trial by jury on all
issues.

PORZIO, BRODSBERG & NEWMAN, P.C.
Attorneys for plaintiffs,
Rose D. Cipollone and Antonio
Cipollone

By: _____

Marc Z. Edell

Dated: August 1, 1983.