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~~(2) Show to Mr. Stevens~~

→ (3) File

JULY 6/21

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

ROSE D. CIPOLLONE and
ANTONIO CIPOLLONE,
her husband,

Plaintiffs,

vs.

LIGGETT GROUP, INC., a
Delaware corporation; PHILIP
MORRIS, INC., a Virginia
corporation; and LOEW'S
THEATRES, INC., a New York
corporation,

Defendants.

Hon. H. Lee Sarokin

Civil Action No. 83-2864-SA

SUPPLEMENTAL ANSWERS OF DEFEN-
DANT LOEW'S THEATRES, INC. TO
PLAINTIFFS' INTERROGATORIES

Defendant Loew's Theatres, Inc. ("Loew's Theatres"), by way of
supplemental answers to plaintiffs' interrogatories, states:

INTERROGATORY NO. 11: Have you at any time belonged to
any trade association comprised of members of the Tobacco Industry? If so,
state:

(a) the names of any and all such trade associations;

(b) the years of your membership in any and all such trade
associations;

~~#11 Check names AS (ditto next item)~~

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(c) the representatives of your company who attended any and all meetings of any such trade associations;

(d) whether or not minutes were kept of any meetings of any and all such trade associations;

(e) the present location of the minutes of any and all such trade associations;

(f) the present location of any and all writings received or generated by you regarding each such trade association.

ANSWER: This answer is limited to the period 1940 to 1982 in accordance with the discovery order.

Yes.

(a) Tobacco Institute
Tobacco Tax Council
Tobacco Merchants Association
National Association of Tobacco Distributors

(b) Tobacco Institute 1958 to 1967 and 1971 to 1982
Tobacco Tax Council 1975 to 1982
Tobacco Merchants Association 1915 to 1939 and 1942 to 1982
National Association of Tobacco Distributions 1949 to 1982

(c) Loew's Theatres has been a contributing member of the National Association of Tobacco Distributors and the Tobacco Merchants Association; however, Loew's Theatres has not actively participated in either organization.

Loew's Theatres has belonged to and participated in the activities of the Tobacco Institute and Tobacco Tax Council, which is now merged into the Tobacco Institute.

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The following is a list of employees of Loew's Theatres and Loew's Theatres' predecessors who were representatives to Tobacco Institute meetings from 1958 to 1982.

J. Robert Ave
A. Judson Bass
J. Edgar Bennett
John Bresnahan
Morgan J. Cramer
James R. Cherry, Esq.
Michael Gastman, Esq.
Howard Gercken
Ronald S. Goldbrenner, Esq.
Philip R. Grant, Esq.
Lewis Gruber
John W. Jones
Curtis H. Judge
Edward G. Kontos
Peter Marzullo
Lester Pollack
M. Alfred Peterson
Alexander W. Spears
Arthur J. Stevens, Esq.
Fred W. Storm
Harold F. Temple
Preston Robert Tisch
Charles W. Toti
Manuel Yellen

(d) Yes.

(e) The Tobacco Institute in Washington, D.C. and Lorillard, a Division of Loew's Theatres, in New York, New York.

(f) The Tobacco Institute in Washington, D.C. and Lorillard, a Division of Loew's Theatres, in New York, New York.

INTERROGATORY NO. 12: State whether or not, at any meeting of any of the trade associations mentioned in answer to the preceding interrogatory, the health consequences of cigarette smoking were discussed and if so, state:

(a) the name of the trade association at which any such discussion occurred;

(b) the dates of any and all meetings during which the health consequences of cigarette smoking were discussed;

(c) the names and addresses of any representatives of your company who attended any such meetings;

(d) the present location of any writing which memorialized the discussion which occurred at any such meetings.

ANSWER: Yes.

(a) The Tobacco Institute

(b) This answer is limited to the period 1940 to 1982 in accordance with the discovery order and is based on minutes indicating discussions which may have involved one or more of the following: lung cancer, emphysema or addiction.

April 24, 1958
July 8, 1958
November 6, 1958
January 29, 1959
July 9, 1959
August 6, 1959
February 24, 1960
May 21, 1960
November 10, 1960
December 15, 1960
May 18, 1961
May 19, 1961
June 7, 1961
October 17, 1961
January 25, 1962
March 20, 1962
April 10, 1962
May 17, 1962
May 18, 1962
July 18, 1962
September 27, 1962
October 3, 1962
December 20, 1962
January 31, 1963

May 23, 1963
June 18, 1963
July 9, 1963
December 19, 1963
January 12, 1964
January 16, 1964
January 17, 1964
January 30, 1964
March 6, 1964
May 14, 1964
January 26, 1967
May 12, 1967
March 4, 1970
March 18, 1970
May 15, 1970
July 28, 1970
August 17, 1970
October 13, 1970
November 4, 1970
December 1, 1970
December 15, 1970
January 28, 1971
February 25, 1971
March 10, 1971
March 29, 1971
May 13, 1971
May 14, 1971
June 24, 1971
August 26, 1971
September 17, 1971
October 28, 1971
November 10, 1971
December 17, 1971
January 18, 1972
March 30, 1972
May 25, 1972
July 27, 1972
August 3, 1972
September 28, 1972
December 7, 1972
January 25, 1973
April 10, 1973
May 17, 1973
May 19, 1973
June 26, 1973
July 26, 1973
October 4, 1973
November 29, 1973
January 31, 1974
May 17, 1974
July 25, 1974
September 26, 1974

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October 3, 1974
December 5, 1974
January 30, 1975
March 13, 1975
March 26, 1975
May 21, 1975
September 25, 1975
January 29, 1976
July 29, 1976
December 9, 1976
February 26, 1977
April 19, 1977
June 23, 1977
September 29, 1977
March 4, 1978
April 21, 1978
October 4, 1978
October 5, 1978
January 25, 1979
April 5, 1979
June 14, 1979
June 28, 1979
March 1, 1980
July 1, 1980
September 4, 1980
September 19, 1980
February 28, 1981
November 13, 1981
December 10, 1981

(c) The minutes reflect that the following employees of Loew's Theatres or Loew's Theatres' predecessors attended one or more of the above listed meetings as representatives of Loew's Theatres or Loew's Theatres' predecessors.

J. Robert Ave
666 Fifth Avenue
New York, NY 10103

A. Judson Bass
Route 2, Box 170
Killen, AL 35645

J. Edgar Bennett
Deceased

John J. Bresnahan
184 Purchase
Rye, NY

James R. Cherry, Esq.
666 Fifth Avenue
New York, NY 10103

Morgan J. Cramer
P.O. Box 18075
Fountain Hills, AZ 85268

Michael I. Gastman
284 Engle Street
Tenafly, NJ 07670

Howard Gercken
1171 La Noche Drive
Lake San Marcos, CA 72069

Ronald S. Goldbrenner, Esq.
666 Fifth Avenue
New York, NY 10103

Lewis Gruber
Deceased

John W. Jones
Address Unknown

Curtis H. Judge
666 Fifth Avenue
New York, NY 10103

Edward G. Kontos
17 Paradise Drive
Scarsdale, NY 10583

M. Alfred Peterson
666 Fifth Avenue
New York, NY 10103

Lester Pollack
c/o Odyssey Partners
437 Madison Avenue
New York, NY 10022

Alexander W. Spears, Esq.
2525 East Market Street
Greensboro, NC 27420

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Arthur J. Stevens, Esq.
666 Fifth Avenue
New York, NY 10103

Fred W. Storm
Deceased

Harold F. Temple
Deceased

Preston Robert Tisch
666 Fifth Avenue
New York, NY 10103

Charles W. Toti
666 Fifth Avenue
New York, NY 10103

Manuel Yellen
1444 San Remo Drive
Pacific Palisades, CA 90272

(d) The Tobacco Institute in Washington, D.C. and
Lorillard, a Division of Loew's Theatres, in New York, New York.

INTERROGATORY NO. 14: Have you ever employed any
individual whose responsibility it was to market the cigarettes which you
manufactured? If so, state:

- (a) the names and present addresses of any such
individuals;
- (b) the name of the department in which any such
individual worked;
- (c) the years of employment;
- (d) the present location of any document either
received or generated by them regarding the health consequences of
cigarette smoking.

ANSWER: This answer is limited to the New York/New Jersey
metropolitan area, True cigarettes and to the period January 1, 1972 to the

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time plaintiff Rose Cipollone ceased smoking True cigarettes in accordance with the discovery order.

Yes.

(a)	J. Robert Ave 666 Fifth Avenue New York, NY 10103	Russell Goyette 324 Rosewood Terrace Linden, NJ 07036
	John J. Bresnahan Address Unknown	Irving Guberman Address Unknown
	Mike Burke 666 Fifth Avenue New York, NY 10103	Tom Mau 666 Fifth Avenue New York, NY 10103
	P. Ronald Cotrone 1016 The Colony Hartsdale, NY 10530	Ellen Morgenthal 405 East 82 Street New York, NY 10028
	Valerie Friedman 625 Madison Avenue New York, NY 10022	Ralph Robbins 228 Overmount Avenue West Patterson, NJ 07424
	Joseph Giordano 224 East 81 Street New York, NY 10028	Richard E. Smith Puckey Drive Peckskill, NY 10566
	John Daghljan 666 Fifth Avenue New York, NY 10103	George Telford 666 Fifth Avenue New York, NY 10103
	Roger Evans 201 East 87 Street New York, NY 10028	

(b) All of the above named individuals worked in the department denominated Advertising and Brand Management.

(c) J. Robert Ave, Vice President - January, 1974 to April, 1979.

John J. Bresnahan, Vice President - January, 1972 to January, 1974.

Mike Burke, Group Brand Manager - July, 1981 to December, 1981.

P. Ronald Cotrone, Brand Manager - January, 1972 to January, 1974.

Valerie Friedman, Brand Manager - January, 1974 to January, 1976.

Joseph Giordano, Brand Manager - January, 1978 to May, 1980.

John Daghljan, Brand Manager - May, 1980 to September, 1980.

Roger Evans, Assistant Brand Manager - June, 1979 to May, 1980.

Russell Goyette, Group Brand Manager - April, 1979 to September, 1980.

Irving Guberman, Group Brand Manager - January, 1972 to January, 1974.

Tom Mau, Group Brand Manager - January, 1976 to July, 1976.

Tom Mau, Group Brand Manager - August, 1977 to April, 1979.

Tom Mau, Vice President - April, 1979 to December, 1981.

Ellen Morgenthal, Assistant Brand Manager - May, 1980 to September, 1981

Ralph Robbins, Assistant Brand Manager - October, 1974 to June, 1979.

Richard E. Smith, Group Brand Manager - January, 1974 to January, 1976

George Telford, Brand Manager - January, 1976 to January, 1978.

(d) To the best of Loew's Theatres' knowledge at this time, the existence or location of any such writing is unknown. Loew's Theatres is continuing its search.

INTERROGATORY NO. 27: Have any of your personnel ever attended any conference, symposium or other meeting concerning the health consequences of cigarette smoking? If so, as to each such meeting state:

(a) the person or organization that sponsored it;

- (b) the date and place it was held;
- (c) the names and addresses of any employees who attended;
- (d) what information was provided at any such meeting concerning the health consequences of cigarette smoking;
- (e) the present location of any and all writings regarding any such conference, symposium or other meeting.

ANSWER: This answer is limited to the period January 1, 1972 to the time plaintiff Rose Cipollone ceased smoking True cigarettes and to conferences, symposia or other meetings concerning lung cancer, addiction and emphysema in accordance with the discovery order.

Yes. Loew's Theatres is continuing its search and will provide supplemental information.

(a) The Third World Conference on Smoking and Health sponsored by the American Cancer Society and the National Cancer Institute (USA).

(b) June 2-5, 1975
Waldorf-Astoria Hotel
New York, New York

(c) Alexander W. Spears
2525 East Market Street
Greensboro, NC 27420

(d) The conference organizers divided the conference into five separate sections. One section was denominated "Health Consequences of Smoking."

(e) Lorillard
Greensboro, NC

(a) Tobacco and Health Research Institute and the
Kentucky Tobacco Research Board.

(b) April 12-14, 1977
Continental Inn
Lexington, Kentucky

(c) Alexander W. Spears
2525 East Market Street
Greensboro, NC 27420

(d) The symposium was entitled "Pulmonary Disease:
Defense Mechanisms And Population At Risk."

(e) Lorillard
Greensboro, NC

INTERROGATORY NO. 31: Set forth the names and addresses
of all persons having knowledge of facts relevant to this litigation.

ANSWER: In accordance with the discovery order, this answer
includes the name of anyone who is going to or may be called as a witness,
or anyone who Loew's Theatres would want to know the name of if it were in
plaintiffs' position (excluding the names of plaintiffs or plaintiffs' relatives).

As indicated in Loew's Theatres' initial response to this interrogatory,
such persons include those individuals listed in response to specific
interrogatories. Addresses given reflect the last known address. Additional
names, if any, will be provided as discovery progresses.

J. Robert Ave
666 Fifth Avenue
New York, NY 10103

A. Judson Bass
Route 2, Box 170
Killen, AL 35645

Robert Berman
605 Third Avenue
New York, NY 10016

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John J. Bresnahan
184 Purchase
Rye, New York

Mike Burke
666 Fifth Avenue
New York, NY 10103

James R. Cherry
666 Fifth Avenue
New York, NY 10103

P. Ronald Cotrone
1016 The Colony
Hartsdale, NY 10530

Michael Cox
360 Madison Avenue
New York, NY 10017

Morgan J. Cramer
P. O. Box 18075
Fountain Hills, AZ 85268

John Daghlán
666 Fifth Avenue
New York, NY 10103

John De Garmo
605 Third Avenue
New York, NY 10016

Roger Evans
201 East 87th Street
New York, NY 10028

J. Gordon Flinn
45 Hickory Trail
Sparta, NJ 07871

Valerie Friedman
625 Madison Avenue
New York, NY 10022

Michael I. Gastman
284 Engle Street
Tenafly, NJ 07670

Howard Gercken
1171 La Noche Drive
Lake San Marcos, CA 72069

Joseph Giordano
224 East 81st Street
New York, NY 10028

Ronald S. Goldbrenner
666 Fifth Avenue
New York, NY 10103

Russell Goyette
324 Rosewood Terrace
Linden, NJ 07036

Jon Greenleaf
605 Third Avenue
New York, NY 10016

Irving Guberman
Address Unknown

Fred Jacobs
605 Third Avenue
New York, NY 10016

Cliff O. Jensen
706 Pebble Drive
Greensboro, NC 27420

John W. Jones
Address Unknown

Curtis H. Judge
666 Fifth Avenue
New York, NY 10103

Edward G. Kontos
17 Paradise Drive
Scarsdale, NY 10583

Tom Mau
666 Fifth Avenue
New York, NY 10103

Ellen Morgenthal
405 East 82nd Street
New York, NY 10028

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M. Alfred Peterson
666 Fifth Avenue
New York, NY 10103

Lester Pollack
c/o Osysey Partners
437 Madison Avenue
New York, NY 10022

Ralph Robbins
228 Overmount Avenue
West Patterson, NJ 07424

William Rosenthal
360 Madison Avenue
New York, NY 10017

Fred Schultz
2525 East Market Street
Greensboro, NC 27420

Larry Skladanowski
2525 East Market Street
Greensboro, NC 27420

Richard E. Smith
Puckey Drive
Peckskill, NY 10566

Alexander W. Spears
2525 East Market Street
Greensboro, NC 27420

Joel Spiegel
360 Madison Avenue
New York, NY 10017

Arthur J. Stevens
666 Fifth Avenue
New York, NY 10103

George Telford
666 Fifth Avenue
New York, NY 10103

Preston Robert Tisch
666 Fifth Avenue
New York, NY 10103

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Charles W. Toti
666 Fifth Avenue
New York, NY 10103

Manuel Yellen
1444 San Remo Drive
Pacific Palisades, CA 90272

INTERROGATORY NO. 38: As to each separate defense set forth in your answer to the Complaint in the within matter, set forth in detail and with particularity the following:

- (a) the factual basis for the defense;
- (b) identify each and every document which supports each defense;
- (c) the names and addresses of all persons having knowledge of facts relevant to each defense;

ANSWER:

As to the first and fifth separate defenses, it is Loew's Theatres' contention that plaintiffs' claims are preempted by federal legislation, and that the complaint therefore fails to state a claim on which relief may be granted.

As to the second separate defense, the complaint was filed in early August 1983. There is information available indicating that plaintiff Rose Cipollone was operated on in August 1981, and it is therefore reasonable to believe that she had information concerning her condition and plaintiffs' claims more than two years prior to the date the complaint was filed.

As to the third and sixth separate defenses, given plaintiffs' claim that Loew's Theatres was negligent in selling cigarettes because of their alleged dangers, in conjunction with plaintiff Rose Cipollone's conceded

awareness of the dangers of cigarette smoking, her decision to continue smoking, despite the knowledge and beliefs which she held, would reflect negligence and a failure to mitigate.

As to the fourth separate defense, knowledge of the alleged dangers of cigarette smoking has been widely disseminated. Further, cigarette packages have contained a health warning since 1966. Plaintiff Rose Cipollone admitted in her deposition testimony that she had knowledge of, and believed, the reported dangers of cigarette smoking and nevertheless decided to continue smoking and voluntarily encounter the risk.

Finally, the seventh separate defense speaks for itself and, indeed, Mrs. Cipollone has acknowledged the factual accuracy of the assertion made therein concerning notification.

Loew's Theatres will further supplement its answer to this interrogatory as appropriate after additional discovery.

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CERTIFICATION

I am Vice President-Deputy General Counsel of Lorillard, a Division of Loew's Theatres, Inc.

I hereby certify that these supplemental answers to interrogatories are true to the best of my knowledge, information and belief. The supplemental answers are based on information supplied to me by officers and employees of Loew's Theatres, Inc., or contained within the files and records of Loew's Theatres, Inc.

I am aware that if any of the foregoing statements made by me are wilfully false, I am subject to punishment.

JAMES R. CHERRY, JR.

Dated: June 21, 1984

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