

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

THE STATE OF TEXAS,	§	CIVIL NO.: 5:96-CV-0091
Plaintiff,	§	
	§	
VS.	§	
	§	JUDGE: DAVID FOLSOM
THE AMERICAN TOBACCO	§	
COMPANY; R. J. REYNOLDS	§	
TOBACCO COMPANY;	§	MAGISTRATE JUDGE:
BROWN & WILLIAMSON TOBACCO	§	WENDELL C. RADFORD
CORPORATION; B. A. T.	§	
INDUSTRIES, P. L. C.; PHILIP	§	
MORRIS, INC.;	§	
LIGGETT GROUP, INC.; LORILLARD	§	
TOBACCO COMPANY, INC.; UNITED	§	
STATES TOBACCO COMPANY; HILL	§	
& KNOWLTON, INC.; THE	§	
COUNCIL FOR TOBACCO.	§	
RESEARCH-USA, INC. (Successor to	§	
Tobacco Institute Research Committee);	§	
and THE TOBACCO INSTITUTE, INC.	§	
Defendants.	§	

**PLAINTIFF'S FEBRUARY 25, 1997, REQUEST FOR PRODUCTION
OF DOCUMENTS TO PHILIP MORRIS, INC.**

Pursuant to Fed. R. Civ. P. 34, Plaintiff, The State of Texas, submits the following Request for Production of Documents to Philip Morris, Inc., ("Requests") to be answered by you under oath within thirty (30) days of the date these Requests were served on you. All documents being produced in response to these Requests shall be made available for inspection and copying at the office of Plaintiff's Liaison Counsel; or at another location mutually agreed to by the parties.

For purposes of these Requests, including the sections "Definitions" and "General Procedures," the following terms shall have the meanings or shall be construed as set forth below:

I. DEFINITIONS

- (1) The words: “and,” “or,” “each,” “every,” “any,” “all,” “refer,” “discuss” shall be construed in their broadest form and the singular shall include the plural and the plural shall include the singular whenever necessary so as to bring within the scope of these Requests all Documents (defined below) that might otherwise be construed to be outside their scope.
- (2) “Advertising, marketing or promotion” of cigarettes includes public relations activities involving smoking and health.
- (3) “Damages,” means any form of monetary relief, including compensatory damages, punitive damages and restitution and any other form of judicial relief.
- (4) “Defendant,” includes the entity responding to these requests and any related entity (whether by common ownership, operation, or control).
- (5) “Document” means those documents as identified and/or defined and required to be produced in accordance with Rule 34 of the Federal Rules of Civil Procedure. All non-identical copies, including drafts, of the same Document are Documents within the meaning of that term and must be produced as well.
- (6) “Health Risks” means all diseases, illnesses, injuries (including mortality and morbidity), or conditions (including addiction, habituation or dependency-producing) that are caused by, or that have been reported by governmental bodies, voluntary health organizations or the medical or public health communities to be caused by, or statistically associated with, the substance, condition or activity that is the subject of the specific request herein.
- (7) “Incidence” means the frequency of occurrence of any event or condition over a period of time and in relation to the population in which it occurs, as incidence of a disease.
- (8) “Include” or “including” means including, but not limited to.
- (9) “Nicotine level” refers to the levels or concentration of nicotine as measured in any manner, including but not limited to the level or concentration in tobacco or the level or concentration in smoke.
- (10) “Person” or “Individual” means natural persons, sole proprietorships, corporations, firms, partnerships, unincorporated associations, trusts and any other legal entity.
- (11) “Prevalence” means the number of persons within a given population with a specified condition, disease, illness, injury, use, habit or addiction.
- (12) “Research director” refers to the person with that designated title, or, if there is no such title at your company, the top scientist at your company or the person with the ultimate responsibility for scientific issues at your company.

- (13) "Safer cigarette" refers to a cigarette which would, possibly, or allegedly reduce the Health Risks or adverse consequences of smoking cigarettes.
- (14) "Tobacco" means any consumer product containing tobacco and tobacco plants.
- (15) "Tobacco Consumption" means the consumption of any product containing Tobacco, including cigarette smoking.

II. GENERAL PROCEDURES

1. Produce all Documents described below, including Documents that are in the possession, custody or control of the Defendants, its directors, consultants, contractors, insurance companies, officers, employees, attorneys, accountants, or agents, or other Persons that are otherwise subject to your custody or control. All Documents that respond, in whole or in part, to any portion of these Requests must be produced in their entirety, including all attachments and enclosures.

Documents shall be produced in compliance with Rule 34 of the Federal Rules of Civil Procedure and the November 5, 1996, Case Management Order and all other orders of the Court.

2. If you contend that any Document responsive to these Requests is privileged or otherwise protected from production, in whole or in part, or if you otherwise object to any of these Requests, you are required by Local Court Rules of the United States District Court for the Eastern District of Texas and the Civil Justice Expense and Delay Reduction Plan for the Eastern District of Texas, Article Two (1)(a)(v), to provide a privilege log. The privilege log is required to (1) identify the documents or information claimed to be privileged, (2) detail the basis for the privilege in a manner that will enable other parties to assess the applicability of the asserted privilege or protection. This log should include author, date, intended and other recipients, the subject matter and detailed information so that Plaintiff may determine whether the privilege is applicable.

3. For purposes of these requests, the words utilized are considered to have, and should be understood to have, their ordinary, every day meaning. Plaintiff refers Defendants to any collegiate dictionary such as Webster's New World Dictionary, Second College Edition by Prentice Hall Press, in the event Defendants assert that the wording of a request is vague, ambiguous, unintelligible, confusing.

III. REQUESTS FOR PRODUCTION

1. The October 19, 1977, paper entitled "Smoker Psychology Program Review."
2. All May 17, 1972, Philip Morris, Inc., memoranda regarding research data on physiological arousal and caffeine.
3. All June 1954 Philip Morris memoranda regarding proposed experimental research through the U.S. Testing Co.
4. Patent 3,046,997.
5. All April 23, 1963, memos to Dr. A. Bavley from W.L. Dunn discussing nicotine.
6. All 1964 research and development pamphlets produced by Philip Morris.
7. All March 1, 1973, memos to the Philip Morris, Inc. Research Department from Dunn regarding addiction.
8. All 1969 memos from Jay Faberman to Al Udow discussing reasons for smoking.
9. All July 29, 1969, memoranda to Wakeham from Dunn, entitled "Stating the Risk Study Problem."
10. All August 1, 1969, memoranda from Dunn to Wakeham regarding discussions with Professor Lazarsfeld.
11. The document entitled "Fall 1969 Ryan/Dunn Alternative - Third Version of Board Presentation."
12. All November 26, 1969, reports from Dr. Helmut Wakeham to Philip Morris, Inc.'s board of directors on the activities of the Philip Morris Research Center.
13. All November 1970 documents from Schori to Dunn with attached research proposals for tar, nicotine and smoking behavior.

14. All summaries of a 1972 paper entitled "Motives and Incentives in Cigarette Smoking," by Philip Morris researcher William L. Dunn Jr.
15. A January 1972 Philip Morris Research Center study entitled "Tar, Nicotine and Cigarette Consumption," by T.R. Schori and W.L. Dunn Jr.
16. The April 4, 1972, memo from Dunn to P.A. Eichorn regarding Quarterly Report - February-March 1972.
17. The January 1 to January 31, 1973, Smokers' Psychology Monthly Report by Dunn entitled "Smoking and Rate of Learning Alpha Control."
18. The Dunn's Smokers' Psychology Monthly Report dated February 9, 1973.
19. All August 22, 1973, letters from Dr. Tom Osdene to BAT's Dr. Felton.
20. All March 25, 1974, memos from W. Dunn to R. Fagan.
21. All May 8, 1974, speeches by W. Dunn.
22. A November 1, 1974, "Behavioral Research Annual Report, Part II," approved by T.S. Osdene and distributed to Wakeham.
23. The February 1976 Smoker Psychology Monthly Report.
24. William L. Dunn Jr.'s paper entitled "Smoking is a Possible Inhibitor of Arousal," presented at the International Workshop on the Behavioral Effects of Nicotine in Zurich, Switzerland on September 17, 1976.
25. The June 2, 1976, memorandum from Al Udow to J.J. Morgan on "Why People Start to Smoke."
26. The December 1, 1976, memo from William L. Dunn, Jr. to Dr. T.S. Osdene regarding "Plans and Objectives - 1977."
27. All December 22, 1976, memorandums from W.L. Dunn to Dr. T.S. Osdene regarding a proposed EEG facility in 1977.
28. All Philip Morris employee newsletters (including February 1977) entitled or having information on "Smoking and Health News".
29. The October 5-7, 1977, presentation by Wakeham before the 31st Tobacco Chemist Research Conference in Greensboro, North Carolina.
30. An October 19, 1977, document entitled "Smoker Psychology Program Review".

31. The November 11, 1977, Smoker Psychology Monthly Report by Ryan entitled, "Habit and Need Cigarettes."
32. The December 19, 1977 Dunn to Osdene memorandum regarding "Behavioral Research Accomplishments - 1977."
33. All January 23, 1978, memorandums from William L. Dunn to Al Udow.
34. All February 3, 1978, memorandums from Jeffrey I. Seeman, Carolyn J. Levy and Edward V. Sanders to Dr. T.S. Osdene regarding nicotine.
35. The March 10, 1978 Smoker Psychology Monthly Report regarding hyperkinetic children.
36. All March 15, 1978, documents from Seeman to Osdene regarding nicotine.
37. All March 21, 1978, memorandums from Jeffrey I. Seeman, Carolyn J. Levy and Edward V. Sanders to Dr. T.S. Osdene regarding nicotine.
38. All March 31, 1978, memorandums from Seeman to Osdene regarding the "Nicotine Program: Specific Implementation."
39. The Behavioral Research Laboratory's 1978 Annual Review -- Part II written by F.J. Ryan and W.L. Dunn dated August 18, 1978.
40. The September 1978 Philip Morris USA "Research and Development Five Year Plan, 1979-1983."
41. The December 6, 1978 Dunn to Osdene memo entitled "Plans and Objectives - 1979";
42. All February 22, 1979, memorandums from Helmut Wakeham to Dr. R.B. Seligman.
43. All January 7, 1980, memorandums from Dunn to Osdene entitled "Plans and Objectives - 1980."
44. All January 15, 1980, memorandums from Osdene to Seligman, et al.
45. All January 21, 1980, memorandums from W.L. Dunn to Dr. T.S. Osdene regarding "Behavioral Research Accomplishments -- 1979."
46. All March 5, 1980, memorandums from Seligman to Osdene regarding the "Nicotine Receptor Program - University of Rochester."

47. All March 18, 1980, memorandums from J.L. Charles to Dr. R.B. Seligman regarding nicotine and Dr. Abood.
48. All March 21, 1980, memorandums from Sanders to Seligman entitled "Nicotine Receptor Program - University of Rochester."
49. All November 26, 1980, memorandums from Dunn to Osdene entitled APlans and Objectives, 1981."
50. All memorandums dated February 23, 1982, from Jim Charles to T.S. Osdene.
51. All Behavioral Pharmacology Annual Reports (including 1983) by DeNoble, Mele and Charles.
52. All October 6, 1970, memorandums authored by Dr. Seligman regarding nicotine gum.

Respectfully submitted:

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ATTORNEY-IN-CHARGE

CERTIFICATE OF SERVICE

I hereby certify compliance with Fed. R. Civ. P. 5 and Case Management Order of November 5, 1996, that a true and correct copy of the foregoing document has been sent by overnight delivery service (with diskette) on February 25, 1997, to the following:

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Respectfully submitted,

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* Signed by Grant Kaiser, by permission of Walter Umphrey, attorney-in-charge.