2025 제22차 국제연수과정

NHIS UHC GLOBAL ACADEMY

[2025 Law School Internship Project]

National Health Insurance Service Tobacco Litigation

Seoul High Court Case No. 2020 B 2047374 — Claim for Damages

Contents

2025 제22차 국제연수과정
NHIS UHC GLOBAL ACADEMY

h·well NHIS National Health Insurance Service

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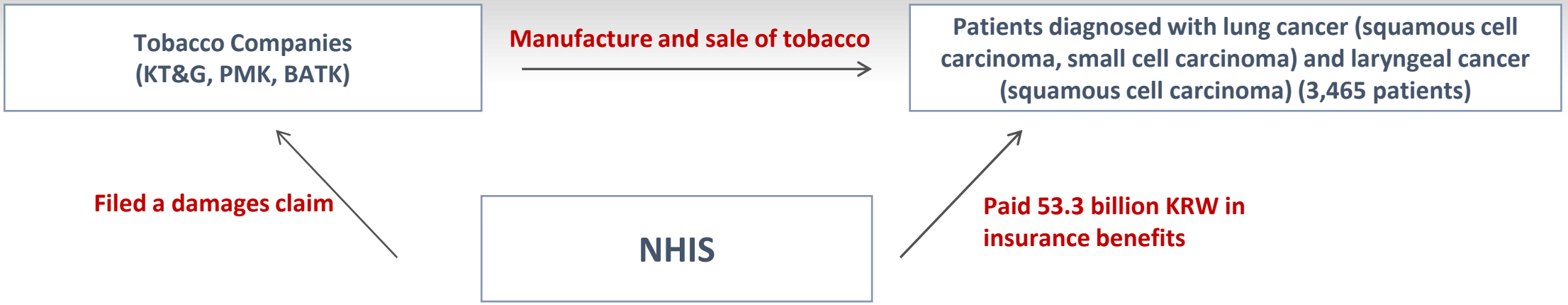
Tobacco Litigation: Overview and Current Developments

Tobacco Litigation: Overview and Current Developments

Litigation Overview (Parties, Causes of Action, and Claim Value)



Product Liability	Tort Liability
Design Defect Labeling Defect Safety Defect	Concealment and distortion of the dangers of cigarettes Enhancement of the harmfulness and addictiveness of cigarettes

Tobacco Litigation: Overview and Current Developments

Scale of Damages (Criteria for Selecting Defendants)

Judicial Precedent – Seoul High Court Decision 2007 B 18883

In a prior individual lawsuit, the court held that **for elderly males with a smoking history of 20 pack-years or more**, if it is proven that they were diagnosed with **squamous cell carcinoma** or **small cell carcinoma** of the lung,
→ a **presumption of causation** between smoking and lung cancer may be recognized

Basis for Causation: Epidemiological Evidence

- IARC Monographs on the Evaluation of the Carcinogenic Risk of Chemicals to Humans:

  Tobacco Smoke and Involuntary Smoking, volume 83(2004), etc.

- Yun Young-ho et al. (2005): Small cell lung cancer: RR = 21.7,

  squamous cell carcinoma: RR = 11.7, and adenocarcinoma = 2.1

Tobacco Litigation: Overview and Current Developments

Circumstances and Background of the Litigation

또 담배회사 손 들어준 법원…미국 등에선 '책임 인정'
JTBC뉴스 ▷ 13,578

미국선 '담배회사 배상책임' 인정

jtbc

2014년 4월14일	건강보험공단, 국내외 담배회사 3곳(KT&G, 한국필립모리스, BAT코리아 3개사 상대로 537억원 규모 손해배상 소송 제기
2018년 5월	재판 중단
2020년 9월11일	2014년 소송이 제기된 지 6년여, 2018년 5월 마지막 재판이 열린 지 2년4개월 만에 손해배상 소송 재개(14차 변론), 10월23일 15차변론 종결
2020년 11월20일	서울중앙지법 건보공단, 담배회사 상대 손해배상 소송 1심 패소 판결

- 1999년 — 폐암 환자와 가족 등 국가·KT&G 상대 소송 제기
- 2007년 — 1심, KT&G 승소
- 2011년 — 2심, KT&G 승소
- 2014년 — 대법원, KT&G 승소 확정

"폐암은 복합적 요인으로 발병, 흡연 외에 다른 원인 없다는 증명 있어야"

Tobacco Litigation: Overview and Current Developments

Progress of the First Instance Pleadings

1st Court

Summary of **5 Major Issues** in Dispute

- Plaintiff's Claim for Direct Damages — 2nd hearing
- Causal Relationship Between Smoking and Lung Cancer (Including Addiction) — 3rd, 8th, 10th
- Product Liability of the Plaintiffs — 9th, 11th
- Tort Liability
- Scope of the Plaintiff's Damages

※ **Summary of Prior Arguments** - Review and continuation of arguments following court reassignments (7th, 12th, and 13th Sessions)

Hearing date scheduled upon defendants' request on August 2018 and hearings resumed on August 2020

→ September 11, 2020 (14th hearing), and October 23, 2020 (15th hearing) ⇒ **Judgment rendered on November 20, 2020**

Tobacco Litigation: Overview and Current Developments

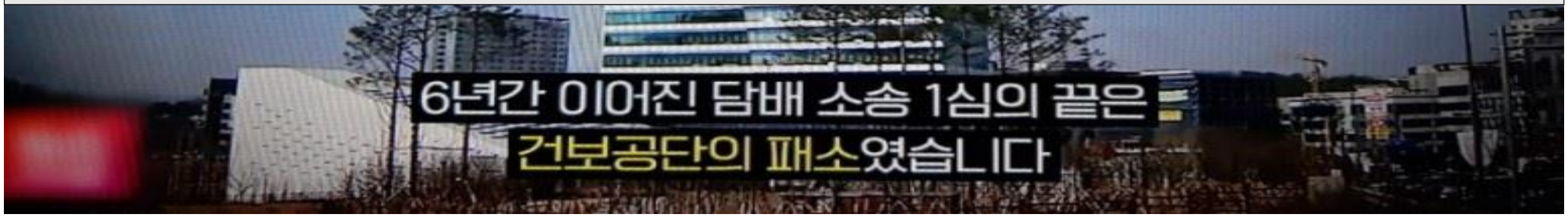
First-Instance Ruling … "Repeats previous Supreme Court decision, gives tobacco companies a free pass"

- Court sides with tobacco companies again… "Liability recognized in the U.S. and elsewhere" (JTBC)

- Six-year, 53 billion KRW battle against tobacco… Court concludes "insufficient evidence of causation between smoking and lung cancer" (JoongAng Ilbo)

- Six-year tobacco lawsuit… Smoking–cancer causation still not recognized (Hankook Ilbo)

- "Difficult to prove causal link between smoking and disease" — Court rules in favor of tobacco companies. (Segye Ilbo)



Tobacco Litigation: Overview and Current Developments

Summary of the First-Instance Ruling

- Recognized Basic Fact sand Evidentiary Basis

Recognized Facts	Evidence
① **The 3,465 individuals involved in this case smoked cigarettes manufactured, imported, or sold by KT&G, PMK, and BATK with smoking histories of 20 pack-years or more** ② **These claimants were diagnosed with lung cancer (squamous cell carcinoma or small cell carcinoma) or laryngeal cancer (squamous cell carcinoma)** ③ **53.3 billion KRW in insurance benefits were paid out by NHIS due to the cancer treatments of the claimants**	➢ Plaintiff's exhibit No. 45 — Summary Table of Smoking History and Medical Expenses by Claimant ➢ Plaintiff's exhibit No. 80 — Complete Medical Benefit Expenditure Records by Claimant ➢ Plaintiff's exhibit No. 89 — Individual Medical History Forms ➢ Plaintiff's exhibit No. A-143 — Medical Records per Claimant ➢ Plaintiff's exhibit No. 215 — Benefit Payment Certification

Tobacco Litigation: Overview and Current Developments

Summary of the First-Instance Ruling

- Court's Rulings by Key Issue

5 Major Issues	Court's Ruling
Whether NHIS Can Directly Claim Damages	NHIS cannot claim damages as a direct victim (its insurance benefit payments constitute only the performance of statutory insurer obligations)
Causal Relationship Between Smoking and Lung Cancer	The onset of the cancers at issue may be attributable to other contributing factors beyond smoking
Product Liability of Tobacco Companies	No design defects or labeling defects were recognized in the products
Tort Liability of Tobacco Companies	Claims alleging concealment and downplaying of addictive nature of tobacco were not accepted
Scope of Damages Recoverable by NHIS	No ruling necessary

Tobacco Litigation: Overview and Current Developments

Summary of the First-Instance Ruling (Ruling by Key Issues)

Whether NHIS Can Directly Claim Damages

- Direct tort damages arise only when the injured party's financial loss cannot be justified by contract or statutory obligations
  → NHIS's payments constitute the performance of legally mandated insurance duties, executing funds according to law
- Article 58 of the National Health Insurance Act provides a right of subrogation for insurers
  → This reflects the legislative intent that insurers do not hold an independent direct claim for damages
- Recognizing a direct claim would allow NHIS to bypass defenses that could be raised against the actual victim, resulting in unfair prejudice to the alleged tortfeasor
- The plaintiff failed to prove that the diseases in question were caused by the defendants' wrongful acts

Tobacco Litigation: Overview and Current Developments

Summary of the First-Instance Ruling (Ruling by Key Issues)

Whether Product Liability Is Established

Design Defects — Not Recognized	- Nicotine removal would eliminate the intended pharmacological effect expected by consumers - Most additives in cigarettes are approved food additives and generally regarded as safe - Perforated filters are designed to reduce nicotine and tar intake
Labeling Defects — Not Recognized	- It is widely known that smoking can cause serious diseases including lung cancer - Consumers are also generally aware of tobacco's addictive nature - Manufacturers complied with statutory labeling obligations
Conventional Safety Defects — Not Recognized	- The legal framework and prevailing social norms treating tobacco as a lawful luxury consumer product remain unchanged - The most harmful substances arise from combustion of tobacco - Initiating and continuing to smoke are regarded as expressions of personal free choice

Tobacco Litigation: Overview and Current Developments

Summary of the First-Instance Ruling (Ruling by Key Issues)

Whether Causal Relationship Is Recognized

- Is Causation for a specificity disease Recognized?

→ The cancer types at issue may also arise from other contributing factors

- Is Causation for a Non-specificity disease Recognized?

→ The incidence rates of the relevant cancers in smokers are significantly higher than in non-smokers.

However, the court found insufficient supplementary evidence that the claimants' cancers were not attributable to other risk factors.

Tobacco Litigation: Overview and Current Developments

Problems with the First-Instance Ruling

- With the exception of the direct damages issue involving NHIS, the court's reasoning largely duplicates the Supreme Court's prior tobacco litigation decision

- Despite the significantly stronger epidemiological association between smoking and the cancer types at issue, the court applied the same strict causation standard used in the prior Supreme Court case involving adenocarcinoma, and therefore declined to recognize causation

  ※ Expert opinions and statements submitted by medical institutions and professional societies were not reviewed or reflected in the decision

- The court did not conduct any additional analysis regarding Phillip Morris Korea and BAT Korea — despite findings in overseas litigation that their products were defective or marketed unlawfully

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02

Major Issues

Causal Relationship Between Smoking and Lung Cancer (Including Addiction)

Major Issue 1-1

Causal Relationship Between Smoking and Lung Cancer

Court's Approach to Causation in Hazardous Substance Cases

✓ **Supreme Court Decision 2006 C17539 on July 12, 2013)**

General vs. Specific Causation

· General Causation: Whether the agent is capable of causing the type of disease at issue
· Specific Causation: Whether the agent actually caused the plaintiff's disease in this individual case

Specificity vs. Non-specificity diseases

· **Specificity diseases**: **Conditions with a single, identifiable cause** and a direct causal pathway between the cause and the disease
· **Non-specificity diseases**: Conditions arising from multiple and complex causal factors, involving interactions between genetic predispositions and acquired environmental or lifestyle factors such as alcohol use

Major Issue 1-1

Causal Relationship Between Smoking and Lung Cancer

1. Assessing This Cancer Type as a "Specificity Disease" or Equivalent

Supreme Court	A specificity disease is one caused by a particular agent where the causal relationship is clearly identifiable

Reference Case: Agent Orange Litigation

Supreme Court Decision 2006 C17539 on July 12, 2013

"Chloracne" caused by exposure to TCDD, a component of Agent Orange, recognized as a specificity disease

"Chloracne" may also be caused by other substances (e.g., carbaryl, picloram)

Specificity disease: A disease with very or extremely strong causal specificity between a particular agent and the disease outcome

Major Issue 1-1

Causal Relationship Between Smoking and Lung Cancer

1. Assessing This Cancer Type as a "Specificity Disease" or Equivalent

Relative risk of lung cancer incidence among smokers compared to non-smokers

Small cell lung carcinoma	Squamous cell lung carcinoma	Laryngeal cancer
21.7× higher	11.7× higher	5.4× higher

Major Issue 1-1

Causal Relationship Between Smoking and Lung Cancer

1. Assessing This Cancer Type as a "Specificity Disease" or Equivalent

Contributory risk of smoking to the occurrence of the cancers at issue

Small cell lung carcinoma	Squamous cell lung carcinoma	Laryngeal cancer
95.4 %	91.5 %	81.5 %

Leading domestic expert bodies — the Korean Society of Preventive Medicine and the Korean Society of Epidemiology — have stated that smoking's contribution to the onset of these cancer types is so substantial that they are "close to specificity diseases" in terms of causal specificity

Major Issue 1-1

Causal Relationship Between Smoking and Lung Cancer

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1. Assessing This Cancer Type as a "Specificity Disease" or Equivalent

Case	Disease Type	Epidemiological Causality
Agent Orange Case (Supreme Court Decision 2006 C17539, Jul. 12 2013)	**Lung cancer, etc.**	The degree of increased risk from exposure to Agent Orange was **unknown.**
Seoul Air Pollution Case (Supreme Court Decision 2011 C 7437)	**Respiratory diseases**	Changes in pollutant concentrations did not significantly increase the relative risk of developing respiratory diseases, making it difficult to establish causation. **CO 1.041, NO_2 1.024, PM 1.011**
Prior Individual Tobacco Lawsuit (Supreme Court Decision 2011 C 22092)	**Limited to adenocarcinoma**	Adenocarcinoma has **Low correlation with smoking compared with** squamous cell or small-cell carcinoma
This Case (NHIS Litigation)	**Small-cell carcinoma, squamous-cell carcinoma, laryngeal cancer**	**Relative risk: 21.7×, 11.7×, 5.4×, respectively** **Court acknowledged that for heavy smokers, causal relationship with lung cancer may be presumed (First-instance ruling)**

For individuals with a smoking history of 20 pack-years or more → a causal relationship with lung cancer may be presumed

Major Issue 1-1

Causal Relationship Between Smoking and Lung Cancer

2.Assessing This Cancer Type as a "Non-Specificity Disease" or Equivalent

✓ **Supreme Court Approach: Supreme Court Decision 2011 C 22092, Apr. 10, 2014**

Recognition of an **epidemiological correlation** between specific risk factors and non-specificity diseases

Demonstrating that the incidence rate of the disease in the exposed group is significantly higher than in the unexposed group (**Epidemiological causation**)

Demonstrating timing of exposure to the risk factor, degree of exposure, and timing of disease onset (**Individualized causation**)

⇨ **Recognition of a causation**

☞ **Establishing that the disease was likely caused by the risk factor in the individual case**

Major Issue 1-1

Causal Relationship Between Smoking and Lung Cancer

2.Assessing This Cancer Type as a "Non-Specificity Disease" or Equivalent

Individual Circumstances of the Case Subjects

Level of Smoking Exposure	**Most individuals began smoking during their teens or twenties: 20 to 150 pack-years** Screening data, certifications, and medical records (Plaintiff's exhibit No. 325)
Timing of Disease Onset	**Cancers developed after long-term smoking exposure** Medical care benefit payment data and medical records
Pre-Exposure Health Status	**Majority were in good health during their teens or twenties and no significant pre-existing conditions recorded**
Progression of Disease	**No particular issues** Diagnosis process verified through medical record
Other Risk Factors	• **Relative risk for laryngeal cancer: Smoking 4.65 /Alcohol consumption 1.09** • **Smoking and alcohol consumption demonstrate a synergistic (additive) effect** Liability recognized where such synergy contributes to disease (Supreme Court Decision 89 CJ 1275)
Lifestyle and Genetic Factors	**No identifiable lifestyle or family history factors sufficient to exclude smoking as a primary cause**

Major Issue 1-2

Addiction as a Causation Factor

Addictive Nature of Tobacco

Central issue in determining causation throughout this case

Is continued smoking primarily driven by nicotine addition?

Inherent or enhanced **addictiveness**

VS.

Voluntary behavior based on **free will**

Major Issue 1-2

Addiction as a Causation Factor

Addictive Nature of Tobacco

Established Scientific Fact (Recognized by government reports , WHO, etc.)

☑1 **Addiction (dependence) is**

characterized by **fundamental neurobiological changes that impair behavioral self-control.**
As a result, individuals continue to use the substance persistently and compulsively

Addiction
= Brain Disease

☑2 **Korean Society of Addiction Psychiatry:**

"The belief that anyone can quit smoking through willpower alone is a myth."
"Smoking is a form of addiction that requires professional treatment — not just self-control."

Smoking
= Addiction Disorder

People with 20 pack-years or more of smoking exposure → high probability of nicotine addiction

Major Issue 1-2

Addiction as a Causation Factor

Defendants' Argument : 'The defendants asserted that continued smoking is **issue of free will**

- **Even during the 1994 U.S. Congressional hearings, all major tobacco companies maintained the position that nicotine is not addictive**

During the April 1994 U.S. House Subcommittee on Health and the Environment hearing (the Waxman Hearing)

Plaintiff's exhibit no. 257

Major Issue 1-2

Addiction as a Causation Factor

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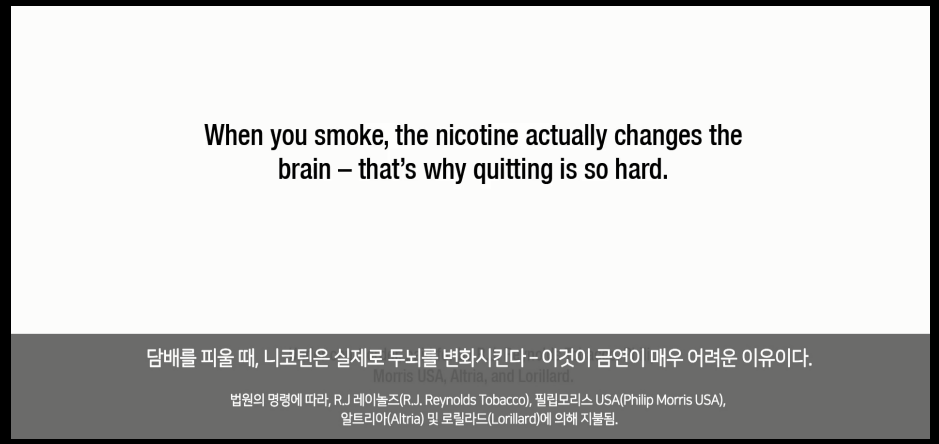
Defendants' Argument : 'The defendants asserted that continued smoking is issue of free will

☑ **A U.S. federal court has affirmed** that nicotine alters brain function, confirming its addictive properties



Since November 2017, major tobacco companies have been required to broadcast court-ordered corrective statements ("truth ads")

Plaintiff's exhibit no. 281

1. When you smoke, **nicotine actually changes your brain-that's why quitting is so hard.**
2. Philip Morris and other tobacco companies intentionally designed cigarettes to make them more addictive.. Tobacco companies intentionally manipulate nicotine's impact and delivery by modifying filter designs, adding ammonia to increase nicotine absorption, and altering the physical and chemical composition of tobacco blends

Major Issue 1-2

Addiction as a Causation Factor

Defendants' Argument : 'The defendants asserted that continued smoking is **issue of free will**

Are U.S. cigarettes different from those sold in Korea?

Have tobacco companies denied nicotine's addictiveness?

Product Liability of Tobacco Companies

Major Issue 2

Cigarettes as "Products" Under Product Liability Law

Basic Principles and Functions of Cigarette Design
Ken Podraza Ph.D. , **Philip Moris USA**

Plaintiff's exhibit no. 163

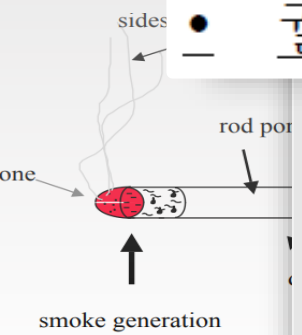
Basic Principles
of Cigarette Design
and Function

- A cigarette is surprisingly complex with many inter-related parts

Director

- 궐련은 수많은 상호 의존적 부분으로 구성되어 놀라울 정도로 복잡하다.

Philip Morris USA



The cigarettes involved in this case constitute **manufactured products developed through advanced engineering processes**

Major Issue 2

Defendants' Product Liability

Manufacturer's Duty as Expected by Consumers

Product Liability Act

- When a product presents potential hazards,

  the manufacturer must identify and assess those risks accurately and suspend manufacture and sale until the risks are properly addressed.

- If immediate suspension is not feasible,

  the manufacturer must provide clear and comprehensive information about the risks so that consumers can make informed choices

  (Refrain from practices that obscure or mislead consumers about product risks)

- Duty to Eliminate Harm

  Prioritize and implement technologies that reduce risk

  Avoid technologies that may increase harm

Major Issue 2-1. Product Liability (Design Defect)

Reasonable Alternative Designs 1
Remove Elements That Increase Risk

Product Liability Act
Article 2(2)(b)

A "design defect" exists when a manufacturer does not adopt a reasonable alternative design that could have reduced or prevented harm, resulting in the product being unreasonably unsafe.

Even though cigarettes are inherently hazardous

Reasonable alternative design

Not to choose designs that intensify harm
Designs that reduce harm such as reduced-nicotine cigarettes

Major Issue 2-1.
Product Liability
(Design Defect)

Reasonable Alternative Designs 1
Remove Elements That Increase Risk

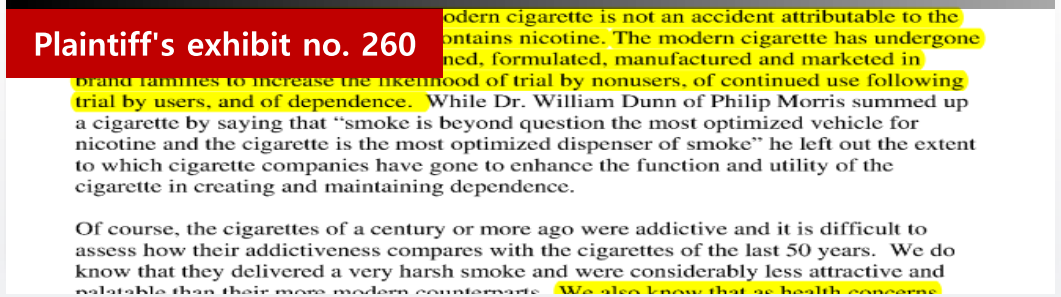
The high **addictiveness** of modern cigarettes **is not accidental**; it results from the nicotine contained in the tobacco and how it is engineered for delivery.

Cigarettes are designed to sustain addiction.

Their design and composition are intended to make them more appealing and more addictive than ever before.

Relationship Between the Addictiveness of Cigarette Products and Cigarette Design
U.S., William A. Farone, Ph.D.

Plaintiff's exhibit no. 260

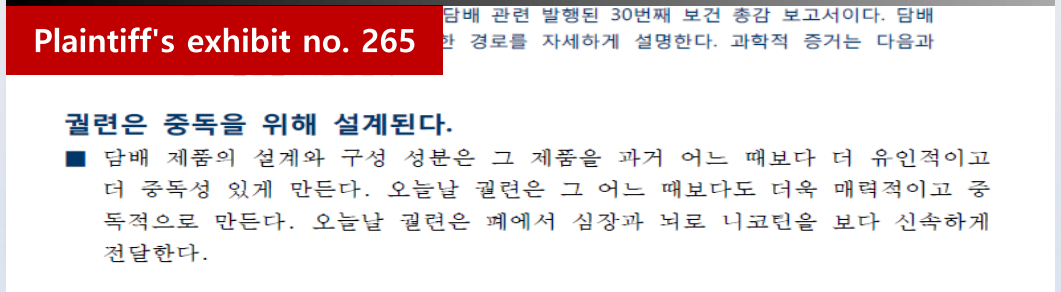


odern cigarette is not an accident attributable to the
ontains nicotine. The modern cigarette has undergone
ned, formulated, manufactured and marketed in
brand families to increase the likelihood of trial by nonusers, of continued use following trial by users, and of dependence. While Dr. William Dunn of Philip Morris summed up a cigarette by saying that "smoke is beyond question the most optimized vehicle for nicotine and the cigarette is the most optimized dispenser of smoke" he left out the extent to which cigarette companies have gone to enhance the function and utility of the cigarette in creating and maintaining dependence.

Of course, the cigarettes of a century or more ago were addictive and it is difficult to assess how their addictiveness compares with the cigarettes of the last 50 years. We do know that they delivered a very harsh smoke and were considerably less attractive and palatable than their more modern counterparts. We also know that as health concerns

U.S. Surgeon General's Report (2010)
U.S., U.S. Department of Health and Human Services

Plaintiff's exhibit no. 265



담배 관련 발행된 30번째 보건 총감 보고서이다. 담배
한 경로를 자세하게 설명한다. 과학적 증거는 다음과

궐련은 중독을 위해 설계된다.

■ 담배 제품의 설계와 구성 성분은 그 제품을 과거 어느 때보다 더 유인적이고 더 중독성 있게 만든다. 오늘날 궐련은 그 어느 때보다도 더욱 매력적이고 중독적으로 만든다. 오늘날 궐련은 폐에서 심장과 뇌로 니코틴을 보다 신속하게 전달한다.

Design and composition of cigarettes → unique features that heighten product risk

Major Issue 2-1.
Product Liability
(Design Defect)

Reasonable Alternative Designs 1
Remove Elements That Increase Risk

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Adjusting the PH of Smoke Using Ammonia
→ Increases the Speed and Intensity of Nicotine Delivery to the Brain

During B.A.T. Product Seminar
July 1984| B.A.T. U.K. & Export
Plaintiff's exhibit no. 186

B.A.T. (U.K. & E.) PRODUCT SEMINAR

Lythe Hill Hotel,

salt form. When a cigarette is smoked, nicotine is released momentarily in the free-form. In this form, nicotine is more readily absorbed through the body tissue. Hence it is the free nicotine which is associated with IMPACT, i.e. the higher the free nicotine, the higher the IMPACT.

"궐련을 흡연할 때 니코틴은 그 순간 유리-형태(free-form)가 된다. 이 형태에서 니코틴은 더 쉽게 인체 조직을 통해 흡수된다. 따라서 "강한효과(IMPACT)"과 관련이 있는 것은 프리 니코틴이다. 즉, 프리니코틴이 많을수록, 강한효과도 커짐"

Major Issue 2-1.
Product Liability
(Design Defect)

Reasonable Alternative Designs 1
Remove Elements That Increase Risk

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Adjusting the PH of Smoke Using Ammonia
→ Increases the Speed and Intensity of Nicotine Delivery to the Brain

Plaintiff's exhibit no. 198

…he human situation, the nicotine in the vapour phase reaches the back of the throat and is very much involved in the sensation of "impact". The amount of nicotine in the vapour phase can be modified by changing the acidity (pH) of the smoke. Hence it is readily feasible to have two cigarettes which deliver the same amount of nicotine (as measured on a Cambridge pad) but which are easily differentiated on the sensory bias of impact since the acidity of the smoke (and hence amount of nicotine in the vapour phase) is different.

Plaintiff's exhibit no. 187

…Y OF PROGRESS

Increasing the pH of a medium in which nicotine is delivered increase the physiological effect of the nicotine by increasing the ratio of free base to acid salt form, the free base form being more readily transported across physiological membranes. We are pursuing this project with the eventual goal of lowering the total nicotine present in smoke while increasing the physiological effect of the nicotine which is present, so that no physiological effect is lost on nicotine reduction.

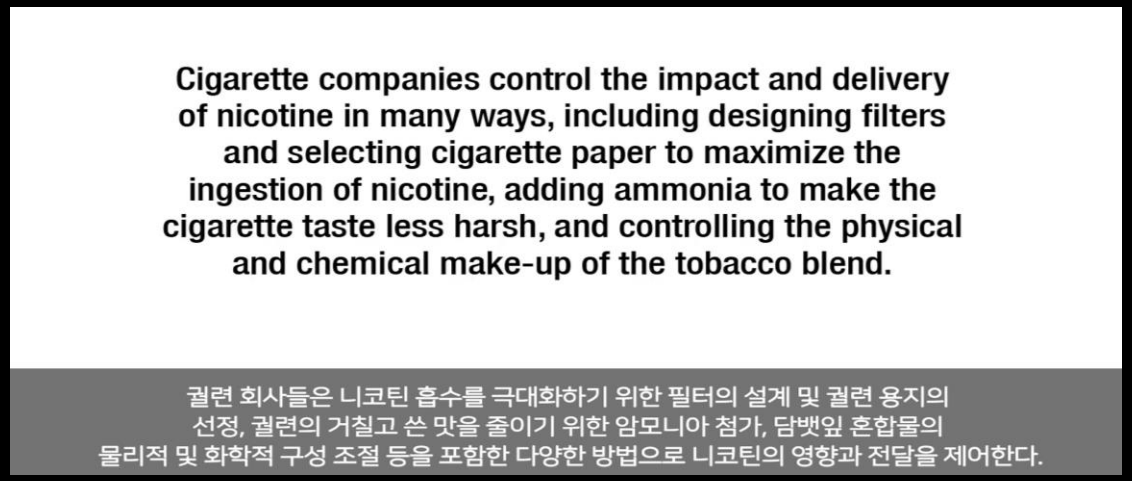
Vapor-phase nicotine reaches the back of the throat and is strongly associated with the sensation of a "strong hit.". **The proportion of nicotine** in gaseous form **is controlled by adjusting the pH of cigarette smoke.**

"**Raising the pH of the nicotine delivery medium** increases the proportion of nicotine in its free-base form, which enhances its physiological impact... (excerpt)

Major Issue 2-1.
Product Liability
(Design Defect)

Reasonable Alternative Designs 1
Remove Elements That Increase Risk

Adjusting the PH of Smoke Using Ammonia
→ Increases the Speed and Intensity of Nicotine Delivery to the Brain



Since November 2017,
major tobacco companies have been required to broadcast court-ordered corrective statements ("truth ads")

Plaintiff's exhibit no. 281

1. When you smoke, nicotine actually changes your brain- that's why quitting is so hard.

2. **Philip Morris and other tobacco companies intentionally designed cigarettes to make them more addictive.. Tobacco companies intentionally manipulate nicotine's impact and delivery by modifying filter designs, adding ammonia to increase nicotine absorption, and altering the physical and chemical composition of tobacco blends.**

Major Issue 2-1.
Product Liability
(Design Defect)

Reasonable Alternative Designs 1
Remove Elements That Increase Risk

Increased Harm Resulting from Sugar Additives

Sugar-Nicotine Research
1992, ATP-R&D

Plaintiff's exhibit no. 267

Date: July 29, 1992

Notebook Pages: None

Dated: N/A

Previous Reports: None

Report #: ATP 92-210

No. of Pages: 22

Program #: 502

SUGAR/NICOTINE STUDY

OBJECTIVE: To determine the type and amount of casing sugar needed on burley tobacco for different nicotine levels and identify a sugar to nicotine ratio that can be used to develop smoother products.

SUMMARY: Low-mid stalk (K1) and mid-upper stalk (K2) burley tobaccos were cased with 0, 4, 8, 12 and 16% fructose, glucose and sucrose, respectively. Tobacco and smoke analyses as well as taste evaluations were obtained.

Results from the smoke data showed that the type of sugar used did not significantly affec
smok
level
sugar

Infor
and s
K2 to
at 8%

Total
type

From
3.3/1.

Higher sugar content in cigarette additives **leads to increased production of formaldehyde and acetaldehyde** in smoke…

Denoble V.J.'s Oral Testimony
Massachusetts Department of Public Health Hearing (1997)

Plaintiff's exhibit no. 202

Volume I
Pages 1-238

TH OF MASSACHUSETTS
DEPARTMENT OF PUBLIC HEALTH

HEARING: To receive written and oral testimony on proposed regulations entitled "Cigarette and Smokeless Tobacco Products: Reports of Added Constituents and Nicotine Ratings" (105 CMR 660.000), and to consider such additional matters as set forth in the Notice of Public Hearing; held at the Department of Public Health, 250 Washington Street, Boston, Massachusetts, on Thursday, January 30, 1997, at 9:10 a.m.

BEFORE: Deborah Klein Walker, Ed.D., Chairperson
Gregory N. Connolly, DMD, MPH
Paul Jacobsen

Tobacco companies have **increased and maintained sugar levels in cigarette blends for the purpose of increasing overall addictive potentia;**

Major Issue 2-1.
Product Liability
(Design Defect)

Reasonable Alternative Designs 1
Remove Elements That Increase Risk

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Increased Harm Resulting from Sugar Additives

Marlboro Hard pack - 20 cigarettes

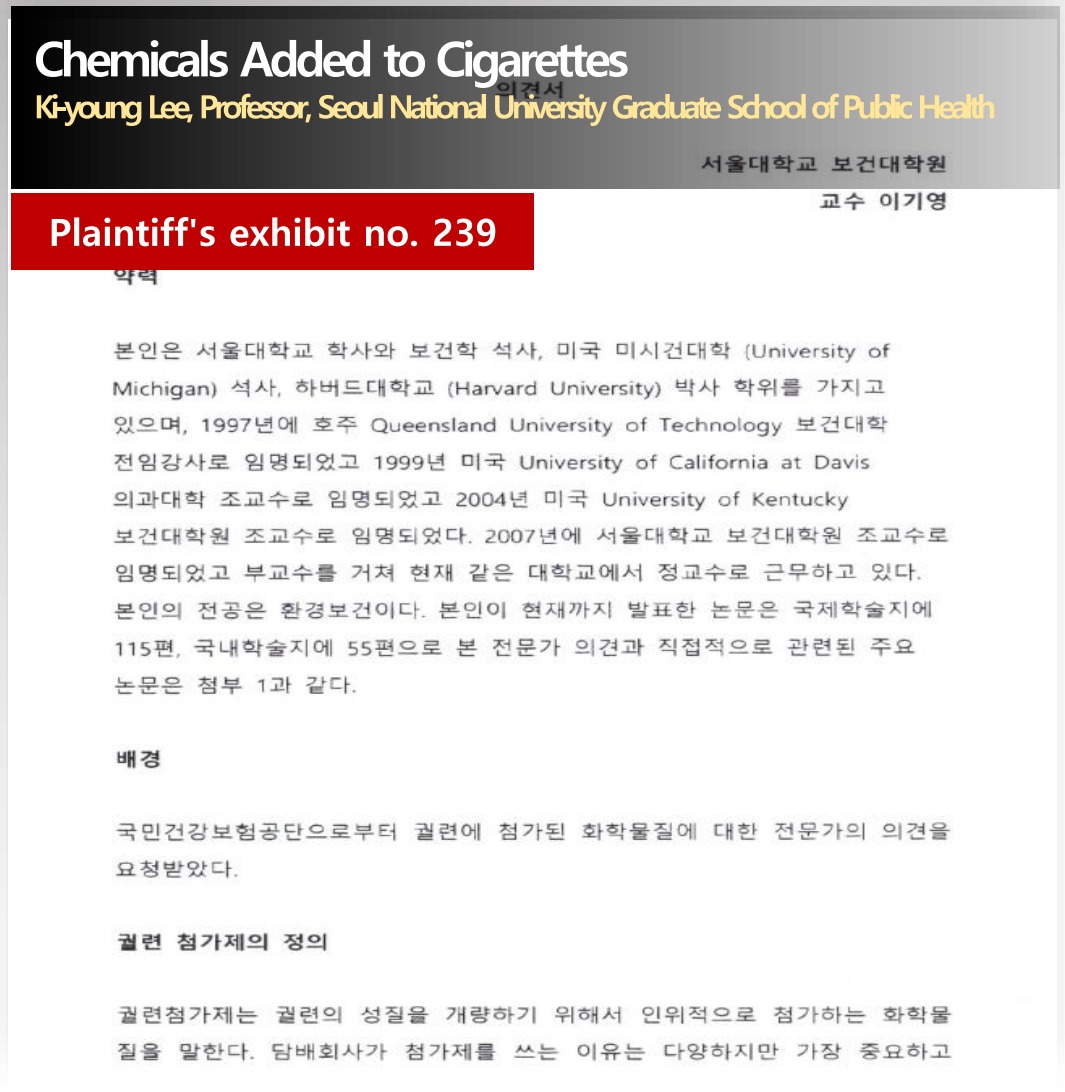
BURNT ITEMS	AMOUNT %	MG/CIG
TOBACCO (담배잎)	51.5	482.3
WATER (물)	7.2	67
CIGARETTE PAPERS (궐련지)	4	37.6
SUGARS (SUCROSE AND/OR INVERT SUGAR) (당류(수크로오스, 전화당, 고과당 콘시럽))	3	28.1

Cigarettes (Marlboro)
1 Pack contents

Defendant's exhibit no. 56
submitted by Defendant 2

Major Issue 2-1.
Product Liability
(Design Defect)

Reasonable Alternative Designs 1
Remove Elements That Increase Risk



Chemicals Added to Cigarettes

Ki-young Lee, Professor, Seoul National University Graduate School of Public Health

이경서

서울대학교 보건대학원

교수 이기영

Plaintiff's exhibit no. 239

약력

본인은 서울대학교 학사와 보건학 석사, 미국 미시건대학 (University of Michigan) 석사, 하버드대학교 (Harvard University) 박사 학위를 가지고 있으며, 1997년에 호주 Queensland University of Technology 보건대학 전임강사로 임명되었고 1999년 미국 University of California at Davis 의과대학 조교수로 임명되었고 2004년 미국 University of Kentucky 보건대학원 조교수로 임명되었다. 2007년에 서울대학교 보건대학원 조교수로 임명되었고 부교수를 거쳐 현재 같은 대학교에서 정교수로 근무하고 있다. 본인의 전공은 환경보건이다. 본인이 현재까지 발표한 논문은 국제학술지에 115편, 국내학술지에 55편으로 본 전문가 의견과 직접적으로 관련된 주요 논문은 첨부 1과 같다.

배경

국민건강보험공단으로부터 궐련에 첨가된 화학물질에 대한 전문가의 의견을 요청받았다.

궐련 첨가제의 정의

궐련첨가제는 궐련의 성질을 개량하기 위해서 인위적으로 첨가하는 화학물질을 말한다. 담배회사가 첨가제를 쓰는 이유는 다양하지만 가장 중요하고

Problems with Cigarette Additives

1. Increased Addiction

By facilitating more efficient nicotine absorption, these design features significantly heighten the risk of developing addiction.

2. Increased Attractiveness

They reduce nicotine's harsh and unpleasant odor and incorporate flavor additives, making the smoke smoother and easier to inhale. This increases the product's appeal to users and reduces aversion among people nearby.

3. Increased Toxicity and Harmfulness

Certain cigarette additives are toxic in their own right. In addition, the high-temperature combustion process generates harmful byproducts, and the interactions among multiple additives under such conditions can produce additional hazardous substances — many of which remain unverified for safety.

Reasonable Alternative Designs 1
Remove Elements That Increase Risk

h·well NHIS National Health Insurance Service

The Continued Use of Design Features and Additives That Increase Harmfulness, Addictiveness, and Attractiveness

Design Defect

Renders the product unsafe, particularly where reasonable alternative designs could have reduced these risks

Caution
As of: January 12, 2018 1:53 AM Z

Philip Morris USA, Inc. v. Arnitz

Court of Appeal of Florida, Second District
July 21, 2006, Opinion Filed
Case No. 2D05-826

Reporter
933 So. 2d 693 *; 2006 Fla. App. LEXIS 12074 **; CCH Prod. Liab. Rep. P17,497; 31 Fla. L. Weekly D 1949

PHILIP MORRIS USA, Inc., a foreign corporation, Appellant, v. RONALD J. ARNITZ, Appellee.

Subsequent History: [**1] Released for Publication August 8, 2006.

Review denied by, Costs and fees proceeding at *Philip Morris USA, Inc. v. Arnitz, 2006 Fla. LEXIS 3016 (Fla., Dec. 20, 2006)*

Prior History: Appeal from the Circuit Court for Hillsborough County; Sam D. Pendino, Judge.

Disposition: Affirmed.

Core Terms

comparative fault, cigarettes, smoking, comparative negligence, design defect, trial court, affirmative defense, tobacco, strict liability, presenting evidence, jury instructions, additives, nicotine, fault, amended

suit against the manufacturer, alleging negligence, strict liability, and "conspiracy to commit actual fraud." Other defendants named in the action were subsequently dropped by the smoker, as well as all claims except strict liability. At trial, the smoker identified three alleged design defects in the cigarettes, which he acknowledged that he was partially at fault for. The trial court determined that the smoker could present evidence of comparative fault because he had pleaded the issue, even though the manufacturer had withdrawn that defense, and the jury was instructed on that issue. After a jury award was reduced by the smoker's comparative negligence, the manufacturer appealed. The court found that the smoker had the right to choose the theory under which his case was tried. Accordingly, the trial court properly allowed evidence and instructed the jury on the issue of comparative negligence. Federal law did not preempt the design defect claims.

Outcome
The court affirmed the judgment of the trial court.

Philip Morris USA, INC v. ARNITZ Judgment
July 21, 2006 (Florida, USA)

- Additives **reduce natural bodily defenses** → encouraging deeper inhalation of smoke
- Certain additives **increase free-base nicotine,** thereby enhancing addictive potential
- Use of flue-cured tobacco processing → **increase potent carcinogens by tenfold**

* Tobacco-specific nitrosamines

Major Issue 2-1.
Product Liability
(Design Defect)

Reasonable Alternative Designs 2
Reduced-Nicotine Cigarettes

Products designed to increase tobacco addiction	Products designed to reduce addictiveness
Possible	Impossible?

Major Issue 2-1.
Product Liability
(Design Defect)

Reasonable Alternative Designs 2
Reduced-Nicotine Cigarettes

Nicotine levels can be reduced to minimize or prevent addiction

Alkaloid Reduction Tobacco (ART) Program
Philip Morris USA

Plaintiff's exhibit no. 279

ATTORNEY CLIENT PRIVILEGE
Philip Morris USA RESTRICTED

T) Program

I. PRODUCT CONCEPT AND PROJECT OVERVIEW
A. Historical Perspective

A. Historical Context

The concept of nicotine-free or nicotine-reduced cigarettes is not novel.

As early as the 1950s, Philip Morris and other major tobacco companies conducted research and development aimed at lowering nicotine content in cigarette products.

presented at this meeting by GF's staff included a discussion of supercritical CO_2 extraction of caffeine from coffee, among other things. General Foods had extensive experience extracting alkaloids (caffeine) from coffee. They found

[1]King Sano produced by Steffano Brothers in Philadelphia, Reynolds #1 Box, marketed in Germany/Switzerland, and Reemstma R6 marketed in Germany were all low nicotine cigarettes.
[2]K. Houghton, J. Charles, C. Lilly, B. Kuhn, D. Knudson, L. Meyer, M. Hauserman, and F. Resnick.

2063096

Reducing the Addictiveness of Cigarettes
In 1998, the National Academy of Medicine

Plaintiff's exhibit no. 167

addictiveness of cigarettes

Jack E Henningfield, Neal L Benowitz, John Slade, Thomas P Houston, Ro
and Scott D Deitchman, for the Council on Scientific Affairs, American Me

Key Conclusions of Council on Scientific Affairs:

(a) Gradual removal of nicotine from cigarettes is technically feasible.

(b) Nicotine reduction strategies offer strong potential to prevent youth from becoming addicted to tobacco and to assist millions of current smokers in quitting.

nicotine reduction strategy on initiation and maintenance of, and relapse to, tobacco use. A range of potential concerns and barriers was addressed, including the technical feasibility of reducing cigarette nicotine content to non-addictive levels, the possibility that compensatory smoking

expanded surveillance to
in the use of tobacco prod
nicotine-containing prod
panded access to smoking
ment, and strengthening o
infrastructure; and (g)
labelling of tobacco produc

Historical examples of harm-reduction cigarette designs (1980s) :
American Tobacco's Carlton, R.J. Reynolds' Nautilus, and Philip Morris's Cambridge

Major Issue 2-1.
Product Liability
(Design Defect)

Reasonable Alternative Designs 2
Reduced-Nicotine Cigarettes

h·well NHIS National Health Insurance Service

Nicotine levels can be reduced to minimize or prevent addiction

Plaintiff's exhibit no. 166

Establishing A Nicotine Threshold for Addition

ESTABLISHING A NICOTINE THRESHOLD FOR ADDICTION

The Implications for Tobacco Regulation

On February 25, 1994, the Food and Drug Administration (FDA) released a letter to the Coalition on Smoking or Health announcing its intention to consider regulating cigarettes. The agency's premises were that the vast majority of tobacco users self-administer the product for the drug effects of nicotine and to sustain addiction and that cigarette manufacturers control the levels of nicotine in cigarettes to maintain this addiction. The FDA further raised the possibility of regulating cigarettes on the basis of their nicotine content to prevent addiction.

On February 28, 1994, the ABC news program *Day One* presented evidence that tobacco manufacturers manipulate the nicotine content of cigarettes. One way they do this is by removing nicotine from tobacco and then adding it back in controlled amounts, using tobacco extracts containing nicotine. It was suggested on the news program that the amount of nicotine in tobacco was controlled to ensure that the level was adequate to maintain nicotine addiction. In support of this idea the program quoted an internal memorandum from a Philip Morris Tobacco Company scientist

Plaintiff's exhibit no. 179

Reduced Nicotine Content Cigarettes

Addiction

RESEARCH REPORT doi:10.1111/j.1360-0443.2009.02780.x

Reduced nicotine content cigarettes: effects on toxicant exposure, dependence and cessation

Dorothy K. Hatsukami[1,2], Michael Kotlyar[1,3], Louise A. Hertsgaard[1], Yan Zhang[1,2], Steven G. Carmella[1,2], Joni A. Jensen[1], Sharon S. Allen[1], Peter G. Shields[4], Sharon E. Murphy[1,2], Irina Stepanov[1,2] & Stephen S. Hecht[1,2]

University of Minnesota Transdisciplinary Tobacco Use Research Center, Minneapolis, MN, USA,[1] University of Minnesota Masonic Comprehensive Cancer Center, Minneapolis, MN, USA,[2] Department of Experimental and Clinical Pharmacology, College of Pharmacy, University of Minnesota, Minneapolis, MN, USA[3] and Georgetown University Lombardi Comprehensive Cancer Center, Minneapolis, MN, USA[4]

ABSTRACT

Aims To examine the effects of reduced nicotine cigarettes on smoking behavior, toxicant exposure, dependence and abstinence. **Design** Randomized, parallel arm, semi-blinded study. **Setting** University of Minnesota Tobacco Use Research Center. **Interventions** Six weeks of: (i) 0.05 mg nicotine yield cigarettes; (ii) 0.3 mg nicotine yield cigarettes; or (iii) 4 mg nicotine lozenge; 6 weeks of follow-up. **Measurements** Compensatory smoking behavior, biomarkers of exposure, tobacco dependence, tobacco withdrawal and abstinence rate. **Findings** Unlike the 0.3 mg cigarettes, 0.05 mg cigarettes were not associated with compensatory smoking behaviors. Furthermore, the 0.05 mg cigarettes and nicotine lozenge were associated with reduced carcinogen exposure, nicotine dependence and product withdrawal scores. The 0.05 mg cigarette was associated with greater relief of withdrawal from usual brand cigarettes than the nicotine lozenge. The 0.05 mg cigarette led to a significantly higher rate of cessation than the 0.3 mg cigarette and a similar rate as nicotine lozenge. **Conclusion** The 0.05 mg nicotine yield cigarettes may be a tobacco product that can facilitate cessation; however, future research is clearly needed to support these preliminary findings.

Keywords Biomarkers of exposure, compensatory smoking, nicotine dependence, reduced nicotine cigarettes, tobacco cessation, tobacco withdrawal.

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Submitted 29 September 2008; initial review completed 6 January 2009; final version accepted 13 August 2009

Plaintiff's exhibit no. 278

Randomized Trial of Reduced-Nicotine Standards for Cigarettes

The NEW ENGLAND JOURNAL of MEDICINE

SPECIAL ARTICLE

Randomized Trial of Reduced-Nicotine Standards for Cigarettes

Eric C. Donny, Ph.D., Rachel L. Denlinger, B.S., Jennifer W. Tidey, Ph.D., Joseph S. Koopmeiners, Ph.D., Neal L. Benowitz, M.D., Ryan G. Vandrey, Ph.D., Mustafa al'Absi, Ph.D., Steven G. Carmella, B.A., Paul M. Cinciripini, Ph.D., Sarah S. Dermody, M.S., David J. Drobes, Ph.D., Stephen S. Hecht, Ph.D., Joni Jensen, M.P.H., Tonya Lane, M.Ed., Chap T. Le, Ph.D., F. Joseph McClernon, Ph.D., Ivan D. Montoya, M.D., M.P.H., Sharon E. Murphy, Ph.D., Jason D. Robinson, Ph.D., Maxine L. Stitzer, Ph.D., Andrew A. Strasser, Ph.D., Hilary Tindle, M.D., M.P.H., and Dorothy K. Hatsukami, Ph.D.

ABSTRACT

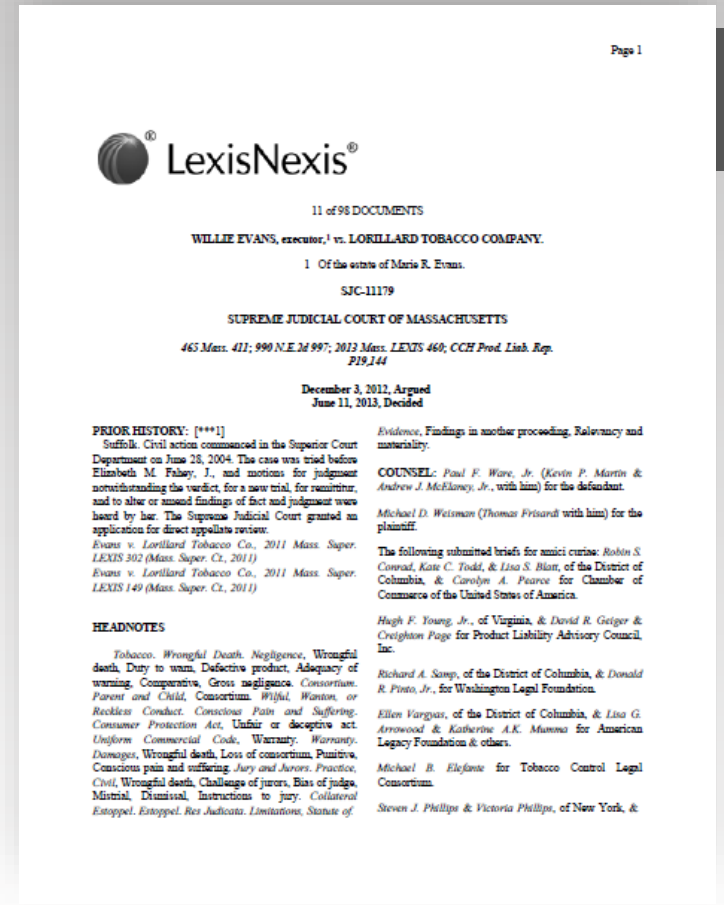
BACKGROUND
The Food and Drug Administration can set standards that reduce the nicotine content of cigarettes.

METHODS
We conducted a double-blind, parallel, randomized clinical trial between June 2013 and July 2014 at 10 sites. Eligibility criteria included an age of 18 years or older, smoking of five or more cigarettes per day, and no current interest in quitting smoking. Participants were randomly assigned to smoke for 6 weeks either their usual brand of cigarettes or one of six types of investigational cigarettes, provided free. The investigational cigarettes had nicotine content ranging from 15.8 mg per gram of tobacco (typical of commercial brands) to 0.4 mg per gram. The primary outcome was the number of cigarettes smoked per day during week 6.

Major Issue 2-1.
Product Liability
(Design Defect)

Reasonable Alternative Designs 2
Reduced-Nicotine Cigarettes

Nicotine levels can be reduced to minimize or prevent addiction



Page 1

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11 of 98 DOCUMENTS

WILLIE EVANS, executor,[1] vs. LORILLARD TOBACCO COMPANY.

1 Of the estate of Marie R. Evans.

SJC-11179

SUPREME JUDICIAL COURT OF MASSACHUSETTS

463 Mass. 411; 990 N.E.2d 997; 2013 Mass. LEXIS 460; CCH Prod. Liab. Rep. P19,144

December 3, 2012, Argued
June 11, 2013, Decided

PRIOR HISTORY: [***1]
Suffolk. Civil action commenced in the Superior Court Department on June 28, 2004. The case was tried before Elizabeth M. Fahey, J., and motions for judgment notwithstanding the verdict, for a new trial, for remittitur, and to alter or amend findings of fact and judgment were heard by her. The Supreme Judicial Court granted an application for direct appellate review.
Evans v. Lorillard Tobacco Co., 2011 Mass. Super. LEXIS 302 (Mass. Super. Ct., 2011)
Evans v. Lorillard Tobacco Co., 2011 Mass. Super. LEXIS 149 (Mass. Super. Ct., 2011)

HEADNOTES

Tobacco. Wrongful Death. Negligence. Wrongful death, Duty to warn, Defective product, Adequacy of warning, Comparative, Gross negligence. *Consortium. Parent and Child.* Consortium. *Wilful, Wanton, or Reckless Conduct. Conscious Pain and Suffering. Consumer Protection Act.* Unfair or deceptive act. *Uniform Commercial Code.* Warranty. *Warranty. Damages.* Wrongful death, Loss of consortium, Punitive, Conscious pain and suffering. *Jury and Jurors. Practice, Civil.* Wrongful death, Challenge of jurors, Bias of judge, Mistrial, Dismissal, Instructions to jury. *Collateral Estoppel. Estoppel. Res Judicata. Limitations, Statute of. Evidence.* Findings in another proceeding, Relevancy and materiality.

COUNSEL: *Paul F. Ware, Jr.* (*Kevin P. Martin & Andrew J. McElaney, Jr.*, with him) for the defendant.

Michael D. Weisman (*Thomas Frisardi* with him) for the plaintiff.

The following submitted briefs for amici curiae: *Robin S. Conrad, Kate C. Todd, & Lisa S. Blatt*, of the District of Columbia, *& Carolyn A. Pearce* for Chamber of Commerce of the United States of America.

Hugh F. Young, Jr., of Virginia, *& David R. Geiger & Creighton Page* for Product Liability Advisory Council, Inc.

Richard A. Samp, of the District of Columbia, *& Donald R. Pinto, Jr.*, for Washington Legal Foundation.

Ellen Vargyas, of the District of Columbia, *& Lisa G. Arrowood & Katherine A.K. Mumma* for American Legacy Foundation & others.

Michael B. Elefante for Tobacco Control Legal Consortium.

Steven J. Phillips & Victoria Phillips, of New York, &

Evans v. Lorillard Tobacco Co. Judgment
December 3, 2012/ Massachusetts, U.S.

- Combustible cigarettes designed with non-addictive nicotine levels and without menthol are recognized as reasonable alternative designs
  → establishing the existence of design defects in current products

※ Nicotine levels causing addiction: 0.4 mg to 0.5 mg per stick

Reasonable Alternative Designs 2
Reduced-Nicotine Cigarettes

h·well NHIS National Health Insurance Service

Lowering nicotine to non-addictive levels does not impair the essential function of cigarettes

Reducing nicotine to levels that **minimize addiction** ▼

By maintaining nicotine at levels **sufficient for non-addictive pharmacological effects**

Smokers **regain the freedom to discontinue smoking through voluntary decision-making**

Major Issue 2-2

Defendants' Product Liability
Labeling Defect

Product Liability Act
Article 2(2)(c)

"Labeling defect " exists when a manufacturer fails to provide reasonable instructions, warnings, or other information
that could have reduced or prevented harm or risk associated with the product.

Obligation to Furnish **Reasonable Warnings and Instructions**

Labeling that enables consumers to fully understand product risks and must not conceal or misrepresent those risks

Major Issue 2-2

Defendants' Product Liability
Labeling Defect

Ambiguous Warning Labels

1976~

"For your health, please refrain from excessive smoking."

2005~

"Cigarettes harm your health. Still want to smoke?"

Major Issue 2-2

Defendants' Product Liability
Labeling Defect

Warning Label Defect

2008 Addiction Warning Label

2008~2011

"Cigarette smoking causes significant health risks, and nicotine addiction makes quitting extremely difficult."

Major Issue 2-2

Defendants' Product Liability
Labeling Defect

h·well NHIS National Health Insurance Service

Invalidation of Warning Labels Through Advertising Claims

"Clean"

"Confidently smooth"

"Mild"

'sky blue'

"Light"

'zero'

"Refreshing"

"Low tar"

"Pure"

"Smooth"

"99% odor-free"

'one'

Major Issue 2-2

Defendants' Product Liability
Labeling Defect

Defendants' Argument
⇒ the First-Instance Court

Because the risks of smoking are widely known in society,

manufacturers have no obligation to provide additional warnings?

Cannot Be Presumed

The health risks of smoking remained under debate through media narratives.

Manufacturers' failure to warn or deliberate efforts to obscure information

Manufacturers have long denied the health risks of cigarettes.

The manufacturer's distortion of the truth

※ It is argued that, following the 1964 U.S. Surgeon General's Report and the subsequent **increase in media coverage on tobacco harms,** the public became fully aware of the specific health risks of smoking

Major Issue 2-2

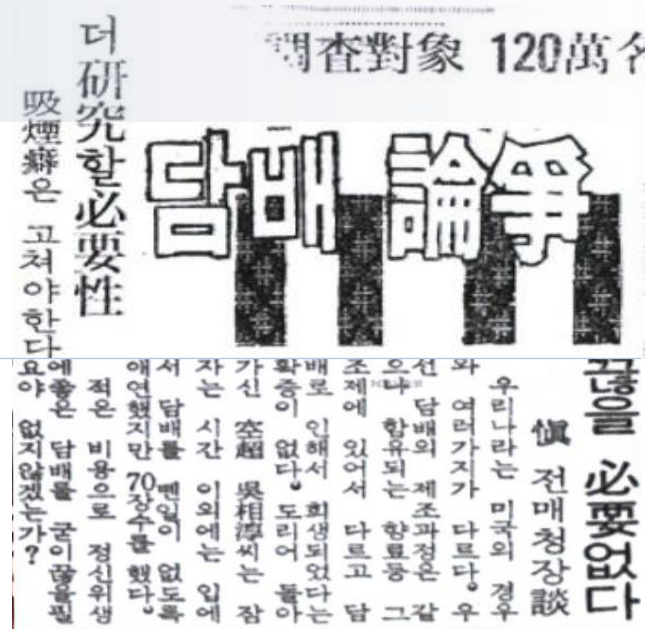
Defendants' Product Liability
Labeling Defect

The Risks Were Not Properly Known (or Understood by the Public)

After the 1964 U.S. Surgeon General's report on tobacco hazards,
domestic media released contradictory statements

"There is debate over whether cigarettes cause lung cancer."
Kyunghyang Shinmun, Jan. 13.

Plaintiff's exhibit no. 256-1



"Our situation differs from the U.S.... At little cost, is it really necessary to quit smoking, which is good for mental hygiene?"
Kyunghyang Shinmun, Jan. 14, 1964

Plaintiff's exhibit no. 256-2

"Nicotine is not addictive pharmacologically; smoking is merely a matter of style, not poison."
Kyunghyang Shinmun, Apr. 30, 1985

Plaintiff's exhibit no. 256-7

Major Issue 2-2

Defendants' Product Liability
Labeling Defect

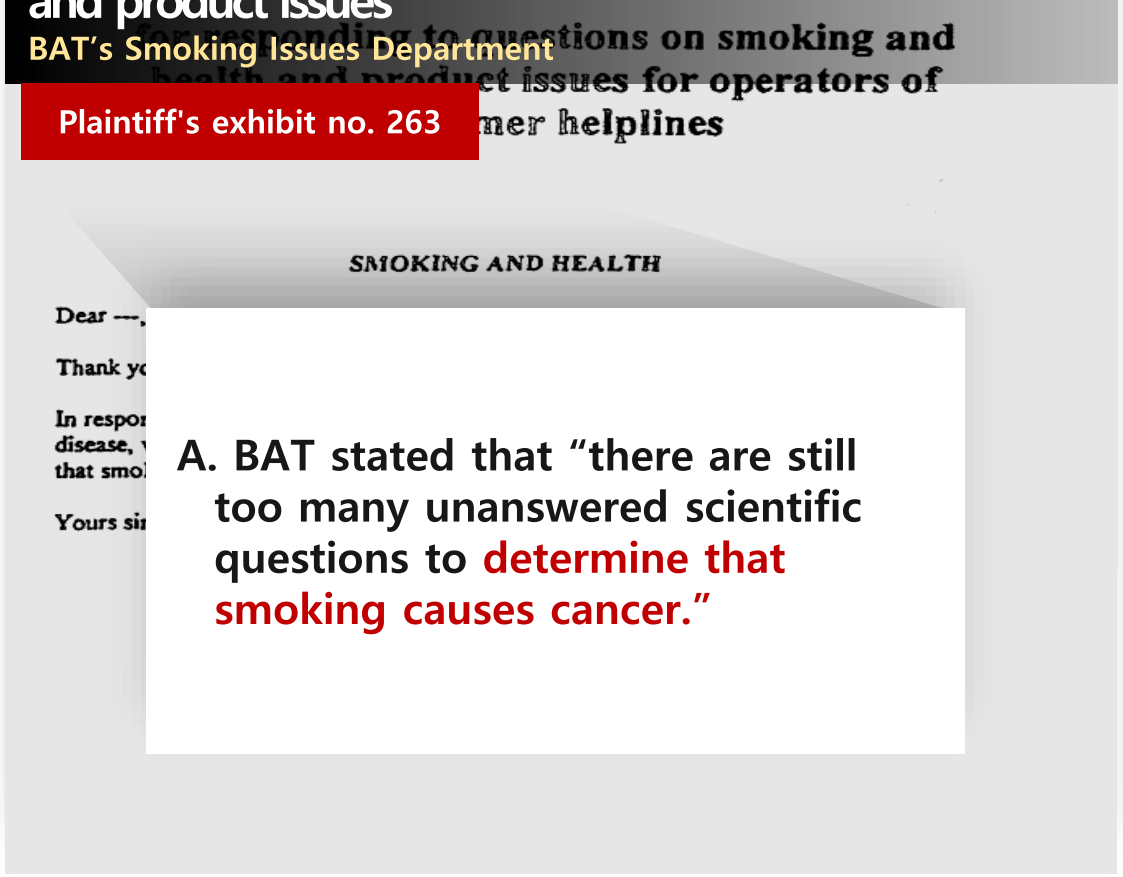
h·well NHIS National Health Insurance Service

Manufacturers Consistently Denied the Health Risks of Smoking

Consumer telephone inquiries about smoking, health, and product issues

BAT's Smoking Issues Department

Plaintiff's exhibit no. 263



SMOKING AND HEALTH

Dear ---,

Thank yo

In respo
disease,
that smo

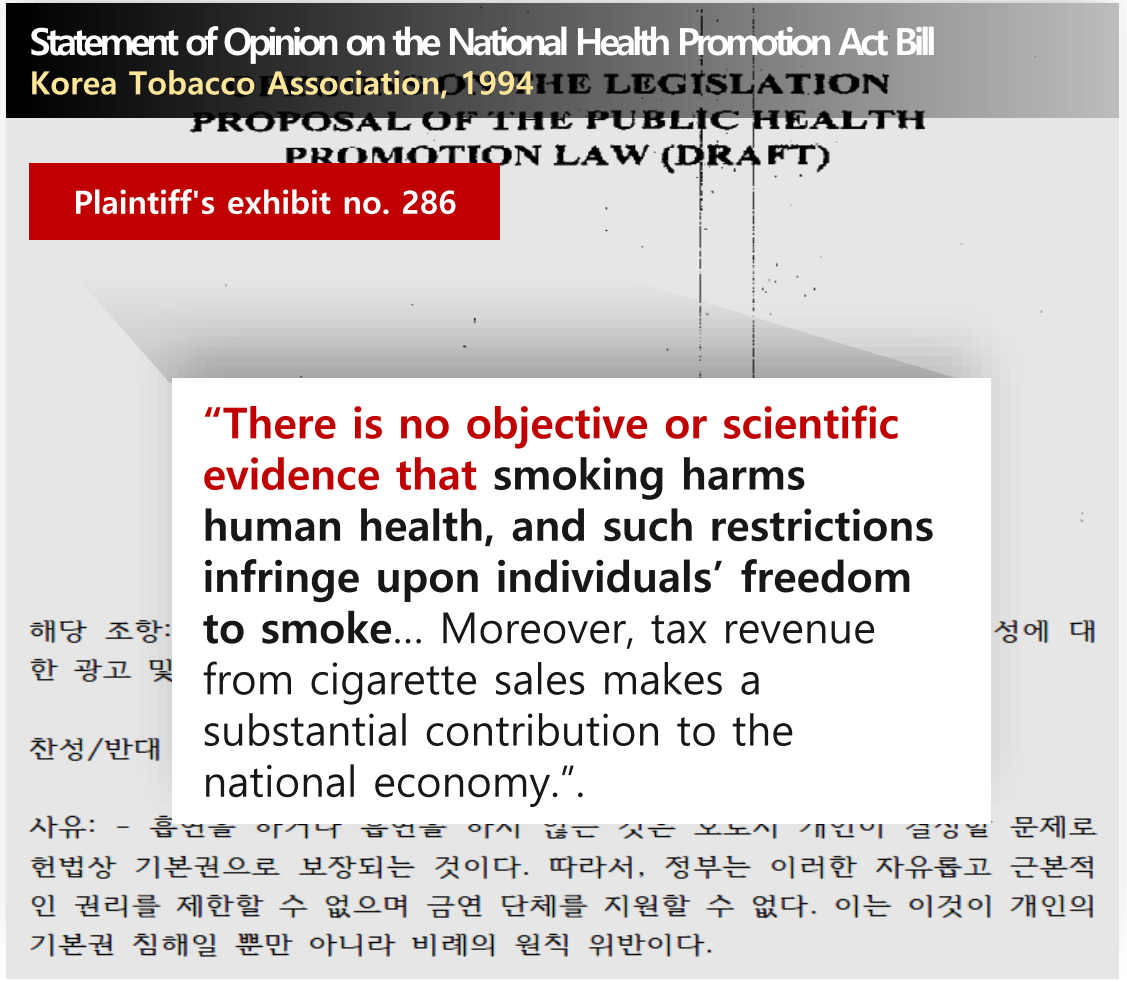
Yours si

A. BAT stated that "there are still too many unanswered scientific questions to **determine that smoking causes cancer.**"

Statement of Opinion on the National Health Promotion Act Bill

Korea Tobacco Association, 1994

Plaintiff's exhibit no. 286



HE LEGISLATION
PROPOSAL OF THE PUBLIC HEALTH
PROMOTION LAW (DRAFT)

해당 조항:

한 광고 및

찬성/반대

사유: - 흡연을 하거나 흡연을 하지 않는 것은 오로지 개인의 결정할 문제로 헌법상 기본권으로 보장되는 것이다. 따라서, 정부는 이러한 자유롭고 근본적인 권리를 제한할 수 없으며 금연 단체를 지원할 수 없다. 이는 이것이 개인의 기본권 침해일 뿐만 아니라 비례의 원칙 위반이다.

"There is no objective or scientific evidence that smoking harms human health, and such restrictions infringe upon individuals' freedom to smoke... Moreover, tax revenue from cigarette sales makes a substantial contribution to the national economy.".

Major Issue 2-2

Defendants' Product Liability
Labeling Defect

h·well NHIS National Health Insurance Service

Manufacturers Consistently Denied the Health Risks of Smoking

Plaintiff's exhibit no. 283-2

Prior Tobacco Litigation — KT&G Written Submission
Preparatory Brief dated January 10, 2004, p.10

어느 정도나 미치는지 여부는 아직까지 분명하게 밝혀진 바 없습니다. 담배가 500년을 넘게 인류의 대다수에 의하여 애용되어 왔고, 지금까지 어느 나라에서도 담배의 제조나 판매가 금지된 사실은 없으며, 절대 대다수의 흡연가들이 평생 담배를 피워도 아무 이상 없이 수명을 다하고 살아 온 점은 역사적 사실로서 분명하게 인정되고 있습니다. 그렇다면 담배에 "Even if tobacco contains some naturally occurring carcinogenic substances, that alone does not justify characterizing tobacco as a harmful product."

Major Issue 2-2

Defendants' Product Liability
Labeling Defect

Manufacturers Held Specialized Knowledge and Information Not Available to the General Public

In the U.S. RICO judgment

509. 궐련의 흡연은 질병, 고통, 사망의 원인이 된다. 피고들이 이러한 사실을 내부적으로 인식하였음에도 불구하고 수십년 동안이나 흡연의 위험성에 대하여 공개적으로 부인하고, 왜곡하고 축소하여 왔다. 흡연과 질병의 관계에 관한 과학계 및 의료계의 지식과 이해는 1950년대 내내 진화하여 1964년 의견 일치에 도달하였다. 그러나, 1964년 이후에도, 피고들은 이러한 의견 일치와 의견 일치가 기반한 압도적인 증거들 모두를 지속적으로 부인하여 왔다.

829. 1950년대부터, 피고들은 과학계보다 수십년 앞서서 니코틴이 중독성 있는 약물이라는 점, 궐련 제조자들은 약물 산업(마약 산업, drug business)에 종사하고 있다는 점, 궐련은 약물(마약, drug) 전달 장치라는 점에 대한 연구를 하여 이를 인식하고 있었다.

Translation of Plaintiff's exhibit no. 7-2

Tort Liability of Tobacco Companies

Major Issue 3

Tort Liability of the Defendants
Concealment of Risk and Fraud

h·well NHIS National Health Insurance Service

"Light" and "Low-Tar" Cigarettes Mislead Consumers

Smokers inhale more deeply and take more frequent puffs. "Compensatory smoking behavior"

Their harmful effects do not differ materially from standard cigarettes.

사진출처
연합뉴스 2018.11.21.

→ "The defendants engaged in deceptive promotion of low-tar and 'light' cigarettes as safer alternatives to full-flavor products, with the intent of sustaining smoking behavior and preserving revenue."

<U.S. RICO Judgment> (Plaintiff's evidence no. 7)

Major Issue 3

Tort Liability of the Defendants
Concealment of Risk and Fraud

h·well NHIS National Health Insurance Service

"Light" and "Low-Tar" Cigarettes Mislead Consumers

In practice, low-tar and low-nicotine products deliver tar and nicotine exposures that substantially exceed the levels stated on their labels.

Despite knowing that compensatory smoking **negates any reduction in risk,**

the defendants did not accurately inform consumers of this fact.

Based on numerical measurements that exploited the limitations of machine testing and filter ventilation holes,

the defendants used descriptors like "light," "mild," and "pure."

Major Issue 3

Tort Liability of the Defendants
Concealment of Risk and Fraud

"Light" and "Low-Tar" Cigarettes Mislead Consumers

Preceding Case Ruling
Seoul High Court Decision 2007 B18883 (Nov. 2, 2015)

KT&G, at the time of development and marketing, believed that low-tar and low-nicotine cigarettes would be beneficial to smokers'health...

Major Issue 3

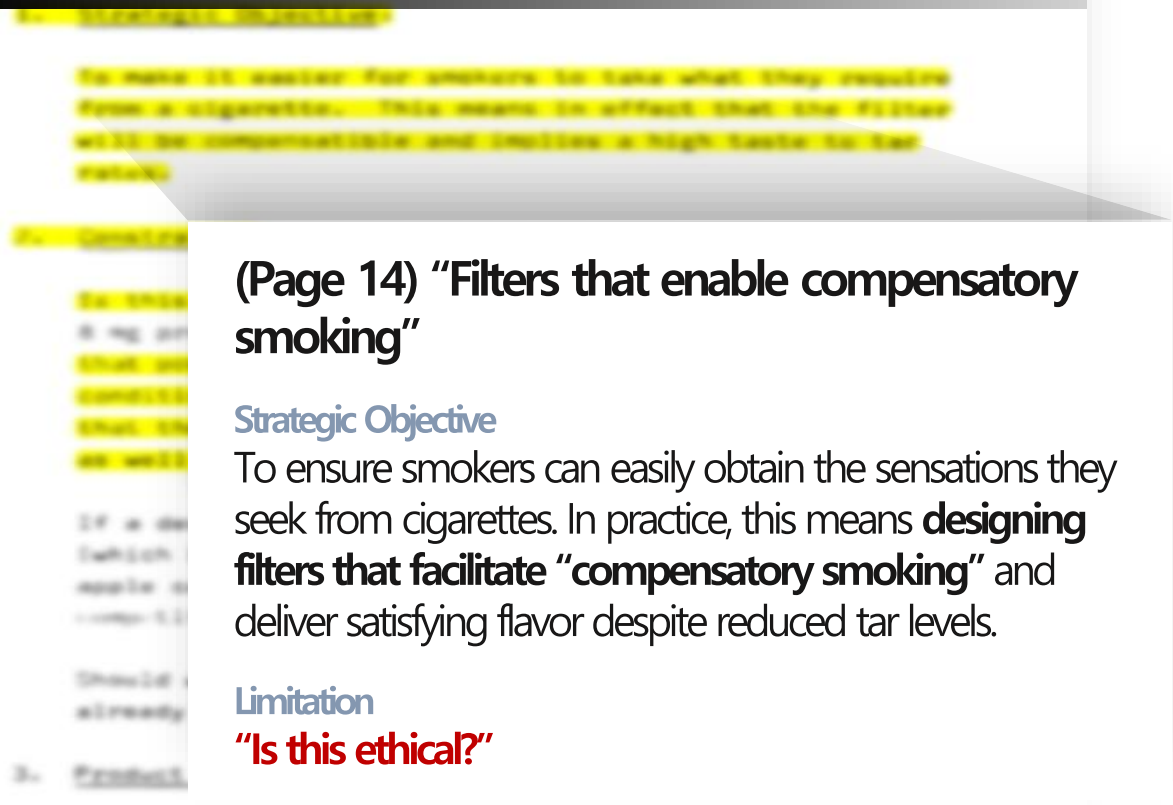
Tort Liability of the Defendants
Concealment of Risk and Fraud

h·well NHIS National Health Insurance Service

"Light" and "Low-Tar" Cigarettes Mislead Consumers

Plaintiff's exhibit no. 211

Individually Heat-Sealed Cigarettes
David Creighton, BAT (1985)



(Page 14) "Filters that enable compensatory smoking"

Strategic Objective

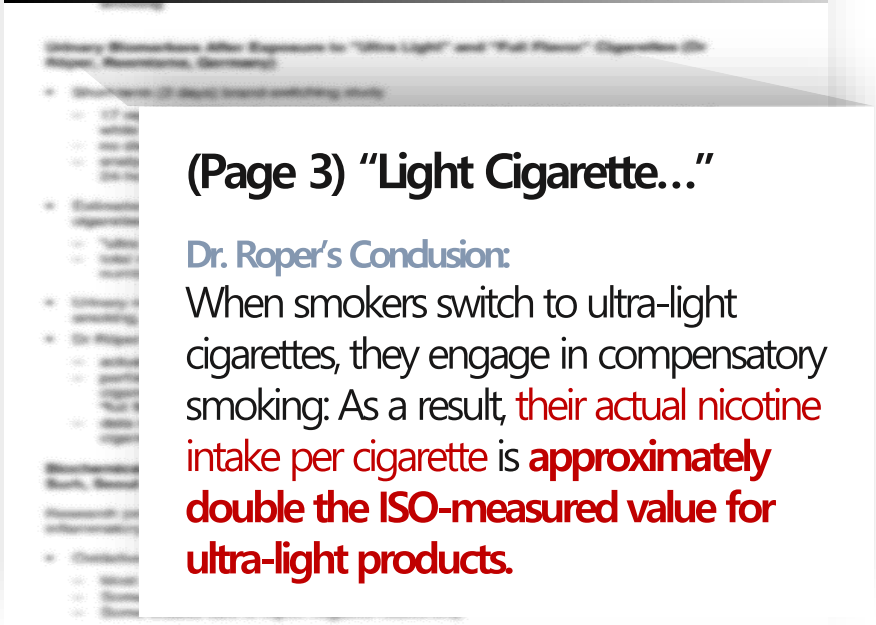
To ensure smokers can easily obtain the sensations they seek from cigarettes. In practice, this means **designing filters that facilitate "compensatory smoking"** and deliver satisfying flavor despite reduced tar levels.

Limitation

"Is this ethical?"

Plaintiff's exhibit no. 315

Summary of the 10th ARTIST Meeting
Participants included Philip Morris, KT&G, and others (2001)



(Page 3) "Light Cigarette…"

Dr. Roper's Conclusion:

When smokers switch to ultra-light cigarettes, they engage in compensatory smoking: As a result, their actual nicotine intake per cigarette is **approximately double the ISO-measured value for ultra-light products.**

Major Issue 3

Tort Liability of the Defendants
Concealment of Risk and Fraud

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Call for Participation and Collaboration – "Unjust Legislative Obstruction Contrary to Scientific Truth"

Korea Tobacco Association

- An industry body comprising KT&G, Philip Morris Korea, BAT Korea, JTI, and other tobacco companies, established to protect the common business interests of the tobacco industry

Legislative and Regulatory Obstruction Against Public Health Measures

- 5 tobacco companies, including the defendants, submitted a joint opposition statement against the enactment of the National Health Promotion Act.
  (1994, Plaintiff's evidence no. 286)

  "There is no objective or scientific evidence that smoking harms human health."
  "Government measures that inform the public about tobacco's dangers and support anti-smoking activities infringe upon fundamental rights."

Major Issue 3

Tort Liability of the Defendants
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Call for Participation and Collaboration – "Unjust Legislative Obstruction Contrary to Scientific Truth"

Support for the KSA

- Korea Tobacco Association: Provided more than 6 billion KRW (2000–2012), described as "project preparation funds," etc.
- KT&G: Separately provided 1.7 billion KRW in "special support" outside the Association's contributions
  * KT&G employees comprised 20 out of 40 delegates of the KSA
- The KSA used industry-provided funding to **oppose health promotion legislation.**

Campaign to Obstruct the Enactment and Amendment of the National Health Promotion Act through the Mobilization of Tobacco Interest Groups

- *"We (Philip Morris) **led the tobacco industry including KT&G** in forming an **alliance** with the Tobacco Farmers' Federation, the Tobacco Retailers Association, and the Smokers' Rights Association"*
- They organized large-scale protests, opinion polls, public signature drives, press conferences, newspaper advertisements, and submissions of official statements to obstruct public health legislation

(Philip Morris, 1996) (Plaintiff's evidence no. 300)

Major Issue

NHIS Tobacco Litigation

Nationwide Petition in Support — 1.5 Million Participants

Nationwide Petition Campaign in Advance of the 2025 Appeal Judgment

A Remarkable 1.5 Million Signatures Collected

2025 제22차 국제연수과정
NHIS UHC
GLOBAL ACADEMY

Thank You

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