

IN THE DISTRICT COURT OF SEWARD COUNTY, KANSAS

_____X	
DARIC SMITH, on behalf of himself and all	:
others similarly situated,	:
	:
	:
Plaintiff,	:
	:
v.	:
	:
	:
PHILIP MORRIS COMPANIES, INC., et al.,	:
	:
Defendants.	:
_____X	

Case No. 00-CV-26

NOTICE OF PENDENCY OF CLASS ACTION

This Notice May Affect Your Rights.
Please Read Carefully.

To: All individuals who purchased cigarettes at retail in the State of Kansas for consumption and not for resale made by one or more of the defendants listed below, or any parent, subsidiary, or affiliate thereof, at any time from November 1, 1993 to January 17, 2002 (the "Plaintiff Class").

PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY. YOU MAY BE A MEMBER OF THE PLAINTIFF CLASS. IF YOU ARE A MEMBER OF THE PLAINTIFF CLASS, YOU SHOULD READ THIS NOTICE BECAUSE IT WILL AFFECT YOUR RIGHTS.

THIS NOTICE IS NOT AN EXPRESSION OF ANY OPINION BY THE COURT AS TO THE MERITS OF ANY OF THE CLAIMS OR DEFENSES ASSERTED BY EITHER SIDE IN THIS LITIGATION. THE SOLE PURPOSE OF THIS NOTICE IS TO INFORM YOU OF THE LAWSUIT SO THAT YOU CAN MAKE AN INFORMED DECISION AS TO WHETHER YOU SHOULD REMAIN IN OR OPT OUT OF THIS CLASS ACTION.

BACKGROUND OF THE CASE

The Plaintiff, who is a Kansas consumer of cigarettes, alleges that since November 1, 1993, Philip Morris Inc., Philip Morris Companies, Inc., Philip Morris International, Inc., R.J. Reynolds Tobacco Co., Brown & Williamson Tobacco Corp., British American Tobacco Co. Ltd. (now known as British American Tobacco (Investments) Ltd.), Liggett Group, Inc., Brooke Group Ltd., and Lorillard Tobacco Co. (collectively "the Defendants") have unlawfully agreed to fix the wholesale price of cigarettes and that, as a result, consumers of cigarettes in Kansas have paid higher prices than they otherwise would have paid. The Defendants deny liability and have denied these claims and charges.

CLASS ACTION RULING

The Court has ruled that this lawsuit may be maintained as a class action.

The ruling means that the final outcome of this lawsuit--whether favorable to the Plaintiff Class or to the Defendants--will apply in like manner to every class member, that is, to all Kansas consumers of cigarettes described above who do not timely elect to be excluded from the Plaintiff Class (see "Election by Plaintiff Class Members" below).

The Plaintiff Class is limited to those individuals that made at least one purchase of cigarettes manufactured by one or more of the Defendants between November 1, 1993 to January 17, 2002 from someone other than the Defendants themselves. For example, individuals that bought cigarettes from retailers are included in the class. Examples of retailers include, among other things, grocery stores, convenience stores and vending machine operators. Individuals that bought cigarettes directly from Defendants or that bought cigarettes in order to re-sell them ARE NOT members of the Plaintiff Class.

ELECTION BY PLAINTIFF CLASS MEMBERS

If you fit the above description of a Plaintiff Class member, you have a choice whether or not to remain a member of the Plaintiff Class on whose behalf this lawsuit is being maintained. You should understand the consequences of this choice in making your decision.

1. If you want to remain a member of the Plaintiff Class, you are not required to do anything at this time. By remaining a class member, any claims against the Defendants for damages under the Kansas antitrust laws arising from the Defendants' conduct as alleged by the class representative will be determined in this case.

2. If you want to be excluded from the Plaintiff Class, you must notify in writing Plaintiff Class Counsel Rex A. Sharp, Gunderson, Sharp & Rhein, P.C. 4121 W. 83rd St., Ste. 256, Prairie Village, Kansas 66208, by mail postmarked no later than August 1, 2002. By making this election to be excluded:

- (1) you will not share in any recovery that might be paid to Kansas consumers of cigarettes as a result of trial or settlement of this lawsuit;
- (2) you will not be bound by any decision in this lawsuit favorable to the Defendants; and
- (3) you may present any claims you may have against the Defendants by filing your own lawsuit at your own expense, or you may seek to intervene in this lawsuit.

RIGHTS AND OBLIGATIONS OF PLAINTIFF CLASS MEMBERS

If you remain a member of the Plaintiff Class:

1. Counsel for the Plaintiff Class will act as your counsel. If you desire, you may also appear or intervene by your own attorney at your own expense.
2. Your participation in any recovery that may be obtained from the Defendants through trial or settlement will depend on the results of this lawsuit. If no recovery is obtained for the Plaintiff Class, you will be bound by that result.
3. You may be required as a condition to participating in any recovery through settlement or trial to present evidence of your past cigarette purchases. You should, therefore, keep any records you have reflecting those past purchases.
4. If ordered by the Court, you will be entitled to notice of any ruling affecting the Plaintiff Class. Similarly, as the Court directs, you will be provided notice and an opportunity to be heard concerning any proposed settlement or dismissal of the class claims.

FURTHER PROCEEDINGS

Discovery on the merits of the case is currently underway. No trial date has been set.

ADDITIONAL INFORMATION

Any questions you have concerning the matters contained in this notice should not be directed to the Court but should be directed in writing to the attorneys for the Plaintiff Class as follows:

Rex A. Sharp
Gunderson, Sharp & Rhein, P.C.
4121 W. 83rd St., Ste. 256
Prairie Village, KS 66208

Isaac L. Diel
Diel & Seelman, P.C.
4121 W. 83rd St., Ste. 254
Prairie Village, KS 66208

You may seek the advice and guidance of your own attorney if you desire. The pleadings and other records in this litigation may be examined at any time during regular office hours at the Office of the Clerk, Seward County Courthouse, 415 N. Washington, Liberal, Kansas 67901.

DO NOT CALL OR WRITE TO THE COURT OR THE CLERK OF THE COURT. ADDRESS ALL INQUIRIES IN WRITING TO THE ATTORNEYS FOR THE PLAINTIFF CLASS SET FORTH ABOVE

Signed:

_____/s/
Judge Tom R. Smith
District Court Judge
Seward County, Kansas