VISNEWS INTERNATIONAL
NEWS CONFERENCE

: ...My name is John Scanlon. I would introduce the group of people up here. On my immediate right is Arthur Stevens, who is General Counsel for Lorillard. On his right is Murray Bring, Acting General Counsel for Philip Morris. On his right is Peter Blakley of Arnold and Porter of Washington and Counsel for Philip Morris. On Peter's right is Steve Parish of Shuck, Hardy and Bacon, a Kansas City law firm representing Lorillard. And on Steve Parish's right is Chuck Wall, of the same firm, Shuck, Hardy and Bacon in Kansas City representing Lorillard and Philip Morris. Arthur Stevens will begin the proceedings. He will make a statement. He will introduce Murray Bring, who will make a statement, and then we will be available for questions of any kind.

ARTHUR STEVENS: Good morning and thank you very much for coming. John thank you.

Well the verdict in the Cipollone case is clearly a victory for the cigarette manufacturers, and any effort to characterize it otherwise is a distortion.

This case was trumpeted by the plaintiff's bar for years and years to be the acid test for cigarette product liability litigation. The plaintiff's three law firms prepared it and litigated it for five years and took

almost all of its 18 weeks of trial duration for the presentation of their case. In doing so they observed no scruple in their effort to defame and to discredit the entire tobacco industry and the three defendant tobacco companies before the jury. They failed to do so.

Not only did they fail to prove their most critical assertions, they also failed in their quest of punitive damages. And they failed in the face of every possible assistance that they could receive from a court which was demonstrably hostile to the tobacco companies from the outset, and which gave the plaintiff's counsel enormous latitude and consistently preferential rulings, many of which were unwarranted under customary rules of evidence and procedure.

This victory is also important because it sends a message to lawyers and to plaintiffs that juries will not allow them to reek huge financial windfalls by pursuing unreasonable product liability lawsuits. And in that sense, I urge you to view with skepticism any claim that this verdict is really a victory for the plaintiff and his law firms. The plaintiff's law firms invested by their own admission over two million dollars of their own time and their own money to bring this case to trial. And what do they have to show for it? On the narrow and technical basis of an expressed warranty allegedly made by Liggett over 22 years ago, the jury awarded a few hundred thousand dollars

to Mr. Cipollone. In light of the jury's other decisions that certainly sounds like an illogical and a curious award and suggests, at least to me, that the jury somehow felt some sympathy for Mr. Cipollone. That result we are told by Liggett is going to be appealed and we have every confidence that it will be reversed on appeal.

This is a clear demonstration that these cases are just not worth pursuing. And I suspect that the six or so other plaintiff law firms that are handling the majority of these cases around the country will quickly come to the same conclusions.

In reviewing this case, remember that this jury completely exonerated all of the defendants - Lorillard, Philip Morris and Liggett of the principle charges. One, that the companies fraudulently misrepresented and concealed material facts concerning health risks associated with cigarette smoking. And two, that the companies conspired prior to 1966, to misrepresent or conceal material facts about cigarette smoking and health. All three companies were exonerated of those charges.

Furthermore, we have heard much from the plaintiff's counsel and his colleagues throughout this case about the so-called secret company documents. They were going to reveal and they were going to prove the conspiracy alleged by the plaintiff. Well it's abundantly clear that

the jury completely rejected the distorted and the piecemeal misrepresentation of those company documents made by plaintiff's counsel when they decided in favor of the companies, as I've said, on the issues of fraud, misrepresentation and conspiracy. There were no smoking guns among those company papers. And that red herring of an issue is not permanently put to rest.

I want to make two more observations and then I'll turn the proceedings over to Mr. Bring of Philip Morris. We should all remember that the real story of this litigation was not a woman from New Jersey who smoked, but about money. Money. And about three very big, very rich New Jersey law firms who decided to invest lots of their own time and their own money in the products liability lottery. Sure they posed as self-styled champions of Rose Cipollone, and yes they pandered too and were pandered by the whole crew of self-appointed anti-tobacco folks. But everyone knows what they were really pursuing. And it wasn't solely to benefit either Rose or Tony Cipollone.

Finally, the most important result of this case is that on the major issues before it the jurors understood that people are still responsible for their own actions and that when something unfortunate happens to them they can't just sue and say it's someone else's fault.

This jury and those in many other cases before the tobacco industry prior to 1988, have rejected

that concept. And they've said, freedom of choice and personal responsibility still means something and thank goodness for that.

It is my pleasure to introduce Murray Bring, the Chief Legal Officer of Philip Morris:

: Can you spell your name please?

: STEDNES

: No sorry.

MURRAY BRING: B R I N G, just like it sounds. Thank you Arthur, and thank you all for coming. On behalf of Philip Morris I would like to welcome you to this press conference, and I would like to indicate at the beginning that this is a press conference that we had planned before any verdict came in, because we were anxious to have this opportunity to set the record straight. We obviously could not do that while the trial was going on despite the fact that there had been many irresponsible charges leveled against Philip Morris and the rest of the industry, not only by Mr. Edell, but by Mr. Danard and others who are prominent in the anti-tobacco ranks. We were very anxious to have this opportunity to tell our side of the story and in that connection, most of you I'm sure received when you came in a memorandum that has been prepared and is available to any of you who do not have it, and it tries to set in context the so-called Cipollone documents. And it tries to demonstrate, as I think is

clearly the case, that not only Philip Morris, but the entire industry has acted responsibly during the past 30 some years, since the smoking and health controversy has been raging.

We're delighted to have this opportunity to set the record straight, to tell our side of the story, and to answer any questions that you might have concerning any aspects of this litigation, and particularly the documents about which so much has been written in the past four months.

I notice in much of the press today, relating to the Cipollone verdict, that there have been some statements of confusion expressed by not only journalists but by other people who follow this industry and follow the litigation. And there seems to be, at least prevalent among some, the notion that this is a confused verdict. It's complicated and it's not clear exactly what the verdict means.

I would like to take just a minute before we address any questions you might have, to try to tell you from Philip Morris's perspective how we view this verdict. And it is very similar to what Arthur has just finished saying to you.

This has been a long case. It lasted for five years. It was prepared by a combination of three very, as Arthur indicated, well-financed and large New Jersey law

firms who were provided virtually unlimited access to the files of the companies under the normal discovery procedures of the Federal Court, who had vast resources available to them, not only in terms of the expert witnesses whom they could retain for pay, but also a vast support network of various anti-smoking organizations throughout the country.

It was, as the plaintiffs themselves have indicated, the most well-financed, most well-prepared case that has been brought to trial in the past 30 some years. By their own statements, this was to be their best shot at the tobacco industry. And I think it's against that background that we should really view the jury's verdict and the results of this case.

What does the verdict say not only to those of us in this room, but to plaintiffs, lawyers throughout the country, and to perspective plaintiffs throughout the country? Well first of all, the jury concluded, as Arthur has indicated, that there simply was no fraudulent misrepresentation by Philip Morris, by Lorillard, by Liggett, and indeed by the entire industry. And I think we can expand it to include the entire industry, because the plaintiffs not only took discovery from the three defendants in this case, but they also took extensive discovery from the Tobacco Institute, the trade organization or association that represents the industry, and from the files of the Council for Tobacco Research. The jury was presented, over

a four month period, with hundred of documents selected from a body of several hundred thousand documents. These documents were paraded in front of the jury day after day, through the testimony of various expert witnesses, various snippets were taken out of context, and what Mr. Edell, the plaintiff's lawyer tried to do was to weave some sort of a web of fraud, deceit and conspiracy. The jury just didn't buy it. By unanimous verdict the jury came back and concluded that the plaintiff had not established that any of these defendants had engaged in fraudulent misrepresentation. By unanimous verdict the jury indicated that the plaintiff had not established that these defendants or any one of them had engaged in a concealment of material facts relating to smoking and health. By unanimous verdict the jury indicated that the plaintiff had not established that there was a conspiracy among the tobacco industry to deceive and defraud the public.

In short, we think that this verdict stands for one proposition and one proposition only, and that is, that in the 30 some years that the smoking and health controversy has been raging, this industry acted responsibly. It addressed the issues in a straightforward manner, it funded millions of dollars of independent research, both outside and inhouse, and it attempted in every way possible to try to address the criticisms that were being leveled against these products.

I think that is clearly the message that the jury has sent to the world. I think that is the message that we are trying to convey to you today in the handout that was furnished to you when you came in. And that was clearly the testimony of Philip Morris's former Chief Executive Officer, Mr. Joseph Coleman, who on the witness stand, having been classed by the plaintiff as an adverse witness, described in great detail the responsible conduct of Philip Morris and the other members of this industry in the past 30 years, in trying to find an answer to one of the most perplexing issues that faces mankind, and that is what causes cancer.

Now many may conclude on that issue that the jury's verdict with respect to the failure to warn claim, clearly establishes that smoking caused Mrs. Cipollone's cancer. And it is true that there is a question which the jury answered in the affirmative when they said that her smoking was a proximate cause, that is a contributing factor to her cancer. But I notice this interestingly this morning in this morning's edition of NEWSDAY, that one of the reporters that works for that newspaper was able to interview two of the jurors, apparently last night, and it is interesting what the Fore Person of this jury said in that respect. Let me quote from the article in today's edition of NEWSDAY.

"As to whether there is a link between cigarette smoking and cancer and ultimately death, Mickens said quote 'I don't know if we came completely to that conclusion. It's a contributing factor.'"

Now, I suspect ladies and gentlemen, that the members of this jury no more know what the answer to that question is than any of the rest of us, than any of the scientific community, than any of the hundreds of independent investigators who have looked at this issue for the past 30 years. The fact of the matter is, and I think this is the thing that is so clear from the jury's verdict, is that this industry has acted responsibly in that time period, trying to find the answer, and I have no doubt that the industry will continue to fund research in an effort to try to find out the answer to that question.

Now on the question - on the issue of the failure to warn. I think the important thing to recognize in terms of the jury's verdict in this instance is, as Arthur has pointed out, that the jury returned a resounding message that individuals who make informed choices have to take the responsibility for those choices.

With respect to the failure to warn, you are I'm sure all aware of the fact that the jury concluded that Mrs. Cipollone should not have recovered any damages for Liggett's failure, prior to 1966, to issue a warning. They also concluded that Mr. Cipollone should not have received

any damages for that. Now they could have sent a variety of messages. Under the law of New Jersey, as I'm sure those of you who have read the Judge's instructions are aware, the plaintiff is foreclosed from recovering for an alleged failure to warn, if the plaintiff undertook knowingly a risk and was 51% responsible for whatever injury resulted from that decision.

Now the jury, I suppose, could have returned a verdict that said, "We think that Mrs. Cipollone was 51% responsible and therefore she should recover no damages." But they didn't do that. They sent a much stronger message. They held Mrs. Cipollone 80% responsible for whatever injury she sustained. I think the message there is quite clear. That Mrs. Cipollone undertook to smoke because of an informed decision that she made, and that she should be held responsible for that decision. In fact, another quote from this article of the interview of these two jurors confirms that.

Again quoting the Fore Person of the jury, Mrs. Miggins, the NEWSDAY's article states as follows, and I quote: "It's just how much we thought she was responsible and how much they were responsible," Miggins said. "We just considered where the responsibility lied for her smoking and lung cancer. 80% was with her, and 20% was with the tobacco company. That's what the evidence proved to us."

I think, as Arthur indicated, that is a resounding endorsement of the notion of personal responsibility. That has been the issue that has been tried and litigated in these cases for the past 30 years. It continues to be the principal issue which I think is raised in these cases, and it is for that reason that I believe the tobacco industry has a very strong position in these cases. And it is also, for that reason, that I join in Arthur in proclaiming that this was a major victory for the three defendants in this case and for the industry.

I think one other point bears mention as well. And that is that in the jury's concluding that Mrs. Cipollone was 80% responsible for her injury, they have also rejected completely the notion that Mrs. Cipollone was addicted. How can someone be 80% responsible and be addicted? And again, I think we find confirmation of that fact, in the interview of two of these jurors. Quoting from another section of this morning's newspaper. An interview with another one of the jury people, Mrs. Riley. She is quoted as having said, "I don't think she was addicted." I think that is the clear message that this jury conveyed.

I think at this point what I would like to do is to open up to the panel here any questions you might have. I might before, Morton just one minute, before I do, I would just like to make one other announcement that perhaps many7 of you aren't aware of. I just heard it a

couple of minutes ago myself. And I haven't had a chance to read the decision yet, or to even see it. But I am reliably informed that the Sixth Circuit this morning unanimously affirmed the Roysdon case. Many of you may know that that is a case that was tried several years ago in Tennessee, where R. J. Reynolds was the defendant. R. J. Reynolds received a directed verdict on all claims. One of the issues involved in the case was preemption of claims after 1966. That decision was appealed to the Sixth Circuit. The Art(?) case was argued about a year and a half ago, and I'm told that just today the Sixth Circuit has rendered its opinion, in which it affirms the dismissal of the case against Reynolds. So that now makes four circuit courts of appeals in the United States, every one that has considered the issue, that have concluded that the 1966 labeling statute preempts any state claims after 1966. So I think that is another indication of the strength of the position of this industry in this litigation.

I am going to move back here so I can direct the questions. Morton you have a question?

MORTON: I would like to ask a question. How you and Mr. Stevens care to reconcile what you've said ...(too low) with these facts, which are called snippets and so forth. In 1974, Mr. Spears. A.W. Spears, Chief of Research for Lorillard wrote, "Historically the joint industry funded smoking health research program have not

been selected against scientific goals - specific scientific goals but rather to various purposes and public relations, political relations, position for litigation and so forth." Here is Mr. John, the Philip Morris scientist in 1977. "Every undertaking had to have submission. I would state our charter for Philip Morris in this fashion. Study the psychology of the smoker in search of information that can increase corporate profits." And here is Mr. A.J. Dram, former General Counsel of R.J. Reynolds, at a meeting sponsored by the tobacco people, ...

: Question, question?

MORTON: I'm asking how these facts can be reconciled? This will be the last one. Enough. "When the products of an industry are accused of causing health risks(? papers rattling) ... certainly it is the obligation of that industry to endeavor to determine whether such accusations are true or false." And it goes on to say, "In view of the billions of dollars of annual sales..." (Attempt to interrupt him)... "..our expenditures for health research have been of a minimal order, millions of dollars compared with billions." Go ahead and reconcile.

: Well I think the only one who has trouble reconciling that Mr. Mitz is you.

: (Inaudible)

: And you as well sir. The jury had no problem. This is a memo that was introduced into

evidence, was the subject of extensive testimony by Dr. Spears, who the jury heard and his credibility they measured, and upon whose credibility they have rendered a judgment. They did not conclude that the memo was as evil as you would portray it.... I've been asked a question, let me finish Mr. Mitz. It was a memo which portrayed Dr. Spear's views. He was suggesting ways to improve the coordination, the organization of (name) of the industry's sponsored organization. Not all of his suggestions were followed, and it is a prime example, to use your words, of a snippit. Of taking out of context and distorting in a piecemeal way a statement made by a responsible industry member about industry research.

: Arthur how would you how would ... decision came out in a comparative negligent statement?

ARTHUR STEVENS: I'm not going to speculate how it would have come out in a comparative negligent statement. The jury found 80-20. They found that Mrs. Cipollone was not addicted. They made their judgment. The jury's decision speaks for itself.

Q: Arthur.. (inaudible) both of you cited the amount of money spent by the plaintiffs. Two million dollars(?) I think it is only fair that now you finally say something about how much you've spent. ... said $50 million. Would you give us some kind of estimate. You

keep pounding away at that. You haven't owned up to how much you spent in this one case alone.

ARTHUR STEVENS: Well let me say this. The traditional posture of the industry has been to defend these cases vigorously. That has certainly been a very successful strategy. I frankly don't know how much was spent in the defense of this case, but I can assure you that we have spent whatever was necessary to present our defense. I think the fact of the matter is that when you have three defendants made in a case, with the broad variety of allegations that were made, and the five years of discovery that has taken place, that it is not at all unusual to see any defendant, not just tobacco companies, but broadcasting companies, newspapers, manufacturing companies of all kinds, to do whatever is necessary to mount an effective defense, and that is what we have done.

Q: (Overtalk) ... further allegation?

ARTHUR STEVENS: Excuse me?

Q: While you called this a victory for the tobacco industry, to you expect there to be .. further litigations against the company?

ARTHUR STEVENS: Well I think it is fair to say that there will be continued litigation. In fact, there is a case going on right now in Philadelphia, the Gertner case against American, and there is, as I'm sure all of you

know, there are approximately a hundred cases pending around the United States now. I have no doubt that some of those cases will go to trial. I suspect that there will be some of the plaintiff's lawyers who are involved in those cases will want to have their opportunity -- to have their opportunity to take their turn at bat. But I must say, in my opinion, and this is obviously just conjecture, I do not see the plaintiffs bar generally taking much comfort from the verdict in Cipollone, or finding much incentive in the kind of return on investment that Mr. Edell now has.

Q: ...how much this case cost you?

Q: Mr. Stevens....

ARTHUR STEVENS: I really cannot estimate. I can tell you...

Q: Just do what you can...

ARTHUR STEVENS: I cannot.

Q: How much does Arnold and Porter bill, how much are they billing you?

ARTHUR STEVENS: Now look, I'm not going to get into a discussion of the fees that we pay our lawyers, I don't think that's relevant to the issues that we are discussing.

Q: Why not?

ARTHUR STEVENS: Because... Mr. Blakley would be very embarrassed if I told how much he earned.

Q: Suffice it to say it cost a lot of money to defend these cases.

ARTHUR STEVENS: I'll tell you how much this case cost, it cost too much. These cases, in our opinion, do not belong in the courts. We have been vindicated time after time again. I think it's about time that the judicial system of this country recognized that there is such a thing as personal responsibility. The drain, not only on these defendants, but on the court system and on the federal budget in sponsoring cases of this type, for months at a time, is really a waste of assets. And whatever the amount is, it is an amount that is being wasted in my judgment.

Q: Is $50 million accurate?

ARTHUR STEVENS: I just got finished saying I don't know.

Q: Can you comment on the judge?

ARTHUR STEVENS: Wait a minute. There's a question here I'd like to take first.

Q: Mr. Bring, you seem to be soft-peddling one personal issue in this case, and that is the jury answered yes to the question of ... approximate cause of lung cancer. They said yes, to smoking. Now doesn't that open the entire issue to a whole series of law suits from any smoker who smoked before 1966?

BRING: I don't believe so. The fact of the matter is that despite the fact that the jury answered yes to Question 15, they answered zero to the amount of damages that should be awarded to Mrs. Cipollone. These cases are about, as Arthur said, money. If the plaintiff does not recover money, they are not going to bring these cases. This jury answered yes to that question. It is not the first time that a question of that type was answered yes by a jury. But the fact of the matter is that you cannot recover...(off mike) ... establishing one element of a cause of action. That is simply one element of the cause of action. So I don't think it's going to open the flood gates.

I don't think, for example, that there are going to be very many plaintiff's lawyers around the country who are going to find that it is an attractive investment of their time and resources to establish to a jury that there may have been a contributing factor in the smoking to a disease, if at the end of the road there is no recovery. And that is what happened here on the cause of action that you're talking about.

: Myron Levin.

LEVIN: Mr. Bring you said that the industry is continuing to search out the answer of the raging controversy over whether smoking causes disease. What kind of .. will be necessary, how many decades more will it

take before you satisfy yourself that it either does or doesn't cause disease?

BRING: Well I think that's a question Mr. Levin that ought to be addressed to the National Cancer Institute, to the Public Health Service, to all the public organizations that have invested billions of dollars in trying to...

LEVIN: You have given no answer on this. I am asking you because you're the ones that are saying that you are not sure yet what the answer is, they are already sure.

BRING: Well they say they're sure, but they don't have the evidence to support it. The fact of the matter is, and this was brought out in extensive testimony during the course of this trial, that there are three basic approaches to the issue of causation. There is epidemiological evidence, which is statistical evidence, which even the plaintiffs' experts conceded does not establish causation. It merely indicates a basis for further investigation. There is animal experimentation which consists primarily of skin painting tests, which experts on both sides of the controversy admit do not establish that the creation of tumors on the backs of mice by painting highly concentrated doses of tobacco tar, indicates that the ingestion of whole smoke into the human lung causes cancer. The most interesting, and I think the

most significant fact, is that in the dozens of experiments that have been conducted over the years, both by the industry and by hundreds of independent researchers, where they have tried to induce the creation of tumors in the lungs of experimental animals through the inhalation of whole smoke, that none of those experiments has created tumors. I think that is the critical fact, and that is the basis upon which not only this industry, but a number of responsible scientists around the world, have concluded that the scientific basis for causation has simply not been established.

Q: (Inaudible)

BRING: Well never is a word that I don't like to use, but the fact of the matter is that until the answer is found, and until the mechanism is discovered it makes no sense for us, or in my view, anyone else, to conclude that causation has been established.

: Question back here.

Q: This question about Judge Sarokin and Mr. Stevens leveled some pretty serious charges ...

ARTHUR STEVENS: I indicated that he had demonstrated his hostility towards us. He did so in pretrial rulings. He did so in the ruling of preemption, which was reversed by the Third Circuit Court of Appeals. We made numerous efforts to re....him. We made at least four motions for mistrial. It is clear from any reasonable

reading of the record, that many many of his rulings were preferential, unwarranted. He set aside the local rules with respect to many many issues. And it is there in the record. He was not bashful about it.

And his - he demonstrated in his motion, in his opinion on our motion for dismissal, given before any of the defendant's evidence was in, an extreme bias, and practically laid out a guideline for the kinds of things that the jury could find. That, in my experience, is unprecedented. The press and others have indicated it. It is not only we who have indicated that he had hostility.

So yes, as I indicated in my opening statement, this was a case that had been trumpeted by the plaintiff's bar for many many years, and was the best case. It became even a better case for them when the luck of the draw of the wheel drew up Judge Sarokin. We could not have had a more extreme adversary.

: I think it would be appropriate to have one of the trial counsel, who actually litigated this case before Judge Sarokin make a comment on that question as well. Peter.

: (Inaudible)

PETER: Well I think that at least two of the rulings that the judge entered during the trial were rulings which demonstrated some hostility towards the defendants. The first was the judge's taking over of the

cross examination of one of the defense expert witnesses. During the entire plaintiff's case, which went on for many many weeks, the judge asked only one question of any witness and that was a question that truly was a question of clarification. But one of the very first witnesses that the defense put on, Dr. Claude Martin, Judge Sarokin essentially took over the cross-examination of that witness, and did so in a manner that I thought clearly conveyed to the jury, his disbelief in that witness's testimony. And I stated so on the record at the time. And I moved for a mistrial. I objected to the testimony. I objected to the questioning made by the court, and I moved for a mistrial on that basis.

The second, was of course, the Judge's ruling on our motion for a directed verdict, which the Judge granted in part and denied in part. In my experience, when a judge denies a motion for directed verdict at the close of a plaintiff's case, it enters an oral opinion or a very brief written opinion, in which the court concludes simply that there is a basis upon which the jury could find in this case a conspiracy. To issue a 12 page ruling in the middle of a trial, which excoriates the defendants for conduct that he obviously believes those defendants engaged in, is in my experience at least, completely unprecedented, and was almost certainly going to result in wide publicity, including all of the local newspapers, which in fact is exactly what occurred. When in the headlines of the local

newspapers, including THE BERGEN RECORD, was the words, "Judge finds conspiracy." And to suggest that a jury in a case that is as widely publicized as this one, is not going to have that kind of information come to it's attention is naive. And that is, of course, the basis upon which we moved for a mistrial as well.

: Mr. Riley.

RILEY: The jury did return a verdict of $400,000, for breach of advertising warranties. Nobody seems to be talking about that. It seems to me that there must have been thousands of people who saw ads, not only from Liggett and your companies, in the 1950s and 1960s, prior to 1966. Obviously these documents created an atmosphere where a jury was going to return a verdict against somebody for advertising. Why aren't all of you people going to be liable on the same advertising planks, in cases that involve people who smoked your brands prior to 1966?

BRING:(?) Well I think first to suggest that the documents, as you call them, had anything to do with the jury's verdict is misplaced. I don't think those documents had anything whatsoever to do with the breach of warranty claim, and I don't think that the plaintiff's lawyers argued them to the jury as having any such relevance. Those ...

Q: (Interruption)

BRING: No I don't think they did. Because if they were going to affect the atmosphere in the courtroom, then the atmosphere that would have been affected was the charge that Mr. Edell tried to convince this jury was the most serious one, and that is the charge of conspiracy. That was what all of those documents addressed. The notion that there was a conspiracy. That breach of warranty claim was based on, and was presented to the jury as having been based on, a handful of Liggett ads in the 1950s, and nothing more than that.

And I think there are three very important things to take into account here, although this is a claim against Liggett, and they are better able to deal with it than I am. First, all of those ads have been presented to juries in the past on a claim of breach of expressed warranty, and the juries have invariably, in the past, on the same evidence, returned verdicts for Liggett, for the defendants and against plaintiffs. On the very same evidence but on a very different charge. And that is a very important point here. The charge that this case - the charge with which this case went to the jury was a charge that was loaded in favor of the plaintiff, especially on the issue of reliance and especially on the issue of what it takes to make an express warranty. There are a number of these expressed warranty claims that have been thrown out by judges and never gone to juries before.

And the final point of course, is that the jury, this is essentially a breach of contract claim. And the jury in this case found that the person that entered into a contract with Liggett, assuming there was any such contract, had no damages. The jury didn't allow the person who was given the promise, to recover any damages. But instead gave damages to Mr. Cipollone. And it is on that basis, among others, that Liggett and I agree with them, I think has a very sound basis for having that verdict overturned on appeal.

Q: But my question is why can't this happen again and again?

BRING:(?) It has happened before and it undoubtedly will happen again. What I am saying to you John is that I think that with a proper charge the overwhelming majority of juries presented with this claim, assuming the court allows the claim to go to a jury, and they have not in many cases, the overwhelming majority of cases, the jury is going to return a verdict in favor of the defendant.

: Mr. LeDoux.

LEDOUX: One of the things in the document .. clear to me... your explanation... in the context of this whole issue of nicotine and your research. And in several communications, in documents that came out of the trial, it said that nicotine is actually the product that you're selling and the cigarette is only the package for that. You

have also said that if low nicotine products can be developed... (inaudible) open to debate, that it forced you to develop a low nicotine product. ... trial said, that the main purpose of your research was to the health benefit of your consumers. That seems to me to be something that is not reconciled yet.

: Well I don't see any inconsistency. The purpose of the research was clearly to find out as much about the product as we could. To try to find out what is in the product and what affect it has. The documents that you were referring in the early part of your question relate to an undertaking that was made over a period of time to try to ascertain why people smoke. And a number of experiments were conducted, most of the documents I think that you are referring to were prepared by Dr. Dunn, who is one of the scientists who works at |Liggett, he certainly is not a person that makes policy statements on behalf of the company. He - I'm sorry - I meant Philip Morris. He is a person who expressed himself in these documents, as he saw. I think the interesting thing is, despite the manner in which those documents were used, and the impression that Mr. Edell tried to convey to the jury, that Mr. Dunn and Philip Morris were convinced that nicotine is addictive, is that there is not a single statement in any of those documents which suggests that even Dr. Dunn thought that nicotine is addictive.

I think the most important factor to take away however, is that the jury didn't think that nicotine is addictive. That was the clear implication of their ruling, that Mrs. Cipollone was 80% responsible, and that is clearly what Mrs. Riley says.

Q: But the question is not addiction, it is a question of the whole impact of nicotine on smokers. That is what you are concerned about in your research, at least that is what you told us throughout the trial. Nonetheless, you are saying that that is what you sell?

: Well that's a statement that Dr. Dunn made in a document that he wrote. I don't think that is the position of the Company. That is not what we sell. We sell cigarettes, we sell a product that consumers want and like and enjoy smoking. What Dr. Dunn was trying to do was to ascertain what is it that motivates people to smoke. The pharmacological effects of nicotine are very diverse, they're very complicated. I don't think anybody, including the Surgeon General really knows exactly what all of those effects are.

Some people say they smoke because it gives them pleasure. Other people say they smoke because it relieves tension. Other people say they smoke because it makes them feel good. You know there are many many reasons why people say they smoke. I think it's responsible for an industry that produces a product to try to find out why

people use their product. And that's what this research was directed at.

: The lady in white here please. Would you identify yourself?

Q: Barbara Webber from CBS. You are talking about this case just like all previous cases being a complete success for the tobacco industry. Meanwhile, in the court of public opinion, we have municipalities, restaurants, airlines, offices, banning smoking. Isn't it possible while you're spending millions litigating these cases that there is a change of lifestyle in this country, and that you are losing in the court of public opinion?

: Well I think you're really talking about two different things. What this conference was called to discuss was a verdict in the Cipollone case, and we are lawyers and we deal with the cases that we have to defend. You are raising obviously another question, which is certainly relevant and important, and that is what is the social environment for smoking in the United States. There is no question that I think that peoples attitudes about smoking are going through a transformation. People are looking at smoking, some people at least, different from others. But I think the fact of the matter is, and this is I think important to remember, is that 55 to 60 million people in this country still smoke. They still enjoy smoking. They demand and want the product. And I think it

is important to realize that those 55 to 60 million Americans have rights, just as well as everyone else. And that they should be protected in the expression of their rights just as people who don't smoke should be protected in their rights. And I think that's the whole basis for the notion of accommodation, which is where I think we're heading in this area.

Q: (Interrupted)

: Just a moment....

Q: Let me ask why the Chairman of Lorillard, your Company, ducked a soepena process servers. Went to his home, went to his office and they couldn't serve him. And the Judge complained about that? I want to ask also, why it took until the fifth week of the trial approximately for Lorillard and Philip Morris to start producing 30,000 pages of documents, some of which were the most damaging, under a soepena that had been issued years before?

: I will answer your question in a momentby asking my trial counsel... But I want to answer further on the lady from CBS's question.

It is clear, however, that as I indicated at the outset, that one of the other reasons that the Cipollone case was the acid test, because it would be the first case in some time to come to a full blown trial, in exactly the social environment that you described. But this jury was

able to separate out the two. And was able to see the difference in social attitudes towards smoking, which are clearly those which you described, and whether this plaintiff was entitled to compensation and recovery for its alleged wrong. And in some respects that's what makes the Cipollone case clearly, while it is very similar to a lot of other cases, a landmark case. But it is in just that social environment that we were able to convince a jury that we did not do the irresponsible and unreasonable things that were suggested.

WEBBER: But is this not also the first case where a jury did not ascribe 100% responsibility. So isn't it possible that there is, if it is based on these margins, a real change in the public's perception...

: There is a change in the public's perception and these cases are becoming more and more difficult to win, but they can be won. We have won, and we will continue to win.

: Does anyone want to respond to Morton's question?

: I would be glad to Morton. As trial counsel for Lorillard, I can say categorically that no one from Lorillard tried to evade the service of any process. And |I don't know where you got your information but if someone...(interruption) Well there was never anything said in a court hearing that anybody was trying to

avoid process. Your recollection in your clipping is incorrect because no one from Lorillard has evaded service of any process whatsoever in this law suit or any other law suit.

MORTON: They couldn't serve him. According to what came out in the transcript, which I read before I wrote the story, the processor went to his apartment, Mr. Arva(?) They went to his offices, and he ducked them. The Judge ...

: Perhaps he wasn't home.

: Mr. Mintz, the assertion that he ducked is your assertion. (overtalk)

: Nobody complained about inaccuracy when the story ran.... (overtalk)

: If we took to respond to all of the inaccuracies in your articles, we could extend this conference for hours. (laughter and applause)

: The gentleman from BUSINESS WEEK please. (Overtalk)

: Excuse me John, I would just like to finish my...

: Sorry.

: Morton I don't recall anybody ever asking me this question at any time for today. And I will say that, as I have said, no one from Lorillard ducked or

evaded process during the course of this trial. If anyone has said that that was a mistake.

: BUSINESS WEEK please.

Q: One question about the Judge.. and then follow up. You made some serious accusations, more than I think would be the normal grounds for a reversal on appeal. Do you think it would bring up any kind of judicial proceedings about the judge's activities in the case?

: No.

Q: Are you going to raise these on appeal?

: Yes. Philip Morris, we're not taking an appeal since we won.

: Anyone else?

Q: Follow-up...

: Oh excuse me.

Q: On the Surgeon General's work on the subject, at the trial there was a lot of testimony about the 64(?) Surgeon General's Advisory Committee, and the exchange of documents and cooperative work that went on back and forth within the industry and the Surgeon General. It appears that there is an adversary relationship between the two entities... |(inaudible) How do you perceive the industry's research at this point interacting with the Surgeon General?

: Well I think you raise a very valid point, and I think it is one worth spending a moment on. There is a very significant distinction between the current Surgeon General and the Surgeon General in 1964, and what he did and how he went about creating the 1964 Report. He created an Advisory Committee to look into the issue of smoking and health, and he took pains to appoint to that Committee people who had an open mind on the issue. In other words, he did not want to appoint a committee that would simply endorse whatever views he might have about the issue of smoking and health.

I think it was therefore, an environment that created a sense of cooperation, and invited cooperation, not only from the industry but from all of the scientific community that was interested in the issue.

I think it is fair to say that with the current encumbent of the office, approaches these issues with a much different perspective. He has proclaimed many times, publicly, that it is his intention to try to create a smoke free society by the year 2000. I think it is fair to say that an objective reading of his last two Surgeon General's reports are - lead to the conclusion that those were political statements, designed to support his objective of creating a smoke-free society by the year 2000.

On the issue of environmental tobacco smoke, was his 1986 Report, I think if you look at that carefully,

you will find that there simply was no scientific evidence to support his conclusions. I think if you look at his 1987 report on addiction, you will find that there is no scientific evidence to support his conclusions. These are political statements that he has made. He has been very effective in doing so, but the environment that he has created makes it difficult to cooperative frankly, if he's not interested in finding objectivity.

Q: My question was - (inaudible) ...it appears that the government's health policy seems to indicate that there is a ... causal link.

: Well the government's health policy I think is being dictated by a person who is viewing these issues politically rather than scientifically. And I would hope that in the future, there will be a Surgeon General who will approach it on a more objective basis.

: Back of the room please.

Q: (Inaudible)

: Well I really don't know how 50 million people would evaluate anything. But I think that the fact of the matter is that these 50 million or 60 million people who smoke, just like Rose Cipollone, and just like myself, smoke because we want to, because we enjoy it, we make a conscious informed decision. That we are going to undertake this habit or custom, and I think that |I would

hope that they assume that they are taking responsibility for the decision they make.

Q: ...informed risk....(inaudible)

: Every person is free to reach whatever conclusion they want about the dangers and risks of smoking, or anything else they do, like eating red meat or walking on the street or hang gliding or anything else that involves risk. So I think that is the kind of decision that people make all the time, every day of their lives. And they make those decisions, and I think they must be held accountable and responsible for.

: Francis Burns.

BURNS: ... putting down the Surgeon General... as you just did, and which your lawyers and public relations people did throughout the trial...(inaudible)... how do your reconcile this?

: The reconciliation is ....

BURNS: .....is a medical doctor.

: Well the reconciliation is that, as Mr. Bring has pointed out, the Surgeon General regrettably, be he pediatrican, obstretian, whatever he is, has politicized the entire process. And indeed has created an environment which, if some cooperation between the government and industry were possible, it would be very difficult to bring about. What we are saying is that the jurors, whose decisions I don't think have to be reconciled

with anything other than common sense, heard the evidence with respect to Mrs. Cipollone, and concluded, if their interviews are to be believed, and I assume they are, she was not addicted. So there is really no need to reconcile the difference between the Surgeon General's report and the jurors report.

: Lady here in the second row.

Q: (Inaudible)

: I certainly, the young lady would like to know what responsibility I assume for smoking in a room full of people? The responsibility that I assume is to comply with the law. And I was told when I came into this room, and I inquired whether it was permissible to smoke in this room and I was told that it was. If it bothers a number of people I obviously will accommodate anyone who feels that they are being put upon, but I also think that it's important to recognize that even though I work for a tobacco company I have personal rights as well.

: Gentleman back here?

Q: Dick .... PR WEEK(?) .. internal communications.. those documents from public relations have been set ... would you as Counsel recommend to the tobacco company that you work for, that they change their strategies in terms of communications in any way?

: Well when you say a precedent has been established. There have been many many other cases

involving many other companies and industries in which company documents have been introduced. If you mean are we going to have a wholesale renovation of our record retention program, or the manner in which we communicate, the answer is no.

: Question in the back of the room.

Q: (Inaudible) On the New York Stock Exchange ... stock is down 1 and 3/8ths. Liggett is down 5/8ths, (inaudible) dropped 10% of the price of the stock. How do you view that and also .... increasing pressures by other people to stop ... smoking. Is it really the writing on the wall for this industry? I think Philip Morris itself is diversifying.... (inaudible) Is it really the writing on the wall here?

: Well I'm not going to make a comment as to the price of stock because that is just not my ballgame. Is the writing on the wall? The environment with respect to smoking, particularly public smoking is changed. The diversification that you talk about that has taken place with respect to a number of tobacco companies is not new. That diversification has been taking place for over 30 years. So whether that is some indication of some handwriting on the wall, or some spectre that you see, you can draw your own conclusions. Cigarette smoking is not as popular an activity as it was 30 years ago, but a lot of other things are not as well. That is not at issue. What is

at issue is what use is made properly of the courts. What use is made of litigation as a means of recovering or what you consider to be an alleged wrong when you are well-informed and make a freedom of choice. And you will continue to try and draw attention from that, but that's what the result in this case is important.

: Lady in red.

Q: ABC.... will you please make a comment about the (inaudible)....

: It's a tough business.

: I think it's a very healthy industry. The fact of the matter is that the litigation that you refer to has not had a significant impact. I think it is a very manageable problem. I think the Cipollone verdict will make it even more manageable. There is no question, as Arthur has indicated that there are changing attitudes about smoking. But the fact of the matter is that there are still, as I indicated, 55 to 60 million people in this country who smoke, and hundreds of millions of people in other countries who smoke and enjoy smoking. So I don't think - to also answer a similar question in the back, that any handwriting is on the wall. I think this is a very healthy industry, and I think one need only look at the financial results of the companies in the industry to recognize that that's the case.

: Let's take about one or two more questions. Mr. Query?

Q: I would like to know your strongest grounds for appeal? Is it the instruction on the ... (inaudible)

: Remember neither of these clients are appealing.

: We won, we don't have to appeal.

: I think the strongest grounds that Liggett has to appeal for are on the breach of warranty. First, they will argue that their motion for summary judgment which was filed before the trial, and the motion for directed verdict, which was filed during the trial, should have been granted by the Judge. That there was, as a matter of law, no material fact in dispute, that is no express warranty, as that term is used in the law was made. And I think that the trial and the evidence that was offered in support of the breach of warranty claim demonstrated that there was never an expressed warranty in the first place.

So I think that is the first ground. The second ground is the charge, the details of the charge of breach of warranty, and I'm not an expert on this so I can't tell you what they all are, but what I do know. One serious problem that Liggett perceived in the charge and in the verdict form is that it appeared to permit, because of the way the verdict form was written, and the way the charge was

delivered, a verdict to find that the person who entered into the contract, that is Mrs. Cipollone, suffered no damages, no injury. And that is in fact what the jury did find. But somehow awarded damages and found injury on the part of someone who didn't enter into the contract. And that is not contract law. That is a bizarre result I think that was produced by a verdict form that should not have been used by the court, and a charge that should not have been delivered. I think those are the principle grounds for appeal.

: Thank you very much ladies and gentlemen.