STATE OF MINNESOTA
DISTRICT COURT
COUNTY OF RAMSEY

THE STATE OF MINNESOTA, BY HUBERT H. HUMPHREY, III, ITS ATTORNEY GENERAL,

and

BLUE CROSS AND BLUE SHIELD OF MINNESOTA,
Plaintiffs,

v.

PHILIP MORRIS INCORPORATED, R.J. REYNOLDS TOBACCO COMPANY, BROWN & WILLIAMSON TOBACCO CORPORATION, B.A.T. INDUSTRIES P.L.C., LORILLARD TOBACCO COMPANY, THE AMERICAN TOBACCO COMPANY, LIGGETT GROUP, INC., THE COUNCIL FOR TOBACCO RESEARCH - U.S.A., INC., and THE TOBACCO INSTITUTE, INC.,
Defendants.

Case File No. C1-94-8565

September 23, 1994

STATE OF MINNESOTA
OFFICE OF THE ATTORNEY GENERAL

SPECIAL ATTORNEY APPOINTMENT

I, HUBERT H. HUMPHREY III, Attorney General of the State of Minnesota ("the Attorney General"), by virtue of the authority vested in me by statute, do hereby constitute and appoint the law firm of Robins, Kaplan, Miller & Ciresi ("RKM&C"), of Minneapolis, Minnesota, and Michael V. Ciresi, as Special Attorneys to serve at the pleasure of the Attorney General specifically to provide legal services to the State of Minnesota ("the State") and the Attorney General, subject to the terms and conditions set forth:

1. DUTIES. The Special Attorneys, who shall not be considered state employees and shall not be eligible for any state employee leave or other benefits except those expressly provided herein, shall provide legal services to the State and Attorney General relative to seeking recovery and relief from third parties for damages arising from the sale and/or distribution of cigarettes (hereafter "the Litigation"). The Special Attorneys shall provide legal consultant services as requested by the Attorney General. Such duties are more fully set forth in the attached Exhibit A, which is incorporated herein by reference, as are all exhibits hereto.

2. COMPENSATION AND EXPENSES. As compensation for the performance of the duties described, the Special Attorneys shall be compensated as set forth in the attached Exhibit B.

3. BILLING STATEMENTS. The Special Attorneys shall submit a monthly statement to the Attorney General in care of John R. Tunheim, Chief Deputy Attorney General, 102 State Capitol, St. Paul, MN 55155, setting forth in detail the activities and charges with respect to this appointment.

4. STATE AUDITS. All records, documents, and accounting procedures and practices of the Special Attorneys relevant to this appointment shall be subject to examination by the Attorney General and the Legislative Auditor.

5. AVOIDANCE OF CONFLICTS. The Special Attorneys shall not undertake legal work for the Attorney General outside of the scope of this appointment and shall not represent a party involved in a claim, dispute or transaction of any kind which would create a conflict of interest for the Special Attorneys or the Attorney General unless and until the Special Attorneys have informed the Chief Deputy Attorney General of the proposed representation and received his written approval to proceed. The Special Attorneys also agree to inform their clients of any case involving a potential conflict.

6. TERM. This appointment is effective July 25, 1994. This appointment may be terminated by the Attorney General at any time and for any reason.

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
by
JOHN R. TUNHEIM
CHIEF DEPUTY ATTORNEY GENERAL

ROBINS, KAPLAN, MILLER & CIRESI
by
MICHAEL V. CIRESI

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EXHIBIT A

CASE HANDLING AGREEMENT

The Special Attorneys are retained to provide legal services to the Attorney General and the State for the purpose of seeking recovery and relief from third parties for damages arising from the sale and/or distribution of cigarettes. This appointment shall be subject to the following guidelines:

1. The Attorney General, as the chief legal officer of the State, retains final authority over all aspects of the Litigation that affect the State's claims.

2. The Attorney General shall appoint delegates from his staff to monitor, review, and fully participate in the handling of the Litigation. The Special Attorneys shall consult and obtain the prior approval of a delegate concerning all policy and other major, substantive issues affecting the Litigation, including but not limited to the complaint and dispositive motions, selection of consultants and experts, and whether the Special Attorneys may represent additional co-plaintiffs in the Litigation. Regular status meetings shall be held as requested by either a delegate or the Special Attorneys.

3. The Special Attorneys shall provide the Attorney General with a copy of all significant correspondence and all pleadings, discovery requests, and other documents served and/or filed in the Litigation.

4. The Attorney General shall designate one or more staff members to act as liaison with such state agencies as become substantially involved in the Litigation. To the extent feasible, the Special Attorneys shall work through such liaison in communicating with such agencies. A copy of all written communications between the Special Attorneys and the state agencies shall be provided to the Attorney General.

5. Subject to the terms of this appointment, it is recognized and agreed that Robins, Kaplan, Miller & Ciresi and Michael V. Ciresi shall act as chief litigation counsel for the Litigation. Further, it is recognized and agreed that the Special Attorneys may also act as litigation counsel for Blue Cross and Blue Shield of Minnesota ("BCBSM") for its claims prosecuted as part of the Litigation.

6. The Attorney General shall provide attorneys and other members of his staff to work on the Litigation with the Special Attorneys. The identity and responsibilities of such personnel so assigned shall be determined solely by the Attorney General. Coordination of the Attorney General's staff work on the Litigation will be principally handled by the Attorney General's appointed delegate, in consultation with the Special Attorneys.

EXHIBIT B

CONTINGENT FEE RETAINER AGREEMENT FOR STATE CLAIMS

WHEREAS, cigarette smoking is the most preventable cause of death in our society;

WHEREAS, cigarette smoking kills approximately 400,000 people each year in the United States (including more than 6,000 Minnesotans each year) -- more than the number of deaths caused by guns, drug use, and automobile accidents combined;

WHEREAS, in addition to the human carnage, the economic costs of cigarette smoking, and in particular, health care expenditures from smoking-attributable diseases, amount to an onerous burden to society and to the State;

WHEREAS, the tobacco industry has been able to enjoy virtual immunity from its actions due to its economic and political power and its scorched earth tactics in litigation, reaping billions of dollars of profits from unconscionable activities and never to the knowledge of the Attorney General or the Special Attorneys paying any damages despite decades of litigation;

WHEREAS, the Attorney General and the Special Attorneys believe that, despite the tobacco industry's past successes, the laws of the state of Minnesota were meant to apply to all entities, no matter how powerful;

WHEREAS, the laws of the State are intended to place the consequences of unlawful conduct on the perpetrator, and the contemplated Litigation is the most just and efficient way to accomplish that purpose with respect to the carnage caused by the tobacco industry;

WHEREAS, the State recognizes that RKM&C's undertakings pursuant to the Special Attorney Appointment involve substantial factual and legal issues of first impression, the resolution of which cannot be fully ascertained at this time;

WHEREAS, the State acknowledges that the successful resolution of the Litigation will require the

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Special Attorneys to devote substantial resources (both temporal and financial) in furtherance of their undertakings;

THEREFORE, due to all the complex considerations involved in the Special Attorney Appointment, the State and the Special Attorneys have agreed as follows:

1. The State is not liable to pay compensation otherwise than from amounts collected for the State by the Special Attorneys, unless the State terminates this appointment before the State receives a monetary recovery, the State's responsibility for payment shall be as set forth in paragraphs 7-9 below.

2. The contingency upon which compensation is to be paid is the recovery for the State of monies (at law or in equity), whether by settlement or judgment, from third parties liable for damages arising from the sale and/or distribution of cigarettes.

3. Compensation on the foregoing contingency is to be paid by the State to the Special Attorneys on the following basis: twenty-five percent (25%) of the total recovery to the State, including but not limited to compensatory or punitive damages, restitution, civil penalties, interest, and any amounts which may later be payable to the federal government under the Medicaid program. There is nothing to be subtracted in determining the total recovery, except court-awarded attorneys' fees and costs. In addition to these fees, in the event of recovery, the State shall reimburse the Special Attorneys for costs and disbursements advanced during the course of the Litigation by the Special Attorneys, in an amount to be approved by the Attorney General.

4. Notwithstanding paragraph 3 above, the State shall pay no higher percentage for compensation of the Special Attorneys than is paid by any other co-plaintiff that the Special Attorneys represent in the Litigation on solely a contingent fee basis. If the Special Attorneys represent any other co-plaintiff in the Litigation on other than solely a contingent fee basis, the State shall pay no higher comparable rate of compensation to the Special Attorneys considering the totality of circumstances of the different retainer or appointment agreements, including but not limited to the risk factors inherent in the Litigation and the time value of money.

5. The compensation paid hereunder is separate and independent from any compensation which the Special Attorneys may receive from any other party that the Special Attorneys represent in the Litigation.

6. If the court awards, or the adverse parties pay, attorneys' fees and costs, such fees and costs shall be paid to the Special Attorneys to the extent that the award is based on services furnished by the Special Attorneys shall be credited to the State and deducted from the fees payable to the Special Attorneys pursuant to paragraph 3 above.

7. If the Attorney General terminates this appointment before a monetary recovery has been achieved, and the Litigation is dismissed or otherwise does not result in a monetary recover, then the Attorney General shall apply to the Legislature for the reasonable value of the Special Attorneys' services, as determined by the appropriate court, including fees and costs, and shall use his best efforts to secure a specific appropriation. The Attorney General has no obligation to pay under this paragraph in the absence of such a specific appropriation. In calculating the value of such services, the court or Legislature may deduct the value of the Special Attorneys' services furnished for the benefit of other parties involved in the joint prosecution of the Litigation.

8. If the Attorney General terminates this appointment before a monetary recovery has been achieved, and the Litigation later results in monetary recovery, then the Special Attorneys shall be paid, from the recovery, the reasonable value of their services, as determined by the appropriate court, plus fees and costs, but not more than they would have received if this appointment had not been terminated.

9. In determining the reasonable value of the Special Attorneys' services pursuant to paragraphs 7 and 8 above, al factors affecting the value of the Special Attorneys' contributions shall be taken into account, including but not limited to, the length of time spent on the case, the funds invested, the time value of money, the quality of representation, the result of the Special Attorneys' efforts, and the viability of the claim at the time of termination.

10. During the course of the Litigation, the Special Attorneys shall advance costs and disbursements. If the State is the only plaintiff which the Special Attorneys represent in the Litigation, the State's obligation to reimburse the Special Attorneys' costs is that set forth in paragraphs 1-9 above. If there are other parties plaintiff to the Litigation, and the State enters into a Costs and Disbursements Pro Rata Sharing Agreement providing for the sharing of costs and disbursements by the State and such other parties plaintiff, then the State would reimburse the Special Attorneys only for its agreed upon pro rata share of the costs and disbursements and only after the recovery of monies whether by settlement or judgment

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from third parties liable for damages arising from the sale and/or distribution of cigarettes.

11. In the event there is no recovery, or the recovery is less than enough to cover the State's pro rata share of the Special Attorneys' costs and disbursements, the State shall not be responsible for the deficiency of its pro rata share of costs and disbursements, provided, however, that (1) neither the State nor the Special Attorneys shall be responsible for a court award of costs and disbursements to adverse parties arising out of the conduct of the other, and (2) if the State terminates this appointment in the absence of a monetary recovery, paragraphs 7-9 above shall apply.

12. In no event shall the State be obligated to pay to the Special Attorneys more under this agreement than it receives in any monetary recovery, nor to pay any amount until the Litigation is finally resolved, whether by dismissal, final judgment, or settlement, except as noted in paragraphs 7-9 above.

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