

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA,
Plaintiff,

v.

PHILIP MORRIS USA INC., *et al.*,
Defendants.

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Civil Action No. 99-2496 (GK)

DECLARATION OF ERIC MICHAEL LeGRESLEY, M.Sc., LL.M.

1. My name is Eric Michael LeGresley, and I am over the age of 18.
2. I am a Canadian barrister and solicitor, and have been a consultant in tobacco control policy operating throughout the world for the past 12 years. Prior to setting up my current consultancy, I was a lawyer with the Tobacco Free Initiative of the World Health Organization in Geneva, Switzerland for less than one year. Prior to that I was legal counsel to a Canadian non-governmental organization, the Non-Smokers' Rights Association, for nearly four years. Before that I spent two years as a legal researcher with the non-partisan Law of Government Division of the Library of Parliament in Ottawa, Canada, providing research and advice to parliamentarians in the Canadian House of Commons and the Senate of Canada.
3. I engage in research to advance legal, policy, and political strategies to reduce the harm caused by tobacco products, and I often undertake this research in association with colleagues in academic and other research organizations. The prime focus of my efforts has been on the activities of the major multinational tobacco companies, and this has

resulted in my researching their marketing, product development and political activities on every continent.

4. In my role as a consultant, I have represented a wide array of different clients while visiting the document depositories. I have physically attended the tobacco industry depositories on behalf of clients located in the USA, Canada, the United Kingdom, Egypt, India, the Philippines, and Australia. Often these clients have had research interests covering the tobacco industry's activities in a large number of countries.
5. The Minnesota Depository and the BATCo depository in Guildford, UK, have been seminal to my research. These research topics have included, *inter alia*: the industry's use of exceptionally broad legal privilege claims in documentary disclosure; industry strategies to block or circumvent ingredient disclosure laws; tobacco smuggling in Latin America, Asia, Africa and Eastern Europe; promotion of smoking through film; and the industry's operation of the depositories.
6. I have traveled many times to both the Minnesota Depository and the Guildford Depository to undertake research. While the online collections of documents have their own utility, they cannot and do not provide the same opportunities for comprehensive research made possible by personal attendance at the facilities.
7. In my experience continued public access to the physical document collection in Minnesota is crucial for at least three primary reasons: (i) timeliness; (ii) document context; and (iii) as a check on the integrity of the online collections.
8. The Defendants have not been enthusiastic participants in the production and subsequent provision for public viewing of required documents. Apart from questions of slow or inadequate production, there sometimes has been an inordinate lag between when

physical documents have been produced to the Minnesota Depository and when the producing tobacco company has placed those same documents on their online collections. Indeed, I have traveled from Canada to Minneapolis to review documents because at the time in question the documents were *only available at the Minnesota Depository*. Given the utility of these documents for academic, policy, and legal purposes, timely access to the documents can be as important as access itself.

9. During the course of my many visits to the depositories, I found that the most valuable benefit for my research has been viewing the documents in context, and the far greater understanding that comes as a result of such context. There are two reasons.
10. First, individual documents are often difficult to understand in isolation, and the collection of hard-copy documents together, usually related in some manner related to their genesis or the owner of the documents, imparts far greater opportunities to piece the puzzle together. I might not immediately understand either document A or document B, but when I read A in conjunction with B, the meaning of both might become apparent. The online collections, however, bring up individual documents in isolation.
11. Second, with any document research there is an element of happenstance. With online searching happenstance is vastly reduced as the viewer sees only the particular document they request. At the Depositories, in contrast, a box is provided containing numerous documents with the document of initial particular interest located within. While perusing through the box the researcher inevitably sees other documents, and these sometimes prove more valuable than the document initially sought. Moreover, these additional documents may not have been initially identifiable to the researcher because their titles do not adequately describe their contents, or the authors and recipients are not yet known

to the researcher. I liken this process to going into the stacks at a university library, looking for a particular book. When doing so the most useful book is often not the one you initially sought, but the one sitting next to it on the shelf. Such browsing of the “shelves,” or, here, boxes, is greatly facilitated by keeping the physical Depositories open to the public.

12. While there may be means by which one could electronically reconfigure isolated documents into the same sequence in which they appear in the Depository, this still fails to provide a research opportunity comparable to that available at the Minnesota and Guildford Depositories. In my research I often have several documents spread out on a table, and jump between them as I use information gleaned from one to expand my understanding of another. The physical ability to juggle multiple documents at once enables one to answer the myriad of intermediate questions one inevitably faces in trying to decipher often cryptic documents. In peer-reviewed publications or reports succinct, clear quotes from the industry documents are presented. What does not appear are the large number of lesser points and linkages the researcher deciphered in order to ultimately find that extremely rare succinct quote. And in my experience researchers are greatly hindered in making those connections if they cannot quickly and easily see multiple documents. This is an important research opportunity one cannot replicate with a progressive scan through a sequence of online documents.
13. Finally, maintaining public access to the physical collection, operated at arms length from the defendant tobacco companies, helps to ensure the integrity of their online collections of documents. It does so in two ways. First, should electronic versions of documents in a tobacco company’s online collection be lost, removed or altered, intentionally or not,

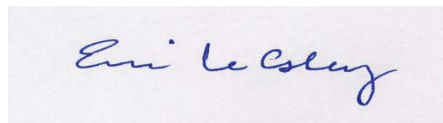
users of those online sources have the possibility of identifying the discrepancies and seeking redress from the hard-copies housed at the depositories. Second, the possibility that the hard-copy Depositories can be used to discover alterations (whether intentional or not) gives the industry an incentive to be vigilant in the daily management of their online collections, and a heightened disincentive to intentionally alter any online collections.

14. Without access to the physical collections one would simply have to trust that the tobacco companies would be completely forthcoming in an ongoing fashion, even when there would be little likelihood of alterations being discovered. I see no indication from the industry's track record to accord such latitude.

Pursuant to 28 U.S.C. § 1746, I hereby declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: March 22, 2011

Respectfully submitted,

A handwritten signature in blue ink, reading "Eric LeGresley", on a light-colored rectangular background.

Eric Michael LeGresley, M.Sc., LL.M
Tobacco Control Consultant
4 Bank Note Pvt.
Ottawa, Ontario
K1Z 1C7
+1 (613) 725-2024
legres@sympatico.ca