

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Civil Action No. 99-CV-2496 (GK)
)	Next scheduled court appearance:
and)	January 15, 2014
)	
TOBACCO-FREE KIDS)	
ACTION FUND, <i>et al.</i>)	
)	
Plaintiff-Intervenors)	
)	
v.)	
)	
PHILIP MORRIS USA INC., <i>et al.</i> ,)	
)	
Defendants.)	

**JOINT MOTION FOR CONSENT ORDER IMPLEMENTING
THE CORRECTIVE STATEMENTS REMEDY
UNDER ORDER #1015 AND ORDER #34-REMAND**

In Order #34-Remand (DN 5991; issued Nov. 27, 2012), this Court referred the parties to mediation regarding implementation of portions of the corrective statements remedy under Order #1015 (DN 5733; issued Aug. 17, 2006), published as *United States v. Philip Morris USA Inc.*, 449 F. Supp. 2d 1, 938-41 (D.D.C. 2006), *aff'd in part & vacated in part*, 566 F.3d 1095 (D.C. Cir. 2009) (*per curiam*), *cert. denied*, 561 U.S. ___, 130 S. Ct. 3501 (2010). Philip Morris USA Inc., Altria Group, Inc., R.J. Reynolds Tobacco Company (in its own capacity and as successor in interest to Brown & Williamson Tobacco Co., and American Tobacco Co.), and Lorillard Tobacco Company (hereafter “Defendants”), and the United States and the Public Health Intervenors (hereafter “Plaintiffs”) have successfully concluded that mediation.

Subject to the Court's approval, the attached (proposed) Consent Order resolves the implementation of the corrective statements remedy for four media channels: newspapers, television, websites, and cigarette pack onserts. (The final media channel, retail point-of-sale displays, remains to be decided.)

The (proposed) Consent Order includes three proposed changes to the text set out in Order #34-Remand.¹ First, in accord with Order #36-Remand (DN 6002; issued Jan. 28, 2013), the parties propose replacing the phrase "Defendant Tobacco Companies" in each Corrective Statement with "Altria, R.J. Reynolds Tobacco, Lorillard, and Philip Morris USA." Second, in the adverse health effects statement, to accord with the trial evidence, the parties propose deleting cancer of the uterus from the list of diseases. Samet WD at 104:10–105:15. Third, the parties propose changing the number 3,000 in the portion of the secondhand smoke statement that states, "Secondhand smoke kills over 3,000 Americans per year" to the number 38,000, to include deaths from heart disease, as set out in the 1997 California EPA Report (also issued as NCI Monograph 10), which was admitted in evidence and cited in Order #1015's secondhand-smoke discussion. JDM1870820-1333 at 0837 (U.S. 76125); DXA0581235-1694 at 1256 (U.S. 78716); 449 F. Supp. 2d at 703, 704.

WHEREFORE, Plaintiffs and Defendants respectfully ask the Court to enter the attached (proposed) Consent Order.

¹ Although the Court earlier expressed concern about the scope of its jurisdiction over the wording of the corrective statements in light of Defendants' Notice of Appeal, Order #36-Remand (DN 6002; issued 1/28/2013), the parties concur that the Court has jurisdiction to enter the entirety of the (proposed) Consent Order and, if the Court would find it helpful, will file their positions on this issue with the Court in advance of the Status Hearing. Alternatively, the parties will be prepared to discuss this issue further at the Status Hearing.

Dated: January 10, 2014

Respectfully submitted,

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