

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,)
)
Plaintiff,) Civil Action No. 99-CV-2496 (GK)
)
v.) Next Scheduled Court Appearance:
) Trial (Ongoing)
PHILIP MORRIS USA INC. (f/k/a)
PHILIP MORRIS INCORPORATED), et al.,)
)
Defendants.)

DEFENDANTS' ANTICIPATED ORDER OF WITNESSES FOR TRIAL

Pursuant to Order #471, ¶ IV.B, Defendants submit this identification of witnesses in the order in which Defendants anticipate presenting them at trial during Defendants' case-in-chief. This identification is based upon the case as it currently stands (*i.e.*, Plaintiff will present its remaining previously identified non-disgorgement witnesses on all issues properly disclosed during discovery and pre-trial proceedings before Defendants will present their case-in-chief). If, however, the Court changes the order of proof allowed (through bifurcation or otherwise), or grants any relief to Plaintiff with respect to its last minute request to re-open discovery,¹ Defendants anticipate that they may need to amend this order of proof, including recalling witnesses or identifying additional witnesses. In addition, Defendants reserve the right to supplement this order of proof with any of the witnesses previously identified by Defendants on their trial witness list on April 5, 2004.²

¹ Defendants have previously noted, and incorporate by reference herein, their objections to Plaintiff's efforts to develop additional evidence during trial. *See* Defendants' Memorandum Regarding Non-Disgorgement Remedies Pursuant to Order #875 filed February 22, 2005.

² Defendants reserve the right to add and call Nancy Brennan Lund as a live trial witness if Defendants Altria Group, Inc. and Philip Morris USA Inc.'s Motion to Reconsider Order #600 is granted.

The first list identifies witnesses that Defendants currently anticipate calling for live testimony in court. The list also indicates whether each witness is being called as a fact or expert witness (or both). Defendants will advise the Court and Plaintiff in the event there are changes to the anticipated order of presentation of witnesses during trial.³ Defendants also anticipate scheduling two interim summations during their case-in-chief at appropriate intervals.

	Witness (Live)	Fact / Expert
1.	Dr. David E. Townsend	Fact / Expert
2.	Dr. Michael Dixon	Expert
3.	Dr. James A. Langenfeld	Expert
4.	Dr. William E. Wecker	Expert
5.	Dr. Edwin L. Bradley	Expert
6.	Dr. Michael W. Ogden	Fact
7.	Joseph Mulholland	Fact
8.	Graham A. Read	Fact
9.	Dr. Bernard Scott Appleton	Fact
10.	Dr. Harmon C. McAllister	Fact
11.	Dr. Dennis D. Dietz ⁴	Fact
12.	Dr. Anthony Albino ⁴	Fact
13.	Dr. Richard Carchman	Fact / Expert
14.	Dr. Peter P. Rowell	Expert
15.	Mark E. Greenwold	Fact
16.	Dr. Richard J. Semenik	Expert
17.	Victor D. Lindsley, III	Fact
18.	Lynn J. Beasley	Fact
19.	Dr. James J. Heckman	Expert
20.	Dr. David B. Rubin	Expert
21.	Dr. W. Kip Viscusi	Expert
22.	Alan Schechter	Expert
23.	Dr. Mace Beckson	Expert
24.	Bryan K. Stockdale	Fact
25.	Bennett S. LeBow ⁴	Fact
26.	Ron Bernstein ⁴	Fact
27.	Michael E. Szymanczyk	Fact
28.	Howard A. Willard, III	Fact

³ The order of live witnesses reflected in this document is based upon the filing of the next set of written direct examinations for Defendants' case-in-chief on Monday, March 7, 2005. *See* February 23, 2005 Trial Tr. at 14193-94; 14207. If the Court orders earlier submissions, the order of witnesses will likely change.

⁴ These witnesses are being offered by Liggett only.

	Witness (Live)	Fact / Expert
29.	Dr. Jerry Whidby	Fact
30.	Barbro L. Goodman	Fact
31.	Dr. Richard Solana	Fact
32.	Dr. Jane Lewis	Fact
33.	Dr. Kenneth Podraza	Fact
34.	David R. Beran	Fact
35.	Martin L. Orlowsky	Fact
36.	Susan Ivey	Fact

The second list identifies those witnesses who are offered by Defendants by means of prior trial or deposition testimony. In some instances, the entire set of designations and counter-designations have already been offered during Plaintiff's case-in-chief, in which case Defendants will simply note the prior submission of those designations and objections, as well as identify any additional exhibits that may be offered with those witnesses during Defendants' case-in-chief.

	Witness (Prior)
1.	Dr. Michele H. Bloch
2.	Dr. Stephen Marcus
3.	Dr. Patricia A. Richter
4.	Thomas G. Shanks
5.	Donald Shopland
6.	Charles O'Keeffe
7.	Dr. John Parascondola
8.	Dr. Sally M. Schneider
9.	Dr. Janis M. White
10.	Richard H. Amacher
11.	Dr. Julius B. Richmond ⁵
12.	Patrick G. Locke
13.	Patrick Aylward ⁶
14.	Dr. Alan Rodgman
15.	Dr. William S. Simmons

⁵ Defendants anticipate filing former Surgeon General Richmond's prior testimony with a statement regarding the purpose of this proffer.

⁶ Defendants are mindful that in Order #630 the Court ruled *in limine* that the prior testimony of these witnesses was inadmissible. Defendants intend to offer the prior testimony of these witnesses on additional grounds not addressed in Order #630.

	Witness (Prior)
16.	Dr. Alexander W. Spears ⁶
17.	Dr. Edward A. Robinson ⁷
18.	Dr. Arnold T. Mosberg ⁷
19.	Dr. Christopher Proctor
20.	Dr. T.C. Tso
21.	Dr. Larry B. Jaycox
22.	John F. Martonik
23.	William A. Adams
24.	Gerald H. Long
25.	Kinsley Dey
26.	Edward A. Horrigan, Jr.
27.	Charles Kensler
28.	Neil E. Mellen ⁷
29.	Nicholas G. Brookes
30.	Paul Adams
31.	Ulrich G.V. Herter
32.	Sharon L. Blackie ⁷
33.	Lyle B. Smith
34.	Stephen R. Strawsburg
35.	Diane Stewart Burrows
36.	Claudia Newton
37.	Hugh Honeycutt
38.	J. Kendrick Wells
39.	John Douglas Weber
40.	Donald W. Tredennick
41.	Monica M. Moorefield
42.	Martin Lance Reynolds ⁷
43.	Mark Morrissey
44.	Carolyn G. Brinkley
45.	Kenneth Olden
46.	Ronald Tully
47.	Dr. Roger A. Jenkins ⁷
48.	Murray G.C. Anderson
49.	Paul Wessel
50.	Mark Conkling ⁴
51.	Dr. David M. Burns ⁴
52.	Alison Kay Kinnard
53.	Dr. Frank Marsh
54.	Patricia F. Ittermann

⁷ Defendants will be submitting the prior testimony of these witnesses from depositions in this case in order to reduce the amount of time required to address live witnesses in Court.

Dated: February 23, 2005

Respectfully submitted,

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