UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

NIKKI POOSHS,

Plaintiff,

v.

ALTRIA GROUP, INC. *et al.*,

Defendants.

Case No. C-04-1221 PJH-JCS

~~[PROPOSED]~~ ORDER ON PLAINTIFF'S OBJECTIONS TO DEFENSE EXHIBITS TO BE PROFFERED WITH DR. CUMMINGS

Judge: The Hon. Phyllis J. Hamilton

The Court has reviewed Plaintiff's January 25, 2016 submission regarding objections to Defendants' exhibits to be proffered with Dr. Cummings. The Court rules as follows:

Exhibit No.	Plaintiff's Objection(s)	Defendants' Response	Court's Ruling
A-365	IRRELEVANT, 403	This is a report authored by the California Department of Public Health on Cigarettes and Health. This is directly relevant to public awareness of health risks of smoking.	overruled

Exhibit No.	Plaintiff's Objection(s)	Defendants' Response	Court's Ruling
A-478	IRRELEVANT, 403, UNDUE PREJUDICE	Plaintiff Nikki Pooshs testified that she actually saw this January 13, 1964 editorial cartoon regarding the Surgeon General's Report published in the *Oakland Tribune*. *See* 12/11/2006 Nikki Pooshs Trial Preservation Cross at 95:14-23. This is directly relevant to her awareness of the health risks of smoking.	overruled
B-321	DESIGN, IRRELEVANT	Conditionally offered depending on the scope of Dr. Cummings' testimony.	overruled
B-430	Hearsay	Not offered for truth of the matter asserted; offered for to show that a public speech was made by RJR employer and did not remain internal to the company	overruled
B-554	IRRELEVANT, 403, ILLEGIBLE	Relevant to contextualize the Frank Statement that Plaintiff has already offered and elicited testimony.	sustained
B-557	Violates pre-trial ruling #22; irrelevant; 403; Hearsay	This is a publicly available article on the health risks of smoking. Directly relevant to the pre-1969 failure to warn claim.	overruled
B-559	IRRELEVANT, 403	Relevant to contextualize the Frank Statement that Plaintiff has already offered and elicited testimony.	sustained
B-561	IRRELEVANT, 403	Relevant to RJR/PM's state of mind pre-1969.	overruled

Exhibit No.	Plaintiff's Objection(s)	Defendants' Response	Court's Ruling
B-563 B-565	IRRELEVANT, MEDICAL TREATISE	Publicly available information concerning health risks of smoking pre-1969.	overruled overruled
B-567	IRRELEVANT, 403, ILLEGIBLE	Conditionally offered depending on the scope of Dr. Cummings' testimony.	sustained
B-571 B-572 B-573 B-574	IRRELEVANT, 403	Plaintiff is permitted to show ads that are pre-1969. These ads are relevant to rebut Plaintiff's proffer.	not admissible but may be used as demonstratives
B-575	IRRELEVANT, 403, MEDICAL TREATISE	Relevant to RJR/PM's state of mind pre-1969.	overruled
B-576 B-578 not in binder	IRRELEVANT, 403	Plaintiff's exhibit 24 is a Flintstones advertising. If Plaintiff's 24 is admitted, these are relevant to rebut that advertisement.	approved if Pl's 24 is admitted
B-580	DESIGN, ILLEGIBLE	Conditionally offered depending on the scope of Dr. Cummings' testimony.	sustained

IT IS SO ORDERED

Dated: January 25, 2016

PHYLLIS J. HAMILTON
United States District Judge