

Timothy C. Fox
ATTORNEY GENERAL

Mark W. Mattioli
Anne W. Yates
Christopher D. Abbott
Assistant Attorneys General
555 Fuller Avenue
PO Box 200151
Helena, MT 59620-0151
Phone: 406-444-2026
AnneYates@mt.gov
Christopher.Abbott@mt.gov
mmattioli@mt.gov

FILED

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ANGIE SPARKS, Clerk of District Court
By [Signature] Deputy Clerk

David R. Paoli
Paul M. Leisher
PAOLI & LEISHER, P.C.
Special Assistant Attorneys General
P.O. Box 8131
Missoula, MT 59802
Phone: 406-542-3330
davidpaoli@paoli-law.com
paulleisher@paoli-law.com

James Young
Juan Martinez
MORGAN & MORGAN COMPLEX LITIGATION GROUP
Special Assistant Attorneys General
Pro Hac Vice Applications Forthcoming
76 S. Laura St., Suite 1100
Jacksonville, FL 32202
Phone: 904-361-0012
jyoung@forthepeople.com
juanmartinez@forthepeople.com

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Attorneys for Plaintiff, State of Montana

**MONTANA FIRST JUDICIAL DISTRICT COURT
LEWIS AND CLARK COUNTY**

_____)	
STATE OF MONTANA ex rel,)	Cause No.CDV-1997-306
TIMOTHY C. FOX,)	
)	
Plaintiff)	Hon. Michael McMahon

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juanmartinez@forthepeople.com

Attorneys for Plaintiff, State of Montana

**MONTANA FIRST JUDICIAL DISTRICT COURT
LEWIS AND CLARK COUNTY**

STATE OF MONTANA ex rel,
TIMOTHY C. FOX,

Plaintiff

)
)
)
)
)

Cause No.CDV-1997-306

Hon. Michael McMahon

vs.)
)
)
 PHILIP MORRIS, INCORPORATED;)
 RJ. REYNOLDS TOBACCO CO.;)
 AMERICAN TOBACCO CORP.;)
 BROWN & WILLIAMSON)
 TOBACCO CORP.; LIGGETT &)
 MYERS, INC.; LORILLARD)
 TOBACCO COMPANY; UNITED)
 STATES TOBACCO COMPANY;)
 B.A.T. INDUSTRIES, P.L.C.;)
 BRITISH AMERICAN TOBACCO)
 COMPANY, LTD.; RJR NABISCO)
 HOLDINGS CORP.; RJR NABISCO,)
 INC.; HILL & KNOWLTON, INC.;)
 THE COUNCIL FOR TOBACCO)
 RESEARCH - U.S.A., INC.; and)
 TOBACCO INSTITUTE, INC.,)
)
 Defendants.)
)

**MOTION TO ENFORCE
 CONSENT DECREE AND
 MASTER SETTLEMENT
 AGREEMENT AND JURY
 DEMAND**

As further set forth in the Brief in Support, Montana files this Motion pursuant to paragraph VI.A of the Consent Decree and Final Judgment in this case (Mont. First Jud. Dist. Dec. 14, 1998), which authorizes the State to apply to this Court “at any time for further orders and directions as may be necessary or appropriate for the implementation and enforcement of the Consent Decree and Final Judgment,” and also pursuant to section VII(c)(1) of the Master Settlement Agreement (“MSA”), which authorizes any MSA State to bring an action to enforce the MSA (“Enforcement Order”) or for a declaration construing any such term (“Declaratory Order”) with respect to disputes, alleged violations, or alleged breaches within such MSA State.

Jurisdiction over this case is retained by the Court for the purposes of implementing

and enforcing the MSA and the Consent Decree in Montana and enabling continuing proceedings regarding those agreements. (MSA, § VII(a)(2); Consent Decree § VI.A).

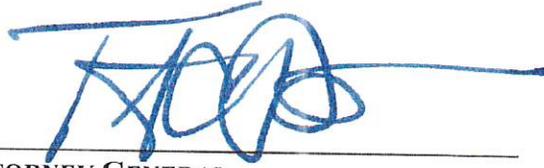
Past practice has been to file a motion under this cause number to bring a dispute between the MSA parties in front of this Court, with the brief in the support of the motion being in the nature of a complaint. The parties and the Court have always treated the brief in support as a complaint, to which the Defendants then file a response in the nature of an answer, which in turn initiates proceedings and a schedule consistent with a typical civil lawsuit.

As detailed in the Brief in Support, this Motion asserts breach by the Defendants of the covenant of good faith and fair dealing inherent in the MSA as well as violation of the Montana False Claims Act, § 17-8-403, MCA, and conspiracy. Defendants have withheld over \$43 million in payments owed to Montana on the basis of a series of “disputes” Defendants have asserted. For over a decade, Defendants improperly withheld from Montana millions in funds that Montana bargained for to protect the health of the Montana people. Montana recently learned Defendants asserted those disputes without any reasonable belief that they were true. The lost opportunity cost of the millions that could have been spent earlier, longer and for more Montanans is difficult to fathom and more so to quantify. Montana requests relief in the form of a judgment holding Defendants liable for the breach and statutory violations and resulting contract, statutory damages, and declaratory relief, and demands a jury on all issues triable by a jury.

A Desk Reference consisting of relevant orders, decisions, agreements, and a

glossary of terms and acronyms is submitted along with this Motion.¹ The Desk Reference has been served on all parties through counsel of record.

Dated this 10th day of April, 2020.



ATTORNEY GENERAL
TIMOTHY C. FOX

I certify that on the 13th day of April, 2020, a copy of the foregoing was served upon the following by email:

<p>Company: Farmer's Tobacco W. Scott Mitchell Holland & Hart LLP smitchell@hollandhart.com</p> <p>Christie A. Moore Dentons US LLP Christie.moore@dentons.com</p> <p>Company: RJ Reynolds Tobacco Tom Dutton Paul T. Fox Greenberg Traurig duttont@gtlaw.com foxp@gtlaw.com</p> <p>Charles E. Hansberry Jenny M. Jourdonnais Hansberry & Jourdonnais, PLLC chuck@hjbusinesslaw.com jenny@hjbusinesslaw.com</p>	<p>Company: Certain Subsequent Participating Manufacturers Elizabeth McCallum Robert Brookhiser BakerHostettler emccallum@bakerlaw.com rbrookhiser@bakerlaw.com</p> <p>Carl W. Mendenhall Sean M. Morris Worden Thane PC cmendenhall@wordenthane.com smorris@wordenthane.com</p> <p>Company: Philip Morris USA James Goetz Trent Gardner Goetz, Baldwin & Geddes, P.C. jim@goetzlawfirm.com tgardner@goetzlawfirm.com</p> <p>Alexander Shaknes Lauren Rivard Arnold & Porter LLP alex.shaknes@arnoldporter.com Lauren.rivard@arnoldporter.com</p>
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¹ Available for download <https://paolilaw.sharefile.com/d-sa466b514f2a45dbb>.

By: 