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IN THE THIRD JUDICIAL DISTRICT COURT OF SALT LAKE COUNTY

STATE OF UTAH

PHILIP MORRIS INCORPORATED, a :
Virginia Corporation; BROWN & :
WILLIAMSON TOBACCO : MOTION TO DISMISS
CORPORATION; a Delaware : AND REQUEST FOR HEARING
corporation; LORILLARD :
TOBACCO COMPANY, a Delaware : Civil No. 960904948C
corporation; and R.J. REYNOLDS :
TOBACCO COMPANY, a New Jersey :
corporation, : Judge William A. Thorne

Plaintiffs, :

vs. :

JANET C. GRAHAM, Attorney :
General of the State of Utah; :
UTAH DEPARTMENT OF HEALTH; :
UTAH DEPARTMENT OF HUMAN :
SERVICES; ROD L. BETIT, :
executive Director, Utah :
Department of Health and Executive :
Director, Utah Department of Human :
Services, :

Defendants. _____ :

Defendants JAN GRAHAM, Utah Attorney General, UTAH DEPARTMENT OF HEALTH, UTAH DEPARTMENT OF HUMAN SERVICES, and ROD BETIT, Executive Director, Utah Departments of Health and Human Services (collectively, the “State”), pursuant to Rule 12(b)(6) of the Utah Rules of Civil Procedure, move to dismiss the Plaintiffs’ complaint for declaratory and injunctive relief for failure to state a claim on upon which relief can be granted. With respect to Plaintiffs’ first, second, third and fourth causes of action, Defendants move to dismiss those claims with prejudice on the grounds that, as a matter of law, Plaintiffs have not, and cannot, state a claim upon which relief can be granted. This Motion is supported by the Defendants’ Memorandum of Points and Authorities filed this same date.

ORAL ARGUMENT REQUESTED

The Defendants request oral argument on their motion pursuant to Rule 4-501(3)(b) on the grounds that granting of this motion would dispose of the action on the merits and with prejudice.

Respectfully submitted this 20th day of August, 1996

CAROL CLAWSON
Solicitor General
JAN GRAHAM
Utah Attorney General
Counsel for Defendants

