

**STATE OF NEW MEXICO
COUNTY OF BERNALILLO
SECOND JUDICIAL DISTRICT COURT**

**CITY OF ALBUQUERQUE,
A New Mexico municipal corporation,**

Plaintiff,

vs.

No. D-202-CV-2026-D-202-CV-2026-08086

**PHILIP MORRIS USA INC.,
ALTRIA GROUP, INC.,
R.J. REYNOLDS TOBACCO COMPANY,
REYNOLDS AMERICAN INC.,
SANTA FE NATURAL TOBACCO COMPANY, INC.,
BRITISH AMERICAN TOBACCO P.L.C.,
LIGGETT GROUP, LLC, and
BSR DISTRIBUTING, INC.,
d/b/a BLUE SKY DISTRIBUTORS**

Defendants.

COMPLAINT FOR DAMAGES, EQUITABLE RELIEF, AND ABATEMENT

COMES NOW, Plaintiff, City of Albuquerque ("Albuquerque" or "Plaintiff"), by and through its counsel, and submits the following causes of action against the above-named Defendants for damages and equitable relief as allowed by New Mexico law. In support of its Complaint, Plaintiff states as follows:

I. NATURE OF THE CASE

1. The Philip Morris International website states, “By 2030 there could be more cigarette butts than fish in the oceans.”¹

2. This is an action to recover the costs imposed upon municipalities by the design, manufacture, marketing, distribution, and sale of filtered cigarettes incorporating non-

¹ “PMI is determined to fight the environmental damage caused by plastic and post-consumer waste from our products – particularly cigarette butts.”

[Reducing plastic litter PMI - Philip Morris International](#), accessed July 11, 2026.

biodegradable plastic filters that Defendants have long known, and intended, would be discarded following their ordinary and intended use, thereby resulting in the continual deposition of persistent plastic waste upon municipal property and within municipal stormwater systems and waterways. This unsightly cigarette waste ultimately flows into surrounding streams, rivers and oceans.

3. Plaintiff does not seek recovery for smoking-related disease, addiction, personal injury, healthcare expenditures, or claims belonging to the State of New Mexico, individual smokers, or other third parties. Plaintiff seeks recovery solely for injuries to its own property, infrastructure, and proprietary interests and for direct, reasonable, and incremental expenditures Plaintiff has itself incurred in responding to those injuries.

4. Modern cigarette filters are manufactured primarily from cellulose acetate, a synthetic plastic polymer that does not biodegrade under ordinary environmental conditions. Although exposure to sunlight and weather may cause these filters to fragment into progressively smaller plastic particles, including microplastics, the underlying plastic material persists in the environment and continues to require municipal collection, removal, management, and disposal.

5. The ordinary and intended lifecycle of every filtered cigarette necessarily culminates in the separation and disposal of the cigarette filter immediately following consumption. For decades, Defendants have known that a substantial percentage of those filters are discarded onto streets, sidewalks, parks, public rights-of-way, transit corridors, storm drains, and other public places, where they are transported by wind, precipitation, and stormwater runoff into municipal drainage systems and waterways.

6. The widespread deposition of discarded cigarette filters is neither accidental nor an unforeseeable misuse of Defendants' products. Rather, it is the statistically dominant post-

consumption disposal pathway associated with filtered cigarettes and an inherent consequence of the manner in which Defendants designed, manufactured, marketed, and distributed those products.

7. Despite possessing decades of knowledge regarding the environmental persistence of cellulose acetate filters and their predictable accumulation throughout municipal environments, Defendants continued to manufacture and distribute filtered cigarettes incorporating non-biodegradable plastic filters without adopting feasible alternative designs, implementing meaningful product stewardship measures, or otherwise assuming responsibility for the substantial municipal costs generated by their products after consumption.

8. As a direct and foreseeable result of Defendants' conduct, municipalities throughout the United States are required to expend substantial public resources investigating, collecting, removing, transporting, managing, and disposing of discarded cigarette filters; maintaining streets, parks, sidewalks, stormwater infrastructure, and waterways affected by filter accumulation; and complying with environmental and stormwater-management obligations arising from persistent plastic pollution.

9. The injuries alleged in this action are continuing in nature. Each filtered cigarette placed into the stream of commerce creates a foreseeable risk that its plastic filter will be discarded onto municipal property or enter municipal stormwater systems, thereby imposing recurring operational, environmental, maintenance, and remediation burdens that continue long after the product has been consumed.

10. Plaintiff alleges that Defendants knowingly externalized the foreseeable costs of managing persistent plastic cigarette filter waste onto municipalities while retaining the economic benefits derived from the manufacture and sale of filtered cigarettes. Plaintiff seeks to recover

those municipal costs, obtain equitable and injunctive relief where authorized by law, and require Defendants to bear responsibility for the continuing harms caused by the design and distribution of their products.

II. PARTIES

A. Plaintiff

11. Plaintiff, the City of Albuquerque ("Albuquerque" or "Plaintiff"), is a home-rule municipal corporation organized and existing under Article X of the Constitution of the State of New Mexico and the laws of the State of New Mexico.

12. Plaintiff owns, operates, maintains, manages, regulates, and controls an extensive system of public property and municipal infrastructure throughout the City, including streets, sidewalks, curbs, gutters, parks, public rights-of-way, storm drains, catch basins, storm sewer systems, engineered arroyos, drainage channels, detention facilities, flood-control improvements, public buildings, and other publicly owned lands and improvements. Plaintiff also owns and operates a Municipal Separate Storm Sewer System ("MS4") regulated under the Clean Water Act and the National Pollutant Discharge Elimination System ("NPDES") permitting program.

13. Plaintiff is legally responsible for maintaining, repairing, cleaning, inspecting, and protecting this municipal infrastructure and for providing essential governmental services, including street sweeping, litter collection, stormwater management, operation and maintenance of its MS4, drainage system maintenance, pollutant control, environmental compliance, and protection of the Rio Grande and other receiving waters from pollutants transported through its stormwater system. These responsibilities require Plaintiff to expend substantial municipal

resources to remove solid waste and debris that accumulate throughout its streets, storm drains, arroyos, drainage channels, and other publicly owned property.

14. Plaintiff's municipal stormwater system is an integrated network designed to rapidly collect and convey runoff from thousands of acres of developed urban property through storm drains, engineered arroyos, drainage channels, and related infrastructure. Discarded cigarette filters deposited onto Plaintiff's streets, sidewalks, parking areas, and public rights-of-way are routinely transported into this system during storm events, where they accumulate within municipal infrastructure, obstruct drainage facilities, degrade public property, and require continual inspection, maintenance, removal, and disposal by Plaintiff.

15. Although Plaintiff coordinates regional stormwater planning and certain flood-control functions with other governmental entities, including the Albuquerque Metropolitan Arroyo Flood Control Authority ("AMAFCA"), Plaintiff owns, operates, maintains, and bears the financial responsibility for substantial portions of the municipal stormwater infrastructure that are invaded and burdened by discarded cigarette filters and other tobacco product waste. The damages alleged herein arise from injuries to Plaintiff's own property and the costs Plaintiff itself incurs in operating, maintaining, cleaning, repairing, inspecting, and protecting that infrastructure.

16. Plaintiff owns and possesses proprietary interests in municipal property that is continuously and physically invaded by discarded cigarette filters composed primarily of cellulose acetate plastic. Those filters accumulate upon and within Plaintiff's streets, sidewalks, parks, public rights-of-way, storm drains, catch basins, engineered arroyos, drainage channels, detention facilities, and other municipal property, where they constitute a continuing physical intrusion, interfere with Plaintiff's use and enjoyment of its property, diminish the value and utility of

municipal infrastructure, and require ongoing expenditures for investigation, monitoring, collection, removal, transportation, disposal, remediation, and abatement.

17. As a direct and proximate result of Defendants' conduct, Plaintiff has incurred, and will continue to incur, substantial costs associated with inspecting, maintaining, cleaning, repairing, monitoring, collecting, removing, transporting, handling, disposing of, and remediating discarded cigarette filters and the persistent plastic pollution they create throughout Plaintiff's municipal property, infrastructure, stormwater system, drainage facilities, and waterways.

18. Plaintiff brings this action in its municipal, governmental, and proprietary capacities to recover damages, restitution, equitable and injunctive relief where authorized by law, and all other relief permitted by law to compensate Plaintiff for injuries to its property and infrastructure and to abate the continuing harms caused by Defendants' design, manufacture, marketing, distribution, and sale of cigarettes with plastic filters.

B. Manufacturer Defendants

19. The "Manufacturer Defendants" are Philip Morris USA Inc., R.J. Reynolds Tobacco Company, Santa Fe Natural Tobacco Company, Inc., and Liggett Group LLC. Each Manufacturer Defendant designed and/or manufactured one or more of the filtered cigarette products identified in this Complaint and also marketed, distributed, supplied, or sold those products.

20. The Manufacturer Defendants conducted those activities throughout the United States, including within the State of New Mexico and the City of Albuquerque.

21. At all relevant times, the Manufacturer Defendants placed filtered cigarette products into the stream of commerce with the expectation and intent that those products would be purchased, consumed, and discarded within Albuquerque.

22. The Manufacturer Defendants selected, developed, approved, or utilized cigarette filters composed primarily of cellulose acetate.

23. Cellulose acetate is a synthetic plastic polymer that persists in the environment under ordinary conditions following disposal.

24. The Manufacturer Defendants possessed superior knowledge concerning the composition, environmental persistence, foreseeable disposal, and environmental consequences of plastic cigarette filters.

25. The Manufacturer Defendants knew or reasonably should have known that the ordinary use of a filtered cigarette necessarily results in the separation and disposal of the cigarette filter immediately following consumption.

26. The Manufacturer Defendants further knew or reasonably should have known that substantial quantities of discarded cigarette filters would be deposited upon streets, sidewalks, parks, public rights-of-way, and other public property.

27. The Manufacturer Defendants knew or reasonably should have known that discarded cigarette filters would be transported by wind and stormwater into Albuquerque's storm drains, drainage channels, engineered arroyos, Municipal Separate Storm Sewer System, and receiving waters.

28. The Manufacturer Defendants derived substantial revenues and profits from filtered cigarette products sold within New Mexico and Albuquerque.

29. Despite their knowledge, the Manufacturer Defendants continued to manufacture, market, distribute, and sell cigarettes incorporating non-biodegradable plastic filters.

30. The Manufacturer Defendants failed to adopt feasible alternative designs that would eliminate or materially reduce the persistent plastic waste created by their products.

31. The Manufacturer Defendants failed to implement adequate product-stewardship, collection, recovery, or abatement measures addressing discarded cigarette filters.

32. The Manufacturer Defendants instead shifted the foreseeable costs of collecting, removing, transporting, disposing of, and abating their plastic filter waste to Plaintiff and other municipalities.

33. The conduct of each Manufacturer Defendant materially contributed to the continuing accumulation of discarded cigarette filters upon and within Plaintiff's property and infrastructure.

34. The acts and omissions of each Defendant are alleged individually unless the Complaint expressly alleges concerted, coordinated, or collective conduct. The "Supplier Defendants" are non-manufacturer Defendants alleged to have been engaged in the business of distributing, supplying, or selling the filtered cigarette products at issue. Plaintiff alleges that Blue Sky is a Supplier Defendant.

1. Philip Morris USA Inc.

35. Defendant Philip Morris USA Inc. ("Philip Morris") is a corporation organized under the laws of the Commonwealth of Virginia.

36. Philip Morris maintains its principal place of business outside the State of New Mexico.

37. At all relevant times, Philip Morris designed, manufactured, marketed, promoted, distributed, and sold filtered cigarette products throughout the United States, including within New Mexico and Albuquerque.

38. Philip Morris placed those products into the stream of commerce with the expectation that they would be purchased, consumed, and discarded within Albuquerque.

2. R.J. Reynolds Tobacco Company

39. Defendant R.J. Reynolds Tobacco Company ("R.J. Reynolds") is a corporation organized under the laws of the State of North Carolina.

40. R.J. Reynolds maintains its principal place of business in Winston-Salem, North Carolina.

41. At all relevant times, R.J. Reynolds designed, manufactured, marketed, promoted, distributed, and sold filtered cigarette products throughout the United States, including within New Mexico and Albuquerque.

42. R.J. Reynolds' filtered cigarette brands sold within the United States include, among others, Newport, Camel, Pall Mall, Lucky Strike, Doral, Misty, and Capri.

43. R.J. Reynolds placed its filtered cigarette products into the stream of commerce with the expectation that they would be purchased, consumed, and discarded within Albuquerque.

3. Santa Fe Natural Tobacco Company, Inc.

44. Defendant Santa Fe Natural Tobacco Company, Inc. ("SFNTC") is a corporation organized under the laws of the State of New Mexico.

45. SFNTC is therefore a citizen of New Mexico for purposes of diversity jurisdiction.

46. SFNTC is an active operating subsidiary of Reynolds American Inc.
47. SFNTC manufactures and markets Natural American Spirit cigarettes and other tobacco products within the United States.
48. Natural American Spirit cigarettes are sold and consumed throughout New Mexico, including within Albuquerque.
49. At all relevant times, SFNTC designed, manufactured, marketed, promoted, distributed, supplied, or sold filtered Natural American Spirit cigarettes within New Mexico and Albuquerque.
50. SFNTC placed Natural American Spirit cigarettes into the stream of commerce with the expectation and intent that they would be purchased, consumed, and discarded within Albuquerque.
51. SFNTC selected, approved, incorporated, and utilized cellulose acetate plastic filters in Natural American Spirit cigarette products.
52. SFNTC derived substantial revenues from the manufacture and sale of Natural American Spirit cigarettes within New Mexico and Albuquerque.
53. SFNTC's manufacture and sale of filtered Natural American Spirit cigarettes materially contributed to the accumulation of discarded plastic cigarette filters upon and within Plaintiff's municipal property and infrastructure.
54. Plaintiff's claims against SFNTC arise from SFNTC's own conduct as the direct manufacturer and marketer of Natural American Spirit cigarette products and not merely from its status as an affiliated or subsidiary corporation.

4. Reynolds American Inc.

55. Defendant Reynolds American Inc. ("Reynolds American") is a corporation organized under the laws of the State of North Carolina.

56. Reynolds American is the United States parent company of R.J. Reynolds and SFNTC.

57. SFNTC is a wholly owned operating subsidiary of Reynolds American.

58. Reynolds American is itself an indirect, wholly owned subsidiary of British American Tobacco p.l.c.

59. Upon information and belief, Reynolds American participated in, directed, approved, coordinated, or controlled material aspects of the manufacture, marketing, distribution, product strategy, environmental policy, or product-stewardship practices concerning filtered cigarette products sold by its operating subsidiaries.

60. Reynolds American financially benefited from the manufacture and sale of filtered cigarette products by R.J. Reynolds and SFNTC, including products sold within New Mexico and Albuquerque.

61. Plaintiff seeks to hold Reynolds American liable for its own acts and omissions and does not rely solely upon its ownership of R.J. Reynolds or SFNTC.

5. British American Tobacco p.l.c. and Affiliated Entities

62. Defendant British American Tobacco p.l.c. ("BAT p.l.c.") is a public limited company organized under the laws of England and Wales.

63. In July 2017, BAT p.l.c. acquired the remaining ownership interest in Reynolds American that it did not already own.

64. Following that transaction, Reynolds American became an indirect, wholly owned subsidiary of BAT p.l.c.

65. Upon information and belief, BAT p.l.c. and any properly named BAT-affiliated Defendant participated in, directed, approved, coordinated, or controlled material aspects of the filtered-cigarette business relevant to the claims alleged herein.

66. Plaintiff seeks to hold BAT p.l.c. and any BAT-affiliated Defendant liable only for their own actionable conduct and not merely because of their corporate ownership interests.

6. Liggett Group LLC

67. Defendant Liggett Group LLC ("Liggett") is a limited liability company organized under the laws of the State of Delaware.

68. Liggett maintains its principal place of business in Mebane, North Carolina.

69. At all relevant times, Liggett designed, manufactured, marketed, promoted, distributed, and sold filtered cigarette products throughout the United States, including within New Mexico and Albuquerque.

70. Liggett placed those products into the stream of commerce with the expectation that they would be purchased, consumed, and discarded within Albuquerque.

7. Altria Group, Inc.

71. Defendant Altria Group, Inc. ("Altria") is a corporation organized under the laws of the Commonwealth of Virginia.

72. Altria is the parent company of Philip Morris.

73. Upon information and belief, Altria participated in, directed, approved, coordinated, or controlled material aspects of the manufacture, marketing, distribution, environmental policy, or product-stewardship practices concerning filtered cigarettes sold by Philip Morris.

74. Altria financially benefited from the manufacture and sale of Philip Morris filtered cigarette products, including products sold within New Mexico and Albuquerque.

75. Plaintiff seeks to hold Altria liable for its own acts and omissions and does not rely solely upon its ownership of Philip Morris.

C. Local Distributor Defendants

1. BSR Distributing, Inc., d/b/a Blue Sky Distributors

76. Defendant BSR Distributing, Inc., d/b/a Blue Sky Distributors (“Blue Sky”), is a corporation organized under the laws of the State of New Mexico, with its principal place of business located at 8724 Alameda Park Dr. NE, Suite F, Albuquerque, New Mexico.

77. At all relevant times, Blue Sky distributed, marketed, supplied, and sold filtered cigarette products within Plaintiff’s jurisdiction, including products manufactured by one or more of the Manufacturer Defendants.

78. Blue Sky is and at all relevant times was engaged in the regular business of purchasing, marketing, warehousing, distributing, supplying, and selling filtered cigarette products throughout Plaintiff’s jurisdiction as an integral participant in the commercial distribution chain through which those products reached retailers and consumers.

79. At all relevant times, Blue Sky purchased filtered cigarette products from one or more of the manufacturers and distributed those products to convenience stores, grocery stores,

pharmacies, tobacco retailers, gas stations, and other retail establishments serving Plaintiff's jurisdiction. Blue Sky regularly supplied retailers throughout Plaintiff's jurisdiction with substantial quantities of filtered cigarette products.

80. Blue Sky was a substantial participant in the chain of distribution through which filtered cigarette products were introduced into Plaintiff's jurisdiction and made continuously available for retail sale throughout the municipality.

81. Blue Sky derived substantial revenue and economic benefit from the distribution and sale of filtered cigarette products within Plaintiff's jurisdiction.

82. Upon information and belief, Blue Sky knew or reasonably should have known that filtered cigarette products were routinely consumed within Plaintiff's jurisdiction, that cigarette filters were ordinarily discarded immediately following consumption, and that discarded cigarette filters routinely accumulated upon municipal property and within municipal stormwater systems.

83. Upon information and belief, Blue Sky further knew or reasonably should have known that discarded cigarette filters routinely accumulate upon streets, sidewalks, parks, public rights-of-way, stormwater infrastructure, waterways, and other municipal property within the communities in which the products were distributed and sold, requiring a municipal response.

84. Although Blue Sky did not design or manufacture the cigarette filters at issue, it knowingly participated in placing substantial quantities of filtered cigarette products into Plaintiff's jurisdiction and materially contributed to the volume, density, and geographic distribution of discarded cigarette filters accumulating upon municipal property.

85. Upon information and belief, Blue Sky continued distributing filtered cigarette products within Plaintiff's jurisdiction despite the readily observable and widely recognized

accumulation of discarded cigarette filters throughout the communities it served and despite the foreseeable municipal burdens resulting from that continuing accumulation.

86. Blue Sky profited from the continued distribution and sale of filtered cigarette products while materially contributing to the continuing municipal harms alleged in this Complaint.

87. Blue Sky's conduct was a substantial factor in causing the recurring physical invasion of Plaintiff's property and the resulting injuries alleged herein by continuously supplying filtered cigarette products into Plaintiff's jurisdiction and thereby materially contributing to the ongoing accumulation of discarded cigarette filters upon municipal property.

III. AGENCY/JOINT VENTURE

88. At all relevant times, each Defendant acted individually. Plaintiff alleges concerted or coordinated conduct concerning product design and manufacture only as to the Manufacturer Defendants. To the extent any Defendant acted through a parent corporation, subsidiary, affiliate, distributor, agent, servant, employee, representative, or other intermediary, such acts were authorized, directed, ratified, or otherwise undertaken within the course and scope of that relationship.

89. At all relevant times, the Manufacturer Defendants rendered substantial assistance and encouragement to one another in connection with the design, manufacture, and placement into the stream of commerce of filtered cigarette products incorporating persistent cellulose acetate plastic filters. Each Manufacturer Defendant knew or reasonably should have known that the conduct described herein would foreseeably contribute to the continuing accumulation of cigarette filter waste on public property and to the injuries alleged in this Complaint.

90. To the extent the evidence establishes an agency relationship as to any Defendant, or concerted action, joint enterprise, aiding and abetting, or another basis for derivative liability among one or more Manufacturer Defendants, Plaintiff alleges such liability in the alternative.

91. Specifically, upon information and belief, one or more Manufacturer Defendants entered into discrete joint undertakings concerning the research, design, manufacture, marketing, or distribution of filtered cigarette products. Within each such undertaking, the participating Manufacturer Defendants combined money, property, or time, agreed to share the profits and losses attributable to the particular undertaking, and exercised a right of mutual control over the matters jointly undertaken.

92. To the extent proved, the Manufacturer Defendants that participated in any such undertaking engaged in a joint venture under New Mexico law. *See Quirico v. Lopez*, 1987-NMSC-070, ¶ 9, 106 N.M. 169 (“A joint venture is formed when the parties agree to combine their money, property or time for conducting a particular business venture and agree to share jointly in profits and losses, with the right of mutual control over the business enterprise or over the property.”).

IV. STATUTE OF LIMITATIONS

93. The wrongful conduct alleged herein constitutes a continuing nuisance, continuing trespass, and continuing injury under New Mexico law.

94. Defendants continue to design, manufacture, market, distribute, promote, and sell filtered cigarettes incorporating non-biodegradable cellulose acetate plastic filters within the City of Albuquerque and throughout the State of New Mexico.

95. As a direct and foreseeable result of Defendants' continuing conduct, persistent plastic cigarette filter waste is repeatedly deposited upon Plaintiff's streets, sidewalks, parks, public

rights-of-way, storm drains, catch basins, engineered arroyos, drainage channels, Municipal Separate Storm Sewer System ("MS4"), public facilities, and other municipal property.

96. Storm events routinely transport discarded cigarette filters into Plaintiff's municipal stormwater system, where they accumulate within storm drains, drainage channels, engineered arroyos, and related infrastructure.

97. The continual accumulation of cigarette filters interferes with the operation and use of Plaintiff's municipal property and infrastructure and requires ongoing inspection, maintenance, removal, transportation, disposal, and abatement by Plaintiff.

98. Each sale, distribution, use, and foreseeable disposal of filtered cigarette products within Albuquerque contributes to the continuing physical invasion of Plaintiff's property and the continuing interference with Plaintiff's proprietary interests.

99. Plaintiff seeks recovery of all damages, response costs, investigation costs, cleanup expenses, maintenance costs, removal costs, disposal costs, remediation costs, abatement costs, restitution, and all other relief recoverable within the applicable limitations period.

100. Plaintiff also seeks prospective equitable and injunctive relief necessary to abate the continuing physical condition, recurring property invasion, and interference alleged herein.

101. To the extent any Defendant contends that particular conduct occurred outside an applicable limitations period, Plaintiff independently seeks recovery for all injuries, damages, and municipal expenditures incurred within the applicable statutory period.

102. Allegations concerning historical conduct are pleaded as evidence of Defendants' knowledge, notice, intent, feasibility of alternative measures, corporate decision-making, foreseeability, and the continuity of Defendants' later conduct. Plaintiff seeks monetary recovery

only to the extent permitted by applicable law for injuries and expenditures legally recoverable by Plaintiff.

V. JURISDICTION AND VENUE

103. The claims asserted herein belong independently to Plaintiff and arise from injuries to property, infrastructure, and proprietary interests owned or exclusively possessed by Plaintiff and from expenditures incurred directly by Plaintiff. Plaintiff does not seek to recover claims or damages belonging to another governmental entity or third party. Plaintiff reserves all rights concerning any defense asserted against those independently owned claims.

104. This Court has subject matter jurisdiction over this action pursuant to Article VI, Section 13 of the Constitution of the State of New Mexico and the laws governing the jurisdiction of the District Courts of New Mexico.

105. Plaintiff asserts the causes of action pleaded herein exclusively under New Mexico common law and equitable principles. Plaintiff does not assert a statutory public-nuisance cause of action under NMSA 1978, Sections 30-8-1 or 30-8-8.

106. Plaintiff asserts claims for public nuisance, continuing trespass, negligence, strict products liability, restitution, unjust enrichment, equitable indemnity, equitable abatement, and such additional claims as are set forth herein.

107. Plaintiff asserts no cause of action arising under federal law.

108. References in this Complaint to federal statutes, regulations, permits, the Clean Water Act, the National Pollutant Discharge Elimination System ("NPDES"), or Plaintiff's MS4 permit are included solely as factual background describing Plaintiff's ownership of municipal infrastructure, its regulatory responsibilities, and the damages it has sustained.

109. No federal question appears on the face of this Complaint.

110. No claim asserted herein requires the Court to determine the validity, adequacy, interpretation, or application of any federal tobacco-product standard, FDA marketing authorization, federal labeling or advertising requirement, or federal environmental determination. Plaintiff's entitlement to relief under New Mexico law does not depend upon proof that any Defendant violated federal law or that any federal regulatory determination was erroneous or inadequate.

111. Compliance or noncompliance with federal tobacco regulation is not pleaded as an element of any cause of action. Plaintiff's claims concern duties, injuries, causation, and remedies arising independently under New Mexico law.

112. Complete diversity of citizenship is absent on the face of this Complaint, including because Plaintiff and Defendant Santa Fe Natural Tobacco Company, Inc. are New Mexico citizens for purposes of diversity jurisdiction.

113. This Court has personal jurisdiction over each Defendant because each has purposefully availed itself of the privilege of conducting business within the State of New Mexico.

114. Defendants have designed, manufactured, marketed, promoted, distributed, supplied, and sold filtered cigarette products intended for purchase, use, and disposal within New Mexico, including within the City of Albuquerque.

115. Defendants placed their products into the stream of commerce with the expectation and intent that they would be purchased, consumed, and discarded within Albuquerque.

116. Defendants derive substantial revenue from the sale of filtered cigarette products within New Mexico and maintain continuous commercial relationships with distributors and retailers serving the Albuquerque market.

117. Defendants' conduct has foreseeably caused the continuing physical invasion of Plaintiff's property and the continuing nuisance, continuing trespass, and other injuries alleged in this Complaint.

118. Plaintiff's claims arise directly out of and relate to Defendants' New Mexico-directed conduct.

119. Each Defendant has transacted business within New Mexico, contracted to supply products within New Mexico, derived substantial revenue from the sale and distribution of filtered cigarette products within the State, and purposefully directed commercial activities toward Albuquerque and its residents.

120. The exercise of personal jurisdiction over each Defendant comports with the Constitutions of the United States and the State of New Mexico and with traditional notions of fair play and substantial justice.

121. Venue is proper in the Second Judicial District Court, Bernalillo County.

122. Plaintiff is located in Bernalillo County.

123. The injuries giving rise to this action occurred in Bernalillo County.

124. Plaintiff's streets, parks, public rights-of-way, storm drains, engineered arroyos, drainage channels, Municipal Separate Storm Sewer System ("MS4"), and other municipal property that are the subject of this action are situated within Bernalillo County.

125. Defendants have conducted business, distributed filtered cigarette products, and committed the acts and omissions giving rise to Plaintiff's claims within Bernalillo County.

VI. FACTUAL ALLEGATIONS

A. The Filtered Cigarette

126. The filtered cigarette is a consumer product designed, manufactured, marketed, distributed, and sold by Defendants for the purpose of being ignited, smoked, and discarded following ordinary use.

127. A filtered cigarette consists principally of three components: (a) a tobacco column containing processed tobacco; (b) a cigarette filter attached to one end of the tobacco column; and (c) a paper wrapper that binds the product together for consumer use.

128. The cigarette filter is a separate and distinct component of the filtered cigarette. Unlike the tobacco column, which is consumed during smoking, the filter remains substantially intact following ordinary use and is intended to be separated from the cigarette immediately after consumption.

129. For decades, Defendants have manufactured and sold billions of filtered cigarettes each year with filters composed primarily of cellulose acetate, a synthetic plastic polymer selected for its filtration characteristics, durability, manufacturability, and commercial suitability.

130. Because the cigarette filter is not consumed during smoking, every filtered cigarette manufactured and sold by Defendants necessarily generates a discarded filter immediately upon completion of its ordinary and intended use.

131. The generation of a discarded cigarette filter is not an unintended consequence, accidental occurrence, or misuse of the product. Rather, it is an inherent, foreseeable, and unavoidable result of the product's intended design and ordinary use.

132. Defendants have long known that every filtered cigarette placed into the stream of commerce will ultimately produce a discarded cigarette filter requiring disposal by the consumer.

133. Accordingly, the post-consumption management and ultimate disposition of discarded cigarette filters constitute an integral and foreseeable part of the lifecycle of every filtered cigarette manufactured, marketed, distributed, and sold by Defendants.

B. The Plastic Filter

134. The cigarette filters used in the overwhelming majority of filtered cigarettes sold in the United States are composed primarily of cellulose acetate, a synthetic plastic polymer manufactured through the chemical modification of cellulose and engineered to provide durability, structural integrity, and filtration characteristics during the smoking process.

135. Although cellulose acetate is derived from cellulose, the manufacturing process fundamentally alters the material into a synthetic plastic that does not biodegrade under ordinary environmental conditions. Instead of decomposing into naturally occurring organic matter, discarded cellulose acetate filters persist in the environment for extended periods, where they gradually fragment into progressively smaller plastic particles.

136. Exposure to sunlight, moisture, mechanical abrasion, and environmental conditions may cause discarded cigarette filters to crack, fray, discolor, or fragment. These processes constitute physical deterioration rather than biological decomposition and do not eliminate the underlying plastic material from the environment.

137. As discarded cigarette filters fragment, they generate increasingly smaller plastic particles, including microplastics, that may be dispersed by wind, stormwater runoff, surface waters, and other natural processes. The fragmentation of cellulose acetate therefore increases the distribution of plastic pollution rather than eliminating it.

138. In addition to their persistent plastic composition, discarded cigarette filters may retain residual tobacco, nicotine, heavy metals, and other chemical constituents absorbed during manufacture and ordinary consumer use. As a result, discarded cigarette filters are capable of introducing both persistent plastic pollution and associated contaminants into terrestrial and aquatic environments.

139. Defendants have long possessed knowledge concerning the composition, physical characteristics, environmental persistence, and post-consumption behavior of cellulose acetate cigarette filters, including their tendency to remain in the environment and fragment into smaller plastic particles following disposal.

140. Despite that knowledge, Defendants continued to design, manufacture, market, and distribute filtered cigarettes incorporating cellulose acetate filters without implementing feasible measures to eliminate or materially reduce the persistent plastic waste generated by the ordinary and intended use of their products.

141. The persistent plastic nature of cellulose acetate filters is a fundamental characteristic of the product selected, designed, manufactured, and placed into the stream of commerce by Defendants, and is a substantial factor contributing to the continuing municipal harms alleged in this Complaint.

C. The Intended Product Lifecycle

142. The ordinary and intended use of every filtered cigarette necessarily involves three sequential stages: (a) the manufacture and sale of a filtered cigarette incorporating a cellulose acetate filter; (b) the consumer's use of the product through smoking; and (c) the immediate separation and disposal of the cigarette filter following completion of the smoking process.

143. Unlike many consumer products that may remain in service for months or years, the useful life of a filtered cigarette is intentionally brief. Defendants designed the product so that, upon completion of its intended use, the tobacco column is consumed while the plastic cigarette filter remains as a separate waste product requiring disposal.

144. The generation of a discarded cigarette filter is therefore not an unintended consequence of product misuse, but an inevitable and inherent result of the product functioning exactly as designed.

145. Defendants have long known that consumers rarely retain used cigarette filters and that the ordinary and intended use of a filtered cigarette necessarily culminates in the immediate disposal of the filter at or near the location where the product is consumed.

146. Because Defendants manufacture and sell billions of filtered cigarettes annually, they have long understood that the ordinary and intended use of their products inevitably generates billions of discarded plastic cigarette filters requiring post-consumption management and disposal each year.

147. The post-consumption management of discarded cigarette filters is not an activity performed by Defendants. Instead, the foreseeable costs and burdens associated with collecting, removing, transporting, managing, and disposing of discarded cigarette filters have been externalized to municipalities, property owners, and the public.

148. Defendants have continued to design, manufacture, market, distribute, and sell filtered cigarettes despite their longstanding knowledge that the intended lifecycle of the product predictably results in the widespread generation of persistent plastic waste throughout municipal environments.

149. The municipal harms alleged in this Complaint arise not from an isolated misuse of Defendants' products, but from the foreseeable and intended lifecycle of the filtered cigarette itself, which necessarily produces a discarded plastic filter upon completion of every ordinary use.

D. The Foreseeable Disposal Pathway

150. For decades, Defendants have known that the statistically dominant post-consumption disposition of cigarette filters is immediate disposal into the surrounding environment rather than retention, recycling, or placement into an appropriate waste receptacle.

151. Numerous scientific studies, governmental reports, industry publications, and Defendants' own research have consistently recognized that discarded cigarette filters constitute the single most commonly littered consumer product worldwide and are deposited in enormous quantities upon streets, sidewalks, parks, beaches, public rights-of-way, stormwater infrastructure, waterways, and other public and private property.

152. The widespread environmental deposition of discarded cigarette filters is neither random nor extraordinary. Rather, it is the foreseeable, recurring, and statistically predominant consequence of the ordinary and intended use of filtered cigarettes.

153. Defendants have long monitored consumer smoking behavior, product usage patterns, post-consumption disposal practices, and litter studies. Through those efforts, Defendants knew or reasonably should have known that a substantial percentage of consumers discard cigarette filters onto the ground immediately following use and that such disposal behavior has remained persistent over time.

154. Defendants further knew or reasonably should have known that discarded cigarette filters deposited upon streets, sidewalks, parking lots, parks, and other developed areas are

routinely transported by wind, precipitation, and stormwater runoff into municipal drainage systems, stormwater infrastructure, streams, rivers, lakes, coastal waters, and other receiving waters.

155. The widespread accumulation of discarded cigarette filters upon municipal property and within municipal stormwater systems is therefore not the result of isolated acts of consumer misconduct. It is the predictable and statistically dominant consequence of placing billions of filtered cigarettes into the stream of commerce each year.

156. Because this disposal pathway has been well known for decades, Defendants have long been able to anticipate that municipalities would bear the recurring burdens and costs of collecting, removing, transporting, managing, and disposing of discarded cigarette filters deposited throughout municipal environments.

157. Despite possessing that knowledge, Defendants continued to manufacture, market, distribute, and sell filtered cigarettes incorporating persistent plastic filters without adopting reasonable measures to materially reduce the predictable generation and environmental accumulation of discarded cigarette filters.

158. The foreseeable disposal pathway for cigarette filters is a direct, foreseeable, and substantial cause of the continuing physical invasion of Plaintiff's property, the contamination of municipal stormwater systems, and the municipal expenditures and other injuries alleged in this Complaint.

E. Defendants' Longstanding Knowledge of the Foreseeable Disposal Pathway

159. Defendants have not been surprised by the widespread accumulation of discarded cigarette filters upon streets, sidewalks, parks, beaches, stormwater systems, waterways, and other

public property. For decades, Defendants have studied the post-consumption disposition of cigarette filters, recognized the environmental persistence of cellulose acetate filters, evaluated consumer disposal behavior, and assessed the regulatory, commercial, and legal implications associated with discarded cigarette filters.

160. Beginning no later than the 1970s, Defendants and their trade organizations undertook extensive internal research concerning cigarette filter litter, environmental degradation, consumer disposal practices, and the increasing public concern regarding the accumulation of discarded cigarette filters throughout the environment. Those efforts included engineering studies, scientific research, strategic planning documents, market research, environmental assessments, and coordinated industry initiatives.

161. Defendants recognized that the widespread environmental deposition of discarded cigarette filters was not an isolated or sporadic occurrence, but a recurring and foreseeable consequence of the ordinary and intended use of filtered cigarettes. Defendants further understood that discarded cigarette filters routinely accumulated on streets, sidewalks, beaches, parks, and other public property and were transported through municipal stormwater systems into rivers, lakes, coastal waters, and other receiving waters.

162. Internal industry documents further demonstrate that Defendants recognized discarded cigarette filters as a growing environmental issue that threatened increased governmental regulation, environmental legislation, taxation, and public criticism of the tobacco industry. Defendants therefore devoted substantial resources to evaluating both the environmental

consequences of discarded cigarette filters and the potential business implications arising from those consequences.²

163. Defendants likewise recognized that cellulose acetate cigarette filters persisted in the environment for extended periods of time and that the ordinary disposal of cigarette filters presented continuing aesthetic, operational, and environmental problems for municipalities and other governmental entities. Internal engineering memoranda acknowledged that discarded cigarette filters created nuisance conditions upon streets and beaches and contributed to clogging and operational impacts affecting public wastewater and drainage infrastructure.³

164. Defendants further recognized that they could not realistically control the locations where consumers discarded cigarette filters following ordinary use. Internal engineering documents acknowledged that smoker disposal behavior could not be reliably controlled and concluded that meaningful reduction of the environmental consequences associated with discarded cigarette filters necessarily required consideration of changes to the product itself rather than reliance solely upon consumer conduct.⁴

165. Throughout the following decades, Defendants continued to investigate cigarette filter litter through consumer research, engineering studies, environmental investigations, product development initiatives, and strategic planning efforts. Those investigations included studies of smoker disposal behavior, environmental persistence, biodegradable filter technologies, alternative filter materials, environmentally oriented product concepts, portable disposal devices, and other measures intended to address the foreseeable accumulation of discarded cigarette filters.

² Dube, M. F., & R&D Department. (2005, March 1). A review of cigarette filter degradability (Document ID: ADFFLAV2005 060). Truth Tobacco Industry Documents, University of California, San Francisco.
<https://www.industrydocuments.ucsf.edu/docs/zqbk0228/>

³ Luke, J. (1991, September 20). Degradability of filter materials and plastics packaging (Document ID: pzxf0211) [Report]. Truth Tobacco Industry Documents, University of California, San Francisco.
<https://www.industrydocuments.ucsf.edu/docs/pzxf0211/>

⁴ Id.

166. Defendants' extensive and continuing research confirms that the environmental accumulation of discarded cigarette filters was not an unforeseen consequence of filtered cigarettes, but rather a well-understood characteristic of the products' ordinary, intended, and foreseeable lifecycle.

F. Defendants' Internal Research and Corporate Decision-Making

167. Defendants did not merely recognize the environmental accumulation of discarded cigarette filters. Over a period spanning decades, Defendants devoted substantial scientific, engineering, marketing, and financial resources to studying the problem, evaluating potential responses, and assessing the impact of cigarette filter waste upon the tobacco industry's commercial interests.

168. Internal research programs included investigations into the environmental persistence of cellulose acetate filters, the development of biodegradable and degradable filter materials, alternative filter designs, modified filter components, environmentally-oriented cigarette concepts, smoker disposal behavior, portable disposal devices, public education initiatives, and other measures intended to address the accumulation of discarded cigarette filters following ordinary consumer use.

169. Defendants' internal documents further demonstrate that they evaluated the commercial feasibility, consumer acceptance, manufacturing implications, regulatory consequences, and competitive effects associated with alternative filter technologies and environmentally-oriented product modifications before making business decisions concerning whether such alternatives would be implemented.

170. Defendants likewise evaluated the increasing public concern regarding discarded cigarette filters, monitored proposed legislation and regulatory initiatives concerning cigarette filter waste, assessed potential environmental taxation and cleanup obligations, and developed coordinated corporate strategies for responding to those emerging issues.

171. In 1979, the Tobacco Institute issued guidance in a document titled "Litter (A Proposal for TI Policy)," stating: "Our best course of action may be maintaining a low profile while working to exempt cigarettes from coverage of pending litter control legislation."⁵

172. Internal strategic planning documents recognized that discarded cigarette filters had become one of the most visible forms of environmental litter and acknowledged that increasing public concern regarding cigarette filter waste presented a potential threat to cigarette sales, public acceptance of smoking, and future governmental regulation. Rather than treating cigarette filter waste solely as a consumer conduct issue, Defendants analyzed its implications for product development, governmental affairs, public relations, and long-term corporate planning. (RJR strategic planning documents; Tobacco Institute policy papers.)

173. Defendants also evaluated whether modifications to cigarette filters and related product components could reduce the environmental persistence of discarded cigarette filters or otherwise lessen the environmental impacts associated with filtered cigarettes. Those evaluations included research into biodegradable filter materials, modified cellulose acetate compositions, alternative filter structures, and other product design concepts intended to reduce environmental persistence.⁶

⁵ Landman, A., Peterson, J. R., Christopher, H., Crohn, M. H., Sustana, R., & Edelman. (1999, December 24). Letters about social acceptability of smoking and "litter" (A proposal for TI Policy) (Document ID: qrhp0219). Truth Tobacco Industry Documents, University of California, San Francisco.
<https://www.industrydocuments.ucsf.edu/docs/qrhp0219/>, p.3

⁶ R&D key programs. Developmental programs (1995, August 10) (Document ID: qgcm0221) [Internal report and email correspondence]. Truth Tobacco Industry Documents, University of California, San Francisco.
<https://www.industrydocuments.ucsf.edu/docs/qgcm0221/>

174. Defendants' internal research further demonstrated that they understood the practical limitations of relying solely upon smoker education and voluntary disposal campaigns. Defendants investigated portable ashtrays, public education programs, anti-litter campaigns, and other behavioral initiatives while simultaneously recognizing that smoker disposal behavior remained highly variable and that discarded cigarette filters would continue to accumulate throughout the environment as a foreseeable consequence of ordinary product use.

175. For example, a survey conducted in 1996 reported that the overwhelming majority of smokers threw their smoked butts on the ground and that only about half had ever disposed of their butts in bins when outside.⁷

176. Despite the breadth of this research and the substantial corporate resources devoted to the issue, Defendants continued manufacturing and marketing filtered cigarettes incorporating persistent cellulose acetate filters while accepting the continuing environmental accumulation of discarded cigarette filters as an ordinary incident of their business operations. An industry document states that the cost of adopting a more degradable filter would be two hundredths of a penny per pack.⁸ Despite this, Defendants chose to shift the costs of the disposal and abatement of plastic filters to municipalities and other governmental entities.

177. Defendants' internal research and strategic planning demonstrate that the environmental accumulation of discarded cigarette filters was not an unforeseen or accidental consequence of their products. Rather, it was a well-understood condition that Defendants

⁷ Tidy Britain Group. (1996, March). Attitudes towards cigarette disposal outdoors; N403 (Document ID: nff0090) [Report data and charts]. Truth Tobacco Industry Documents, University of California, San Francisco. <https://www.industrydocuments.ucsf.edu/docs/nff0090/>

⁸ Philip Morris. (2004, November 18). Marlboro product quality.ppt (Document ID: glcb0219) [PowerPoint slides, email attachment]. Philip Morris Records, Master Settlement Agreement, Truth Tobacco Industry Documents, University of California, San Francisco. <https://www.industrydocuments.ucsf.edu/docs/glcb0219/>, p. 10

repeatedly studied, evaluated, and addressed through corporate planning while continuing to manufacture, market, distribute, and sell filtered cigarettes incorporating persistent plastic filters.

G. Defendants' Deliberate Business Decisions

178. The continued manufacture, marketing, distribution, and sale of filtered cigarettes incorporating cellulose acetate filters were not the result of inadvertence, accident, or a lack of available information. Rather, they were the product of deliberate and continuing business decisions made after decades of internal research, engineering evaluations, environmental studies, consumer research, and strategic planning concerning the foreseeable accumulation of discarded cigarette filters.

179. Defendants possessed the scientific knowledge, engineering capability, manufacturing expertise, financial resources, and organizational capacity to investigate and evaluate product modifications, alternative filter technologies, biodegradable materials, and other measures intended to reduce the environmental persistence and municipal impacts of discarded cigarette filters.

180. Defendants likewise evaluated non-design measures, including public education campaigns, smoker disposal initiatives, portable ashtrays, permanent receptacles, product stewardship concepts, governmental relations strategies, and legislative initiatives directed toward cigarette filter waste. Those efforts confirmed Defendants' understanding that discarded cigarette filters would continue to accumulate throughout the environment as a foreseeable consequence of the ordinary use of filtered cigarettes.

181. Internal strategic planning documents further demonstrate that Defendants viewed cigarette filter waste not simply as an environmental issue, but as a matter affecting future

regulation, taxation, public acceptance of smoking, and the long-term commercial interests of the tobacco industry. Defendants therefore devoted substantial corporate resources to monitoring legislative developments, coordinating industry responses, and evaluating the business implications of cigarette filter litter while continuing to market the same persistent plastic filter.⁹

182. Although Defendants investigated numerous potential responses—including alternative filter technologies, biodegradable materials, portable ashtrays, public education campaigns, and other environmental initiatives—their internal research also acknowledged the practical limitations of relying upon consumer disposal behavior alone. Defendants nevertheless continued to manufacture and market filtered cigarettes incorporating persistent cellulose acetate filters while transferring the foreseeable costs of their products' post-consumption lifecycle to municipalities and other public entities.

183. The continuation of Defendants' existing product design and marketing practices was therefore not the product of ignorance or a lack of available information. Rather, it reflected deliberate business decisions made after decades of scientific research, engineering evaluations, environmental investigations, consumer studies, and strategic planning concerning the foreseeable accumulation of discarded cigarette filters and the resulting burdens imposed upon municipalities.

184. Defendants' deliberate business decisions, undertaken with longstanding knowledge of the ordinary, intended, and foreseeable post-consumption disposal pathway of filtered cigarettes, constitute a substantial factual basis for the claims asserted in this Complaint.

185. The continuing manufacture, distribution, marketing, promotion, and sale of filtered cigarettes by Defendants continuously replenishes the supply of discarded cigarette filters

⁹ Philip Morris USA. (2001, May 28). PMUSA public place smoking policy & planning meeting 20010528 - 20010529 working notes (Document ID: zkkn0178). Truth Tobacco Industry Documents, University of California, San Francisco. <https://www.industrydocuments.ucsf.edu/docs/zkkn0178/>

entering Plaintiff's municipality, such that municipal removal efforts cannot permanently eliminate the condition so long as Defendants continue introducing the challenged products into the stream of commerce.

H. Feasible Measures to Reduce the Municipal Harm

186. Throughout the period relevant to this action, Defendants possessed the technical expertise, engineering capability, scientific knowledge, manufacturing resources, and financial capacity to investigate and evaluate measures capable of materially reducing the municipal harms associated with discarded cigarette filters.

187. Defendants' own research and development programs included investigations into biodegradable filter materials, modified cellulose acetate formulations, alternative filter components, environmentally-oriented cigarette concepts, revised filter construction, modified tipping papers, alternative wrapping materials, and other engineering approaches directed toward reducing the environmental persistence of discarded cigarette filters.

188. Defendants likewise investigated non-design measures intended to reduce the accumulation of discarded cigarette filters within the environment, including portable ashtrays, permanent receptacles, smoker disposal campaigns, environmental education initiatives, product stewardship concepts, and other post-consumption management strategies.

189. Internal engineering documents acknowledged that meaningful reduction of the environmental consequences associated with discarded cigarette filters required consideration of changes to the product itself, recognizing that smoker disposal behavior could not realistically be controlled through voluntary efforts alone.

190. Defendants further evaluated consumer acceptance, manufacturing feasibility, commercial implications, and regulatory considerations associated with environmentally-oriented product modifications and alternative filter technologies before determining whether such measures would be implemented.

191. The existence of these research programs and engineering evaluations demonstrates that feasible measures to materially reduce the persistence and municipal impacts of discarded cigarette filters were neither speculative nor unknown to Defendants. Rather, Defendants themselves devoted substantial resources over a period of decades to investigating those measures.

192. Despite possessing the capability to investigate and implement measures capable of materially reducing the municipal harms associated with discarded cigarette filters, Defendants continued to manufacture, market, distribute, and sell filtered cigarettes incorporating persistent cellulose acetate filters while transferring the foreseeable costs of their products' post-consumption lifecycle to municipalities and other public entities.

193. Plaintiff does not allege that any single engineering modification or stewardship initiative would have completely eliminated discarded cigarette filters or the resulting municipal harms. Rather, Plaintiff alleges that Defendants possessed and investigated numerous feasible opportunities to materially reduce those harms yet elected to continue marketing substantially the same persistent plastic filter while externalizing the resulting burdens.

I. The Municipal Consequences of Defendants' Conduct

194. As a direct, natural, and foreseeable consequence of Defendants' continuing manufacture, marketing, distribution, and sale of filtered cigarettes incorporating persistent cellulose acetate filters, discarded cigarette filters accumulate upon and within streets, sidewalks,

parks, public rights-of-way, public facilities, stormwater infrastructure, drainage systems, and other property that Plaintiff owns or exclusively possesses.¹⁰

195. The accumulation of discarded cigarette filters is neither isolated nor incidental. It is a recurring condition resulting from the ordinary, intended, and foreseeable post-consumption lifecycle of filtered cigarettes and requires Plaintiff to respond on a continuing basis through its public works, sanitation, parks, streets, stormwater, environmental, and other municipal operations.

196. Discarded cigarette filters deposited upon municipal streets, sidewalks, parking areas, and other impervious surfaces are routinely transported by wind, rainfall, and stormwater runoff into gutters, catch basins, storm drains, culverts, detention facilities, drainage channels, and other components of Plaintiff's municipal stormwater system before ultimately entering creeks, rivers, lakes, and other receiving waters.

197. The persistent plastic composition of cellulose acetate filters allows discarded cigarette filters to remain within the municipal environment for extended periods, where they physically accumulate upon municipally owned property, interfere with the intended functioning of municipal infrastructure, contribute to hydraulic obstruction and contamination, require continuing removal, and contribute to the degradation of municipal infrastructure and public spaces.

198. Plaintiff must continually devote personnel, equipment, facilities, and financial resources to investigate, monitor, collect, remove, transport, handle, manage, and dispose of discarded cigarette filters physically deposited upon or within its property and infrastructure.

¹⁰ Schneider, J. E., Scheibling, C. M., Peterson, N. A., et al. (2020). Online simulation model to estimate the total costs of tobacco product waste in large U.S. cities. *International Journal of Environmental Research and Public Health*, 17(13), 4705. <https://doi.org/10.3390/ijerph17134705>

199. Defendants' conduct has required Plaintiff to incur direct and incremental expenditures to inspect, investigate, monitor, maintain, repair, restore, rehabilitate, and protect municipally owned property and infrastructure physically affected by discarded cigarette filters. These expenditures are separate from litigation expenses and from generalized costs of government.

200. Plaintiff has sustained continuing physical injury to and interference with municipally owned or exclusively possessed property and infrastructure and therefore incurs continuing property-related response expenditures.

201. Plaintiff also incurs direct environmental-response, inspection, engineering, and operational expenses to the extent those expenses are reasonably attributable to the physical presence of discarded cigarette filters upon or within its property and infrastructure.

202. The municipal consequences alleged herein are continuing and cumulative. Each additional filtered cigarette manufactured, marketed, distributed, and sold by Defendants foreseeably contributes to the continuing physical condition affecting Plaintiff's property and infrastructure.

203. Plaintiff seeks recovery solely for physical injury to and interference with its own municipally owned or exclusively possessed property and infrastructure and for direct, reasonable, and incremental costs incurred to address that condition. Plaintiff does not seek recovery for generalized governmental expenditures or for personal injuries allegedly sustained by individual smokers or members of the public.

J. Continuing Physical Presence of Discarded Cigarette Filters on Municipal Property

204. The discarded cigarette filters generated by Defendants' products do not disappear upon consumption. Rather, they remain physically present throughout Plaintiff's municipality until collected, removed, transported, and disposed of through continuing municipal efforts or natural forces.

205. As a direct and foreseeable consequence of Defendants' continuing manufacture, marketing, distribution, and sale of filtered cigarettes, discarded cigarette filters repeatedly accumulate upon and within streets, sidewalks, parks, public rights-of-way, stormwater facilities, drainage systems, and other property that Plaintiff owns or exclusively possesses.

206. The physical accumulation of discarded cigarette filters upon municipal property is continuous. Municipal collection and cleanup efforts temporarily remove some discarded cigarette filters, but those efforts are immediately offset by the continual generation and deposition of additional discarded cigarette filters resulting from the ongoing sale, consumption, and disposal of filtered cigarettes.

207. The continuing presence of discarded cigarette filters interferes with Plaintiff's possession and use of its municipal property and infrastructure and requires direct and incremental expenditures to locate, collect, remove, transport, manage, and dispose of the filters.

208. The accumulation of discarded cigarette filters likewise interferes with the intended operation of Plaintiff's stormwater infrastructure by contributing to the physical accumulation of debris within gutters, catch basins, storm drains, culverts, drainage channels, detention facilities, and related municipal infrastructure requiring continuing inspection, maintenance, and cleaning.

209. Because cellulose acetate cigarette filters persist within the environment for extended periods of time, the physical presence of discarded cigarette filters upon municipal

property is not self-correcting. Instead, the condition persists absent continuing municipal intervention.

210. Each additional filtered cigarette manufactured, marketed, distributed, and sold by Defendants foreseeably contributes to the continuing physical accumulation of discarded cigarette filters upon Plaintiff's property and within its infrastructure.

211. The continuing physical presence of discarded cigarette filters upon Plaintiff's property constitutes a recurring condition arising from the ordinary, intended, and foreseeable post-consumption lifecycle of Defendants' products and forms the factual basis for the claims asserted in this Complaint.

K. Continuing Municipal Response and Abatement Costs

212. As a direct, natural, and foreseeable consequence of Defendants' conduct, Plaintiff has incurred and continues to incur direct, reasonable, and incremental expenditures responding to the physical accumulation of discarded cigarette filters upon or within its property and infrastructure.

213. Those expenditures include, without limitation, the costs of investigating, monitoring, inspecting, collecting, removing, transporting, handling, managing, and disposing of discarded cigarette filters deposited upon municipal property and within Plaintiff's stormwater infrastructure.

214. Plaintiff further incurs direct expenditures to repair, restore, rehabilitate, maintain, clean, and operate municipal property and infrastructure that it owns or exclusively possesses and that is physically affected by the continuing accumulation of discarded cigarette filters.¹¹

215. Plaintiff likewise devotes personnel, equipment, vehicles, facilities, and engineering resources directly to responding to discarded cigarette filters physically present upon or within its property and infrastructure.

216. Plaintiff does not seek generalized planning, regulatory, public-education, administrative, or other costs of government. It seeks only those direct and incremental expenses legally recoverable because they were reasonably incurred to respond to physical injury to or interference with Plaintiff's property and infrastructure.

217. Defendants' conduct has required Plaintiff to incur direct and incremental property-response expenditures to inspect, monitor, repair, restore, maintain, and protect municipally owned or exclusively possessed property physically affected by discarded cigarette filters.

218. Because Defendants continue to manufacture, market, distribute, and sell filtered cigarettes incorporating persistent cellulose acetate filters, Plaintiff reasonably anticipates that the physical condition will continue absent effective equitable abatement.

219. The property-response costs alleged herein were not voluntarily assumed. They are direct and incremental expenditures reasonably incurred because of the physical accumulation of Defendants' products upon or within property and infrastructure that Plaintiff owns or exclusively possesses.

¹¹ Schneider, J. E., Scheibling, C. M., Peterson, N. A., et al. (2020). Online simulation model to estimate the total costs of tobacco product waste in large U.S. cities. *International Journal of Environmental Research and Public Health*, 17(13), 4705. <https://doi.org/10.3390/ijerph17134705>

220. Plaintiff seeks recovery of legally recoverable past and present direct property-related response costs, together with prospective equitable relief necessary to abate the continuing condition.

VII. CAUSES OF ACTION

COUNT I

Common-Law Public Nuisance

221. Plaintiff realleges and incorporates by reference each preceding allegation of this Complaint as though fully set forth herein.

222. This Count is asserted under New Mexico common law. A common-law public nuisance is an unreasonable interference with a right common to the general public.

223. Through their design, manufacture, marketing, distribution, and sale of filtered cigarettes incorporating persistent cellulose acetate plastic filters, Defendants created, contributed to, participated in, and substantially assisted in creating the continuing condition alleged herein.

224. Defendants continued those activities despite their longstanding knowledge of the ordinary, intended, and foreseeable post-consumption disposal pathway of filtered cigarettes.

225. As a direct and foreseeable result of Defendants' conduct, discarded cigarette filters continuously accumulate upon Plaintiff's streets, sidewalks, parks, public rights-of-way, storm drains, catch basins, engineered arroyos, drainage channels, MS4 infrastructure, waterways, and other public property.

226. The continuing accumulation of discarded cigarette filters interferes with rights common to the public, including the safe, clean, efficient, and unobstructed use of public streets, parks, rights-of-way, stormwater infrastructure, waterways, and other public resources.

227. The condition created and contributed to by Defendants is substantial, unreasonable, and continuing.

228. The condition is not isolated or temporary. Defendants continue to manufacture, market, distribute, supply, and sell filtered cigarettes incorporating persistent cellulose acetate plastic filters within Albuquerque.

229. Each additional filtered cigarette placed into the stream of commerce foreseeably generates an additional discarded plastic filter and contributes to the continuing accumulation of cigarette filter waste throughout Albuquerque.

230. Discarded cigarette filters deposited upon streets, sidewalks, parking areas, and other surfaces are transported by wind, precipitation, and stormwater runoff into Plaintiff's storm drains, drainage channels, engineered arroyos, and other components of its MS4.

231. The accumulation of discarded cigarette filters within Plaintiff's municipal property and infrastructure interferes with Plaintiff's ownership, possession, maintenance, operation, management, and use of that property.

232. The nuisance requires Plaintiff to continually investigate, inspect, monitor, collect, remove, transport, manage, and dispose of discarded cigarette filters.

233. The nuisance further requires Plaintiff to maintain, clean, repair, and operate municipal property and stormwater infrastructure affected by the continuing accumulation of cigarette filter waste.

234. Plaintiff must devote personnel, equipment, administrative resources, and public funds to addressing the environmental, operational, and property-related consequences of the nuisance.

235. Plaintiff has suffered injuries different in kind from those sustained by the public generally because discarded cigarette filters physically accumulate upon and within property and infrastructure owned or exclusively possessed by Plaintiff.

236. Those special injuries include physical invasion of municipal property, interference with municipal infrastructure, increased maintenance and operational burdens, and expenditures incurred to investigate, remove, manage, and abate discarded cigarette filter waste.

237. Plaintiff seeks common-law nuisance damages only for its special injuries, including physical invasion of and interference with property and infrastructure it owns or exclusively possesses and the direct, incremental expenditures reasonably incurred to address that physical condition.

238. Plaintiff does not seek recovery under this Count for personal injuries, smoking-related disease, addiction, healthcare expenditures, or injuries allegedly sustained by individual smokers or members of the public.

239. Defendants knew or reasonably should have known that the ordinary and foreseeable use of filtered cigarettes would result in the recurring deposition of persistent plastic cigarette filters upon public property and within municipal stormwater systems.

240. Defendants further knew or reasonably should have known that municipalities such as Plaintiff would be required to bear the costs and operational burdens of responding to that condition.

241. Despite that knowledge, Defendants continued to place filtered cigarettes incorporating persistent cellulose acetate plastic filters into the stream of commerce without adopting feasible alternative designs or adequate measures to prevent, reduce, collect, or abate the resulting waste.

242. Defendants' conduct was a direct and proximate cause and a substantial factor in creating, contributing to, and maintaining the public nuisance alleged herein.

243. As a direct and proximate result of the public nuisance, Plaintiff has incurred and will continue to incur response costs, investigation expenses, monitoring costs, maintenance expenses, collection costs, transportation costs, disposal costs, operational expenses, property-related damages, and abatement costs.

244. The nuisance is continuing because Defendants' ongoing manufacture, distribution, and sale of filtered cigarettes continuously replenishes the supply of discarded plastic filters entering Albuquerque and accumulating upon Plaintiff's property and within its infrastructure.

245. Under New Mexico common law, Plaintiff is entitled to recover compensatory damages and direct, reasonable property-related response costs resulting from its special injuries, together with such other damages as are legally recoverable.

246. Plaintiff further seeks equitable abatement as a remedy ancillary to its common-law public-nuisance claim, including relief requiring each Defendant to undertake, fund, or otherwise bear responsibility for reasonable measures necessary to abate the continuing condition in proportion to that Defendant's proven contribution.

COUNT II

Continuing Trespass

247. Plaintiff realleges and incorporates by reference each and every preceding allegation of this Complaint as though fully set forth herein.

248. Plaintiff owns or exclusively possesses municipal property, including City-owned streets, sidewalks, parks, public rights-of-way, storm drains, catch basins, public facilities, and the

portions of the engineered arroyos, drainage channels, Municipal Separate Storm Sewer System ("MS4"), and other infrastructure that Plaintiff owns or exclusively possesses.

249. Under New Mexico law, a trespass occurs when a person intentionally causes a physical invasion of the property of another without authorization or legal privilege.

250. Through the design, manufacture, marketing, promotion, distribution, supply, and sale of filtered cigarettes incorporating persistent cellulose acetate plastic filters, Defendants intentionally placed into the stream of commerce products whose ordinary, intended, and foreseeable post-consumption lifecycle results in the recurring physical deposition of discarded cigarette filters upon Plaintiff's property.

251. Defendants knew, or reasonably should have known, that the ordinary, intended, and foreseeable use of filtered cigarettes would result in discarded cigarette filters being deposited upon municipal property and transported by wind, precipitation, stormwater runoff, and ordinary environmental conditions into Plaintiff's streets, parks, storm drains, engineered arroyos, drainage channels, and other municipal infrastructure.

252. The recurring physical invasion of Plaintiff's property is not the result of independent, extraordinary, or unforeseeable third-party conduct. Rather, it is the ordinary, intended, and inevitable consequence of Defendants' product design, their continued incorporation of persistent cellulose acetate plastic filters into cigarettes, and the manner in which Defendants know their products are consumed and discarded.

253. Defendants have long understood that cigarette filters are separated from the cigarette immediately after smoking and that a substantial percentage of those filters are discarded onto public property, where they are transported into municipal stormwater systems and other public infrastructure.

254. Despite that knowledge, Defendants have continued to manufacture, market, distribute, supply, and sell filtered cigarettes incorporating persistent plastic filters without adopting feasible alternative designs or implementing adequate product stewardship, collection, recovery, or abatement measures.

255. The discarded cigarette filters generated by Defendants' products physically enter, remain upon, and accumulate throughout Plaintiff's property without Plaintiff's authorization, permission, or consent.

256. The physical invasion of Plaintiff's property is continuous and recurring.

257. Municipal cleanup efforts remove only a portion of the accumulated cigarette filters.

258. Defendants' continuing manufacture, marketing, distribution, supply, and sale of filtered cigarettes continually replenishes the supply of discarded cigarette filters entering Plaintiff's property and infrastructure.

259. The discarded cigarette filters constitute tangible physical objects that invade, occupy, and remain upon Plaintiff's property.

260. The continuing physical accumulation of discarded cigarette filters interferes with Plaintiff's possession, control, operation, and use of the municipal property and infrastructure that it owns or exclusively possesses.

261. The continuing physical invasion requires Plaintiff to investigate, inspect, monitor, collect, remove, transport, manage, and dispose of discarded cigarette filters.

262. Plaintiff must also maintain, clean, repair, and operate municipal property and stormwater infrastructure affected by the continuing accumulation of discarded cigarette filters.

263. Defendants knew, or reasonably should have known, that municipalities such as Plaintiff would incur substantial costs responding to the continuing physical invasion created by their products.

264. The continuing physical presence of discarded cigarette filters upon property that Plaintiff owns or exclusively possesses constitutes a continuing trespass and a continuing invasion of Plaintiff's possessory property interests.

265. Defendants' conduct was a direct and proximate cause and a substantial factor in causing the continuing trespass alleged herein.

266. As a direct and proximate result of Defendants' continuing trespass, Plaintiff has sustained physical injury and interference with the use of property it owns or exclusively possesses and has incurred direct, reasonable, and incremental costs to inspect, monitor, collect, remove, transport, dispose of, repair, and remediate the physical condition of that property and infrastructure.

267. Unless enjoined or otherwise abated, Defendants' continuing conduct will result in additional recurring trespasses upon Plaintiff's property.

268. Plaintiff is entitled to recover compensatory damages for physical injury to and interference with property it owns or exclusively possesses, direct and reasonable property-response costs, and equitable or injunctive relief where authorized by law.

COUNT III

Negligence - Negligent Design, Testing, and Product Stewardship

269. Plaintiff realleges and incorporates by reference each and every preceding allegation of this Complaint as though fully set forth herein.

270. The Manufacturer Defendants owed Plaintiff a duty to use ordinary care in designing and testing their filtered cigarette products, to possess and apply the knowledge available to reasonably prudent cigarette manufacturers, and to design products that were reasonably safe in light of their ordinary, intended, and reasonably foreseeable use and post-consumption disposal. The Supplier Defendants owed Plaintiff a duty to use ordinary care to avoid foreseeable risks of injury caused by the condition of the products they supplied and the manner in which those products were reasonably expected to be used and discarded.

271. The Manufacturer Defendants knew, and the Supplier Defendants knew or in the exercise of reasonable care should have known, that the ordinary, intended, and foreseeable post-consumption lifecycle of filtered cigarettes results in the recurring accumulation of persistent cellulose acetate plastic filters upon municipal property and within municipal stormwater systems.

272. The Manufacturer Defendants and Supplier Defendants knew or reasonably should have known that discarded cigarette filters are routinely transported by wind, precipitation, stormwater runoff, and ordinary environmental conditions into Plaintiff's storm drains, engineered arroyos, drainage channels, Municipal Separate Storm Sewer System ("MS4"), and other municipal infrastructure.

273. The Manufacturer Defendants and Supplier Defendants knew or reasonably should have known that municipalities such as Plaintiff would foreseeably incur direct property-related costs to inspect, collect, remove, transport, manage, and dispose of discarded cigarette filters.

274. The Manufacturer Defendants and Supplier Defendants breached their respective duties of reasonable care, consistent with their roles in designing, manufacturing, distributing, supplying, or selling the products, by among other things:

- a. The Manufacturer Defendants' designing and manufacturing filtered cigarettes incorporating persistent cellulose acetate plastic filters despite longstanding knowledge of their foreseeable post-consumption disposal pathway;
- b. The Manufacturer Defendants' continuing to design and manufacture those products after acquiring extensive knowledge concerning the resulting municipal harms;
- c. The Manufacturer Defendants' failing to adopt feasible alternative filter designs, materials, technologies, or product modifications capable of materially reducing the persistent plastic waste generated by their products;
- d. The Manufacturer Defendants' failing to adequately research, evaluate, test, develop, or implement safer and environmentally responsible product designs despite possessing the knowledge and ability to do so;
- e. The Manufacturer Defendants' and Supplier Defendants' failing, within their respective roles and abilities, to implement reasonable product stewardship, collection, recovery, recycling, take-back, or abatement measures for discarded cigarette filters;
- f. The Manufacturer Defendants' and Supplier Defendants' failing, within their respective roles, to exercise reasonable care in evaluating the foreseeable burdens their products imposed upon municipal property, infrastructure, and stormwater systems; and
- g. The Manufacturer Defendants' and Supplier Defendants' continuing, within their respective roles, to externalize the foreseeable post-consumption lifecycle costs of their products onto Plaintiff despite possessing the ability to materially reduce those harms.

275. The Manufacturer Defendants' and Supplier Defendants' respective negligent acts and omissions created an unreasonable risk of foreseeable physical injury to Plaintiff's property and infrastructure.

276. The Manufacturer Defendants' and Supplier Defendants' negligence was a direct and proximate cause and a substantial factor in causing the continuing accumulation of discarded cigarette filters upon Plaintiff's property and within its infrastructure.

277. Plaintiff's injuries were the direct, natural, probable, and foreseeable consequence of Defendants' negligent conduct.

278. Plaintiff's injuries were not the result of extraordinary, superseding, or unforeseeable events.

279. Rather, the accumulation of discarded cigarette filters upon municipal property and within municipal stormwater infrastructure is the ordinary and reasonably foreseeable consequence of the Manufacturer Defendants' continued design and manufacture and the Supplier Defendants' continued distribution and supply of filtered cigarettes incorporating persistent cellulose acetate plastic filters.

280. As a direct and proximate result of the Manufacturer Defendants' and Supplier Defendants' negligence, Plaintiff has sustained physical injury and interference with its property and infrastructure and has incurred direct, reasonable, and incremental investigation, monitoring, maintenance, engineering, cleanup, collection, transportation, disposal, response, and abatement costs.

281. Plaintiff is entitled to recover compensatory damages, response costs, property damages, abatement costs, equitable relief where authorized by law, prejudgment and post-judgment interest where permitted, costs of suit, and all other relief available under New Mexico law.

282. Plaintiff pleads this negligence theory in the alternative to its strict products-liability claim and does not seek a duplicative recovery for the same injury.

COUNT IV

Strict Products Liability - Design Defect

283. Plaintiff realleges and incorporates by reference each preceding allegation of this Complaint as though fully set forth herein.

284. At all relevant times, the Manufacturer Defendants designed and manufactured filtered cigarettes incorporating cellulose acetate plastic filters. The Manufacturer Defendants and Supplier Defendants marketed, distributed, supplied, or sold those products.

285. The Manufacturer Defendants and Supplier Defendants were engaged in the business of putting the filtered cigarette products at issue on the market for use and consumption by the general public.

286. The Manufacturer Defendants and Supplier Defendants intended and expected that their filtered cigarette products would be smoked in the ordinary manner and that the cigarette filters would be separated from the cigarettes immediately following consumption.

287. The Manufacturer Defendants and Supplier Defendants further knew or reasonably should have expected that a substantial percentage of those discarded cigarette filters would be deposited upon streets, sidewalks, parks, public rights-of-way, parking areas, and other public property and thereafter transported by wind, precipitation, and stormwater runoff into municipal stormwater systems.

288. The cellulose acetate plastic filters incorporated into the products designed by the Manufacturer Defendants were defective because their design utilized persistent plastic materials that foreseeably remained in the environment long after disposal and created an unreasonable risk of physical injury to municipal property and infrastructure.

289. At the time the Manufacturer Defendants designed and manufactured the products, feasible and practical alternative designs, materials, technologies, or product modifications existed that would have materially reduced or eliminated the persistent plastic waste generated by filtered cigarettes.

290. Those alternative designs were technologically feasible and economically feasible.

291. Adoption of those alternative designs would not have impaired the intended function of the Manufacturer Defendants' products or imposed unreasonable costs upon them.

292. These allegations concerning alternative designs are pleaded solely as facts relevant to Plaintiff's state-law products-liability claims. Plaintiff does not allege that any Defendant was required to market a modified tobacco product without obtaining any federal authorization otherwise required by law, and adjudication of this claim does not require the Court to invalidate, modify, or assess the adequacy of any FDA authorization or federal tobacco-product standard.

293. The foreseeable risks posed by the Manufacturer Defendants' filter designs substantially outweighed any utility associated with continuing to utilize persistent cellulose acetate plastic filters.

294. The Manufacturer Defendants nevertheless elected to continue designing and manufacturing filtered cigarettes incorporating persistent cellulose acetate plastic filters, and the Supplier Defendants continued placing those products on the market, despite longstanding knowledge of the resulting municipal harms.

295. The defective design of those filtered cigarette products created an unreasonable risk of injury to municipal property, infrastructure, and proprietary interests, including those of Plaintiff.

296. The injuries alleged herein resulted from the ordinary, intended, and reasonably foreseeable use of the products designed by the Manufacturer Defendants and placed on the market by the Manufacturer Defendants and Supplier Defendants, including the foreseeable post-consumption disposal of the cigarette filters.

297. The recurring deposition of discarded cigarette filters upon Plaintiff's property was not the result of abnormal use, product misuse, or extraordinary intervening conduct.

298. Rather, the recurring accumulation of discarded cigarette filters upon Plaintiff's municipal property and within its stormwater infrastructure was the ordinary and reasonably foreseeable consequence of the Manufacturer Defendants' product design and the manner in which the Manufacturer Defendants and Supplier Defendants expected those products to be consumed and discarded.

299. As a direct and proximate result of the defective design, Plaintiff has sustained physical injury and interference with its municipal property and infrastructure and has incurred direct, reasonable, and incremental investigation, monitoring, maintenance, engineering, cleanup, collection, transportation, disposal, response, and abatement costs.

300. Plaintiff's injuries were proximately caused by the defective design of the products and not by any substantial alteration after the products left the possession of the Manufacturer Defendants and Supplier Defendants.

301. The Manufacturer Defendants and Supplier Defendants are strictly liable for the harm legally caused by the unreasonable risk of injury resulting from the defective design of the filtered cigarette products they placed on the market, even if they exercised all possible care.

302. Plaintiff is entitled to recover compensatory damages for physical injury to and interference with its property and infrastructure, direct and reasonable property-response costs, and all other relief available under New Mexico strict products-liability law.

COUNT V

Unjust Enrichment / Restitution

303. Plaintiff realleges and incorporates by reference each preceding allegation of this Complaint as though fully set forth herein.

304. Defendants have received substantial revenues, profits, and other financial benefits from the manufacture, marketing, distribution, and sale of filtered cigarettes incorporating persistent cellulose acetate plastic filters.

305. Defendants knowingly retained those revenues and profits while shifting the foreseeable costs of managing, collecting, removing, transporting, disposing of, and abating discarded cigarette filters to Plaintiff and other municipalities.

306. Defendants knew, or reasonably should have known, that municipalities would incur substantial costs responding to the persistent plastic waste generated by the ordinary and intended use of Defendants' products.

307. Defendants nevertheless continued to manufacture, market, distribute, and sell filtered cigarettes incorporating persistent cellulose acetate plastic filters without adopting feasible alternative designs or implementing adequate product stewardship, collection, recovery, recycling, take-back, or abatement measures.

308. By externalizing the foreseeable post-consumption lifecycle costs of their products, Defendants realized substantial economic benefits and avoided costs that otherwise would have been incurred in designing, manufacturing, marketing, selling, collecting, recovering, or responsibly managing their products.

309. Plaintiff has incurred, and continues to incur, substantial expenditures investigating, monitoring, collecting, removing, transporting, handling, disposing of, managing, and abating discarded cigarette filters from municipal property and infrastructure.

310. Those expenditures directly benefited Defendants by relieving them of costs and obligations that otherwise would have reduced the profitability of their filtered cigarette products.

311. Defendants have knowingly accepted and retained those benefits under circumstances that make it unjust and inequitable for Defendants to retain them without compensating Plaintiff.

312. Equity and good conscience require Defendants to disgorge the benefits unjustly retained as a result of their conduct.

313. As a direct and proximate result of Defendants' unjust enrichment, Plaintiff has suffered financial loss and has conferred measurable economic benefits upon Defendants through the assumption of costs Defendants knowingly avoided.

314. Plaintiff has no adequate remedy at law to prevent Defendants' continuing unjust retention of those benefits to the extent equitable relief is sought under this Court.

315. Plaintiff is entitled to restitution, disgorgement, equitable reimbursement, and such other equitable relief as the Court deems just and proper.

COUNT VI

Equitable Abatement Remedy

316. Plaintiff realleges and incorporates by reference each preceding allegation of this Complaint as though fully set forth herein. Plaintiff requests equitable abatement as a remedy for the common-law public nuisance alleged in Count I, not as an independent tort.

317. Defendants' conduct has created, contributed to, and continues to maintain the common-law public nuisance alleged in Count I, which unreasonably interferes with public rights and physically affects municipal property and infrastructure that Plaintiff owns or exclusively possesses.

318. Defendants continue to manufacture, market, promote, distribute, supply, and sell filtered cigarettes incorporating persistent cellulose acetate plastic filters despite their longstanding knowledge that the ordinary, intended, and foreseeable use of those products results in the recurring accumulation of discarded plastic cigarette filters upon municipal property and within municipal stormwater infrastructure.

319. As long as Defendants continue to manufacture and sell filtered cigarettes incorporating persistent cellulose acetate plastic filters without implementing effective corrective measures, additional discarded cigarette filters will continue to accumulate throughout Plaintiff's municipality.

320. Plaintiff has no adequate remedy at law to prevent the continuing and future accumulation of discarded cigarette filters upon its municipal property and infrastructure.

321. Monetary damages alone cannot eliminate the continuing physical invasion of Plaintiff's property or prevent Defendants from continuing to externalize the foreseeable post-consumption lifecycle costs of their products.

322. Plaintiff has been required, and will continue to be required, to expend substantial public funds investigating, monitoring, collecting, removing, transporting, handling, disposing of, managing, and abating discarded cigarette filters from streets, sidewalks, parks, public rights-of-way, storm drains, catch basins, engineered arroyos, drainage channels, Municipal Separate Storm Sewer System ("MS4") infrastructure, waterways, and other municipal property.

323. Absent equitable relief, Plaintiff will continue to incur substantial and recurring costs responding to the continuing accumulation of discarded cigarette filters generated by Defendants' products.

324. Equity requires that Defendants, rather than Plaintiff and its taxpayers, bear the costs of preventing, minimizing, managing, and abating the continuing harms caused by Defendants' products.

325. Plaintiff therefore seeks equitable relief ancillary to Count I requiring each Defendant to abate the continuing nuisance to the extent of that Defendant's proven contribution to the condition.

326. Such equitable relief may include, as determined by the Court after development of the evidentiary record, a court-supervised abatement program requiring Defendants, in proportion to their proven contributions, to undertake or fund reasonable measures to collect, remove, manage, and dispose of discarded cigarette filters; implement reasonable product-stewardship measures; and fund reasonable remediation measures necessary to eliminate or substantially reduce the continuing nuisance.

327. Plaintiff further requests that the Court retain jurisdiction to supervise and enforce any equitable abatement remedy ordered in this action and to ensure Defendants' continuing compliance with such relief.

328. Plaintiff respectfully requests that the Court enter judgment requiring Defendants, in proportion to their proven contributions, to undertake or fund the equitable abatement measures the Court determines necessary to remedy the continuing common-law public nuisance, together with such further equitable relief as the Court deems just and proper.

VIII. PUNITIVE DAMAGES

329. Plaintiff realleges and incorporates by reference each preceding allegation of this Complaint as though fully set forth herein.

330. For decades, the Manufacturer Defendants possessed extensive knowledge concerning the composition, environmental persistence, foreseeable post-consumption disposal, and municipal impacts of cellulose acetate cigarette filters.

331. The Manufacturer Defendants knew that the ordinary and intended use of filtered cigarettes necessarily resulted in discarded cigarette filters being deposited upon streets, sidewalks, parks, public rights-of-way, and other public property, where they would accumulate and be transported by wind, precipitation, and stormwater into municipal stormwater systems and other public infrastructure.

332. The Manufacturer Defendants, and each Supplier Defendant to the extent shown by the evidence, knew that municipalities, including Plaintiff, would foreseeably bear direct property-related costs of investigating, monitoring, collecting, removing, transporting, managing, disposing of, and abating the persistent plastic waste generated by the products.

333. Despite that knowledge, the Manufacturer Defendants deliberately continued to design and manufacture filtered cigarettes incorporating persistent cellulose acetate plastic filters while declining to adopt feasible alternative designs or reasonable product-stewardship measures. The Supplier Defendants continued to distribute, supply, or sell those products after acquiring knowledge of the foreseeable municipal harms alleged herein.

334. Upon information and belief, the Manufacturer Defendants consciously chose to continue externalizing the foreseeable post-consumption lifecycle costs of their products to municipalities and taxpayers to preserve or increase profits. Each other Defendant is alleged to have made that choice only to the extent its own conduct and knowledge support such an inference.

335. The Manufacturer Defendants' alleged conduct was not merely negligent. Rather, Plaintiff alleges that they acted willfully, wantonly, recklessly, and with conscious disregard for

Plaintiff's property rights. Punitive damages are sought from each Supplier Defendant or parent Defendant only for that Defendant's own culpable conduct and state of mind, as established by the evidence.

336. As to each corporate Defendant from which punitive damages are sought, the conduct was undertaken, authorized, participated in, or ratified by officers, directors, or managerial or policymaking agents acting within the scope of their authority; alternatively, the cumulative conduct of such agents demonstrates the requisite corporate culpable state of mind.

337. Plaintiff is therefore entitled to recover punitive damages from each Defendant whose own conduct and corporate attribution satisfy New Mexico law, in an amount sufficient to punish that Defendant and deter similar conduct.

IX. JURY DEMAND

338. Plaintiff requests a trial by jury on all issues so triable and will tender the required jury fee.

X. PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that judgment be entered in its favor and against Defendants, and that the Court award the following relief:

A. Compensatory damages for physical injury to and interference with municipal property and infrastructure that Plaintiff owns or exclusively possesses, in an amount to be determined at trial;

B. Recovery of past direct, reasonable, and incremental costs incurred to investigate, monitor, inspect, collect, remove, transport, handle, manage, dispose of, remediate, and abate discarded cigarette filters physically present upon or within Plaintiff's property and infrastructure;

C. Recovery of future property-response costs only to the extent legally recoverable and proven with reasonable certainty, together with prospective equitable abatement relief as determined by the Court;

D. Recovery of direct and reasonable costs incurred in inspecting, maintaining, repairing, cleaning, protecting, restoring, and operating the streets, sidewalks, parks, public rights-of-way, stormwater infrastructure, public facilities, and other municipal property that Plaintiff owns or exclusively possesses and that is physically affected by discarded cigarette filters;

E. Recovery of direct environmental-response, investigation, monitoring, engineering, and operational costs legally recoverable as a result of physical injury to or interference with Plaintiff's property and infrastructure;

F. Restitution, disgorgement, equitable reimbursement, and all other equitable monetary relief authorized by applicable law;

G. Equitable and injunctive relief requiring Defendants to fund, participate in, or otherwise bear responsibility for appropriate collection, removal, disposal, remediation, mitigation, product-stewardship, and other abatement measures addressing the continuing physical condition affecting Plaintiff's property and infrastructure, as determined by the Court and authorized by New Mexico law; provided that Plaintiff does not seek through this action an order establishing a tobacco-product standard, prescribing federally regulated cigarette labeling or advertising, invalidating an FDA authorization, or requiring a Defendant to market a product in violation of federal law;

H. Punitive or exemplary damages to the fullest extent permitted by New Mexico law;

I. Prejudgment interest as authorized by law;

J. Post-judgment interest as permitted by law;

K. Costs of suit;

L. Reasonable attorneys' fees, litigation expenses, and expert witness fees where authorized by statute, common law, or other applicable authority; and

M. Such other and further legal, equitable, injunctive, declaratory, or monetary relief as the Court deems just and proper.

Respectfully Submitted,

FADDUOL, CLUFF, HARDY & CONAWAY, P.C.

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