

Anti-tobacco campaign. Not just a smokeINDEX
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Anti-tobacco campaign

THE PEOPLE VS BIG TOBACCO . By Carrick Mollenkamp, Adam Levy, Joseph Menn and Jeffrey Rothfeder. *Bloomberg Press*; 334 pages; \$23.95 SINCE smoking is now almost criminalised in America, outlawed even from bars in some states, it is vain to expect writers to tell the tale of last year's tobacco settlement with anything approaching neutrality. The authors of "The People vs Big Tobacco", all reporters for Bloomberg News, have a particular reason to be biased. It was one of them, Carrick Mollenkamp, who first stumbled on the story that the tobacco companies, the state attorney-generals and the administration were cooking up an agreement under which Big Tobacco would be made to pay, in various ways, for the damage caused by smoking. From then on, despite attempts by the *Wall Street Journal* to muscle in, this was the Bloomberg team's own drama: the reporters and the people's advocates against the tobacco corporations.

Heroes and villains are clearly demarcated. The bosses of the tobacco companies are a faceless, rich, baronial crew, clearly reconciled to abandoning their profits in America for the most part because they can see fat gains in Asia and Eastern Europe. The exception to this picture of corporate cynicism is the devious and endearing Bennett LeBow of Liggett Corp, who first breaks ranks to declare tobacco addictive in a desperate bid to save his company. By contrast, the people's advocates drive small cars and stay in budget inns that are filthy with second-hand smoke; they sip Diet Coke and run out of clean shirts. The villains, at moments of triumph, light up cigarettes with an almost sexual panache; the heroes fret to find that only smokers' rooms are left in their hotels, and grimace when they have to walk into a meeting where people are inconsiderately shortening their lives.

Big Tobacco's fall was, indeed, sudden. Everything flowed from a leak of secret documents. Merrell Williams, a researcher at Brown & Williamson, discovered in 1988 that the company had known about the harmful effects of smoking, and had covered it up. "We are in the business . . . of selling nicotine, an addictive drug," ran one memo from the company's general counsel. Despite that admission, as late as 1994 the chief executives of the big tobacco companies—in an image that had by then become famous—raised their right hands and told Congress that they did not believe tobacco was addictive.

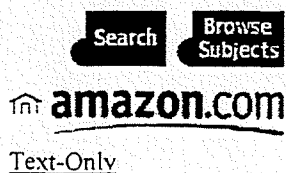
This image, and a heart attack that he took as a message from God, persuaded Mr Williams to make public the memos he had secretly photocopied. He eventually signed them over to the attorney-general of Mississippi; and Mississippi, now in possession of the proof that the companies had not disclosed facts that would have saved lives, sued to recover the Medicaid money spent on treating smokers. A deluge of similar suits followed from other states, and it was the keen desire to limit these that drove Big Tobacco to the bargaining table.

The settlement eventually agreed (though still not yet signed and sealed) was the biggest of all time, \$368.5 billion. The industry was required to pay as much as \$15 billion a year, for ever, to public and private litigants, and had to accept a ban on outdoor advertising and the likelihood of a possible ban on nicotine. It was also obliged, on pain of fines, to meet certain targets for reducing teenage smoking. In exchange, the companies were given immunity from class-action suits and punitive damages based on past acts. History was made, as the book's characters expected from the start.

Yet most of the drama has to be manufactured. The authors put the settlement right up front, so there is no doubt how the story will end; and when they start their tale, in the 1990s, the tobacco companies are keen to settle already. After that, it is just a matter of negotiations round tables. The authors do their best. Restricted largely to a setting of conference rooms in second-rank hotels, they take pains to notice whether the chairs are leather or Naugahyde, and whether the curtains are clean. And they keep their characters at a high pitch. One, after visiting a friend dying of cancer, revs his Chevy Blazer in frustration and screeches out of a hospital car park; several, reacting to unfavourable legal decisions, slump against walls; Mr Mollenkamp, in possession of his Big Story, feels his heart start to pound. "This was an incredible story, the biggest of his life . . . even the stiff wind didn't stop him from sweating as he ran down the driveway."

There would have been an easier way to make this a rousing tale: to tell the whole story. Only two or three pages of this book attempt to describe the parts of the country where tobacco is grown and cigarettes are made. Tobacco may indeed be a noxious and dangerous weed, but it is heavily subsidised by the federal government. This makes it, despite everything, still an attractive crop for southern farmers to grow. The authors miss their chance to explore the financial addiction to tobacco of some of the poorest parts of the country; and they also skim over, much too quickly, the issue of personal responsibility weighed against risk. As they point out, the link between tobacco and disease had been publicly made as far back as the 1950s. It seems right that the tobacco companies should be penalised for lying; it is less clear that they should be penalised for the wilfulness of individuals.

Between the moral, social and economic issues, there is a huge book still to be written here. Perhaps Norman Mailer should get on to it.



From *The People Vs. Big Tobacco : How the States Took on the Cigarette Giants*, by Carrick Mollenkamp; Adam Levy; Joseph Menn; jeffre Rothfeder; Jeffrey Rothfeder; Jeffrey Rothfelder



CHAPTER ONE

THE PEOPLE vs. BIG TOBACCO

Can I have a cigarette?

--SUZY LOCHRIDGE

Suzy Lochridge's first words after an operation in 1995 to remove a lung tumor. A year later, Lochridge died of cancer

The locks of brown hair. Jackie Thompson's daughter Alice couldn't get the sight of them out of her mind. She saw the clumps, refuse from cancer patients' scalps after chemotherapy, lying on the floor while visiting her 49-year-old dying mother at Baptist Central Hospital in Memphis, Tennessee. Jackie, once a pretty brunette with friendly eyes and a mischievous smile, had been withered by the disease.

When Jackie's friend and attorney, Mike Lewis, came to visit her at the intensive care unit on a May afternoon in 1993, he too was appalled by what he saw.

Jackie's mouth was weak and trembling, her pupils looked small and distant; she weighed 90 pounds; her skin was a sickly yellow, and she had no hair. Cancer had robbed this vital woman not just of her radiance, but of her self.

Lewis couldn't shake one thought: How many fewer cigarettes--in her case, Salems--would it have taken for Thompson not to be where she was today, less than a year from her grave? He knew she was a heavy smoker, knew that her cancer was a direct result of her habit, knew that there was nothing he, her dear friend, could do to help her. And it made him angry.

Jackie and Mike talked, about the weather, about the attorney's work-a-day practice in the slow-moving central Mississippi town of Clarksdale, about the mass of visitors in town braving the spring break to line up hundreds deep at Graceland. They didn't speak about the inevitability of her death from cancer, or of its certain cause--cigarettes.

For Lewis, 50, it was difficult to stay focused on their conversation.

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He watched his friend struggle to breathe through the ventilators and pumps attached to her nose and lungs and listened to the diagnostic devices beeping from seemingly every corner of the room.

It suddenly hit him that the costs of treating people dying from tobacco-related cancers were enormous.

Perhaps it was the lawyer in him--always counting the dollars and cents in human suffering. But this wasn't only about money, it was about the death of a good friend. And this scene--a dying patient, visitors who could barely look at their loved one without revulsion--was being played out in tens of thousands of hospital rooms across the country. Lewis felt his anger rise. He wanted to apportion blame. He wanted revenge.

The long hospital stays, the teams of doctors and nurses trying to squeeze out a few more days for patients, the expensive equipment pumping life and feeling for vital signs, the last days at hospices. All of that added up--in Jackie Thompson's case, to about \$1 million in state money. Someone had to be held responsible, Lewis said to himself.

He knew the answer. This was the fault of the cigarette makers, Philip Morris, RJR Nabisco, Brown & Williamson, and the others. It was their product and their single-minded efforts to addict everybody to it--even though they knew it was dangerous--that landed Jackie Thompson and 425,000 others on their deathbeds every year.

Big Tobacco was making tens of billions of dollars annually from selling Marlboros, Winstons, Merits, and the dozens of other brands. Who better to hold responsible for the pain and suffering cigarettes caused? But how could he--how could anyone--get back at them? Others had tried, all futilely.

Restless now to come up with a way to stand up to Big Tobacco, Lewis couldn't stay in the hospital room much longer. The still air made him claustrophobic; the antiseptic-smell singed his nostrils. It was almost unbearable to look at his emaciated friend or to witness her daughter's suffering. He said goodbye to Jackie and walked slowly down the hospital's old tile hallway toward the elevator.

It wouldn't be easy to tap the tobacco companies' deep pockets, the lawyer reflected. Until 1996, the cigarette makers had never had to pay any money as the result of lawsuits--and they had lost only twice in the courts. All of the courtroom strategies and theatrics thrown at Big Tobacco by attorneys on behalf of dead and near-dead plaintiffs had repeatedly faded to convince judges and juries that the industry was guilty of killing people.

But during his short ride in the hospital elevator, Lewis hatched a plan different from any tried so far: Instead of arguing that Big Tobacco should be punished for murdering with its product, he would get his home state of Mississippi to sue tobacco companies to recoup public money spent treating people--the indigent, the

aged--who got sick from smoking.

The tobacco companies had easily fended off decades of lawsuits by claiming that smoking is a personal choice; they shouldn't be held accountable for people's behavior and voluntary decisions, the companies argued. Besides, they said, there was no proof that cigarettes killed smokers.

Lewis decided to skirt this defense by focusing not on individuals and the choices they made but instead on the states--by pressing for reimbursement of the billions of dollars the states spend to pay for the medical care of sick smokers. Surely, Lewis reasoned, there are dozens of top-tier doctors who would testify that tobacco was a major contributor to many of the most expensive illnesses and thus was costing the states a lot of money.

It was such a simple, unique idea that it rattled Lewis. And as he stepped into the cool, late-afternoon air, hung with a faint scent of sweet magnolia, guilt gripped him, because he felt more alive after this visit with a near-dead friend than he had in years.

Lewis, balding, with a slight middle-aged paunch, didn't look or act the part of the high-octane attorney, the kind that typically thrives on signing up hundreds of people to sue big corporations. He preferred wearing polo shirts and khaki pants rather than suits at work. And most of his clients in Clarksdale, population 20,000, were local citizens with real estate, personal injury, and small-business problems.

Lewis was comfortable in small-town America. He grew up in Belzoni, Mississippi, the "Catfish Capital of the World." His house didn't have running water until he was seven.

Lewis joined the U.S. Air Force as a young man and ended up flying jets in Southeast Asia. He later graduated from the University of Mississippi Law School, where he became close friends with several students who would become well-known lawyers in the state, among them Mississippi Attorney General Michael Moore and his associate Richard Scruggs.

Despite his mostly grassroots practice, Lewis made a name for himself in at least one big case: In 1992, he settled a multimillion dollar fraud case, for an undisclosed amount, against a group of insurers, including Blue Cross Blue Shield of Arkansas, who had sold medical policies to an insolvent company.

But that was easy compared to what he was considering now. Taking on the tobacco companies would require hundreds of hours of research, and Lewis knew that would prove too costly for his practice. He would have to have allies, men and women equally committed to his cause.

Lewis gunned his Chevy Blazer, screeched out of the hospital driveway, and began the return trip to Clarksdale from Memphis. After driving only two blocks, Lewis had to pull off the road because his hands were shaking with excitement. He sat in the

parking lot of a car dealership, thinking about his plan, trying to calm himself. After a few minutes, he turned on the ignition again and slowly began the 90-minute drive south on Highway 61, past fields where John Deere tractors stripped lines in the soil for cotton, wheat, and soybeans; past bulldozers ripping rocks and turning dirt to hollow out foundations for casinos, Mississippi's latest hope for an economic miracle.

There were lots of questions: How do you prove damages when the cigarette companies had never even admitted--and there was no satisfactory proof--that smoking was dangerous? On what basis would the defendants be made to pay? On the market share of their products? The number of sick smokers in the states? Who would finance the legal attack on Big Tobacco? What penalties should be sought? How much money should Mississippi demand?

These were tough issues. But Lewis had an ace in the hole: Mike Moore, his Ole Miss friend who in 1988 had been elected the state's attorney general and was still in office. Moore was an activist who loved causes that grabbed publicity; he could spearhead the case, Lewis figured.

Moore, 10 years Lewis's junior, was as iconoclastic as Lewis was conservative. On campus in the mid-1970s Moore wore his hair long and played keyboard in a rock 'n' roll band. Lewis was a married former air force pilot by that time and tended to hang out in the library, not blues clubs.

And while Lewis's practice involved mostly local cases that never made headlines, Moore was a Southern populist politician, catching the eye of Mississippians through high-publicity schemes--like nailing warnings on telephone poles that drug dealers would be busted, while photographers snapped pictures to run in the state's newspapers. He became Mississippi's top legal officer by promising to be the people's attorney general, tough on crime and fighting for safe streets.

Moore, the oldest of five children whose father was a real estate developer in the Gulf town of Pascagoula, was one of the new breed of Mississippi politicians who took office in the late 1980s--young, aggressive, reform-minded people like Ray Mabus, who became governor with the dramatic campaign vow, "Mississippi will never be last again," and Mike Espy, the first black elected to Congress from the state in this century. (Espy later was named President Clinton's agriculture secretary but was forced to resign after becoming entwined in a graft scandal.)

When Moore became Mississippi's youngest attorney general in more than 75 years, he and the other up-and-coming state politicians were featured in a *New York Times Magazine* article: "The Yuppies of Mississippi: How They Took over the Statehouse."

Moore was a trim 45-year-old with thick, brown hair and earnest, farm-boy looks. His energetic, head-bent stride lent an air of

tirelessness, and he lived up to that image: Between 1988 and 1997, he made more than 2,000 appearances in schools to talk about the evils of drug abuse and smoking. Fulfilling his promise to be the attorney general for all Mississippians--not just special, old-line interests--Moore halted the state's long tradition of fighting all civil rights lawsuits, a move that cleared the way for blacks to win judgeships and other elected positions.

Political observers in and outside Mississippi compare Moore to Bill Clinton. Both were young southern Democrat lawyers with the ability to draw voters across party lines. Both also suffered sobering losses early in their political careers: Clinton was defeated in his first gubernatorial reelection bid in 1980; Moore was beaten in a 1989 congressional race.

Moore's friend Mike Lewis was betting that taking on Big Tobacco, with the surefire headlines and obvious David vs. Goliath analogy, would fit well with Moore's ambitions--whether they led to the statehouse or the White House.

Two weeks later, from his office, Lewis telephoned Moore. "I need a reality check," he said, and in 60 seconds laid out his idea to sue the tobacco companies for reimbursement of the state's Medicaid costs to treat poor patients who were sick and dying from cigarettes. "Does this make sense?" Lewis asked. "Do we stand a chance? Will you work with me?"

Moore said he was intrigued. He invited Lewis to visit his office later in the week so they could talk about Lewis's plan in detail. Two days later, Lewis and his wife, Pauline (who was also an attorney), climbed into their four-seat Mooney 205 plane and flew to Jackson, Mississippi.

In a fifth-floor office, Moore and the Lewises spoke for an hour. Moore had some problems with the plan. The biggest one was that the state wouldn't be able to pay any money to the private attorneys working on the case unless they prevailed. "The people in the state of Mississippi don't like the idea of paying lawyers' fees," Moore said.

Lewis said that wouldn't be a problem. Any work he did on the suit would be on a so-called contingency basis: He'd take a percentage of the amount awarded to the plaintiffs after the case was, hopefully, won. Most tobacco suits are handled that way, so almost every attorney will likely agree to this, Lewis added.

Moore also had a suggestion: get Richard "Dickie" Scruggs involved. Scruggs, their Ole Miss law school pal, had made millions toppling Ingalls Naval Shipyard and other asbestos users in 1992 in a series of health liability cases, and it was health liability they were talking about here.

In the next days, Lewis and his wife drove their Cadillac to Greenville, Mississippi, where Scruggs, and yet another Ole Miss law school friend, Don Barrett, were trying a tobacco case on behalf of Anderson Smith, who was diagnosed as a paranoid schizophrenic

and began smoking while hospitalized. Scruggs and Barrett were arguing that cigarette companies shouldn't be allowed to employ their usual defense that Smith made a personal decision to smoke, because their client's mental state was impaired. (That contention failed to sway the jury, and Anderson Smith lost the case.)

The Lewises watched the trial for half a day and then met with Scruggs and Barrett at a Hampton Inn.

In the crowded motel room, Lewis laid out his unorthodox and untried plan. He didn't have to work hard to convince the Mississippians.

Scruggs and Barrett had tried several times to get past the industry's defense of pinning individuals with the responsibility of choosing to smoke. The plan to take on Big Tobacco by suing the cigarette companies to pay for the medical costs of the state's 200,000 Medicaid smokers seemed perfect. The industry's argument that smoking was a personal decision couldn't be an issue here.

"Eureka!" said Barrett. "The state of Mississippi has never smoked a cigarette."

That meeting set in motion a year of quiet planning for a lawsuit that everybody in the room--and Mike Moore as well--knew would make or break their careers. Failure on such a public stage and against the high-powered East Coast legal counsel that the cigarette makers would throw against them would be embarrassing. They knew they'd be ridiculed as a bunch of inept southern attorneys with the foolhardy notion that they could actually beat some of the nation's biggest corporations.

Success, on the other hand, would instantly catapult them into the ranks of the nation's boldest and brightest attorneys. And for Mike Lewis, it would avenge Jackie Thompson's death.

It took the Mississippi lawyers almost a year to assemble their case. In May 1994 after thousands of hours of preparation, Moore, Lewis, and the others were ready to go public with their lawsuit.

At a session the attorneys came to call the "Alamo meeting," Moore gave them one last chance to turn back. He stole an idea from the 1950s movie about a group of Texans who made a stand against the Mexican army, in which Col. William Travis (played by Laurence Harvey) draws a line in the sand. Those who crossed it were in the fight; there would be no quitting. Those who didn't could walk away before it was too late.

In Moore's office, Moore, Scruggs, Barrett, and Lewis stepped over the line and shook hands.

On May 23, 1994, Moore walked into the Chancery Court of Jackson County, Mississippi, and filed his landmark lawsuit against 13 tobacco companies as well as wholesalers, trade associations, and industry public relations consultants.

No one was there to represent Big Tobacco. Philip Morris assistant general counsel Steven Parrish told the *New York Times* that a state would have the same burden of proof as an individual, and that could prove difficult. Besides, he added, "no jury has ever concluded that illnesses are directly caused by smoking."

Later that day, at a press conference, Moore said: "This lawsuit is premised on a simple notion: You caused the health crisis, you pay for it. The free ride is over. It's time these billionaire tobacco companies start paying what they rightfully owe to Mississippi taxpayers."

Moore couldn't say he completely believed his own words--this was a case that was far from a sure thing. But bravado made good political theater, and anyway now there was no turning back. They had crossed the line.

MOORE REPLAYED THAT rash moment many times in his mind as the legal battle against Big Tobacco heated up. And on June 20, 1997--three years after filing the Mississippi suit--as he stood in his suite at the ANA Hotel in Washington, D.C., picking out the perfect blue tie to wear before a nationwide TV audience to announce that a settlement with the tobacco industry had been reached, Moore was thinking about how much things had changed

In 1994, he and his colleagues were alone among the states in taking on the cigarette companies. Since then, 38 other states had mimicked Mississippi's suit and a federal class-action suit, representing individual smokers who accused the tobacco companies of knowingly turning them into cigarette addicts, had splintered into massive local class actions in 17 states.

The surge in legal activity at the state level frightened the cigarette companies into taking their adversaries more seriously, even if Big Tobacco had never before lost a case. The federal government had also stepped up the pressure, launching criminal grand jury probes of the companies and their executives and winning regulatory control of nicotine in a contested courtroom showdown. Those moves helped bring the two sides to the bargaining table.

But the biggest difference for Moore on June 20 was that the doubt was finally erased. Big Tobacco and its foes had forged a settlement. The industry, in large measure, had capitulated.

Hard-won confidence suffused Moore as he walked into the jammed ANA ballroom.

What Moore was about to say was stunning. In a landmark legal settlement, tobacco companies had agreed to pay \$368.5 billion over the first 25 years to smokers and states to cover medical costs for cigarette-related illnesses--all of this growing out of the Mississippi suit and Moore's persistence.

This was the all-important first step that no one else had been able to take. There was no going back now, for anybody. Congress would have to approve the settlement, in one form or another.

President Clinton would have to back it. And in fact, by mid-September, after a lengthy review amid infighting among his advisers, the president called a press conference and lauded the accord, asking that certain provisions related to teen smoking and the Food and Drug Administration be strengthened. That could add as much as \$100 billion to the price tag of the agreement. Big Tobacco didn't flinch; the settlement, cigarette makers said after Clinton's announcement, was still something they could work with.

Mike Moore had clearly tamed what was once a ferocious industry--a marketing machine as powerful as the automakers--and some of the highest-paid corporate attorneys in the world. The concessions that Moore squeezed out of the tobacco companies were remarkable. For one thing, billboard advertisements, vending machines, sports promotions, and ads with people and cartoon characters such as the world-renowned Marlboro Man and Joe Camel, would be banned in the United States. And the cigarette makers promised to help reduce teen smoking by cracking down on retailers that catered to minors and footing the bill for a massive antismoking campaign targeted at kids. The goal would be to deter the 3,000 teens who light up for the first time each day. If the campaign failed, the cigarette companies would have to pay billions of dollars as punishment.

In return, Philip Morris Companies, Inc., RJR Nabisco Holdings Corp., B.A.T Industries Plc's Brown & Williamson unit, and other U.S. tobacco companies would be freed from the shadow of four decades of legal wrangling with smokers and health organizations. The companies no longer would have to worry about class-action lawsuits or state Medicaid cases and would never have to pay more than \$5 billion a year in awards and settlements to individuals.

In other words, for the first time, tobacco companies would know that they couldn't be wiped out by a hostile judge or unsympathetic jury. And they could still make steep profits: In 1997, it cost approximately 20 cents to manufacture a pack of cigarettes that companies then sold for about \$2. And after the settlement was approved, they could raise the price.

On the face of it, Big Tobacco would pay dearly for its peace of mind. The agreement's price tag equals the combined annual gross national product of Greece, Ireland, Chile, New Zealand, and Kenya. Each year, the U.S. tobacco companies would ante up to states, federal agencies, public health groups, and smokers--who get to enroll in free programs designed to help them quit the habit--an average of \$14.7 billion. If the companies were paying in midsize family sedans, the line of cars would stretch from Los Angeles to Cleveland. In dollars, the settlement was more than 10 times larger than the biggest corporate takeover in history.

Despite these monumental numbers, though, the impact on the companies was likely to be limited. Cigarette makers would pass on the lion's share of the massive settlement bill to consumers in the form of price increases of at least 62 cents a pack. That was expected to result early on in one out of every eight smokers

kicking the habit in the United States--but sales would likely remain steady beyond that.

"After the shock of the 15 percent drop over the next couple of years, we'll be back to normal," predicted B.A.T Industries' chief executive Martin Broughton.

There's evidence to support his position. British smokers pay \$4.90 a pack, and their numbers are growing.

Even so, on the June afternoon that the settlement was announced, Mike Moore was big news. After all, the tobacco settlement didn't just change the way cigarettes are advertised and regulated, it transformed the role of cigarettes in American society. A "smoke" would no longer be considered an enduring "grown-up" symbol--a macho icon--or even a way to overcome social ineptness, but a highly regulated, dangerous, drug delivery device.

Little wonder that everywhere in the United States--even in Washington, where lots of deals are cut each day--the settlement and Mike Moore had center stage.

At about 3.30 P.M. East Coast time, ABC television broke away from its regularly scheduled Oprah Winfrey show to broadcast the news conference. The other networks followed suit soon after, sending millions of viewers to this breaking story.

At the White House, on Capitol Hill, in stock exchanges and corporate boardrooms worldwide, people clicked their remote controls to CNN's minute-to-minute coverage. Editors at the *New York Times* set space on its front page for a double-banner headline, something usually reserved for wars, disasters, and elections.

Mike Moore made the most of the moment. As the cameras whirled and photographers snapped dozens of still pictures, he led a group of seven attorneys general to a bank of microphones on the podium.

The first to speak was Moore. Members of the media, few of whom had seen him before, were taken by his striking resemblance to John F. Kennedy Jr. In his Mississippi drawl, softened a bit for the national audience, Moore started slowly but gradually picked up the pace: "Today is V-Day for the American people in the war on tobacco. This agreement will do more for the public health of our nation than all of our lawsuits combined--even if we had won all of our individual suits. If enacted by Congress, it will save more lives than any public health initiative in memory."

Moore said the agreement had the support of public health groups, which for decades had battled to reduce smoking by warning that it caused lung cancer, emphysema, and other lethal diseases. Tobacco companies, he said, would stop lying about the addictive nature of the nicotine in cigarettes. The U.S. Food and Drug Administration would gain full regulatory authority over nicotine--a huge concession that tobacco companies made in the last weeks of the eight-month negotiations.

As Moore warmed to the topic and the TV audience, he sounded more comfortable by the second. There would be more than 15 minutes of fame attached to this moment, he was certain. Now, he was a household name and finally a player in something more than a small southern pond; this was a huge rushing river, 10 blocks from the White House.

Meantime, hundreds of miles away, in a Sardis, Mississippi courtroom, at just past 4:00 P.M., Mike Lewis was listening to the closing arguments of an opposing defense attorney in a whistle-blower case. Lewis's clients, Sue Sumner and Carolyn Willard, had uncovered wrongdoing at Paracelsus Health Care.

A paralegal slipped into the courtroom and handed Lewis a note. Scrawled on the paper. "CNN just reported a national settlement with tobacco companies for \$368.5 billion."

Lewis, still focused on the closing argument, calmly passed the note to his wife, who was helping him try this case. He smiled at her, thinking ing to himself that he knew he chose well when he turned his idea over to Mike Moore. A short time later, the jury awarded Lewis's clients \$3 million.

Some of the nation's most powerful corporate executives, public health advocates, and lawmakers were listening to Moore from their offices and homes. Several had played critical roles in the settlement talks, which began quietly in hotel rooms in Memphis and Washington and on conference calls--and then expanded to big meetings in Chicago, Dallas, and New York as the momentum for an agreement had built.

Among them was former FDA Chief David Kessler, who since 1994 had made tobacco companies his main adversary. He was already working with former U.S. Surgeon General C. Everett Koop to organize a review of the agreement. Removed from the action, they both watched on TV, wondering if their one-time allies had been too easy on Big Tobacco. Within weeks, they would be blasting the accord for leaving in too many loopholes that could prevent the FDA from effectively regulating nicotine.

At the White House, Bruce Lindsey, President Clinton's trusted aide and liaison to the talks, had helped shape the final agreement and persuade the president to say the accord had promise. But Lindsey wasn't around to accept a signed agreement. He had flown off to Denver, Colorado to join the president at a meeting of the Group of Seven (G-7) industrialized nations. Domestic policy adviser Bruce Reed collected the 68-page document.

Some participants in the talks were dejected. Hillary Clinton's brother, Hugh Rodham, who was one of the lawyers representing the plaintiffs in the talks, had been asked by his colleagues not to attend the press conference because consumer advocate Ralph Nader had blasted Rodham's involvement in the negotiations as a blatant conflict of interest for the White House. Rodham was in a hotel conference room across the street, watching the announcement

on television.

Bennett LeBow, CEO of Brooke Group, which controls Liggett, the nation's fifth-biggest tobacco company, watched the announcement on an airport TV without sound. LeBow had broken ranks with the industry in 1996 by settling his company's lawsuits with the states before the much larger agreement was negotiated. In that settlement, LeBow agreed to become the first tobacco executive to testify that cigarette smoking is addictive and harmful.

Jeffrey Wigand, former head of research at Brown & Williamson, who became the highest-ranking official to disclose that the tobacco companies manipulated cigarettes to make them more potent and that the cigarette makers knew their product was addictive and dangerous, stood to one side of the packed ANA Hotel ballroom, fighting back tears.

Just before all sides had signed the agreement, Arthur Golden, an attorney with Davis Polk & Wardwell, and RJR Nabisco's point man in the negotiations, called RJR CEO Steven Goldstone. "The deal's done," Golden said. Goldstone replied, "I hope we are doing the right thing."

At the same time, in a hotel room, Murray Bring, Philip Morris's vice chairman and top lawyer, called his boss, CEO Geoffrey Bible. He described the final events leading to the settlement.

Bible, the tough-talking Australian who had kept his competitors in line during the long negotiations, listened to Bring detail the last provisions of the accord, asking few questions. Then, in his 22nd-floor Park Avenue office in Manhattan, after Bible hung up the phone, he leaned back in his chair and lit up a Marlboro Menthol Light.

--From *The People Vs. Big Tobacco : How the States Took on the Cigarette Giants*, by Carrick Mollenkamp; Adam Levy; Joseph Menn; jeffre Rothfeder; Jeffrey Rothfeder; Jeffrey Rothfelder. © 1997 by Carrick Mollenkamp; Adam Levy; Joseph Menn; jeffre Rothfeder; Jeffrey Rothfeder; Jeffrey Rothfelder, used by permission.

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