
By Pamela C. Maloney, J.D.

A federal district court in Florida refused to reconsider its decision to vacate a jury verdict of $6.25 million in compensatory damages and $20.76 million in punitive damages against Philip Morris on a smoker’s fraudulent concealment and conspiracy claims, holding that it applied the proper standard in finding that the smoker provided insufficient evidence to support those claims (Berger v. Philip Morris USA, Inc., November 18, 2015, Carr, J.).

Background. In vacating the jury’s award (see Products Liability Law Daily’s April 27, 2015 analysis for complete details), the court agreed with the smoker that Philip Morris and other tobacco companies had engaged in long-term deceptive misconduct. However, the court held that evidence did not show that the smoker herself had detrimentally relied upon the tobacco companies’ conduct when starting and continuing to smoke. Thus, the jury’s verdict could not stand. The smoker moved for reconsideration, arguing that the court erred in not applying the Florida Court of Appeals decision in R.J. Reynolds v. Martin (Martin), 53 So. 3d 1060, (Fla. 1st DCA 2010) in assessing the sufficiency of the evidence.

Inference of reliance. The court explained that its initial decision specifically addressed the smoker’s argument regarding the application of Martin, in which she appeared to suggest that notwithstanding federal sufficiency of evidence law, Martin somehow compelled the conclusion that the inferences supporting the jury’s verdict were automatic. According to the court, it agreed with the smoker that Martin allows for reasonable inferences to be drawn from circumstantial evidence. However, in this case, an inference of reliance was not reasonable in light of the smoker’s uncontradicted testimony that she did not rely to her detriment on incomplete representations regarding the health effects and the addictive nature of smoking cigarettes.

The case is No. 3:09-cv-14157.

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Companies: Philip Morris USA, Inc.; Liggett Group, LLC; R.J. Reynolds Tobacco Co.

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