

# Delray Beach man awarded \$157M in husband's tobacco death

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Edward Caprio (left) and Bryan Rintoul at their 2005 wedding. Rintoul last week was awarded \$157.4 million from tobacco giants in connection with Caprio's 2018 death from lung cancer. [Provided]

By [Jane Musgrave](#)

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The victory is historic for same-sex couples married after the spouse got sick.

When Bryan Rintoul lost the love of his life to lung cancer last year, the 72-year-old Delray Beach man vowed to continue to pursue cigarette-makers for producing a lethal product that caused his husband's tortuous death.

Little did Rintoul suspect that he and his late spouse, Edward Caprio, would ultimately make history.

But, they did on Friday, when a Broward County jury ordered tobacco giants R.J. Reynolds and Philip Morris to pay Rintoul a whopping \$148.2 million in punitive damages.

That was on top of the \$9.2 million the jury had already awarded Rintoul for pain and suffering and medical bills Caprio had incurred, bringing the total verdict to \$157.4 million.

Not only is the verdict one of the largest levied in Florida against tobacco companies on behalf of a single smoker or their families, but it is a momentous victory for gay couples nationwide, said attorney Scott Schlesinger, whose firm represented Rintoul during the roughly five-week trial.

Typically, spouses can recover damages in wrongful death cases only if they were married before their husbands or wives got sick or injured, Schlesinger said.

Rintoul and Caprio didn't get married until 2005, days after the U.S. Supreme Court lifted the nationwide ban on same-sex unions. That meant Rintoul would have been prohibited from collecting any damages because Caprio was first diagnosed with lung disease in 1996.

However, in a specific finding, the jury agreed that if gay marriages had been legal, the couple would have wedded before 1996, after they met, fell in love and began living together in California, Schlesinger said.

“Bryan and Ed had been together for 40 years,” Schlesinger said. “We successfully argued that they would have married if they had been allowed to.”

Officials from R.J. Reynolds Tobacco Co. and Philip Morris, which is now owned by Altria, didn’t respond to requests for comment on the verdict. Both were found equally at fault because Caprio smoked brands from both companies while feeding the habit he began at 15.

During the trial, attorneys representing the cigarette-makers set the stage for an appeal by asking Broward County Circuit Judge David Haines several times to declare a mistrial.

In court papers, they said Schlesinger and his legal partners shouldn’t have been allowed to tell jurors that they were faced with a “historic” opportunity to award damages to the widower of a gay man.

They also said Schlesinger shouldn’t have been able to tell jurors about Altria’s year-old \$12.8 billion investment in Juul, which is being investigated for its marketing to minors of its popular e-cigarettes.

Schlessinger said he didn’t mention the various investigations Juul faces. Instead, he said he used Altria’s purchase of a 35 percent stake in the e-cigarette company as evidence that the tobacco companies haven’t changed their ways since their top executives finally admitted - decades after health warnings were put on cigarette packs - that their product was dangerous.

Just as they did years ago with what are now called “combustible cigarettes,” the companies are using e-cigarettes to get teenagers addicted to nicotine, Schlesinger said.

Studies have shown that at least 25 percent of people under the age of 18 use e-cigarettes, he said.

Turning teens into nicotine addicts has been a fruitful business model for tobacco giants, Schlessinger said.

“They kill two-thirds of their regular customers and then hook their children and call them replacement smokers,” Schlesinger said.

He said he fully expects R.J. Reynolds and Philip Morris will appeal. R.J. Reynolds successfully appealed an eye-popping \$23.4 billion verdict Stuart attorney Willie Gary won for the widow of a Pensacola smoker. The cigarette-maker won when the case was tried for a second time in January.

That case is typical of how tobacco companies have behaved, Schlesinger said. They have appealed all unfavorable verdicts in hundreds of cases that grew out of a 1994 class-action lawsuit in Miami-Dade County.

While a jury awarded 700,000 smokers and their families \$145 billion, the Florida Supreme Court in 2006 threw out the award, ruling each person must prove his or her unique damages at separate trials.

While hundreds of the roughly 8,000 cases have gone to a jury, thousands of more are still pending. The number decreases every month as smokers die or their families give up hope, Schlesinger said.

Attorney Jonathan Gdanski, who also represented Rintoul, applauded him and Caprio for pursuing the lawsuit. Before he died last year at age 74, Caprio sat through a lengthy trial that ended in a hung jury.

For Rintoul, the verdict was a moral victory.

“I did it for Ed,” he said, his voice cracking with emotion. “He deserved his day in court. He suffered so terribly.”

When the jury acknowledged Caprio’s suffering by delivering the stunning verdict, he said he prayed that the victory wasn’t his alone.

“I just hope to God he was watching from up above,” Rintoul said.

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