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UPDATE: \$15M Verdict, Including \$12M in Punitives, Thumps RJR for Smoker's Illness; Philip Morris Cleared of Responsibility

Posted by *Arlin Crisco* on Apr 21, 2017 1:05:03 PM

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Scott Schlesinger delivers his closing argument at trial against R.J. Reynolds and Philip Morris for smoking-related diseases Mary Lima claims her husband developed because of nicotine addiction and tobacco industry concealment of smoking's dangers.

Update: Jurors Friday imposed a \$12 million punitive verdict against R.J. Reynolds for the smoking-related disease effects they found Johnny Lima suffered as a result of Reynolds' participation in a long-standing conspiracy to hide the dangers of cigarettes.

The punitive verdict brings the total award to \$15 million in the case. A day earlier the jury awarded \$3 million in compensatory damages to Lima's widow, Mary, but absolved codefendant Philip Morris of responsibility.

Tampa, FL—A state court jury Thursday awarded \$3 million in compensatory damages to a Florida smoker's widow, and found punitives potentially warranted for the role R.J. Reynolds played in his smoking-related illness. But, it absolved the tobacco giant of his death and completely cleared Philip Morris of responsibility. [Lima v. R.J. Reynolds, et al. 21015-CA-007140.](#)

Jurors deliberated nearly two days before concluding Johnny Lima's addiction to nicotine caused at least one of a host of smoking-related diseases, including coronary artery diseases, lung cancer, and emphysema, that his widow, Mary Lima, claims he suffered throughout his life.



However, the 13th Circuit Court jury sitting in Hillsborough County found none of those diseases led to Lima's death at 60, in 1993.

Thursday's verdict apportioned 60% of fault to R.J. Reynolds and 40% to Lima himself.

Lima, a grocer and restaurateur in the Tampa area, began smoking in the 1940s and smoked up to two packs a day for more than 45 years. His widow, Mary, claims her husband suffered from nicotine addiction and a variety of smoking-related diseases that turned fatal because of Philip Morris and R.J. Reynolds' roles in a sweeping conspiracy to hide the dangers of cigarettes throughout much of the 20th century.

The Lima case is one of thousands of Florida's so-called Engle progeny cases against the nation's tobacco companies. They stem from a 2006 Florida Supreme Court decision decertifying *Engle v. Liggett Group Inc.*, a class-action tobacco suit originally filed in 1994. Although the state's supreme court ruled that Engle-progeny cases must be tried individually, it found plaintiffs could rely on certain jury findings in the original case, including the determination that tobacco companies had placed a dangerous, addictive product on the market and had conspired to hide the dangers of smoking through much of the 20th century.

In order to be entitled to those findings, however, each Engle progeny plaintiff must prove the smoker at the heart of their case suffered from nicotine addiction that led to a specific smoking-related disease.

The 10-day, first phase of trial focused on questions of Lima's addiction to cigarettes and whether that addiction played a role in his death. During Thursday's closings, Schlesinger Law Offices P.A.'s Scott Schlesinger, representing Mary Lima, told jurors he presented overwhelming proof that Lima's smoking was driven by nicotine addiction. "All the evidence in this case, from the records to the experts to Mary and the family members all said the man was dependent on nicotine. That's why he smoked," Schlesinger said.

Schlesinger argued that addiction led Lima to suffer a host of smoking-related diseases which combined to prove fatal. "These folks, treating doctors, highly qualified experts, all agreed that pulmonary fibrosis, emphysema, and lung cancer combined to kill [Lima]," Schlesinger said. "The death certificate says as much."

But the defense contended Lima likely died of idiopathic pulmonary fibrosis, or lung scarring, unrelated to smoking. During Thursday's closing arguments, Jones Day's Dennis Murphy said there was insufficient evidence Lima was treated for emphysema or that any lung cancer Murphy suffered had spread enough to prove fatal. Instead, Murphy argued Lima's symptoms bore all the

hallmarks of idiopathic pulmonary fibrosis, according to medical testimony. "Sometimes the simplest answer is the best answer," Murphy said. "Isn't that the simplest answer?"

Shook Hardy's Bruce Tepikian, representing Philip Morris, added the plaintiff failed to prove Lima even regularly smoked his client's cigarettes. During Wednesday's closings, Tepikian walked jurors through Lima's smoking history and contended no one that knew Lima definitively testified to him smoking Philip Morris brands, including Marlboro Reds. "They needed to bring the witnesses with personal knowledge about the brand use for my client, and it never happened," Tepikian said. "At the end of the day, there is no proof that Mr. Lima ever smoked Marlboro Red, much less any other cigarette manufactured by my client."

Trial on punitives against R.J. Reynolds begins Friday.

Email Arlin Crisco at acrisco@cvn.com.

Related Information

Mary Lima is represented by Schlesinger Law Offices P.A.'s Scott Schlesinger,

R.J. Reynolds is represented by Jones Day's Mark Belasic and Dennis Murphy.

Philip Morris USA Inc. is represented by Shook Hardy's Bruce Tepikian.

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