

Tobacco Litigation in the United States

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Varieties of Successful Litigation

- Individual personal injury/wrongful death cases
- Class actions
- Actions by governments

Individual personal injury/wrongful death cases

- Hundreds of cases since 1954
- Recent cases that have used internal tobacco industry have been more successful
- Large punitive damage awards have been upheld, including one for \$89.5 million that passed Supreme Court review

Class Actions

- Non-smoking flight attendants case – 1997 settlement established \$300 million Flight Attendants Medical Research Institute
- Consumer protection cases seeking economic damages resulting from “light”/ “low tar” cigarette scam: dozens of state-wide class actions filed, currently in pre-trial proceedings
- Engle case on behalf of sick or deceased Florida smokers

Engle case

- Florida Supreme Court upheld jury findings that cigarettes cause 20+ illnesses, and that tobacco industry committed various wrongs, including conspiracy to defraud by concealment
- About 8,000 individual follow-on cases pending
- Of the 13 that have been tried so far, plaintiffs won 11, were awarded punitive damages in 6, for total damages of more than \$150 million, or more than \$10 million/case

Actions by Governments

- State medical care reimbursement cases: Master Settlement Agreement in 1998 produced about \$10 billion/year for state treasuries, dramatic price increases, end of cigarette billboards, funding for counter-advertising
- U.S. Department of Justice racketeering (RICO) lawsuit produced 1700 page trial court judgment against industry, upheld by appellate court, petitions for Supreme Court review pending

Judge's findings in RICO case

- Defendants devised and executed a scheme to defraud consumers and potential consumers of cigarettes
- 6 different fraudulent elements found

Fraud finding #1

- Defendants jointly engaged in a massive public relations campaign to fraudulently deny and distort the health consequences of smoking

Fraud finding #2

- Passive smoking: the “open question” fraud continues

Fraud finding #3

- In furtherance of their public relations scheme denying the health effects of smoking, defendants agreed not to compete on health issues and not to perform certain biological research

Fraud finding #4

- Defendants committed fraud regard filtered and “low tar”/ “low nicotine” cigarettes

Fraud finding #5

- Defendants falsely deny that they intentionally market to youth

Fraud finding #6

- Defendants suppressed and concealed health information, and destroyed relevant documents

More information

- For the full RICO findings, see <http://tobaccolawcenter.org/doj-litigation.html>
- For additional information on U.S. tobacco litigation, see www.tplp.org, or contact us at moreinfo@phaionline.org
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