

SUPREME COURT OF FLORIDA

Philip Morris USA, Inc. v. Douglas

110 So. 3d 419 (Fla. 2013) · Decided March 14, 2013

SUMMARY

The Florida Supreme Court reviewed whether applying the Phase I findings from *Engle v. Liggett Group, Inc.* as res judicata in an individual tobacco-injury action violated the defendants’ due process rights. The court answered the certified question in the negative, upheld the plaintiff’s general verdict on strict liability, and held that the *Engle* negligence finding also established the conduct element of negligence when combined with individual causation and damages. The court approved in part and disapproved in part the Second District Court of Appeal’s decision.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                  |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Florida                                                                                                                                                                                                                                                                                         |
| WRITING FOR THE COURT | Polston, C.J.; Canady; Labarga; Lewis; Pariente; Perry; Polston; Quince                                                                                                                                                                                                                                          |
| JURISDICTION          | Florida                                                                                                                                                                                                                                                                                                          |
| DECIDED               | March 14, 2013                                                                                                                                                                                                                                                                                                   |
| DISPOSITION           | approved                                                                                                                                                                                                                                                                                                         |
| PROCEDURAL POSTURE    | The defendants sought review of a Second District Court of Appeal decision affirming a general verdict for the plaintiff on a strict-liability theory and certifying a question of great public importance concerning whether giving the <i>Engle</i> Phase I findings res judicata effect violated due process. |
| STANDARD OF REVIEW    | De novo review applies to the trial court's decision to give the <i>Engle</i> Phase I findings res judicata effect and to the legal conclusion whether the application violated due process.                                                                                                                     |
| PRECEDENTIAL VALUE    | Published, binding decision of the Supreme Court of Florida                                                                                                                                                                                                                                                      |
| PARTIES               | Philip Morris USA, Inc., R.J. Reynolds Tobacco Company, Liggett Group LLC v. James L. Douglas, as personal representative of the Estate of Charlotte M. Douglas                                                                                                                                                  |

TOPICS

- strict liability
- negligence
- res judicata
- due process
- appellate jurisdiction

## PRACTICE AREAS

torts

products liability

class actions

constitutional law

appellate procedure

## QUESTIONS PRESENTED

1. Whether accepting as res judicata the eight Engle Phase I common-liability findings violated the defendants' due-process rights under the Fourteenth Amendment.
2. Whether an Engle plaintiff pursuing strict liability must prove a specific defect in specific cigarettes and a separate causal connection between that defect and the plaintiff's injury.
3. Whether the Second District properly rejected negligence as a basis for the general verdict because the individual jury was not given a separate negligence-causation instruction and did not make a separate negligence-causation finding.
4. Whether the Florida Supreme Court should revisit its prior decision in *Engle v. Liggett Group, Inc.*

## HOLDINGS

1. The Engle Phase I findings establishing the defendants' common liability for approved causes of action may be given res judicata effect in individual Engle damages actions. Individual plaintiffs need not relitigate the conduct elements established by those findings.
2. Accepting the Engle Phase I findings as res judicata does not violate the defendants' due-process rights.
3. An individual Engle plaintiff pursuing strict liability must establish membership in the Engle class, individual causation by showing that addiction to smoking the Engle defendants' nicotine-containing cigarettes was a legal cause of the alleged injury, and damages. The plaintiff need not prove a specific defect in specific cigarettes because the Engle Phase I findings establish the defendants' common conduct and that their cigarettes were defective and unreasonably dangerous.
4. The Phase I negligence finding conclusively established the defendants' failure to exercise the degree of care a reasonable cigarette manufacturer would exercise under like circumstances. An individual Engle plaintiff need only prove class membership, individual causation, and damages; a separate negligence-causation instruction and finding beyond the individual-causation finding are not required.

## KEY QUOTATIONS

*"In other words, to prevail on either strict liability or negligence Engle claims, individual plaintiffs must establish (i) membership in the Engle class; (ii) individual causation, i.e., that addiction to smoking the Engle defendants' cigarettes containing nicotine was a legal cause of the injuries alleged; and (iii) damages." (at 429-30)*

*"We also answer the certified question in the negative and hold that accepting the Phase I findings as res judicata does not violate the Engle defendants' due process rights." (at 436)*

## FACTUAL BACKGROUND

Charlotte M. Douglas began smoking cigarettes as a teenager in the mid-1960s and later developed chronic obstructive pulmonary disease and lung cancer, which led to her death in 2008 at age sixty-two. Her estate

alleged that her addiction to cigarettes manufactured by Philip Morris, R.J. Reynolds, and Liggett caused her diseases and death. The jury found that smoking the defendants' cigarettes was a legal cause of death, apportioned 50 percent fault to Charlotte Douglas and the remaining fault to the defendants, and awarded compensatory damages.

## PROCEDURAL HISTORY

James L. Douglas, as personal representative of Charlotte M. Douglas's estate, obtained a \$2.5 million judgment after a jury found that smoking cigarettes manufactured by the defendants legally caused Charlotte Douglas's death and apportioned fault among her and the defendants. The Second District affirmed on strict liability, rejected negligence as a basis for the general verdict, and certified the due-process question. The Florida Supreme Court approved the result insofar as it upheld the strict-liability verdict, disapproved the Second District's negligence analysis, and answered the certified question in the negative.

## DISPOSITION

approved

## CASES CITED

- Philip Morris USA, Inc. v. Douglas, 83 So. 3d 1002 (Fla. 2d DCA 2012)
- Engle v. Liggett Group, Inc., 945 So. 2d 1246 (Fla. 2006)
- R.J. Reynolds Tobacco Co. v. Engle, 672 So. 2d 39 (Fla. 3d DCA 1996)
- Liggett Group, Inc. v. Engle, 853 So. 2d 434 (Fla. 3d DCA 2003)
- Kimbrell v. Paige, 448 So. 2d 1009 (Fla. 1984)
- Munroe v. Barr Labs., Inc., 670 F. Supp. 2d 1299 (N.D. Fla. 2009)
- Rey v. Philip Morris, Inc., 75 So. 3d 378 (Fla. 3d DCA 2011)
- Carnegie v. Household International, Inc., 376 F.3d 656 (7th Cir. 2004)
- Mullen v. Treasure Chest Casino, LLC, 186 F.3d 620 (5th Cir. 1999)
- Daenzer v. Wayland Ford, Inc., 210 F.R.D. 202 (W.D. Mich. 2002)
- In re Copley Pharmaceutical, Inc., 158 F.R.D. 485 (D. Wyo. 1994)
- R.J. Reynolds Tobacco Co. v. Martin, 53 So. 3d 1060 (Fla. 1st DCA 2010)
- R.J. Reynolds Tobacco Co. v. Brown, 70 So. 3d 707 (Fla. 4th DCA 2011)
- Department of Law Enforcement v. Real Property, 588 So. 2d 957 (Fla. 1991)
- State ex rel. Gore v. Chillingworth, 171 So. 649 (Fla. 1936)
- Hansberry v. Lee, 311 U.S. 32 (1940)
- Honda Motor Co., Ltd. v. Oberg, 512 U.S. 415 (1994)
- Topps v. State, 865 So. 2d 1253 (Fla. 2004)
- J. Schnarr & Co. v. Virginia-Carolina Chemical Corp., 159 So. 39 (Fla. 1934)
- Kent v. Sutker, 40 So. 2d 145 (Fla. 1949)
- Fayerweather v. Ritch, 195 U.S. 276 (1904)

- *Cromwell v. Sac County*, 94 U.S. 351 (1876)
- *Campbell v. State*, 906 So. 2d 293 (Fla. 2d DCA 2004)
- *State v. Myers*, 814 So. 2d 1200 (Fla. 1st DCA 2002)
- *Waggoner v. R.J. Reynolds Tobacco Co.*, 835 F. Supp. 2d 1244 (M.D. Fla. 2011)
- *Meyers v. Metropolitan Dade County*, 748 So. 2d 920 (Fla. 1999)
- *McCormack v. Abbott Laboratories*, 617 F. Supp. 1521 (D. Mass. 1985)
- *Hernandez v. Motor Vessel Skyward*, 61 F.R.D. 558 (S.D. Fla. 1973)

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