

UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

Earl E. Graham v. R.J. Reynolds Tobacco Company

811 F.3d 434 (11th Cir. 2016) · No. 13-14590 · Decided February 2, 2016

SUMMARY

The United States Court of Appeals for the Eleventh Circuit vacated its earlier order granting rehearing en banc after the chief judge recused himself. The court then ordered that the case be reheard en banc and vacated the panel's opinion.

OPINION

PER CURIAM.

Case: 13-14590 Date Filed: 02/02/2016 Page: 1 of 2 [PUBLISH] IN THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT _____ No. 13-14590 _____ D.C. Docket No. 3:09-cv-13602-MMH-JBT EARL E. GRAHAM, as PR of Faye Dale Graham, deceased, Plaintiff - Appellee, versus R.J. REYNOLDS TOBACCO COMPANY, individually and as successor by merger to the Brown and Williamson Tobacco Corporation and The American Tobacco Company, PHILIP MORRIS USA, INC., Defendants - Appellants, LORILLARD TOBACCO COMPANY, et al., Defendants.

Case: 13-14590 Date Filed: 02/02/2016 Page: 2 of 2 _____ Appeal from the United States District Court for the Middle District of Florida _____ Before TJOFAT, Acting Chief Judge, HULL, MARCUS, WILSON, WILLIAM PRYOR, MARTIN, JORDAN, ROSENBAUM, JULIE CARNES, and JILL PRYOR, Circuit Judges. BY THE COURT: In an earlier order of this Court, we granted a petition for rehearing en banc in this case.

After that order was issued, Chief Judge Carnes discovered that he may be recused and, in an abundance of caution to avoid any appearance of impropriety, he has recused himself from any participation in the decision of this case. This court's earlier order granting rehearing en banc is therefore VACATED.

As a majority of the judges of this Court in active service and eligible to hear it have voted in favor of granting rehearing en banc, it is ORDERED that this case will be reheard en banc. The panel's opinion is VACATED. 2