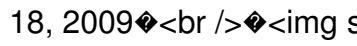


by Tonya Alanez | South Florida Sun Sentinel 3:49 PM EST, February 18, 2009



FORT LAUDERDALE - Tobacco giant Philip Morris must pay \$8 million to a Cooper City widow whose husband died of lung cancer, a Broward County jury decided today in a landmark case that could foretell the outcome of about 8,000 similar lawsuits pending in Florida.

Stuart Hess, a chain smoker of up to three packs a day, died in 1997 at age 55.

His widow, Elaine, and son, David, brought a wrongful-death claim against Philip Morris, maker of the Benson & Hedges that Stuart Hess puffed on for more than 40 years.

After about nine hours of deliberations, the six jurors decided that Elaine Hess should get \$2 million and David Hess \$1 million for their losses.

The jury also decided that Philip Morris should pay \$5 million as punishment for deceiving the public about the addictive nature of nicotine and the health risks associated with smoking.

Philip Morris' attorney had argued that Stuart Hess made his own choices and could have stopped smoking in time.

"Mr. Hess had it within his control to stop smoking, and quit smoking in time to avoid getting lung cancer," said Kenneth Reilly, an attorney representing Richmond, Va.-based Philip Morris USA.

Hess' attorneys had asked for more than \$130 million -- \$25 million to \$35 million to the widow and son as compensatory damages for their loss and triple that figure as punitive damages.

The same jury already found Hess had been hopelessly addicted to nicotine and that his addiction caused his death.

The jury determined that both Philip Morris and Stuart Hess bore responsibility for Hess' addiction and ultimate death, but the tobacco company carried only 42 percent of the fault. The remainder of the fault was Hess'.

This is the first of about 8,000 individual lawsuits to go to trial since the Florida Supreme Court in 2006 threw out a record \$145 billion class-action jury award.

Cigarette makers, lawyers and other Florida smokers and survivors who have filed similar lawsuits have closely watched the Hess case, viewing it as a test that may signal how other cases will turn out and how much cigarette manufacturers could be ordered to pay in damages.

When the state's high court tossed the class-action award, it upheld conclusions that cigarettes causes cancer and the tobacco industry had concealed known risks.

The Hess family attorneys told jurors that Hess bought into decades of deceitful practices by Big Tobacco designed to promote sales of their deadly products.

"They knew if they hooked 'em young, they'd have a lifelong customer," one of the Hess' attorneys, Alex Alvarez, said in closing argument Tuesday.

Deceptive advertisements, attacks upon health studies about the dangers of smoking and formulated doubts about links to cancer were all early ploys of the tobacco companies, Hess' attorneys said, showing jurors early black-and-white ads glamorizing smoking, Philip Morris' internal memos and clips from the 1994 congressional hearings where tobacco company executives, one after another, denied that nicotine was addictive.

"They are co-conspirators with other major corporations regarding the health effects and dangerous nature of smoking," another of Hess' attorneys, Gary Paige, said.

"There's no more of a sinister act than that."

Source: <http://www.sun-sentinel.com/news/local/breakingnews/sfl-bn-0218tobaccotrial,0,2782822.story>