



Price v. Philip Morris USA, 848 N.E.2d 1 (Ill. 2005)

Topics Covered: Anti-tobacco

Outcome: Very Unfavorable

Issue

The issue in this case was whether Philip Morris had deceptively advertised and sold its “light” cigarettes.

AMA Interest

The AMA, in keeping with its objective of protecting public health, supports a smoke-free America.

Case Summary

In this class action, the trial judge had entered a judgment of approximately \$10 billion against Philip Morris for its advertising and sale of Marlboro Lights and Cambridge Lights. Allegedly, the marketing descriptions “lights” and “lowered tar and nicotine” deceived smokers into believing those cigarettes delivered less tar and nicotine and were therefore less hazardous than their full flavored counterparts. The trial court specifically found that Philip Morris knew that its light cigarettes delivered as much tar and nicotine as regular cigarettes to the average smoker. Philip Morris appealed directly to the Illinois Supreme Court.

The Illinois Supreme Court reversed the trial court judgment. The Illinois statute underlying the plaintiffs’ claim provided that deceptive business practices are non-actionable if “specifically authorized by laws administered by any [governmental] regulatory body or officer.” Based on two administrative consent orders between the Federal Trade Commission and tobacco companies other than Philip Morris, neither of which consent order mentioned the term “light” or the phrase “lowered tar and nicotine,” the court held that Philip Morris’ advertising had been “specifically authorized by laws.”

Litigation Center Involvement

The Litigation Center, along with the Illinois State Medical Society and several public health organizations, filed a brief as amicus curiae in the appeal. The brief emphasized the AMA’s endorsement of the scientific findings in National Cancer Institute Monograph 13 - Risks Associated with Smoking Cigarettes with Low Machine-Measured Yields of Tar and Nicotine. This monograph determined that smokers modify their smoking practices to compensate for any “lightness” in the design of cigarettes, in order to consume the same dose of nicotine (and the tars associated with the nicotine) as in a full flavored cigarette.

Illinois Supreme Court brief