

Case No. SC19-601

---

**IN THE SUPREME COURT OF FLORIDA**

---

MARY E. SHEFFIELD, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF VALTON SHEFFIELD,

*Petitioner,*

v.

R.J. REYNOLDS TOBACCO COMPANY,

*Respondent.*

---

On Review Of A Certified Conflict From  
The Fifth District Court of Appeal, Case No. 5D17-2521  
State of Florida

---

**PHILIP MORRIS USA INC.'S UNOPPOSED MOTION  
FOR LEAVE TO FILE AMICUS CURIAE BRIEF**

---

Pursuant to Florida Rule of Appellate Procedure 9.370(a), Philip Morris USA Inc. (“PM USA”) moves for leave to file an amicus curiae brief in support of respondent, R.J. Reynolds Tobacco Company. In support of its motion, PM USA states as follows:

1. **PM USA’s Interest In This Appeal.** PM USA is a defendant in approximately 1,600 pending *Engle* progeny cases, including hundreds of cases in the same posture as this one—wrongful death actions brought by the estates of smokers who passed away after Florida’s punitive damages statute was amended in 1999. As detailed in the parties’ briefs, the amended statute prohibits punitive

RECEIVED, 12/14/2020 07:40:30 PM, Clerk, Supreme Court

damages awards against defendants who have already paid punitive damages in prior cases “alleging harm from the same act or single course of conduct.” § 768.73(2)(a), Fla. Stat. (1999). But as in this case, the plaintiffs in the hundreds of cases against PM USA seek to punish conduct for which the company has already paid nearly half a billion dollars in punitive damages. PM USA therefore has a strong interest in ensuring that the correct, post-1999 version of the statute—the version the Legislature intended to govern—applies in cases like this one.

**2. The Particular Issue PM USA Will Address.** Whether in amending section 768.73, the Florida Legislature sought to prohibit successive plaintiffs in mass tort litigation, such as tobacco litigation, from recovering punitive damages from defendants such as PM USA, who continue to be punished again and again for the same alleged conduct.

**3. How PM USA Can Assist The Court In The Disposition Of The Case.** As detailed in PM USA’s amicus brief (submitted contemporaneously with this motion), prior to the amendment of section 768.73 in 1999, there was an active debate in Florida and throughout the country over the issue of “multiple” punitive damages. PM USA’s brief traces the history of the debate, which demonstrates clearly that the Florida Legislature intended to adopt a solution that would apply in precisely this circumstance. Moreover, the punitive damages figures in PM USA’s brief will further assist the Court in better comprehending the scope of the

problem. The amount of money the *Engle* defendants have paid in punitive damages for the very same conduct alleged in *Engle* progeny litigation is staggering. These figures establish that these defendants are exactly the type of litigants the Legislature sought to protect by amending the statute.

**4. All Parties Consent To The Filing Of PM USA's Amicus Brief.** David J. Sales, counsel for petitioner, and Brian C. Lea, counsel for respondent, have authorized the undersigned counsel for PM USA to represent that they consent to the filing of an amicus brief.

WHEREFORE, PM USA respectfully requests leave to appear as amicus curiae in support of respondent, R.J. Reynolds and to submit the brief filed contemporaneously herewith.

Respectfully submitted,

/s/ Scott A. Chesin  
Scott A. Chesin  
Florida Bar No. 120551  
MAYER BROWN LLP  
1221 Avenue of the Americas  
New York, N.Y. 10020  
Telephone: (212) 506-2500  
Facsimile: (212) 262-1910  
schesin@mayerbrown.com

*Attorneys for Philip Morris USA Inc.*

## CERTIFICATE OF SERVICE

I certify that on December 14, 2020, I electronically filed this motion with the Clerk of the Court by using the Florida Courts E-Filing Portal and that a true and correct copy of this brief was served by E-Mail on below listed counsel:

Attorneys for Plaintiff:

Melvin B. Wright  
COLLING, GILBERT, WRIGHT & CARTER, LLC  
801 N. Orange Avenue, Suite 830  
Orlando, FL 32801  
mwright@thefloridafirm.com  
lthomas@thefloridafirm.com  
brivera@thefloridafirm.com  
bjnbaptiste@thefloridafirm.com

David J. Sales  
Daniel R. Hoffman  
DAVID J. SALES, P.A.  
1857 Morrill Street  
Sarasota, FL 34236  
david@salesappeals.com  
roni@salesappeals.com  
serviceportal@salesappeals.com

/s/ Scott A. Chesin  
Scott A. Chesin

*Attorneys for Philip Morris USA Inc.*