

# Supreme Court of Florida

WEDNESDAY, NOVEMBER 23, 2022

**CASE NO.: SC22-330**

Lower Tribunal No(s):

2D20-2714; 522013CA010978XXCICI

PHILIP MORRIS USA, INC., ET AL. vs. KEVIN DUGNAN, ETC.

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Petitioner(s)

Respondent(s)

Upon review of the response to this Court's Order to Show Cause dated May 18, 2022, and the reply, the Court has determined that it should exercise jurisdiction in this case. It is ordered that the Petition for Review is granted, the Second District Court of Appeal's decision in this case is quashed, and this matter is remanded to the district court for reconsideration upon application of our decision in *Prentice v. R.J. Reynolds Tobacco Co.*, 338 So. 3d 831 (Fla. 2022).

No motion for rehearing will be entertained by the Court.

MUÑIZ, C.J., and CANADY, POLSTON, COURIEL, and GROSSHANS, JJ., concur.

LABARGA, J., concurs in result only with an opinion.

FRANCIS, J., did not participate.

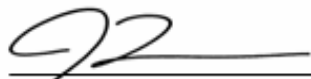
LABARGA, J., concurring in result only.

Because I strongly believe that proof of fraudulent concealment in an *Engle*-progeny case does not require proof of reliance on a specific statement by an *Engle* defendant, I dissented to this Court's

holding in *Prentice v. R.J. Reynolds Tobacco Co.*, 338 So. 3d 831 (Fla. 2022).

In this case, I recognize, as does the respondent, that this Court's holding in *Prentice* is controlling. However, I reaffirm my dissent in *Prentice*, and I concur in result *only* to the extent that *Prentice* requires this result.

A True Copy  
Test:



John A. Tomasino  
Clerk, Supreme Court



ks  
Served:

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HON. THOMAS MARK RAMSBERGER, JUDGE	