YAHOO! NEWS

Korein Tillery Tells Judge: Reinstate $10 Billion Verdict against Tobacco Company Because It Misled Illinois Supreme Court

Korein Tillery asks a judge in Madison County, Illinois, to reinstate the landmark $10.1 billion verdict against Philip Morris for deceptive advertising of so-called "light" cigarettes because the company factually misled the Illinois Supreme Court when it overturned the verdict in 2005.

Philip Morris' false representation to the Illinois Supreme Court that federal regulators approved its use of the terms "light" and "low tar and nicotine" in cigarette advertising requires the court to reinstate a landmark $10.1 billion verdict against the company for defrauding smokers, attorney Stephen M. Tillery of Korein Tillery LLC told a judge in Third Judicial Circuit Court in Madison County today.

Circuit Judge Dennis R. Ruth took Tillery's request to reinstate one of the largest verdicts in United States history under advisement. He did not signal when a ruling would be forthcoming under these extraordinary legal circumstances.

In the latest of a long series of hearings in the 12-year-old case (Price v. Philip Morris Inc., Circuit Court of Madison County, Illinois, 00-L-112), Tillery asked Judge Ruth to correct the reversal of the verdict because it was based on a misrepresentation of the facts by Philip Morris. Tillery said the tobacco company's statement to the Court and testimony by an expert witness (over plaintiffs' objections) that the Federal Trade Commission (FTC) had authorized the use of "light" and "low tar and nicotine" in advertisements for so-called "light" cigarettes led to the Supreme Court's reversal of the verdict. But shortly after the reversal, Tillery said, Philip Morris' claim was proven false in Altria Group Inc. v. Good (Supreme Court of the United States 07-562), a separate "light" cigarette case from Maine against Philip Morris (now Altria Group). Tillery said the FTC filed a brief in Good telling the U.S. Supreme Court that the FTC had never authorized the use of those terms to advertise "light" cigarettes.

Tillery told Judge Ruth that he did not have to reverse or overturn the Illinois Supreme Court decision. Tillery asked him to agree that the plaintiffs deserved relief from the reversal of the verdict and order the case returned to the last legal status in the Madison County courts – the verdict for $10.1 billion.

"In the two-month trial in Madison County in 2003 that led to the $10 billion verdict against Philip Morris, we proved that the company defrauded 1.1 million Illinois consumers by telling them that 'light' cigarettes were safer, all the while knowing that the company's own tests proved that to be absolutely false. In fact, Philip Morris knew that smoking 'light' cigarettes could be more of a health threat than regular cigarettes," Tillery said in a formal statement today.

“The Illinois Supreme Court reversed that verdict because Philip Morris represented as fact that the FTC authorized the use of those misleading terms in advertising. The FTC’s subsequent statements in the Good case that it never authorized those misleading terms are grounds for reinstatement of the Price verdict. It’s time to hold Philip Morris accountable for its uniform deception-- not only of the Illinois Supreme Court, but also of those consumers in Illinois who paid the ultimate price for believing they were smoking a safer product,” Tillery said.

Philip Morris has argued that the FTC brief and the decision in Good were not new evidence that warranted reinstating the verdict in Madison County.

Tillery argued in pleadings that the evidence in the Good case should be applied to the Price case because it proved that “Philip Morris previously prevailed in this matter by advancing an inaccurate version of the historical record that now has been thoroughly rejected by the U.S. Supreme Court and the FTC.” Tillery also pointed out that the U.S. Department of Justice (DOJ) had “alleged that cigarette manufacturers (including Philip Morris) and tobacco-related trade organizations violated the Racketeer Influenced and Corrupt Organizations Act by engaging in a conspiracy to deceive the American public about, among other things, the purported health benefits from ‘light’ and ‘low tar’ cigarettes.” Tillery quoted the DOJ allegations that cigarette-makers marketed those cigarettes as safer than regular cigarettes “despite either lacking evidence to substantiate their claims or knowing them to be false.”

Here is some additional background and a timeline of court actions that led to the hearing Tuesday:

March 31, 2003. After a two-month bench trial in Madison County, the judge entered a judgment of $10.1 billion in compensatory and punitive damages against Philip Morris (now Altria Group Inc.) in favor of the class of plaintiffs. Korein Tillery produced evidence that consumers were financially injured when Philip Morris deceptively advertised certain cigarettes as “light” and as containing “lowered tar and nicotine,” and that the company knew Marlboro Lights were not safer and, in fact, could be more damaging to smokers’ health than regular Marlboro Reds cigarettes.

December 15, 2005. Ruling on Philip Morris’ appeal that bypassed the Appellate Courts, the Illinois Supreme Court reversed the judgment based on Philip Morris’ representation that the FTC had authorized the use of “light, low or reduced” in descriptions of “light” cigarettes.

November 27, 2006. The U.S. Supreme Court denied Plaintiffs’ request to hear an appeal of the Illinois Supreme Court reversal.

December 18, 2006. In accordance with the reversal order from the Illinois Supreme Court, the trial judge Madison County Circuit Court dismissed the suit.

December 15, 2008. In a case from Maine very similar to Price v. Philip Morris, the U.S. Supreme Court ruled in Altria Group Inc. v. Good that the FTC never authorized cigarette makers to use the “light, low, or reduced” terms for the cigarettes, citing a specific denial by the FTC. The Court reinstated the Good case, which remains pending in Maine.

December 18, 2008. Just three days after the U.S. Supreme Court decision, Korein Tillery filed a petition in the Madison County Circuit Court seeking a new hearing based on the Good decision. Korein Tillery argued that the facts brought out in Good proved that the FTC had never authorized Philip Morris to use the specific terms suggesting their cigarettes were safer. The Circuit Court dismissed the petition and Plaintiffs appealed to the Fifth District Appellate Court.

February 24, 2011. The Appellate Court reversed the trial court, rejecting Philip Morris' argument that Korein Tillery's appeal was untimely. The Appellate Court ruled that Plaintiffs had two years from the trial court's dismissal of the case on December 18, 2006, to file an appeal, and that their appeal on December 18, 2008, was filed in time. The Appellate Court reversed the dismissal of the case and remanded it to the trial court "for further proceedings."

May 5, 2011. Philip Morris filed a petition for leave to appeal with the Illinois Supreme Court, arguing again that the Plaintiff's appeal of the reversal was filed too late and that the U.S. Supreme Court decision in the Good case could not be applied to reconsider the Price judgment.

June 16, 2011. In its response to Philip Morris' petition, Korein Tillery argued that its appeal was filed on time and that the evidence in Good was applicable because it corrected the false information presented by Philip Morris in Price.

September 28, 2011. The Illinois Supreme Court denied Philip Morris' petition for leave to appeal, returning the case to Circuit Court in Madison County.

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