

March 27, 2015

## Jury Awards \$13M to Widow in Smoker Case



A Fort Lauderdale jury handed down a \$13 million verdict for the widow of Paul Pollari, an Oakland Park butcher who smoked for about 50 years and died in 1994 after being diagnosed with lung cancer.

Jurors awarded \$10 million in compensatory damages and \$3 million in punitive damages against cigarette

manufacturers R.J. Reynolds Tobacco Co. and Philip Morris USA in the trial before Broward Circuit Judge John Murphy III.

"This is another case involving a man who got addicted to cigarettes as a teenager when there were no warnings on cigarette packs and when more than 50 percent of doctors smoked," said Kelley/Uustal attorney Todd McPharlin, who teamed with colleagues Eric Rosen and Kim Wald, as well as Alex Alvarez from the Alvarez Firm in Coral Gables, to represent Pollari's widow, Rose.

They said Pollari smoked from his early teens in the 1940s to August 1993 when he was diagnosed with lung cancer. He started smoking Camel cigarettes and switched to Kools in 1964 and Marlboros in 1971. In the 1980s, he switched to Marlboro Lights.

"Paul Pollari tried to quit many times and switched to light cigarettes, which he mistakenly believed were safer," McPharlin said. "He never knew all the things tobacco companies were doing to make cigarettes more addictive."

Pollari underwent chemotherapy and radiation, but doctors said nothing could save him. His widow sued R.J. Reynolds and Philip Morris in an Engle progeny case, the landmark tobacco class action named for the lead plaintiff, Miami Beach pediatrician Howard Engle. The Florida Supreme Court in 2006 struck the \$145 billion award and decertified the Florida smokers' class action verdict against industry-leading cigarette makers, forcing smokers or their families to file individual lawsuits.

Attorneys argued Pollari was addicted to nicotine in cigarettes, which led to primary lung cancer and death.

Ursula Henninger of King & Spalding in Charlotte, North Carolina, represented R.J. Reynolds, while Kenneth Reilly of Shook, Hardy & Bacon in Miami, handled the litigation for Philip Morris. They did not respond to requests for comment by deadline.

The jury assigned 15 percent of the blame to Pollari and divided the remaining 85 percent liability evenly between Reynolds and Philip Morris. It awarded \$10 million in damages to Pollari's widow for the loss of her husband's companionship and protection and for her mental pain and suffering.

It also found the two companies concealed or omitted information about their product's ability to harm users and that Pollari relied on that information. As a result, jurors awarded punitive damages of \$1.5 million each against the two companies.

"Not only does the verdict help Mrs. Pollari find some semblance of closure, it's another example of jurors seeing big tobacco's decades-long ruse for what it was—a lie—and holding them accountable," McPharlin said.

The Pollari case was the second major tobacco victory in as many months for the South Florida plaintiffs team.

In February, a jury sided with the Kelley/Uustal and the Alvarez Law Firm in a case that pitted widow Vicki McKeever against Philip Morris. It handed down a \$17.4 million verdict in that case, including \$11.6 million in punitive damages.