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Jury Weighs R.J. Reynolds' Role In Smoker's Cancer Death

By **Brandon Lowrey**

Law360, Los Angeles (August 5, 2015, 9:07 PM ET) -- A Florida jury began deliberating Wednesday in a trial over whether [R.J. Reynolds Tobacco Co.](#) is liable for the lung cancer death of a woman who had smoked two packs each day for 50 years, and whether the company hid cigarettes' dangers from her.

During closing arguments in Fort Lauderdale, Florida, plaintiff attorney Todd McPharlin of [Kelley Uustal PLC](#) urged jurors to award up to \$8 million to the family of Lillian Kaplan, who died at age 84 in 2012. He also told jurors to find that punitive damages are warranted, which would kick off a second trial phase.

"They actually went out there and said there's nothing wrong with our product," he said.

Kaplan began smoking at 12, and smoked heavily since she was 17. She tried to quit smoking several times since the 1960s, but never made it more than a week and a half until after her 1994 chronic obstructive pulmonary disease diagnosis, her attorney told jurors.

Kaplan suffered a stroke and was diagnosed with lung cancer in 2012. She died later that year.

R.J. Reynolds argued that Kaplan's claims are barred by the statute of limitations because she should have known that she had COPD before May 1990 because she had symptoms similar to those of her husband, who died of COPD.

The tobacco company's attorney, Stephen Kaczynski of [Jones Day](#), said the evidence didn't clearly show that she was misled by tobacco companies. He added that she had outlived her siblings and lived a long life of 84 years.

The last remark drew a retort from McPharlin.

"The fact that she was 84 means she lived long enough and it doesn't matter that [R.J. Reynolds] took her life?" McPharlin said.

The case is one of the thousands stemming from the landmark Engle class action against tobacco companies, which the Florida Supreme Court decertified in 2006.

Though the state high court decertified the class and overturned a \$145 billion verdict, the court allowed up to 700,000 people who could have won judgments to rely on the jury's findings to file suits of their own. These findings include conclusions that smoking causes

certain diseases and that tobacco companies hid smoking's dangers.

Earlier this week in another Engle-related case, another Florida jury slapped [Philip Morris USA Inc.](#) with \$3.2 million in punitive damages, awarding **a total of \$11 million** to the family of an ex-smoker who had two lung transplants after decades of smoking.

Kaplan is represented by Todd McPharlin of Kelley Uustal.

R.J. Reynolds is represented by Stephen Kaczynski of Jones Day.

The case is Kaplan v. R.J. Reynolds Tobacco Co., case number 08-19469, in the 17th Judicial Circuit of Florida.

--Editing by Patricia K. Cole.