

Florida Supreme Court issues landmark decision on tobacco case

Court reinstated jury's verdict for family of woman who died from smoking

On September 20, 2018, the Florida Supreme Court rendered a landmark decision in *Odom v. R.J. Reynolds Tobacco Co.*, overturning a decision by Florida's Fourth District Court of Appeal and ordering the reinstatement of a jury's verdict awarding \$6 million in noneconomic damages to an adult child whose mother died of lung cancer as a result of a lifetime of smoking. The award totaled \$20 million (\$6 million in compensatory damages and \$14 million punitive damages) plus attorney's fees for the appeal.

In 2014, after a four-week trial, a Palm Beach County Circuit Court jury returned a verdict in favor of Gwendolyn Odom, daughter of Juanita Thurston who died of lung cancer as a result of an addiction to cigarettes. The SDSBS trial team consisted of **Sia Baker-Barnes**, **Hardee Bass**, and **Mariano Garcia**. The jury deliberated a total of three hours and unanimously awarded \$6 million to Ms. Odom and the estate of Ms. Thurston (later reduced to \$4.5 million for comparative fault). Following phase two of the trial, the jury awarded \$14 million in punitive damages against R.J. Reynolds Tobacco Company. At the time, the verdict was the largest verdict for an adult child in the State of Florida.

Ms. Thurston began smoking as a teenager, mainly consuming cigarettes manufactured by R.J. Reynolds Tobacco Company. While the defendant argued that Ms. Thurston bore personal responsibility for her choice to smoke, the jury later found that she had relied upon the tobacco industry's efforts to conceal information regarding the effects of tobacco on health and addiction. In April 1993, she died of lung cancer at the age of 58 years. The Odom case stemmed from a 2000 Florida state class action case, *Engle v. R.J. Reynolds* which had been reversed and the class action decertified. The ruling also permitted potentially thousands of lawsuits to be filed separately, and Odom was part of those individual filings.

Following the 2014 trial court's award for Odom, attorneys for the defendant R.J. Reynolds filed an appeal of that decision with Florida's Fourth District Court of Appeal arguing that the trial court abused its discretion by permitting a jury verdict which exceeded the maximum limit of a reasonable range. The defendant company argued that the verdict was the product of passion and prejudice and that Odom, a financially independent adult child, did not have the type of relationship with her mother that could justify a multimillion-dollar



(l-r:) SDSBS attorneys Mariano Garcia, Sia Baker-Barnes, client Gwendolyn Odom, and attorney Hardee Bass.

noneconomic damages award. Ms. Odom's attorneys argued that the trial court had addressed the particular facts of the Odom case, noting the plaintiff's long and unusually close relationship Ms. Odom had with her mother. The Fourth DCA sided with the defendants and reversed the trial court's award on the basis that the court had abused its discretion to permit an award of such an amount. The Court's decision included the sweeping ruling that no matter what the evidence showed, the relationship between a financially independent adult child and her parent was not the "type of relationship" that could ever justify a multi-million dollar non-economic damages award.

The Searcy Denney trial team refused to back down and took this battle all the way to the Florida Supreme Court. The case garnered significant media attention and resulted in several outside interested parties (*amicus curiae*), filing additional appellate briefs including the Florida Justice Association, the Florida Defense Lawyers Association and the Florida Justice Reform Institute. After the filing of many lengthy briefs and a heated oral argument, the Florida Supreme Court issued a landmark decision disagreeing with the Fourth DCA, quashing its decision, and remanding the case with instructions to reinstate the final judgment for both compensatory and punitive damages, plus attorney's fees for the trial and the appeal.

The decision not only represents the final step in an over ten-year fight for justice. More importantly, it sets a precedent of recognition of the relationships between adult children and their parents in wrongful death cases for years to come. ♦

Florida Supreme Court's Decision:

"We further hold that the Fourth District erred in creating a cap on the amount of noneconomic damages a financially independent adult child may be awarded for the wrongful death of his or her parent in conflict with this Court's precedent. Neither the Legislature nor this Court has established a cap on the amount of noneconomic damages a survivor may recover in a wrongful death action, and we decline to do so today. Accordingly, we quash the Fourth District's decision and remand for reinstatement of the judgment."