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Watershed appeal in Florida case clarifies that there are no special rules for *Engle* progeny cases

WINSTON-SALEM, N.C. – July 22, 2010 – The Court of Appeals for the Eleventh Circuit today clarified that the jury findings from the decertified class-action in *Engle v. Liggett Group, Inc.* may be used by plaintiffs in *Engle* progeny trials only to establish facts that were actually decided by the jury in the *Engle* trial.

“The logic of this opinion supports our position that every *Engle*-related judgment to date against R.J. Reynolds Tobacco Company in the Florida state courts should be reversed,” said Martin L. Holton III, general counsel for R.J. Reynolds Tobacco.

The 11th Circuit is the first appellate court to issue an opinion on this question. Its ruling directly applies to over 4,400 cases pending in federal court in Florida. The same issue is at the heart of a similar number of cases pending in Florida state court, and is the subject of several appeals pending in the state system.

In the *Engle* case, the Florida Supreme Court decertified a class of Florida smokers, but upheld certain generic findings against the tobacco companies. In thousands of so-called “*Engle* progeny” cases, plaintiffs in Florida seek to rely on the *Engle* findings to broadly establish their burden of proof. The tobacco companies have argued that such use of the *Engle* findings would improperly prevent them from mounting a full defense.

Applying Florida law, the 11th Circuit observed “the plaintiffs have pointed to nothing in the record, and there is certainly nothing in the jury findings themselves, to support their” broad interpretation of the *Engle* findings. The court remanded the case and expressed doubt that the plaintiffs will be able to meet their burden.

The 11th Circuit's decision clarifies that there are no special rules for *Engle* progeny cases. *Engle* progeny plaintiffs do not get to use the *Engle* findings as a replacement for actual proof. Instead, like every other plaintiff in Florida and the rest of the country, *Engle* progeny plaintiffs are required to prove their claims to a jury with actual evidence. R.J. Reynolds and the other tobacco companies also get the same opportunity as every other defendant to present their full defense to the jury.

“It is clear that the tobacco companies have been wrongfully prevented from mounting a full defense in lawsuits brought by individual *Engle* progeny plaintiffs in state court,” said Holton.

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R.J. Reynolds Tobacco Company, an indirect subsidiary of Reynolds American Inc. (NYSE:RAI), is the second-largest tobacco company in the United States, manufacturing about one of every three cigarettes sold in the country. The company's brands include five of the 10 bestselling U.S. cigarette brands: Camel, Pall Mall, Winston, Doral and Kool. For more information, visit www.RJRT.com.

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