

U.S. Supreme Court

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Expert: Supreme Court ruling could spur class actions against cigarette makers

BY CHRIS RIZO

WASHINGTON (Legal Newsline)-The U.S. Supreme Court ruling this week that smokers can sue over deceptive marketing of so-called light cigarettes could spur a flood of class actions filings against cigarette makers, a leading expert told Legal Newsline.

In the case decided Monday, the tobacco company Altria Group asked the nation's highest court to block a class action lawsuit by a group of Maine smokers who say they were misled by the company's advertising that so-called "light" and "low tar" cigarettes are a safer alternative to regular cigarettes.

In a 5-4 ruling, the justices said that federal law doesn't shield cigarette makers from state lawsuits accusing them of deceiving consumers by marketing "light" or "low tar" cigarette brands.

The ruling likely has trial lawyers fired up to file deceptive advertising claims against cigarette makers, including Altria's Philip Morris USA group, said Washington Legal Foundation Chief Counsel Richard Samp.

"There will be many, many class actions that will be filed, and not an insignificant number of them will be certified, and once you have a certified class action there is a potential for damage awards that run into the billions of dollars," Samp said.

In the Maine case, a class sued Virginia-based Altria Group and Philip Morris, claiming they broke Maine state law barring deceptive business practices.

"Yesterday's decision will have a very large impact on the tobacco industry because there are many of these types of suits out there," Samp said. "If they can go forward the potential for liability in these kinds of cases is enormous."

The "potential for lots of dollars" to be made by trial lawyers is out there following Monday's ruling, Samp said, noting that plaintiffs' attorneys could file class actions against cigarette companies for allegedly defrauding consumers over claims just how much tar and nicotine is in light cigarettes.

He said lawyers will likely seek refunds for individual consumers who bought light or low-tar cigarettes.

"While that might not be very much for any one consumer, enterprising plaintiffs' lawyers can go into court and try to get a class action certified for every smoker within that state, and then try to say each one of them wants \$10,000 in damages," Samp said. "That can add up pretty quickly."

Defending itself against the class action, Altria argued the case should not move forward since tobacco products are regulated by the Federal Trade Commission, not by individual states. Altria said the class' claims are preempted by the Federal Cigarette Labeling and Advertising Act of 1965.

A federal judge originally dismissed the class action against the cigarette maker, but the 1st U.S. Circuit Court of Appeals in Boston overturned the decision.

Associate Justice John Paul Stevens wrote the court's majority opinion. He was joined by Associate Justices Stephen Breyer, Ruth Bader Ginsburg, Anthony Kennedy and David Souter.

Dissenting were Chief Justice John Roberts and Associate Justices Samuel Alito, Antonin Scalia and Clarence Thomas.

The case is Altria v. Good, 07-562.



Richard Samp

