

# Press Release

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**FOR IMMEDIATE RELEASE**

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## **IRRATIONAL ILLINOIS VERDICT DISPLAYS DEEP FLAWS IN CLASS ACTION SYSTEM**

Lawyers with the Washington Legal Foundation (WLF) today decried a multi-billion class-action verdict handed down last Friday in an Illinois jurisdiction that has become a magnet for such lawsuits. WLF charged that the verdict is further evidence that plaintiffs' lawyers are manipulating the legal system for their personal gain.

On Friday, a Madison County, Illinois judge issued a \$12.1 billion judgment in a class action suit, *Price v. Philip Morris Inc.*, brought on behalf of a class consisting of all Illinois citizens who ever purchased "light" cigarettes manufactured by Philip Morris. The plaintiffs' lawyers did not claim that any Illinois consumers suffered any injury to their health; rather, they claimed that consumers were entitled to refunds because they bought cigarettes based on Philip Morris's allegedly fraudulent statements that "light" cigarettes contain reduced levels of tar and nicotine.

"Several respected studies have identified Madison County as a haven for plaintiffs' lawyers who file frivolous class action suits. Scores of class actions have been filed there in the past several years against national companies representing a broad cross section of American industry," said WLF Chairman and General Counsel Daniel J. Popeo. "Hundreds of billions of dollars are at stake, with the bulk of the money potentially headed for the pockets of lawyers. Unless immediate steps are taken to shut down the litigation factory there and in several other rural counties throughout the country, the nation's long-term economic health is threatened," Popeo said.

"As this case well illustrates, abuse of the class action process is becoming an increasingly frequent occurrence," said WLF Chief Counsel Richard Samp. "Such suits are not meant to redress real injuries of real plaintiffs, but are used to extort verdicts and settlements from deep-pocketed companies for the exclusive benefit of the plaintiffs' bar," Samp said.

The plaintiffs' lawyers stand to benefit handsomely from Friday's verdict: the trial judge awarded them a whopping fee of \$1.775 billion. Those same lawyers have filed numerous other class actions in Madison County and have been major financial contributors to the judge who issued Friday's decision. How much of the damage award will actually find its way into

consumer's pockets is less clear; it is anticipated that many "light" cigarette smokers will not apply for refunds of the money they used to buy cigarettes. Anticipating that possibility, the judge designated a variety of southern Illinois charities as recipients of any unclaimed funds.

WLF charged that the case never should have been certified as a class action. Under Illinois law, any plaintiff alleging fraud must demonstrate that he reasonably relied on the allegedly fraudulent statement and was injured as a result of his reliance. Because reliance must be determined on an individual-by-individual basis, class action certification is wholly inappropriate in cases of this sort. Claims of reliance in this case are severely undercut by the fact that many of the plaintiffs continue to this day to smoke "light" cigarettes manufactured by Philip Morris. Class action certification has been denied in the vast majority of cases raising similar claims. "But all it takes is a few class action meccas like Madison County to bring American industry to its knees and to undermine the legitimacy of our entire system of justice," WLF's Samp said.

WLF also stated that the fraud allegations raised against Philip Morris are essentially frivolous. The plaintiffs alleged that Philip Morris failed to inform consumers that although "light" cigarettes have lower levels of tar and nicotine as measured in Federal Trade Commission (FTC) studies, those cigarettes are not necessarily any safer than other cigarettes and may not deliver reduced levels of tar and nicotine to smokers — because consumers may smoke "light" cigarettes differently from full-flavored cigarettes. WLF noted that no manufacturer has ever claimed that "light" cigarettes are healthier, and all cigarettes contain the same congressionally mandated health warnings. WLF argued that the plaintiffs' claims are barred by the Federal Cigarette Labeling and Advertising Act, which bars states from imposing health warning requirements beyond those already mandated by federal law.

WLF is a public interest law and policy center with supporters in all 50 states. It devotes a substantial portion of its resources to promoting tort reform and reining in excessive litigation. In particular, WLF has participated in numerous cases for the purpose of ensuring that cases are not certified as class actions in cases in which certification is inappropriate.

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For further information, contact WLF Chief Counsel Richard Samp, (202) 588-0302.