

# RJR Hit With \$9.3M Verdict For Smoker's Death

*By Carolina Bolado.*

*Law360, Fort Lauderdale, Fla.* (May 31, 2024, 9:13 PM EDT) -- A Florida jury on Friday awarded more than \$9 million to the family of a man who died of chronic obstructive pulmonary disease and heart disease, and assigned almost all the blame for his death to R. J. Reynolds Tobacco Co.

Just a few hours after closing arguments, the jurors in the 17th Judicial Circuit Court in Fort Lauderdale came back with a verdict for the family of Dale Moyer, a longtime smoker who died in 2013, awarding \$3 million to each of Moyer's three daughters for loss of parental companionship and for pain and suffering.

The jurors also awarded \$373,426 in compensatory damages for medical expenses Moyer incurred and assigned 90% of the fault for Moyer's death to R.J. Reynolds.

Jonathan Gdanski, who represents Moyer's family, explained that because the jury also answered "yes" to the intentional-tort questions on the verdict form — which asked whether Moyer had relied on statements made by the tobacco company that meant to conceal the harmful effects of smoking — R.J. Reynolds will be on the hook for the entire damages award, despite the jury's finding that Moyer was 10% responsible for his death.

"This is a special family, and we were all very, very proud to represent Dale and his children," Gdanski said.

The verdict is the second in the long-running case. In 2014, a jury awarded Moyer's family \$3.1 million in compensatory damages but found Moyer 70% at fault for the diseases that killed him. But the trial court then granted a new trial because it had failed to allow the defense to question 31 members of the jury pool before excusing them for bias.

The issue was a question asked by Moyer's daughter Heather Irimi, the lead plaintiff, at the outset of jury selection: Did any of the potential jurors think the family should not be able to sue the tobacco companies?

Many members of the jury pool raised their hands, and plaintiffs' counsel then asked each one about how strongly held those beliefs were and whether they would be able to set them aside for the trial.

The tobacco companies' attorneys wanted to question the entire panel, but the court dismissed the 31 potential jurors before the defense was able to do so.

An appeals court affirmed the new trial order, and the Florida Supreme Court initially agreed to hear the case but then reversed course in February 2019, saying jurisdiction had been "improvidently granted."

At trial the second time around, Irimi argued that R.J. Reynolds and other tobacco companies deliberately downplayed the health effects of nicotine and manipulated their products to make them more addictive.

In closing arguments on Thursday, Gdanski played a video deposition of Moyer in which he admitted that smoking was "expensive, it was dirty, it was a filthy habit" but that he was addicted to cigarettes.

Gdanski told jurors that Moyer never knew about the amount of money tobacco companies poured into research and an internal R.J. Reynolds document detailing the minimum amount of nicotine needed in a cigarette to keep smokers hooked.

"You can't defend continuing smoking as a free choice if the person was addicted," Gdanski said.

But in his closing statement, Jason Keehfus, who represents R.J. Reynolds, told jurors that Moyer, who died at age 83, received warning after warning throughout his lifetime about the dangers of smoking and chose to disregard them.

"It was always within his power to stop smoking and prevent the COPD and cancer," Keehfus said. "Nothing Reynolds said or did stopped Mr. Moyer from heeding those warnings."

Instead, Moyer was a man who was "going to enjoy life today and worry about the consequences sometime down the road," according to Keehfus.

A representative for R.J. Reynolds did not respond to a request for comment Friday.

The estate is represented by Jonathan R. Gdanski, Steven Hammer and Brittany C. Barron of Schlesinger Law Offices PA.

R.J. Reynolds is represented by Eric L. Lundt, Scott M. Edson and Jason Keehfus of Jones Day.

The case is Irimi et al. v. R.J. Reynolds Tobacco Co. et al., case number CACE08026337, in the 17th Judicial Circuit Court of Florida.

--Editing by Karin Roberts.

*For more of this trial, see Courtroom View Network.*

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