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**PHILIP MORRIS U.S.A., OTHER TOBACCO COMPANIES
ASK APPEALS COURT TO OVERTURN *ENGLE* VERDICT**

MIAMI, (November 26, 2001) – Philip Morris U.S.A. and the nation's other major tobacco companies filed their opening brief appealing the plaintiffs' verdicts in the *Engle* class action case. The brief was filed with Florida's Third District Court of Appeal, the state's intermediate appellate court.

In the brief, the companies made numerous arguments attacking the class certification; the many legal errors made by the Circuit Judge Robert Kaye before, during and after the trial; the improper conduct of plaintiffs' attorney Stanley Rosenblatt; and the excessiveness of the \$145 billion punitive damages award.

"We believe we have provided the appellate court with a clear and pervasive picture demonstrating Philip Morris U.S.A. was not given a fair hearing in the trial court," said William S. Ohlemeyer, Philip Morris Cos. vice president and associate general counsel.

"Any one of these errors should be sufficient basis for the appellate court to reverse this verdict, and we believe the court should go further and order that the *Engle* class be decertified."

On July 14, 2000, a Miami jury returned a \$145 billion punitive damages verdict in favor of the *Engle* class. It was, by far, the largest punitive damages award in U.S. history. The punitive verdict followed a decision in April 2000 by the same jury that the companies were responsible for the injuries suffered by three Florida smokers, Frank Amodeo, Mary Farnan and Mary Della Vecchia. The jury awarded these three smokers just over \$12.7 million in compensatory damages.

In the brief, the companies argued that the jury should not have been allowed to assess a punitive award in favor of class members who were never identified and for whom liability has not been established.

Indeed, the brief argues, it was improper for Judge Kaye to enter a "final judgment" – which ordered the companies to pay the entire award immediately – before the determination of liability for each class member was completed.

The companies set forth a lengthy recitation of errors that require reversal.

The companies set out in their brief a long list of inflammatory and improper comments by plaintiffs' counsel, including calls for the jurors to disregard the law and return a verdict based on their own sense of morals and justice.

In other words, Rosenblatt openly invited the jurors to nullify the law. Worse still, the companies said, Rosenblatt attempted to incite racial and religious biases and to manipulate those emotions against the companies.

Specifically, Rosenblatt urged the jurors to subordinate the law to their own "moral, ethical, [and] religious" judgment. He told them in closing arguments that only one such

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