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PHILIP MORRIS U.S.A. PLEASED BY FAVORABLE  
FLORIDA SUPREME COURT RULING

NEW YORK, June 27, 1996 -- In a major victory for Philip Morris's position in its constitutional challenge to the Florida Medicaid Act, the Florida Supreme Court today ruled that as a matter of constitutional due process, the defendants must have a right to defend against the State's claims, on an individual by individual basis.

The Court held that the State must identify each Medicaid recipient who it alleges was injured by smoking and permit discovery of each such recipient.

Furthermore, the Court held that the defendants have a constitutional right to rebut any claims of causation and damages, on a recipient by recipient basis.

Charles R. Wall, Senior Vice President and Deputy General Counsel, Philip Morris, said that "we are delighted that the Florida Supreme Court has agreed with our position that this lawsuit must focus on individual Medicaid recipients."

The Florida Supreme Court also ruled that, if the State of Florida seeks to recover Medicaid payments made prior to July 1, 1994, the effective date of the Third-Party Medicaid Act, it can do so only under traditional notions of subrogation, assignment and lien. In other words, the State must stand in the shoes of the individual Medicaid recipients, and is subject to the same traditional defenses applicable in individual smoking and health lawsuits.

This ruling supports Philip Morris's position that the so-called Medicaid recovery suits by other Attorneys General, which claim that the State has an independent cause of action absent a similar statute, are without merit. The Florida Supreme Court has made it clear that such suits should proceed on a Medicaid recipient by Medicaid recipient basis.

In addition, the Court said while, with certain critical exceptions, the statute is constitutional in the abstract, it might well be unconstitutional as applied to the State's case. Indeed, the principal opinion of three Justices states:

"First, a ruling of facial constitutionality does not preclude a later action challenging the manner in which the Act is applied. Indeed, some provisions of the Act may give rise to some serious constitutional issues at a later point in time ...."

And three Justices found much of the Act unconstitutional on its face.

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