

Landmark \$10 Billion Judgment Against Philip Morris in Korein Tillery Case Wins Support from the Illinois Supreme Court

ST. LOUIS & CHICAGO--([BUSINESS WIRE](#))--The landmark [\\$10.1 billion verdict](#) against cigarette-maker Philip Morris in a lawsuit filed by [Korein Tillery](#) won the support of the Illinois Supreme Court today when it refused to hear an appeal by Philip Morris that could have ended the case.

The momentous victory by Korein Tillery in [the Illinois Supreme Court](#) effectively reopens the \$10.1 billion judgment – one of the largest in United States history – and returns the [Price v. Philip Morris](#) case to the trial court in the Third Judicial Circuit Court in Madison County, Illinois, for further proceedings. That court originally entered the judgment in 2003 after a two-month trial produced evidence that consumers were injured when Philip Morris deceptively advertised certain cigarettes as “light” and as containing “lowered tar and nicotine.” At the trial, Korein Tillery proved that the company knew Marlboro Lights were not safer and, in fact, could be more damaging to smokers’ health than regular Marlboro Reds cigarettes. Following Korein Tillery’s victory at the trial court, the Illinois Supreme Court reversed the judgment in 2005 on the grounds that Philip Morris’ use of the terms “lights” and “lowered tar and nicotine” had been specifically authorized by the Federal Trade Commission (FTC). Korein Tillery challenged the reversal in 2008, just days after the [U.S. Supreme Court found in a similar lawsuit against Philip Morris \(Altria Group Inc. v Good\)](#) that the FTC had never authorized any cigarette-makers to use the descriptors “light” or “lowered tar and nicotine” in their advertising. In *Good*, the U.S. Supreme Court reversed a lower court decision from Maine and rejected the very same grounds the Illinois Supreme Court had used to overturn the *Price* judgment in 2005.

In its 2008 petition, Korein Tillery argued that the case should be reopened based on the *Good* decision and the FTC’s explicit denial that it had authorized use of the questionable terms in light cigarette advertising. Philip Morris convinced the trial court to dismiss Korein Tillery’s petition on the grounds that it was filed too late. Following Korein Tillery’s appeal of the dismissal, the Illinois Fifth District Appellate Court reversed the trial court in February 2011, held that the petition had in fact been timely filed within the two-year time limit, and instructed the trial judge to reopen the case and hear further evidence. Philip Morris then asked the Illinois Supreme Court to reverse the Appellate Court. In its petition for leave to appeal, the company argued that Korein Tillery’s petition was untimely and that the Illinois Supreme Court’s reversal of the judgment in 2005 had been correct because the U.S. Supreme Court’s ruling in *Good* in 2008 was based on new information that could not be invoked to reopen the *Price* case.

In opposing Philip Morris’ petition, lead plaintiffs’ attorney [Stephen M. Tillery](#) argued that the evidence in the *Good* case should be applied to the *Price* case because it proved that “Philip Morris previously prevailed in this matter by advancing an inaccurate version of the historical record that now has been thoroughly rejected by the U.S. Supreme Court and the FTC.” Tillery also pointed out that the U.S. Department of Justice (DOJ) had “alleged that cigarette manufacturers (including Philip Morris) and tobacco-related trade organizations violated the Racketeer Influenced and Corrupt Organizations Act by engaging in a conspiracy to deceive the American public about, among other things, the purported health benefits from ‘Light’ and ‘low tar’ cigarettes.” Tillery quoted the DOJ allegations that cigarette-makers marketed those cigarettes as safer than regular cigarettes “despite either lacking evidence to substantiate their claims or knowing them to be false.”

The Illinois Supreme Court handed down its decision today – in one sentence denying Philip Morris’ petition for leave to appeal the Fifth District Appellate Court ruling issued last February. The implications

of the Illinois Supreme Court's refusal to consider Philip Morris' appeal are significant because the same Court reversed the original judgment based on the claims of FTC's specific authorization of the "light" and "lowered tar and nicotine" descriptors. The move today could signal the Court's willingness to reconsider its previous decision in light of the *Good* case.

"The Illinois Supreme Court today issued a sound decision in *Price v. Philip Morris* that we believe charts the way for the Circuit Court to hear arguments regarding whether these terms were ever authorized by the FTC," Tillery said today. "The Supreme Court had an opportunity to review the appellate decision, but found no basis to do so. After a long journey through the courts, we believe this decision moves the judgment a step closer toward a final confirmation for the 1.1 million Illinois consumers who were represented in this lawsuit."

Here is a timeline of court rulings prior to the Illinois Supreme Court order today:

March 31, 2003. After a two-month trial in Madison County Circuit Court, the trial judge entered a judgment of \$10.1 billion in compensatory and punitive damages against Philip Morris (now Altria Group Inc.) in favor of the class of plaintiffs. Korein Tillery argued the plaintiffs were harmed by deceptive advertising by Philip Morris when it claimed that cigarettes it called "Light" or "Lowered Tar and Nicotine" were safer than regular cigarettes when the company knew they were not safer.

December 15, 2005. Ruling on Philip Morris's appeal that bypassed the Appellate Court, the Illinois Supreme Court reversed the judgment based on Philip Morris' claim that the Federal Trade Commission (FTC) had authorized the use of "light, low or reduced" in descriptions of cigarettes.

November 27, 2006. The U.S. Supreme Court refused Plaintiffs' request to hear an appeal of the Illinois Supreme Court reversal.

December 18, 2006. In accordance with the reversal order from the Illinois Supreme Court, the Circuit Court in Madison County dismissed the suit.

December 15, 2008. In a case very similar to *Price v. Philip Morris*, the U.S. Supreme Court ruled in *Altria Group Inc. v. Good* that the FTC never authorized cigarette makers to use the "light, low, or reduced" terms for the cigarettes. The FTC had denied authorizing such terms. The Court reversed a dismissal of the suit, which remains pending in Maine.

December 18, 2008. Just three days after the U.S. Supreme Court decision, Korein Tillery filed a petition in the Circuit Court seeking a new hearing based on the *Good* decision. Korein Tillery argued that the facts brought out in *Good* proved that the FTC had never authorized Philip Morris to use the specific terms suggesting their cigarettes were safer. The Circuit Court dismissed the petition and Plaintiffs appealed to the Fifth District Appellate Court.

February 24, 2011. The Appellate Court reversed the trial court, rejecting Philip Morris' argument that Korein Tillery's appeal was untimely because it had not been filed within two years of the Illinois Supreme Court decision in 2005. The Appellate Court ruled that Plaintiffs had two years from the trial court's dismissal of the case on December 18, 2006, to file an appeal, and that their appeal on December 18, 2008, was filed in time. The Appellate Court reversed the trial court's dismissal of the case and remanded it to the trial court "for further proceedings."

May 5, 2011. Philip Morris filed a petition for leave to appeal with the Illinois Supreme Court, arguing again that the Plaintiff's appeal of the reversal was filed too late and that the U.S. Supreme Court decision in the Good case could not be applied to reconsider the Price judgment.

June 16, 2011. Korein Tillery filed its response to Philip Morris' petition for leave to appeal, arguing that its appeal of the reversal was filed on time and that the evidence in the Good case was applicable because it corrected the false information presented by Philip Morris in the Price trial.

September 28, 2011. The Illinois Supreme Court denied Philip Morris' petition for leave to appeal, returning the case the Circuit Court in Madison County for further proceedings.

Korein Tillery is a an AV-rated, award-winning law firm with offices in St. Louis and Chicago that has recovered billions of dollars in verdicts and settlements in a variety of cases across the country involving pension funds, insurance, securities, antitrust, telecommunications, pharmaceuticals, environmental contamination, tobacco, computer technology, and consumer fraud. The firm has gained a national reputation for aggressively and successfully pursuing a wide variety of complex cases on behalf of its clients. Korein Tillery was named by the National Law Journal to its "Plaintiffs' Hot List" in 2003, 2004, 2007, and 2008 as one of the nation's top plaintiffs' law firms in all specialties. More information is available at www.koreintillery.com.