

Missouri court allows class-action suit against Philip Morris

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ST. LOUIS – A Missouri appeals court has ruled that a lower court appropriately certified as a class-action case a lawsuit accusing Philip Morris USA of misleading smokers about the health risks of its so-called “light” cigarettes.

Tuesday’s ruling by the Missouri Court of Appeals was cheered by attorneys who pressed a similar lawsuit in Illinois against the cigarettes maker, which in that case was ordered to pay a \$10.1 billion consumer-fraud judgment. Philip Morris – now part of Altria Group Inc. – has appealed that to the Illinois Supreme Court.

Tuesday’s ruling upheld St. Louis Circuit Judge Michael David’s decision last year to let the Missouri lawsuit’s original plaintiffs represent potentially thousands of other smokers of light cigarettes. Both Missouri rulings essentially found a class-action format appropriate in dealing with claims that Philip Morris misled smokers into thinking light cigarettes were less harmful than regular ones, violating Missouri’s Merchandising Practices Act.

William Ohlemeyer, Philip Morris’ vice president and associate general counsel, said in a written statement that the company will ask Missouri’s Supreme Court to review Tuesday’s ruling, saying that “for a variety of reasons, the company believes the law doesn’t allow cases like this to be treated as a class action.”

Messages left Wednesday with attorneys for the Missouri plaintiffs, who filed their lawsuit in St. Louis Circuit Court in February 2000, were not returned.

Among other things, that lawsuit accused Philip Morris engaged in unfair, deceptive trade practices by falsely representing that light cigarettes, when smoked under normal use, contained lower tar and nicotine than regular cigarettes.

David, the judge, originally ruled in 2003 that the class of Missouri consumers who could be included in the lawsuit were those who bought Marlboro Lights in the state since 1971 but who have no smoking-related injury claim. Last September, David limited the class to those who had bought the cigarette brand in the five years before the lawsuit was filed.

Class-action status means anyone with a similar complaint against Philip Morris can join the suit and could be included in any monetary judgment against the company.

It was not immediately clear how many Missouri resident’s may be included in the lawsuit.

In Illinois in 2003, Madison County Judge Nicholas Byron sided with the customers and ordered Philip Morris to pay \$5 billion in compensatory damages, \$2.1 billion in interest and \$3 billion in punitive damages.

Unlike many other high-profile cigarette lawsuits, that case did not accuse Philip Morris of harming customers' health. Instead, it accused the company of committing consumer fraud by leading customers to believe they were buying a less harmful kind of cigarette.

Last November, attorney James Thompson – a former Illinois governor representing Philip Morris – told the Illinois Supreme Court that smokers who wanted lighter flavor got it and smokers who wanted less tar and nicotine could get that, too. The company is not to blame, he said, if a smoker ended up canceling any health benefits by taking deeper puffs or smoking more cigarettes.

Thompson argued that case should never have been granted class-action status because each person smoked differently and had different reasons for choosing a particular brand of cigarettes.

But attorneys representing 1.1 million light cigarettes smokers in Illinois argued that Philip Morris knew when it introduced light cigarettes in 1971 that they were no healthier than regular cigarettes. The attorneys said the company hid information, including the fact that the light cigarettes had a more toxic kind of tar.

Shares of New York-based Altria rose 49 cents to close at \$67.86 on Wednesday on the New York Stock Exchange, near the upper end of its 52-week range of \$44.50 to \$69.68.

ON THE NET

Philip Morris USA, <http://www.philipmorrisusa.com/en/home.asp>

Altria Group Inc., <http://www.altria.com>