

IN THE DISTRICT COURT OF APPEAL  
FIRST DISTRICT, STATE OF FLORIDA

LUCILLE RUTH SOFFER, as  
personal representative of the  
Estate of MAURICE BENSON  
SOFFER,

CASE NO. 1D11-3724

Appellant,

v.

R. J. REYNOLDS TOBACCO  
COMPANY, ET AL.,

Appellee.

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Opinion filed January 2, 2013.

An appeal from the Circuit Court for Alachua County.  
Hon. Robert E. Roundtree, Jr., Judge.

John S. Mills, The Mills Firm, Tallahassee, Mark A. Avera, Rod Smith, Dawn M. Vallejos-Nichols, Avera & Smith, Gainesville, and James W. Gustafson, Jr., Searcy Denney Scarola Barnhart & Shipley, Tallahassee, for Appellant.

Robert B. Parrish, Moseley, Pritchard, Parrish, Knight & Jones, Jacksonville, and Gregory G. Katsas, Jones Day, Washington, D.C., for Appellee.

PER CURIAM.

**ON APPELLANT/CROSS-APPELLEE’S MOTION FOR REHEARING OR  
REHEARING EN BANC AND APPELLEE/CROSS-APPELLANT’S  
MOTION FOR CERTIFICATION OR REHEARING**

In our original opinion, we affirmed the cross-appeal without comment. We grant rehearing to clarify that we affirm R.J. Reynolds’s third issue on appeal—namely, whether the trial court’s application of factual findings established in Engle violated R.J. Reynolds’s due process rights—on the authority of R.J. Reynolds Tobacco Co. v. Martin, 53 So. 3d 1060 (Fla. 1st DCA 2010), review denied, 67 So. 3d 1050 (2011), cert. denied, 132 S. Ct. 1794 (2012), and Philip Morris USA, Inc. v. Douglas, 83 So. 3d 1002 (Fla 2d DCA 2012), review granted, No. SC12-617 (2012). We otherwise deny rehearing, rehearing en banc, and certification.

DAVIS, LEWIS, and MAKAR, JJ., CONCUR.