

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

R.J. REYNOLDS TOBACCO
COMPANY,

Appellant,

v.

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

CASE NO. 1D16-1911

FLORENCE MONROE,

Appellee.

_____ /

Opinion filed March 23, 2017.

An appeal from the Circuit Court for Gadsden County.
Martin A. Fitzpatrick, Judge.

Charles F. Beall, Jr., of Moore, Hill & Westmoreland, P.A., Pensacola; Jason T.
Burnette of Jones Day, Atlanta, GA, for Appellant.

Paulo R. Lima, Juan P. Bauta, II, and Allan B. Kaiser of The Ferraro Law Firm, P.A.,
Miami, for Appellee.

PER CURIAM.

AFFIRMED. R.J. Reynolds Tobacco Co. v. Marotta, 182 So. 3d 829 (Fla. 4th
DCA 2016), rev. granted, No. SC16-218 (Fla. Mar. 8, 2016).

BILBREY and JAY, JJ., CONCUR; WETHERELL, J., CONCURS IN PART AND
DISSENTS IN PART WITH OPINION.

WETHERELL, J., concurring in part and dissenting in part.

I concur in the disposition of this appeal in all respects except for the affirmance of the order denying Appellant's motion for remittitur of the \$11 million noneconomic damages award. I would reverse that order and remand for a new trial on damages if the parties were unable to agree upon a reduced award that is in line with the awards in other Engle progeny cases involving plaintiffs with laryngeal cancer. See R.J. Reynolds Tobacco Co. v. Smith, 131 So. 3d 18 (Fla. 1st DCA 2013) (Wetherell, J., specially concurring); R.J. Reynolds Tobacco Co. v. Townsend, 90 So. 3d 307 (Fla. 1st DCA 2012) (Wetherell, J., concurring in part and dissenting in part).