

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING  
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL  
OF FLORIDA  
SECOND DISTRICT

R.J. REYNOLDS TOBACCO )  
COMPANY, )  
 )  
Appellant, )  
 )  
v. )  
 )  
GEORGE J. DION, as personal )  
representative of the Estate of Marion )  
T. Dion, deceased, )  
 )  
Appellee. )  
\_\_\_\_\_ )

Case No. 2D16-3632

Opinion filed November 8, 2017.

Appeal from the Circuit Court for  
Sarasota County; Diana L. Moreland,  
Judge.

Marie A. Borland and Troy A. Fuhrman  
of Hill Ward Henderson, Tampa;  
Charles R.A. Morse of Jones Day, New  
York, New York; Benjamin M. Flowers,  
of Jones Day, Columbus, Ohio; and  
Jason T. Burnette of Jones Day, Atlanta,  
Georgia, for Appellant.

David J. Sales and Daniel R. Hoffman  
of David J. Sales, P.A., Jupiter; and  
William J. Wichmann of William J.  
Wichmann, P.A., Fort Lauderdale, for  
Appellee.

PER CURIAM.

R.J. Reynolds Tobacco Company appeals from a final judgment following a jury trial in this Engle<sup>1</sup>-progeny tobacco litigation case. We affirm the final judgment in all respects. As we did in Philip Morris USA Inc. v. Boatright, 217 So. 3d 166 (Fla. 2d DCA 2017), we certify conflict with R.J. Reynolds Tobacco Co. v. Schoeff, 178 So. 3d 487 (Fla. 4th DCA 2015), review granted, No. SC15-2233 (Fla. May 26, 2016), on R.J. Reynolds's argument pertaining to comparative fault. We also note that R.J. Reynolds seeks to preserve for further review its federal preemption and due process arguments, both of which have previously been rejected. See Philip Morris USA, Inc. v. Douglas, 110 So. 3d 419, 430-31 (Fla. 2013); Philip Morris USA, Inc. v. Lourie, 198 So. 3d 975, 977-79 (Fla. 2d DCA 2016), review denied, No. SC16-1629 (Fla. June 19, 2017), petition for cert. filed, No. 17-401 (Sept. 15, 2017).

VILLANTI, SLEET, and ROTHSTEIN-YOUAKIM, JJ., Concur.

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<sup>1</sup>See Engle v. Liggett Grp., Inc., 945 So. 2d 1246 (Fla. 2006).