

# Supreme Court of Florida

WEDNESDAY, NOVEMBER 23, 2022

**CASE NO.: SC21-1596**

Lower Tribunal No(s):

1D20-467; 162008CA000401LXXXMA

ROBERT MILLER, ETC.

vs. R.J. REYNOLDS TOBACCO  
COMPANY

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Petitioner(s)

Respondent(s)

Upon review of the response to this Court's order to show cause dated May 18, 2022, and the reply, the Court has determined that it should decline to accept jurisdiction in this case. *See Prentice v. R.J. Reynolds Tobacco Co.*, 338 So. 3d 831 (Fla. 2022). The petition for discretionary review is, therefore, denied.

No motion for rehearing will be entertained by the Court. *See Fla. R. App. P. 9.330(d)(2)*.

MUÑIZ, C.J., and CANADY, POLSTON, COURIEL, and GROSSHANS, JJ., concur.

LABARGA, J., concurs in result only with an opinion.

FRANCIS, J., did not participate.

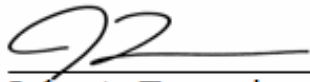
LABARGA, J., concurring in result only.

Because I strongly believe that proof of fraudulent concealment in an *Engle*-progeny case does not require proof of reliance on a specific statement by an *Engle* defendant, I dissented to this Court's holding in *Prentice v. R.J. Reynolds Tobacco Co.*, 338 So. 3d 831 (Fla. 2022).

In this case, I recognize, as does the petitioner, that this Court's holding in *Prentice* is controlling. However, I reaffirm my dissent in *Prentice*, and I concur in result *only* to the extent that *Prentice* requires this result.

A True Copy

Test:



John A. Tomasino  
Clerk, Supreme Court



ks

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