

Third District Court of Appeal

State of Florida

Opinion filed November 27, 2019.
Not final until disposition of timely filed motion for rehearing.

Nos. 3D18-908 & 3D18-228
Lower Tribunal No. 08-1464

Philip Morris USA, Inc.,
Appellant/Cross-Appellee,

vs.

Stefanny Sommers, etc.,
Appellee/Cross-Appellant.

Appeals from the Circuit Court for Miami-Dade County, Monica Gordo and Rodolfo A. Ruiz, Judges.

Shook, Hardy & Bacon, L.L.P., and J. Daniel Gardner; Arnold & Porter Kaye Scholer, LLP, David M. Menichetti and Geoffrey J. Michael (Washington, DC), for appellant/cross-appellee.

Eaton & Wolk, PL and Douglas F. Eaton, for appellee/cross-appellant.

Before EMAS, C.J., and FERNANDEZ, and MILLER, JJ.

FERNANDEZ, J.

On Partial Concession of Error

Philip Morris USA, Inc. appeals: 1.) the trial court's order granting a new trial as to punitive damages for Sommers's non-intentional tort claims, entering final judgment in favor of Sommers, and awarding compensatory damages; and 2.) the trial court's denial of Philip Morris's motion for mistrial.¹ Stefanny Sommers, as personal representative of the estate of Bert Sommers, filed a cross-appeal on the trial court's order partially granting Sommers's motion for new trial as to punitive damages on her non-intentional tort claims only and, by default, denying her request for punitive damages as to her intentional tort claims. On Philip Morris's proper concession of error as to the cross-appeal, we partially reverse the order on cross-appeal as to Sommers's intentional tort claims and remand for a new trial on punitive damages for both her intentional and non-intentional tort claims. We affirm as to all other issues without further discussion.

Affirmed in part; reversed in part and remanded for new trial.

¹ The Court consolidated the separate appeals for all purposes.