Filing # 44324441 E-Filed 07/22/2016 03:16:58 PM

RECEIVED, 07/22/2016 03:18:41 PM, Clerk, Supreme Court

IN THE SUPREME COURT OF FLORIDA

JOAN SCHOEFF, as Personal
Representative of the Estate of
JAMES SCHOEFF,

Petitioner, Case No. SC15-2233

v. L.T. No. 4D13-1765

R.J. REYNOLDS TOBACCO CO.,

Respondent.

_____/

UNOPPOSED MOTION FOR LEAVE OF THE *ENGLE* PLAINTIFFS' FIRMS TO FILE AMICUS CURIAE BRIEF IN SUPPORT OF PETITIONER

The *Engle*[1] Plaintiff Amici, who, along with Petitioner, constitute thousands of the *Engle* class members, respectfully move this Court to allow them to file a brief as Amici Curiae in support of Petitioner, Joan Schoeff, as Personal Representative for the Estate of James Schoeff, and as grounds therefore, state as follows:

1. In *R.J. Reynolds Tobacco Company v. Schoeff*, 178 So. 3d 487, 495-96 (Fla. 4th DCA 2015), the Fourth District Court of Appeal held that the intentional tort exception to the comparative fault statute does not apply to fraudulent concealment and conspiracy claims in *Engle* cases because they are

[1] *Engle v. Liggett Group, Inc.*, 945 So. 2d 1246 (Fla. 2006).

"based on conduct grounded in negligence." Alternatively, the Fourth District held that Petitioner had waived the intentional tort exception to the comparative fault statute by telling the jury that Mr. Schoeff bore some responsibility.

2. The *Engle* Plaintiff Amici is a group of law firms that collectively represent thousands of plaintiffs in *Engle* progeny cases which included actions for fraudulent concealment and for conspiracy to fraudulently conceal.[2]

3. The *Engle* Amici believe that their filing of a brief would help the Court accurately evaluate RJR's request that this Court deviate from its existing case law and ignore the plain language of the comparative fault statute.

4. The undersigned counsel has been authorized to represent that Petitioner is in agreement with the *Engle* Plaintiff Amici's motion to file an amici curiae brief, and that Respondent has no objection to this motion.

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[2] Amici are Abrahamson & Uiterwyk; Alley, Clark & Greiwe; Andrews Law Group; Avera & Smith, LLP; Brannock & Humphries; Chaikin Law Firm PMMC; Dennis A. Lopez, P.A.; Doffermyre, Shields, Canfield & Knowles; Dolan Dobrinksy Rosenblum, LLP; Fitzgerald & Associates, P.A.; Gary Williams Parenti Watson & Gary; Gerson & Schwartz P.A.; Gould Cooksey Fennell, P.A.; Gunn Law Group; Howard Justice; Kelley/Uustal; Knopf Bigger; Law Office of Howard M. Acosta; Law Office of John S. Kalil, P.A.; Law Offices of William J. Wichmann, P.A.; Levin Papantonio Thomas Mitchell Rafferty & Proctor, P.A.; Michael S. Olin, P.A.; Morgan & Morgan; Schlesigner Law Offices, P.A.; Searcy Denney Scarola Barnhart & Shipley; The Ferraro Law Firm; The Ruth Law Team; The Whittemore Law Group, P.A.; The Wilner Firm; Vaka Law Group, P.L.; Wiggins Childs Pantazis Fisher Goldfarb; Wolf Haldenstein Adler Freeman & Herz, LLP; and Zebersky & Payne, LLP.

WHEREFORE, proposed Amici Curiae, the *Engle* Plaintiff Amici, respectfully request that the foregoing motion be granted.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by email to John S. Mills (jmills@mills-appeals.com; service@mills-appeals.com) and Courtney Brewer (cbrewer@mills-appeals.com), The Mills Firm, P.A., 203 N. Gadsden Street, Suite 1A, Tallahassee, Florida 32301; Alex Alvarez (alex@integrityforjustice.com), The Alvarez Law Firm, 355 Palermo Avenue, Coral Gables, Florida 33134; Gary M. Paige (garyp216@aol.com), Gordon & Doner, 10650 W. SR 84, Suite 210, Davie, Florida 33324; Laurie Briggs (tobacco@searcylaw.com) and T. Hardee Bass, III, Searcy Denney Scarola Barnhart & Shipley, P.A., 2139 Palm Beach Lakes Blvd., West Palm Beach, Florida 33409; Robert S. Glazier (glazier@fla-law.com), Law Office of Robert S. Glazier, 54 Brickell Key Dr., Suite C-1, Miami, Florida 33131; Gordon James, III (Gordon.james@sedgwicklaw.com; Johnathan.thomas@sedgwicklaw.com), Eric L. Lundt (eric.lundt@sedgwicklaw.com), and Robert C. Weill (robert.weill@sedgwicklaw.com), Sedgwick, LLP, 2400 E. Commercial Blvd., Suite 1100, Ft. Lauderdale, Florida 33308; Charles R.A. Morse (cramorse@jonesday.com), Jones Day, 222 E. 41st Street, New York, New York

10017; Gregory G. Katsas (ggkatsas@jonesday.com), Jones Day, 51 Louisiana Ave., N.W., Washington, D.C. 20001 this 22nd day of July 2016.

s/Celene H. Humphries
CELENE H. HUMPHRIES
Florida Bar No. 884881
chumphries@bhappeals.com
MAEGEN P. LUKA
Florida Bar No. 549851
mluka@bhappeals.com
THOMAS J. SEIDER
Florida Bar No. 86238
tseider@bhappeals.com
BRANNOCK & HUMPHRIES
1111 W. Cass Street, Suite 200
Tampa, Florida 33606
Tel: (813) 223-4300
Fax: (813) 262-0604
eservice@bhappeals.com

Attorneys for Amicus, *Engle* Plaintiffs' Firms