

Case No. SC21-175
L.T. Case No. 5D19-2549

IN THE SUPREME COURT OF FLORIDA

BRINDA COATES, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF LOIS STUCKY,
Plaintiff/Petitioner,

v.

R.J. REYNOLDS TOBACCO CO.,
Defendant/Respondent.

On Review from the District Court of Appeal of Florida, Fifth District

**PLAC'S AGREED MOTION FOR LEAVE OF COURT TO FILE AN
AMICUS CURIAE BRIEF IN SUPPORT OF RESPONDENT**

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Pursuant to Florida Rule of Appellate Procedure 9.370, the Product Liability Advisory Council, Inc. (PLAC) respectfully moves for leave to file an *amicus* brief in support of Defendant/Respondent R.J. Reynolds Tobacco Company.

1. PLAC is a non-profit professional association of corporate members representing a broad cross-section of American and international product manufacturers.¹ Those companies seek to contribute to the improvement and reform of law in Florida and elsewhere, with emphasis on the law governing the liability of manufacturers of products and those in the supply chain. PLAC's perspective is derived from the experiences of a corporate membership that spans a diverse group of industries in various facets of the manufacturing sector. In addition, several hundred of the leading product litigation defense attorneys are sustaining (non-voting) members of PLAC. Since 1983, PLAC has filed more than 1,100 briefs as *amicus curiae* in both state and federal courts, including this Court, on behalf of its members, while presenting the broad perspective of product manufacturers seeking fairness and balance in the application and development of the law as it affects product risk management.

¹ See https://plac.com/PLAC/Membership/Corporate_Membership.aspx.

2. This Court has accepted for decision the question certified by the court of appeal: “When other factors support the amount of punitive damages awarded, but the award is excessive compared to the compensatory award, does the amount of punitive damages that may legally be imposed for causing the death of a human being depend on the actual amount of compensatory damages awarded to the decedent’s estate, even when that compensatory award is modest and the punitive award would be sustainable compared to awards in other cases for comparable injuries caused by comparable misconduct?”

3. PLAC respectfully submits that the answer to that question is yes. The United States Constitution mandates a reasonable relationship—or ratio—between the amount of compensatory damages and the amount of punitive damages. And even if it were not constitutionally mandated, the ratio requirement makes sense as a way of guiding the jury’s deliberations and helping ensure that any award of punitive damages is rational, reasonable, and proportionate to the harm caused.

4. PLAC believes that the Court will benefit from a variety of perspectives in deciding the question presented. PLAC can offer the perspective of product manufacturers who are frequent litigants in Florida courts and who have first-hand experience defending against claims for

punitive damages in Florida and throughout the nation. PLAC's brief will assist the Court because it addresses issues and presents arguments that are not discussed in the briefs of the parties or other amici, including the practical importance of providing an anchor to guide the jury's deliberations through a reasonable relationship instruction, and the special importance of the ratio requirement in product liability cases.

5. Counsel for Petitioner and Respondent have consented to the filing of an *amicus* brief by PLAC.

WHEREFORE, PLAC respectfully requests that this Court grant it leave to file an amicus brief in support of Respondent within 10 days of the filing of Respondent's Answer Brief.

Respectfully submitted,

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CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and correct copy of the foregoing was electronically filed with the Clerk of Court through the Florida Courts eFiling Portal and served via e-mail on this 3rd day of January, 2022 to:

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