

Dade County Jury Finds Philip Morris USA Not Liable in First Flight Attendant Lung Cancer Case

Miami, Florida

October 14, 2003

Five Hour Deliberation Ends in a Defense Verdict

Today a Dade County Circuit Court jury decided Philip Morris USA and other cigarette makers are not liable for the injuries a former flight attendant claimed were caused by her workplace exposure to environmental tobacco smoke (ETS). The case was among about 2,800 suits filed by individual flight attendants seeking compensatory damages for injuries allegedly caused by exposure to secondhand smoke.

Gail Routh, 54, a former flight attendant for US Airways, claimed her lung cancer, diagnosed in 1999, and what she claimed was chronic sinusitis and chronic bronchitis, were caused by exposure to environmental tobacco smoke onboard aircraft.

Her attorneys claimed that during her 27 year career as a flight attendant, she had breathed enough environmental tobacco smoke to cause her cancer and other respiratory problems. In an attempt to prove their case, Miami attorneys Hunter and Silver called other flight attendants, one of whom had her own case against the cigarette manufacturers, and former pilots who claimed the air in the airplane cabin was "very smoky". Their experts claimed that ETS has the same carcinogens as the smoke a smoker inhales, and since Ms. Routh was exposed, and her cancer is one that smokers typically get, it must be from the smoke.

The defendants countered that Ms. Routh's cancer was BAC, a form of cancer not typically seen in smokers, but, according to recent research done at the Mayo Clinic, BAC is more typical of people with Ms. Routh's genetic disorder, a single gene A1A defect, a problem that affects the functioning of the lungs. At first, plaintiffs claimed Ms. Routh did not have BAC, even though the clinical course of her cancer was consistent with BAC. Later in the trial, the plaintiffs claimed that it did not matter what kind of cancer she had, it had to be caused by the smoke. However, no study has ever linked BAC with environmental tobacco smoke.

The defendants also presented scientific measurements from inside the airplane cabin showing that flight attendants do not get enough cigarette smoke to cause lung cancer or other chronic respiratory problems, which is why they do not get any kind of lung cancer more often than the general public. In addition, Ms. Routh, as a flight attendant, had several other risk factors in addition to her A1A gene defect, including exposure to jet fuel exhaust and high altitude radiation.

Litigation Strategies, Ltd., assisted lead counsel Kenneth J. Reilly of Shook, Hardy & Bacon's Miami office, who represented Philip Morris. William Geraghty represented Lorillard, Anthony Upshaw represented B&W and Jonathan Engram represented RJR.



- Strategic Research
- Witness Preparation
- Demonstrative Exhibits

Contact Dr. Louis Genevie at (212) 489-4949 or
DrLouisGenevie@LitStrat.com

