

RJ Reynolds hit with \$34.7M verdict for family of Air Force sergeant who died of cancer

By Victor Li [@VictorLi](#) ABA Sep 14, 2015, 04:30 pm CDT

A Florida jury has hit R.J. Reynolds with a \$34.7 million verdict in connection with the cancer-related death of a decorated U.S. Air Force sergeant.

[Law360](#) (sub. req.) reported Friday that a Pensacola Circuit Court jury awarded \$20 million in punitive damages to the family of Garry O'Hara, who died from cancer in 1996 at the age of 50. According to Law360, the jury had handed down an award of \$14.7 million in compensatory damages in favor of the O'Hara family on the day before.

"This is an important judgment on behalf of Garry's family," said Mark Avera, a partner at Gainesville-based Avera & Smith who represented the O'Hara family, in a press release. "If Americans only knew what these companies concealed from us about what they knew about smoking and lung cancer and nicotine addiction. They were decades ahead of everyone else on smoking and health. That was all they did, study cigarettes and research how to addict more young teens." According to the firm's press release, Avera & Smith tried the case with support from Tampa-based law firm Abrahamson & Uiterwyk.

The case was one of thousands that emerged in the wake of the landmark *Engle* tobacco class-action suit in Florida. The class action was decertified in 2006 by the Florida Supreme Court, but the nearly 700,000 individuals in the now-decertified class were allowed to rely on the *Engle* jury's findings when filing their individual lawsuits against the tobacco companies.

According to Law360, the jury only needed a few hours to determine the amount of the award to O'Hara's family. On late Thursday, jurors reached the \$14.7 million compensatory figure before agreeing to the \$20 million punitive award on Friday afternoon. Law360 reported that the jury found O'Hara 15 percent liable for his own death. According to the Law360, O'Hara was a decorated soldier who had earned the Bronze Star Medal and was awarded the Defense Meritorious Service Medal for how he handled a failed 1979 assassination attempt on Gen. Alexander M. Haig Jr., the Supreme Allied Commander of Europe.

R.J. Reynolds was represented by Jones Day. In his summation during Friday's punitive damages phase, Jones Day partner David Monde argued that O'Hara's family had already been fairly compensated by the \$14.7 million award. Monde also argued that punishing R.J. Reynolds for the actions of its previous executives and board members was unfair. "You're punishing folks that live and work at Reynolds today, Reynolds the company of today, and that's why it's important to talk about what the company is doing today," Monde said. "The R.J. Reynolds leadership that you heard about, they're gone. ... Those people who stood up before Congress and raised their hand, they're gone."

At trial, Monde had argued that it was not even known whether O'Hara's cancer had originated in his lungs, since a doctor's report in 1995 theorized that the cancer could have begun in his gastrointestinal or urogenital tract. He also said that O'Hara was aware of the carcinogenic properties of cigarettes, and responsible for his decision to smoke, reports Law360.

Monde did not respond to the ABA Journal's request for comment.

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