



Claudio Rodrigues Bernhardt v. Philip Morris

Claudio Rodrigues Bernhardt v. Philip Morris, No. 0000051-90.2002.8.19.0210, Oitava C mara Civil do Tribunal de Justi a do Rio de Janeiro [8th Civil Chamber of the Court of Justice of Rio de Janeiro] (2011).

Country: Brazil

Region: Americas

Year: 2011

Court: Oitava C mara Civil do Tribunal de Justi a do Rio de Janeiro (8th Civil Chamber of the Court of Justice of Rio de Janeiro)

Health Topics: Controlled substances, Tobacco

Human Rights: Right to health, Right to life

Facts

The plaintiff, Claudio Rodrigues, filed a lawsuit against the tobacco company, Souza Cruz, seeking damages for the death of his spouse, alleging that was caused by consumption of the tobacco products produced by Souza Cruz. The plaintiff argued that his spouse had been influenced into consuming the tobacco products by misleading advertisements that portrayed healthy and athletic people smoking.

The lower court dismissed the case and the plaintiff appealed to the higher court. The higher court decided in favor of the plaintiff, based on paragraph 4 of article 220 of the Federal Constitution of Brazil and Resolution 54/2008, which was issued in compliance with that same article. The court, acknowledging that even though the Resolution have been issued after the consumer had acquired the habit of using tobacco products and that the company could not have been held liable at the time, the Constitution as a whole is protective of the rights to life, dignity, protection in commercial relations and health. The court concluded that the company had the duty of acting in good faith and disclosing information on the side effects of its products if it planned on having them commercialized, regardless of the year this took place. The court ordered Philip Morris to pay the plaintiff damages.

Decision and Reasoning

The Court found the defendant liable for the health problems brought upon the plaintiffs spouse as a consequence of the consumption of the company's tobacco products. The court based its opinion on articles 1, 5 and 196 that protect fundamental human rights in the Federal Constitution of Brazil.   The court found that despite the issuance of Resolution have occurred after the plaintiff's spouse started smoking, by the Constitution the company had to act in good faith and respect and observe these fundamental rights.

Decision Excerpts