

Deal Reached In Chewing Tobacco Case

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NEW HAVEN — The maker of Skoal and Copenhagen smokeless tobacco has agreed to pay \$5 million to the family of a man who died of mouth cancer in what is believed to be the first wrongful-death settlement from chewing tobacco.

U.S. Smokeless Tobacco Co. will pay the award to the family of Bobby Hill of Canton, N.C., who began chewing tobacco at 13. He died in 2003 at 42.

Attorney Antonio Ponvert III, who represented Hill's relatives, told The Associated Press about the agreement Tuesday. The company later confirmed the settlement in a regulatory filing.

"This company manufactures and sells a dangerous and defective product that it knows causes addiction, disease and death in consumers who use it as intended," Ponvert said.

Steven Callahan, a spokesman for Altria, which acquired U.S. Smokeless Tobacco last year, said the company does not make any health claims about its products, and it supports programs and laws to reduce underage tobacco use.

Mark Gottlieb, director of the Tobacco Products Liability Project at Northeastern University in Boston, said he believes it's the first case of its kind and predicted more lawsuits involving smokeless tobacco.

"I think this is sort of a wake-up call to the plaintiff's bar that there are a lot of victims of smokeless tobacco use out there, and it's possible these cases can be successful," Gottlieb said.

Smokeless tobacco companies managed to fend off previous lawsuits. In the past, lawyers focused more on cigarette makers because of stronger evidence to back up their claims, even though smokeless tobacco is harmful as well, Gottlieb said.

"So this is an unusual instance and runs counter to what had been the sort of the playbook for tobacco litigation," Gottlieb said. The settlement shows that "perhaps there is a new strategy afoot in terms of dealing with some of these types of cases."

But, Gottlieb added, Altria may have simply wanted to resolve legal issues remaining from its acquisition and concluded it was cheaper to settle than risk a larger award at trial.

Ponvert said his case was bolstered by previously undisclosed letters from the 1980s that the company sent to minors thanking them for their business and sending them free samples. The company even sent a can opener to one child to help open the chewing tobacco, he said.

"It was just this unbelievable trail of incredibly damning documents," Ponvert said.

Hill's case also was strong because he was a longtime user of chewing tobacco who did not drink or smoke cigarettes, factors tobacco companies point to as causing the cancer, Ponvert said.

Hill's wife, Kelly, filed the lawsuit in 2005 after her husband died of cancer of the tongue, Ponvert said.

Through her attorney, Hill's wife declined to comment.

Hill had multiple surgeries to remove his tongue, Ponvert said. Mouth cancer victims typically lose parts of their mouth, either through surgery or because the tissue wastes away.

"It's a really sad and a really gruesome way to die," Ponvert said.

The settlement comes as the tobacco industry tries to weaken proposals for tougher warning labels on its products and markets chewing tobacco as a less harmful alternative to cigarettes, Ponvert said.

U.S. Smokeless Tobacco was headquartered in Greenwich before being acquired by Altria.