

In The
Supreme Court of the United States

PHILIP MORRIS USA INC., R.J. REYNOLDS
TOBACCO COMPANY, AND LIGGETT GROUP, LLC,

Petitioners,

v.

JAMES L. DOUGLAS, AS PERSONAL
REPRESENTATIVE OF THE ESTATE
OF CHARLOTTE M. DOUGLAS,

Respondent.

**On Petition For A Writ Of Certiorari
To The Supreme Court Of Florida**

SUPPLEMENTAL BRIEF IN OPPOSITION

STEVEN L. BRANNOCK
Counsel of Record
CELENE H. HUMPHRIES
BRANNOCK & HUMPHRIES
100 South Ashley Drive,
Suite 1130
Tampa, Florida 33602
(813) 223-4300
tobacco@bhappeals.com

September 12, 2013

Counsel for Respondent

TABLE OF CONTENTS

	Page
Supplemental Brief in Opposition.....	1
Conclusion.....	2

TABLE OF AUTHORITIES

CASES

<i>Engle v. Liggett Group, Inc.</i> , 945 So. 2d 1246 (Fla. 2006)	1
<i>Fayerweather v. Ritch</i> , 195 U.S. 276 (1904)	2
<i>Walker v. R.J. Reynolds Tobacco Co.</i> , ___ F.3d ___, 2013 WL 4767017 (11th Cir. Sept. 6, 2013)	1, 2

RULE

Sup. Ct. R. 15.8.....	1
-----------------------	---

SUPPLEMENTAL BRIEF IN OPPOSITION

Pursuant to Rule 15.8 of the Supreme Court Rules, Respondent submits for the Court's consideration a recent decision of the United States Court of Appeals for the Eleventh Circuit addressing precisely the question presented in the petition for certiorari. The opinion in *Walker v. R.J. Reynolds Tobacco Co.*, ___ F.3d ___, 2013 WL 4767017 (11th Cir. Sept. 6, 2013), addresses the claimed violation of due process in the decision of the Florida Supreme Court to give preclusive effect to the findings made in the year-long trial of *Engle v. Liggett Group, Inc.*, 945 So. 2d 1246 (Fla. 2006). In rejecting the claimed Due Process violation based on the same authorities and arguments presented to this Court, the Eleventh Circuit joined all other state and federal courts that have considered the Tobacco Due Process claims and rejected them categorically.

While Petitioners noted this recent decision in their reply brief, they inaccurately represent that the Eleventh Circuit held that it lacks the power to decide the issue presented to this Court in the petition for certiorari. Instead, the Eleventh Circuit reached this conclusion regarding another issue, properly holding that the determination of what was found at trial was a matter for the state courts. *Walker*, 2013 WL 4767017, at *10. On this score, the Eleventh Circuit accepted, as it must, the determination by the Florida courts of what the factual conclusions were at the *Engle* trial. *Id.* On the question presented for certiorari review, however, the Eleventh

Circuit conducted a de novo constitutional review to determine whether applying Full Faith and Credit would violate due process. *Id.* at *7-10. On this point, the Eleventh Circuit, as has every other state and federal court that has looked at this issue, rejected the Petitioners' extravagant Due Process claims under *Fayerweather v. Ritch*, 195 U.S. 276 (1904), and under Petitioners' other claimed authority. *Id.*

◆

CONCLUSION

For the reasons set forth above and in Respondent's Brief in Opposition, the petition for writ of certiorari should be promptly denied.

STEVEN L. BRANNOCK
Counsel of Record
CELENE H. HUMPHRIES
BRANNOCK & HUMPHRIES
100 South Ashley Drive,
Suite 1130
Tampa, Florida 33602
(813) 223-4300
tobacco@bhappeals.com
Counsel for Respondent

September 12, 2013