Chewing tobacco maker agrees to $5M settlement

December 7 2010, By JOHN CHRISTOFFERSEN , Associated Press

(AP) -- 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 won from a chewing tobacco company.

A legal expert said the case could open the door for more lawsuits against makers of chewing tobacco, an industry that drew fewer legal battles during the 1990s than cigarette manufacturers.

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. Regulatory documents confirmed the deal.

Steven Callahan, a spokesman for Altria, which acquired U.S. Smokeless Tobacco last year, said the company admitted no liability and does not make any health claims about its products.

Ponvert and Mark Gottlieb, director of the Tobacco Products Liability Project at Northeastern University in Boston, both said the Hill family settlement is the first case of its kind.

Gottlieb predicted more lawsuits targeting smokeless tobacco would follow, calling the settlement "a wake-up call" to plaintiffs' attorneys "that there are a lot of victims of smokeless tobacco use out there, and it's possible these cases can be successful."

Smokeless tobacco companies managed to fend off most 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 concluded it was cheaper to settle than risk a larger award at trial.

Callahan said the case involved unique circumstances because it was a settlement offer made before Altria acquired the company.

"And we have no intention of settling cases like this in the future," he said.

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 offering 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.

The family's case also was stronger because Hill 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, she declined to comment.

Hill had multiple surgeries to remove his tongue. 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.

For many years, smokeless tobacco has carried warning labels. Rules that took effect in June require larger labels listing the risks of chewing tobacco, including cancer, gum disease and tooth loss, and stating that smokeless tobacco is not a safe alternative to cigarettes.

The Altria spokesman said the company supported legislation enacted last year that allowed the FDA to regulate tobacco and required the larger warning labels.

U.S. Smokeless Tobacco was headquartered in Greenwich before being acquired by Altria, which is also the parent of Phillip Morris USA, the nation's largest cigarette maker.

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