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## Gay spouse of deceased smoker wins \$157.4 million from Big Tobacco



By **RAFAEL OLMEDA** SOUTH FLORIDA SUN SENTINEL | NOV 19, 2019 | 7:05 PM



Bryan Rintoul tears up as his attorney, Scott Schlesinger, discusses his case against Philip Morris and R.J. Reynolds tobacco companies. A jury awarded Rintoul \$157.4 million after the death of his spouse, Edward Caprio. It was possibly the first such case in Florida involving a same-sex married couple. (Amy Beth Bennett / South Florida Sun Sentinel)

The diagnosis came in 1996. Edward Caprio suffered from chronic obstructive pulmonary disease. In hindsight, it was a predictable result of decades of smoking. It was 22 years before the disease killed him.

On Friday, Caprio's spouse was awarded a \$157.4 million verdict from a Broward jury, \$9 million in compensatory damages and the rest in punitive damages. The award is unusually high, and attorneys for defendant companies Phillip Morris and R.J. Reynolds are [all but certain to appeal](#).

But the award is unique, and gaining some national notice, for another reason — it's the first such case in Florida involving a same-sex married couple, according to plaintiff's attorney Scott Schlesinger.

It's not just trivia. Under Florida law, a surviving spouse in a wrongful death case cannot sue unless the couple married before the illness that caused the death, Schlesinger said. Caprio and Bryan Rintoul didn't marry until 2015, three days after it became legal for same sex couples to marry in Florida.



Bryan Rintoul talks about his late husband, Edward Caprio. (Amy Beth Bennett / South Florida Sun Sentinel)

And that, Rintoul's legal team said, was not fair.

The five-week trial that ended Friday combined the Schlesinger firm's [persistence in tobacco cases](#) with a newer legal frontier — ensuring that same-sex couples are not penalized for being unable to marry legally until relatively recently. Broward Circuit Judge David Haines allowed the case to proceed with Rintoul as the plaintiff after Caprio died early last year at 74. “There hasn't been another case like this in Florida,” Schlesinger said. “I'm not sure there's been another case nationwide.”

Tara Borelli, an attorney with the New York-based Lambda Legal gay rights organization, praised the trial's outcome. “The jury got it right,” she said. “Florida's ban on marriage for same-sex couples has always been unconstitutional, so it can never be used as an excuse to deny important benefits to survivors.”

Rintoul, 72, a Vietnam veteran, said he met Caprio in Los Angeles in the 1970s, when they worked in different departments in an advertising agency. They moved in together in 1983. “We made a commitment to each other,” Rintoul said Tuesday at his attorneys' office in Fort Lauderdale. “We thought it would be nice to be married, just to be acknowledged as a legal couple. but we accepted our relationship as it was.”

Caprio and Rintoul moved to South Florida in 1986. They enjoyed bicycle rides, tennis, and, too often, their cigarettes. Both men tried to quit several times, Rintoul said. But the addictive nature of cigarettes proved too strong to overcome, even after Caprio's COPD diagnosis in 1996.

Schlesinger, and ultimately a Broward jury, blamed the tobacco companies for manipulating the addictive nicotine levels in cigarettes and marketing them to

adolescents. Caprio was 15 when he started smoking, and the health risks were not as well known in the late 1950s as they are now.

In deciding for Rintoul, the jury was asked to determine whether Rintoul and Caprio would have married earlier if they could have, legally. The jury didn't know it, but their answer wouldn't have affected the outcome, said another member of Rintoul's legal team, Jonathan Gdanski. The judge included the question in order to safeguard the decision in case the issue comes up in appeals.

But Rintoul said he appreciated the affirmation from the jury.

"We were very much a married couple," he said. "We did everything married couples do."

That included caring for Caprio as his condition worsened, Rintoul said.