

## **07-1216 PHILIP MORRIS USA V. WILLIAMS**

DECISION BELOW: 176 P.3d 1255

LOWER COURT CASE NUMBER: S051805

### **QUESTION PRESENTED:**

When this case was last before it, this Court reversed the decision of the Oregon Supreme Court and held that due process precludes a jury from imposing punitive damages to punish for alleged injuries to persons other than the plaintiff. *Philip Morris USA v. Williams*, 127 S. Ct. 1057, 1065 (2007). This Court then remanded the case to the Oregon Supreme Court with directions to “apply the [constitutional] standard we have set forth.” *Ibid.* On remand, however, the Oregon Supreme Court refused to follow this Court’s directive. Instead, the Oregon court “adhered to” the judgment that this Court had vacated because it found that Philip Morris had procedurally defaulted under state law and thereby forfeited its claim of federal constitutional error. App., *infra*, 22a. The questions presented—the second of which was accepted for review but not reached when this case was last before the Court—are:

1. Whether, after this Court has adjudicated the merits of a party’s federal claim and remanded the case to state court with instructions to “apply” the correct constitutional standard, the state court may interpose—for the first time in the litigation—a state-law procedural bar that is neither firmly established nor regularly followed.
2. Whether a punitive damages award that is 97 times the compensatory damages may be upheld on the ground that the reprehensibility of a defendant’s conduct can “override” the constitutional requirement that punitive damages be reasonably related to the plaintiffs harm.

LIMITED TO QUESTION 1 PRESENTED BY THE PETITION.

CERT. GRANTED 6/9/2008