

United States Court of Appeals For the First Circuit

No. 02-2688

IRENE CRUZ-VARGAS, ELI ROGELIO FIGUEROA-CRUZ
AND LUIS ROGELIO FIGUEROA-CRUZ,

Plaintiffs, Appellants,

v.

R.J. REYNOLDS TOBACCO COMPANY,

Defendant, Appellee,

R.J.R. NABISCO, INC., NABISCO GROUP HOLDINGS,

Defendants.

ERRATA SHEET

The opinion of this Court, issued on October 28, 2003,
should be amended as follows:

1. p9, lines 12-13: Delete "prevalence of the habit," insert in its place "difficulty of abandoning the habit"
2. p11, line 7: After citation, insert new sentence, including moving current footnote 7 as indicated:

This rule is particularly applicable to the "testimony of an expert witness . . . where the testimony bears on technical questions . . . beyond the competence of lay determination." Quintana-Ruiz, 303 F.3d at 76-77 (quoting Webster v. Offshore Food Serv., Inc., 434 F.2d 1191, 1193 (5th Cir. 1970) (internal citation omitted) (ellipses in original)). This is such a case. The "common knowledge" defense is assessed objectively [move current fn 7 here], and, despite the nomenclature, it is a technical question involving methods, financing, and sources of research beyond the

competence of lay determination, at least when
pertaining to history forty or fifty years removed
from the time of trial.

3. p11, line 7: begin a new paragraph with the sentence
"Martinez' research..."