



June 11, 2008

**SUPREME COURT AGREES TO CONSIDER MAJOR
PUNITIVE DAMAGES CASE A SECOND TIME**
(Philip Morris USA v. Williams)

The Washington Legal Foundation (WLF) scored a victory yesterday when the Supreme Court agreed to review yet again an Oregon Supreme Court decision that upheld an excessive \$80 million punitive damages award to a lifelong smoker who died of lung cancer after smoking for over 45 years. WLF argued that if the Court did not take the case, other lower state courts would disregard Supreme Court rulings and precedent by engaging in procedural gamesmanship to uphold their pro-plaintiff decisions even after being reversed by the U.S. Supreme Court. WLF's brief supporting review was filed with the *pro bono* assistance of Arvin Maskin, Konrad L. Cailteux, R. Keith Gibson, Jed P. Winer, and Isabella C. Lacayo, attorneys with the New York firm of Weil, Gotshal & Manges, LLP. The case will be briefed this summer and heard next fall.

In *Philip Morris USA v. Williams*, Jesse Williams began smoking when he joined the army in the 1950s. Throughout his life, Williams was repeatedly warned by family and others, as well as by the warnings on the cigarette packages, of the dangers associated with smoking cigarettes. Nevertheless, his surviving wife sued Philip Morris claiming that it knew or should have known its cigarettes were addictive and misrepresented the dangers of smoking. The plaintiff's attorney exhorted the jury to punish Philip Morris not only for the injury to Mr. Williams, but to the thousands of other Oregonians who are smokers, regardless of their injuries, if any, and regardless of their reasons for smoking. The Oregon Supreme Court upheld the award.

In 2007, the U.S. Supreme Court reversed the Oregon Supreme Court, ruling that a jury cannot award punitive damages in order to punish the defendant for harm to nonparties, and remanded the case back to the Oregon Supreme Court. Thwarting the mandate of the U.S. Supreme Court, the Oregon Supreme Court nevertheless upheld the prior award, ruling for the first time that Philip Morris' proposed jury instruction on a different issue was invalid under Oregon law.

In its brief filed on behalf of itself and the Allied Educational Foundation, earlier this year, WLF successfully argued that the case should be reviewed by the Supreme Court to ensure that lower courts implement its rulings. Otherwise, those rulings would become merely advisory opinions and cause the court to waste judicial resources.

* * *

For information, contact Paul Kamenar, WLF's Senior Executive Counsel, at 202-588-0302. WLF's brief is on posted on its website at www.wlf.org.