



**For Immediate Release**

**August 26, 2008**

**SUPREME COURT URGED TO REVERSE \$80 MILLION PUNITIVE  
DAMAGES AWARD A SECOND TIME**  
*(Philip Morris USA v. Williams)*

The Washington Legal Foundation (WLF) filed a brief with the U.S. Supreme Court last week urging it to yet again reverse an Oregon Supreme Court decision that upheld an excessive \$80 million punitive damages award to a lifelong smoker who died after smoking for over 45 years. WLF argued that if the Court did not take the case, other state courts would disregard Supreme Court rulings by engaging in procedural gamesmanship to uphold their pro-plaintiff decisions, even after being reversed by the Supreme Court.

WLF's brief 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.

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 members and others, as well as by the warnings on the cigarette packages, of the dangers associated with smoking cigarettes. After his death, his wife sued Philip Morris claiming that it knew or should have known its cigarettes were addictive and that the company 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, an issue distinct from the constitutional due process issue, was invalid under Oregon law.

In its brief filed on behalf of itself and the Allied Educational Foundation, WLF argued that the Oregon Supreme Court decision should be reversed by the U.S. Supreme Court to ensure that lower courts implement the Court's rulings. Otherwise, those rulings would become merely advisory opinions and cause the court to waste judicial resources. The Court will hear the case in the fall. WLF also filed a brief in the case earlier this year successfully urging the Court to review the case on the merits.

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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](http://www.wlf.org).