

November 30, 2007

COURT DECLINES TO HEAR CASE SEEKING TO REQUIRE PROVISION OF MEANINGFUL JUDICIAL REVIEW OF ALL JURY VERDICTS

(Daniel Measurement Services, Inc. v. Eagle Research Corp.)

The U.S. Supreme Court this week declined to grant review of a massive judgment entered in a West Virginia state court action; the petition for review raised the issue of whether the Court should establish a constitutional requirement that state court systems provide meaningful judicial review of all verdicts rendered by a jury.

The one-sentence order declining review of the case, *Daniel Measurement Services, Inc. v. Eagle Research Inc.*, was a setback for the Washington Legal Foundation (WLF), which filed a brief urging the Court to grant review. WLF argued that upholding compensatory damages awards without providing some type of meaningful review constitutes an arbitrary deprivation of property in violation of the Due Process Clause of the Fourteenth Amendment. WLF argued that the Constitution requires the same type of review of compensatory damages awards that the Court has mandated for punitive damages awards.

WLF pledged that it would continue to raise the issue and would search for other cases that might serve as an appropriate vehicle for urging once again that the Court recognize a due process right to meaningful judicial review of jury verdicts.

"WLF recognizes that the Supreme Court is not in a position to correct every constitutionally excessive state court judgment," said WLF Chief Counsel Richard Samp following the Supreme Court's decision to deny review. "But it was the failure of the West Virginia Supreme Court of Appeals to provide *any* meaningful review of the jury's verdict in this case that made the case particularly worthy of the Supreme Court's attention. The only review at all in this case consisted of the trial judge's off-hand statements from the bench that he would uphold the verdict, without any explanation of what evidence he believed supported the multi-million dollar judgment for the plaintiff," Samp said.

The case before the court involves a West Virginia-based company, Eagle Research, that agreed to provide computer hardware to an out-of-state company, Daniel Measurement Services (DMS), in connection with a data collection and communications

system that DMS was developing. During the course of their relationship, the companies entered into a confidentiality agreement whereby each agreed not to disclose the other's confidential data to the outside world.

After DMS decided to terminate its plan to develop the data collection and communications system, it cancelled its relationship with all the outside vendors working on the system (including Eagle) and made a substantial severance payment to Eagle. Eagle later filed suit, alleging (among other things) that DMS had violated the confidentiality agreement.

Despite that claim, it is uncontested that Eagle never introduced at trial any evidence that it had suffered any damages as a result of the breach of the confidentiality agreement. The jury nonetheless awarded Eagle \$10.5 million in damages for breach of that agreement. The trial judge denied a post-trial motion to overturn the award, explaining that in West Virginia courts are supposed to defer to jury verdicts.

West Virginia does not have any intermediate appellate courts, so DMS sought discretionary review in the State's highest court, the West Virginia Supreme Court of Appeals. By a 3-2 vote, that court denied review. The result was that the West Virginia courts never gave any meaningful review to the massive jury award. DMS then petitioned for U.S. Supreme Court review of the case.

In its brief urging that review be granted, WLF argued that the Supreme Court has on several occasions made clear that the Due Process Clause requires meaningful judicial review of all jury verdicts. WLF cited the Court's decision in *Honda Motor Co. v. Oberg* as establishing such a due process right. WLF argued that in the absence of such review, there is too high a risk that a jury verdict will not be based on the evidence but rather on passion and prejudice. WLF argued that review was particularly warranted in this case because West Virginia is so notorious for denying equal justice to out-of-state corporations. WLF noted that West Virginia, for several years running, has been named the "No. 1 Judicial Hellhole" in the survey conducted annually by the American Tort Reform Foundation regarding the legal climate in all 50 States.

The Washington Legal Foundation is a public interest law and policy center with supporters in all 50 States, including many in West Virginia. WLF devotes a significant percentage of its resources to defending and promoting free enterprise, individual rights, and a limited and accountable government.

* * *

For further information, contact WLF Chief Counsel Richard Samp, (202) 588-0302. A copy of WLF's brief is posted on its web site, www.wlf.org.