

For Immediate Release

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NORTH CAROLINA SUPREME COURT URGED TO UPHOLD CAP ON PUNITIVE DAMAGES

(Rhyne v. Kmart Corporation)

In a major tort reform case, the Washington Legal Foundation (WLF) filed a brief in the Supreme Court of North Carolina urging the court to uphold a divided court of appeals ruling that sustained the constitutionality of a North Carolina tort reform statute. Designed to control out-of-control punitive damage awards, the law limits punitive damages in any case to the greater of three times the compensatory damages or \$250,000.

In *Rhyne v. Kmart*, two Kmart security guards got into an altercation outside a Kmart store with a couple suspected of trespassing and possible theft. Kmart pressed charges against the couple which were later dismissed. The Rhynes brought a lawsuit against the two security guards and Kmart for assault, battery, false imprisonment, malicious prosecution, and similar claims. The jury found in favor of Kmart on assault and battery, but held Kmart liable for malicious prosecution and related charges.

The jury awarded the Rhynes a total of \$18,985 in compensatory damages for their medical and legal bills. The jury then awarded the Rhynes a staggering \$23 million in punitive damages after the jury was given information about Kmart's net revenues and assets. The trial judge reduced the punitive damages award to \$250,000 for each plaintiff pursuant to a 1995 North Carolina law capping damages. The Rhynes, represented by the Association of Trial Lawyers of America (ATLA), challenged the constitutionality of the cap on several grounds, including a violation of their right to a jury trial, equal protection, due process, and a taking of private property without just compensation. ATLA argued that since excessive punitive damages are relatively rare in North Carolina, the legislature did not have a rational basis to enact the cap.

WLF argued in its brief, filed on behalf of itself and the Allied Educational Foundation, that the statutory cap was a reasonable and proper legislative response to runaway punitive damages, as well as a prophylactic measure to prevent such high awards which have a deleterious effect on businesses, jobs, and the economy. WLF also cited cases from other jurisdictions ruling that punitive damages do not constitute property.

WLF's local counsel is Philip Isley of Boyce & Isley, PLLC, in Raleigh, North Carolina.

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