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WLF Urges Oregon Supreme Court to Uphold Cap on Noneconomic Damages

(Rains v. Stayton Builders Mart, Inc.)

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WASHINGTON, DC—Washington Legal Foundation (WLF) today urged the Oregon Supreme Court to reject a constitutional challenge to a state statute limiting a plaintiff to no more than \$500,000 in noneconomic damages. In a brief filed in *Rains v. Stayton Builders Mart, Inc.*, WLF argued that the Jury Clause of the Oregon Constitution does not provide plaintiffs with a constitutional right to recover to the full extent of the injuries that the plaintiff (in the jury’s estimation) actually suffered.

The case involves an Oregon man who suffered severe injuries when a board on which he was standing broke, causing him to fall 16 feet. He and his wife sued the manufacturer of the board, and a jury awarded them \$7.0 million in damages, including \$3.1 million in noneconomic damages. (Noneconomic damages includes such items as pain and suffering.) If the statutory cap on noneconomic damages were enforced (*i.e.*, no more than \$1 million in total for both plaintiffs), their total recovery would be reduced to \$4.9 million.

In arguing that the cap is unconstitutional, the plaintiffs rely on a provision of the Oregon Constitution that provides that the right to trial by jury shall remain “inviolable.” WLF argued that the Jury Clause gives litigants a procedural protection (the right to insist that civil claims be heard by a jury), not a substantive right to enforce a jury’s findings. WLF noted that no one is questioning the right of juries to decide all questions of fact. All the legislature has done is to alter the legal consequences that attach to the jury’s factual findings.

After filing its brief, WLF issued the following statement by Chief Counsel Richard Samp: “When a state legislature decides to impose reasonable limits on damage awards in tort actions, judges have no valid basis for overturning those decisions. That they seriously consider doing so is simply evidence that the plaintiffs’ bar holds too much influence on many state supreme courts. Oregon’s cap on noneconomic damages still leaves plaintiffs with handsome recoveries; for example, the plaintiff here still gets more than 70% of the amount the jury awarded him.

WLF is a public interest law firm and policy center that regularly litigates in support of civil justice reform, to ensure that unwarranted lawsuits do not drive up costs for all consumers.

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