



FOR IMMEDIATE RELEASE

January 29, 2019

Media Contact: Glenn Lammi | glammi@wlf.org | 202-588-0302

New Mexico Appeals Court Refuses Trial Bar's Invitation to Rewrite State's "Little FTC Act"

(*Arguedas v. Seawright*)

"This is a victory for common sense. Under the plaintiff's judicially created liability scheme, New Mexico courts would have been inundated by class actions seeking to impose massive liability on New Mexico businesses for technical violations of the law that caused *de minimis* damages or—in many cases, such as this one—*none* at all."

—Cory Andrews, WLF Senior Litigation Counsel

WASHINGTON, DC—In a decision yesterday in *Arguedas v. Seawright*, the New Mexico Court of Appeals rejected efforts by class-action attorneys to rewrite state law through litigation. The decision was a victory for the Washington Legal Foundation, which filed a brief in the case urging the court not to alter the plain meaning of the statute to provide the plaintiffs with the relief they sought.

The appeal arises from a class action by State Farm automobile policyholders claiming that State Farm and its agents violated New Mexico's Unfair Practices Act (UPA) by not providing them with adequate information to make an informed decision on purchasing uninsured or unknown motorist (UM) coverage.

Under the UPA, anyone who has suffered a loss of money or property due to an unfair business practice may bring an action for actual damages. But, as WLF's pointed out in its brief, the plaintiffs here lost neither money nor property. Since none of the plaintiffs suffered any damages because of their UM coverage status, the appeals court agreed with WLF that they were not entitled to class-wide relief under the UPA.

The UPA also expressly limits class-wide recovery to *actual* damages, but the plaintiffs sought to recover *statutory* damages on a class-wide basis, relief that the trial court rightly denied. WLF argued that if the appeals court were to alter the statute, it would violate the separation of powers under New Mexico's constitution, undercut the state legislature's public-policy goals, and impose unbearable liability on businesses throughout the state. The appeals court agreed.

Harold ("Hal") D. Stratton, Jr. and Veronica C. Gonzales-Zamora of Brownstein Hyatt Farber Schreck, LLP provided valuable *pro bono* assistance to WLF in filing WLF's *amicus* brief.

Celebrating its 42nd year, WLF is America's premier public-interest law firm and policy center advocating for free-market principles, limited government, individual liberty, and the rule of law.

###