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

SCOTUS Unanimously Holds that Plaintiffs Must Prove Causation in Discrimination Cases

(Comcast Corp. v. NAAAOM)

“Today’s unanimous decision restores common sense and uniformity to the pleading threshold for discrimination claims under § 1981.”

—Cory Andrews, WLF Vice President of Litigation

WASHINGTON, DC—A unanimous U.S. Supreme Court today overturned a Ninth Circuit decision that would have made it nearly impossible for defendants to win pretrial dismissal of even frivolous discrimination claims. The decision was a victory for WLF, which filed an *amicus* brief in the case arguing that, unless Congress specifies otherwise by statute, a plaintiff seeking to prevail on a discrimination claim must show that the defendant’s discriminatory conduct was the “but-for” cause of the alleged injury. Today’s ruling vacated an unpublished decision of the Ninth Circuit, which allowed a plaintiff to plead a discrimination claim merely by alleging that discrimination was “a factor” in the defendant’s decision-making, even if the defendant would have made the same decision had discrimination not been a factor.

At issue before the Court was 42 U.S.C. § 1981, a statute that prohibits racial discrimination in the making of contracts. The plaintiff, Entertainment Studios Networks (ESN), is a small, minority-owned television-program provider that has been unable to persuade major cable operators to carry its programming. ESN sued Comcast (and all the other large cable providers) under § 1981, alleging racial discrimination. Comcast denied the claim, insisting it denied a contract because ESN did not show adequate viewer interest in its programming. ESN’s complaint alleged no facts suggesting discriminatory motives; it merely claimed that its programming was at least as popular as the programming of non-minority companies that received contracts.

Celebrating its 43rd 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.

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