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April 12, 2021

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## WLF Urges Massachusetts High Court To Bar Follow-On Punitive Damages Claims Under the MSA

(*Laramie v. Philip Morris USA*)

**“If one wanted to announce a rule that functioned as a lawsuit-generating machine, an evergreen source of billable hours for lawyers, one could hardly do better than to declare that consent decrees resolving *parens patriae* suits do not mean what they say.”**

—Cory Andrews, WLF General Counsel and Vice President of Litigation

WASHINGTON, DC—Earlier today, Washington Legal Foundation (WLF) asked the Massachusetts Supreme Judicial Court to reverse a trial court’s decision to allow a previously resolved punitive-damages claim to go forward in a wrongful death case against Philip Morris USA. WLF submitted its *amicus* brief with the pro bono assistance of attorney Douglas S. Brooks of the Boston firm Libby Hoopes Brooks PC.

The appeal arises in the context of the 1998 Master Settlement Agreement, the largest civil-litigation settlement in American history. In that landmark agreement, the defendants, including Philip Morris, negotiated a \$240 billion settlement with 46 States for an array of alleged smoking-related harms to the States and their citizens. Under the MSA, the defendants agreed not only to end various practices the States’ suits sought to enjoin but also to make sizable payments, in perpetuity, to each State. In exchange, the settling States agreed to release certain claims against the defendants and to bar anyone seeking to vindicate the interests of the “general public” from bringing claims for “civil penalties and punitive damages” to punish the “past conduct” of the defendants.

So when the plaintiff brought a wrongful death suit seeking compensatory *and punitive* damages for the same “history of alleged wrongdoing . . . going back decades,” Philip Morris moved to dismiss the punitive-damages claim as precluded by the MSA’s consent decree and final judgment. In a perfunctory analysis, however, the trial court denied that motion. The plaintiff then secured a verdict for \$11 million in compensatory damages and \$10 million in punitive damages.

In its *amicus* brief urging reversal, WLF argues that failing to bar the plaintiff’s punitive damages claim under settled *res judicata* principles would not only undermine the Commonwealth’s public policy favoring the settling of litigation, but would also discourage defendants from settling *parens patriae* suits in the future. That would be a calamity for litigants, the judiciary, and the Commonwealth.

*Celebrating its 44th 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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