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Seventh Circuit Overturns Toxic-Tort Verdicts Against Lead-Paint Makers

(*Burton v. Armstrong Containers Inc.*)

“This decision is a victory for common sense. Apportioning liability among a pool of defendants who merely could have caused the plaintiff’s injury flouts the rule of law.”

—Cory L. Andrews, WLF Vice President of Litigation

WASHINGTON, DC—Yesterday the U.S. Court of Appeals for the Seventh Circuit overturned trial-court rulings and jury verdicts in a case that unfairly imposed massive liability on lead-paint makers. The decision was a victory for Washington Legal Foundation (WLF), which filed an *amicus* brief with the court urging reversal.

In consolidated cases, three Wisconsin plaintiffs were found, during childhood medical exams, to have what is today considered an elevated blood-lead level. Each plaintiff’s blood-lead level would have been considered within the bounds of normalcy fifty years ago, and no plaintiff displays any physical symptoms of illness. Yet the district court allowed the plaintiffs to proceed to a consolidated trial, and it relieved the plaintiffs of the duty to prove injury or causation. The jury awarded multi-million-dollar verdicts against former sellers of lead pigments and lead paint.

In a meticulous 62-page opinion, the Seventh Circuit held that the district court committed “three significant legal errors about the scope of Wisconsin products liability law.” These errors “shaped the trial and impermissibly expanded the defendants’ potential liability.” Although it remanded claims against some defendants for a new trial, the appeals court held that one defendant, Sherwin Williams, is entitled to judgment as a matter of law on all claims that went to trial.

In its *amicus* brief, WLF argued that the plaintiffs cannot show that their elevated blood-lead levels injured them; that any injury was caused by the defendants; and, above all, that the defendants are blameworthy, are *at fault*, for any injury they might have caused selling products that were helpful and safe by the standards of their day.

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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