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WLF Urges Supreme Court To Review Outsized Judgment Unmoored From Actual Harm

(Stars Interactive v. Kentucky)

“The Kentucky Supreme Court ignored the Constitution by upholding a judgment over thirty times any potential harm.”

—John Masslon, WLF Senior Litigation Counsel

WASHINGTON, DC—Washington Legal Foundation (WLF) today urged the U.S. Supreme Court to hear a case in which the Supreme Court of Kentucky affirmed a judgment that shocks the conscious. In an *amicus* brief, WLF argues that the Supreme Court’s review is necessary to clarify how lower courts must evaluate Excessive Fines Clause challenges to civil penalties and whether to adopt a 1:1 cap on the ratio of punitive damages to substantial compensatory damages in all cases.

The case arises from an action filed by contingency-fee counsel for the Commonwealth of Kentucky. Seeing dollar signs after the Department of Justice seized the defendants’ website and assets, Kentucky relied on a law passed during John Adams’s administration to recover compensatory damages more than ten times the \$26 million that Kentuckians lost while interacting with the defendant. Eventually, the Kentucky Supreme Court affirmed an \$870 million judgment—an amount over thirty times any possible harm.

In its brief supporting the defendants, WLF argues that Supreme Court review is needed to clarify how lower courts should evaluate Excessive Fines Clause challenges to civil penalties. The decision below deepens a split on whether a statutorily authorized penalty calculated using a mathematical formula can violate the Excessive Fines Clause. And the Kentucky Supreme Court’s decision failed to evaluate relevant factors when determining if the civil penalty was grossly disproportionate.

WLF’s brief also explains why the Supreme Court should adopt a 1:1 cap on the ratio of punitive damages to substantial compensatory damages. That cap is the only way to ensure that companies have fair notice of their potential liability as required by the Fourteenth Amendment’s Due Process Clause.

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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