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

WLF Urges Pennsylvania Supreme Court To Limit Punitive Damages Unmoored From Actual Harm

(*Bert Co. v. Turk*)

“The Pennsylvania Supreme Court should join many federal courts of appeals and state courts of last resort and take seriously the Supreme Court of the United States.”

—John Masslon, WLF Senior Litigation Counsel

WASHINGTON, DC—Washington Legal Foundation (WLF) today urged the Supreme Court of Pennsylvania to follow guidance from the Supreme Court of the United States and limit punitive damages in most cases. In an *amicus* brief, WLF argues that the Pennsylvania Supreme Court should join other courts and adopt a 1:1 cap on the ratio of punitive damages to substantial compensatory damages in all cases.

The case arises from a “lift out”; several employees from one insurance company were hired by another insurance company. The company whose employees left sued and received a \$250,000 compensatory-damages award. The jury also awarded \$2,800,000 in punitive damages—a punitive-to-compensatory ratio of over 11:1.

WLF’s brief explains why the U.S. Supreme Court’s decision in *State Farm v. Campbell* requires 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. And it is why many federal courts of appeals and state courts of last resort have taken the Supreme Court at its word and applied that cap in all cases.

WLF’s brief also explains why the ratio of punitive damages to compensatory damages cannot exceed 1:1 because of potential harm. Potential harm may be used to determine only whether to award punitive damages and where on the scale between 0:1 and 1:1 the punitive-to-compensatory ratio should fall.

Celebrating its 45th 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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