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WLF Reminds Third Circuit That Bankruptcy Offers Fairer And More Efficient Recovery Than Mass Tort System

(In re LTL Management, LLC)

“The bankruptcy system benefits current and future claimants by cutting the inefficiencies of the mass-tort system.”

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

WASHINGTON, DC—Washington Legal Foundation (WLF) today asked the U.S. Court of Appeals for the Third Circuit to affirm a bankruptcy court’s decision that Chapter 11 is the optimal means for redressing harms alleged by a group of talc personal-injury claimants.

The case arises from a consolidated appeal by claimants who sought to have LTL’s Chapter 11 petition dismissed on the ground that it was not filed in good faith. But Texas law has long allowed companies like Johnson & Johnson to isolate liabilities through divisional mergers into a new entity. As the bankruptcy court found, providing recovery in bankruptcy avoids the deadweight costs that plague the mass-tort system by imposing lower transactional costs and yielding faster payouts for claimants.

In its *amicus* brief supporting affirmance, WLF emphasized the real-world benefit of allowing companies to address liabilities through corporate restructuring and bankruptcy rather than through the mass-tort system. Not only is bankruptcy a more efficient system of recovery, but bankruptcy courts have more flexibility in fashioning relief to ensure equal and fairer treatment of current and future claimants.

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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