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October 13, 2004

**WLF URGES CALIFORNIA HIGH COURT
TO LIMIT PUNITIVE DAMAGES**
(Simon v. San Paolo U.S. Holding Co., Inc.)

The Washington Legal Foundation (WLF) filed a brief today asking the Supreme Court of California to reverse a lower court decision that allowed a \$1.7 million punitive damages award in a business tort case where no personal injury occurred and only economic harm was claimed.

The lawsuit was filed by a businessman who tried unsuccessfully to buy an office building in Los Angeles from a bank. After the transaction fell through, the businessman sued for breach of contract and fraud. A jury found that there was no contract, and determined that his out-of-pocket losses were only \$5,000, but nonetheless awarded the heavy punitive damages. The case has twice been remanded by the U.S. Supreme Court for further consideration in light of the High Court's decisions restricting punitive damages.

WLF's brief argues that the award violates the Due Process Clause of the Fourteenth Amendment. The U.S. Supreme Court has repeatedly held that the Due Process Clause prohibits the imposition of a grossly excessive or arbitrary punishment on a civil litigant, since civil proceedings do not give defendants the protections guaranteed in criminal cases. WLF argues that the punitive damage award in this case disregarded those rulings in that it was not proportional to the plaintiff's actual losses under California law and was not proportional to the gravity of the defendant's conduct.

Susan Liebler of Malibu, California represented WLF as local counsel in the case on a *pro bono* basis.

WLF is a public interest law and policy center with supporters nationwide. It has frequently litigated in opposition to excessive punitive damages awards. It has appeared as *amicus curiae* in all major punitive damages cases before the U.S. Supreme Court in recent years, and has also filed briefs in California and other State courts addressing the constitutionality of punitive damages awards. In addition, WLF has sought to educate policymakers about punitive damages issues through numerous policy papers published by its Legal Studies Division.

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WLF's brief is posted on its web site, <http://www.wlf.org>. For further information, contact WLF Senior Vice President for Legal Affairs David Price, (202) 588-0302.