

U.S. Supreme Court

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U.S. SC upholds award for W. Va. business

by John O'Brien

WASHINGTON, D.C. - A Putnam County-based company will get to keep the nearly \$13 million judgment it was awarded in April 2006 after the U.S. Supreme Court decided not to hear the appeal of the defendant.



Supreme Court building

Monday, the justices denied Daniel Measurement Services appeal of the \$14.9 million decision stemming from Eagle Research Corp.'s claim that company breached a confidentiality agreement regarding a certain type of flow computer, which identifies the pressure and identity of what is flowing through a pipe without having to cut it open. The decision was later reduced, according to a report in the Charleston Gazette.

The **Washington Legal Foundation**, a public interest law firm, hoped to use the case to establish a procedure for state courts to review compensatory damages similar to the way punitive damages are reviewed.

"WLF recognizes that the Supreme Court is not in a position to correct every constitutionally excessive state court judgment," WLF Chief Counsel Richard Samp said. "But it is the failure of the West Virginia Supreme Court of Appeals to provide any meaningful review of the jury's verdict in this case that makes the case particularly worthy of the Supreme Court's attention."

The WLF says Eagle never showed at trial that it was damaged by the confidentiality breach, though the Putnam Circuit Court jury awarded the company \$10.5 million in compensatory damages. It was also awarded \$4.4 million for a breach of contract. The state Supreme Court denied any review of the award.

The WLF added that the state is known for siding against out-of-state corporations.

"Unfortunately, DMS's difficulties in obtaining meaningful judicial review of its due process claims do not appear to be unique within West Virginia," [the brief said](#). "The State's courts have developed a reputation in recent years for denying equal justice to out-of-state defendants and for being overly solicitous to the concerns of

the plaintiffs' bar."

The state's Supreme Court unanimously voted in June not to hear DMS's appeal.

In 1999, Eagle Research was contacted by DMS, a subsidiary of Daniel Industries, and was told that DMS would be taking bids for a flow computer contract.

Eagle Research's product was put against several other companies' from around the country, including DMS's own flow computer, and was eventually awarded the contract. Eagle was entered into a contract for 3,000 units.

"They beat Daniel Industries itself," said Roger Decanio, one of Eagle's attorneys. "They could not find a product that would compete or meet the price range better than Eagle."

During the bidding process, Eagle and DMS signed a confidentiality agreement to keep the Eagle design from being revealed to anyone else. But Emerson Electric, another defendant, bought out DMS, broke the contract and claimed they were now entitled to viewing the Eagle design.

An employee at Emerson tipped off Eagle that Emerson was stealing its design. Emerson filed a civil lawsuit against that man.

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