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**May 21, 2012**

## **COURT URGED TO IMPOSE REASONABLE LIMITS ON STATE COURT CLASS ACTIONS**

***(Kia Motors America, Inc. v. Samuel-Bassett)***

**U.S. Supreme Court**

The Washington Legal Foundation (WLF) today urged the U.S. Supreme Court to review (and ultimately overturn) a Pennsylvania decision that threatens a significant expansion of tort liability by ignoring the requirement in a class action that the plaintiff must present evidence that each class member is entitled to recover money damages. The Pennsylvania courts allowed a single named plaintiff to establish entitlement to damages for an entire class of consumers, despite uncontested evidence that her actual out-of-pocket expenses diverged substantially from remaining class members, many of whom paid nothing at all.

In a brief filed in *Kia Motors America, Inc. v. Samuel-Bassett*, WLF argued that the basic guarantee of Due Process in a civil trial is that a defendant will not be held liable (and deprived of property) without a meaningful opportunity to contest all elements of liability, including damages. WLF noted that last June the Court (in *Wal-Mart v. Dukes*) carefully examined abuses of the class action device in federal courts. WLF urged the Court to undertake a similar review of class actions in state courts.

“This case raises important issues regarding a class action defendant’s right not to pay windfall damages far in excess of any liability,” said WLF Senior Litigation Counsel Cory Andrews after filing WLF’s brief. “Pennsylvania’s unprincipled approach to class based litigation is patently unfair to defendants and is inconsistent with traditional notions of Due Process.”

The case arises from a class action dispute over allegedly defective brakes found in certain Kia Sephia sedans manufactured by Kia Motors America, Inc. (KMA). Purporting to represent a class of all Pennsylvania purchasers of Sephia sedans from model years 1995 to 2001, Shamell Samuel-Bassett, the named plaintiff in this case, filed a complaint alleging that the brakes on these vehicles were defective not because they failed to work properly, but because the brake rotors and pads wore down prematurely, requiring frequent repair or replacement. The complaint largely sought damages in the form of “out-of-pocket” repair costs.

Naturally, because each vehicle was driven differently by different drivers under different circumstances, not every member of the class incurred exactly the same out-of-

pocket cost as Bassett. Those who experienced no brake problems whatsoever obviously incurred no cost. Even many of those who experienced brake problems incurred no cost because KMA covered the full cost of repair under good will and brake coupon programs. A jury awarded Bassett \$600 in compensation for her out-of-pocket costs. After the verdict, however, the trial judge simply multiplied Bassett's damages amount by the total number of class members to arrive at a \$5.6 million windfall for the entire class.

In urging the U.S. Supreme Court to review (and ultimately overturn) the Pennsylvania Supreme Court, WLF argued that the novel interpretation of the contemporaneous-objection rule the Pennsylvania courts relied on to bar meaningful review of KMA's Due Process rights was neither firmly established nor regularly followed at the time of trial. Indeed, WLF argued, the Pennsylvania courts' conclusion that KMA waived its right to challenge the verdict because KMA did not sufficiently object to the lack of individualized damages finds no support in either the record or in Pennsylvania law.

WLF is a public interest law and policy center with supporters in all 50 States, including many in Pennsylvania. WLF devotes a substantial portion of its resources to promoting tort reform and reining in excessive litigation.

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For further information, contact WLF Senior Litigation Counsel Cory Andrews, (202) 588-0302. A copy of WLF's brief is posted on its web site, [www.wlf.org](http://www.wlf.org).