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WLF Encourages Louisiana Supreme Court to Crack Down On Junk Science in the Courtroom

(*Anthony v. Georgia Gulf Lake Charles, LLC*)

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WASHINGTON, DC—The Washington Legal Foundation (WLF) this past week encouraged the Louisiana Supreme Court to review (and ultimately overturn) a massive tort award to individuals living in the vicinity of a chemical plant, where there was no valid scientific evidence that any individual suffered injury when gases briefly leaked from the plant. Many nearby residents sued to recover damages based on complaints that they suffered persistent headaches and sore throats following the leak, but WLF’s brief urging review noted there was no evidence that those common symptoms were caused by exposure to leaking chemicals.

WLF argued that state courts should adopt the same rigorous gatekeeping rules adopted for federal courts by the U.S. Supreme Court’s *Daubert* ruling: a trial court should not permit a party to submit “expert” scientific testimony to the jury unless the party can demonstrate that the testimony is scientifically reliable. Here, the plaintiffs’ expert testified that every plaintiff’s medical symptoms were caused by exposure to gas, even though the expert had no evidence regarding the level of exposure of any of the plaintiffs (who lived up to several miles from the chemical plant, in all directions), or even whether they were actually exposed to gas at all.

WLF argued that the plaintiffs’ self-diagnosed medical symptoms were by themselves an inadequate basis from which to infer causation, because those symptoms might have had any number of causes. The case arose following a fire in September 2006 at a chemical plant in Westlake, Louisiana. Some toxic gas escaped from the plant for several evening hours until the fire was brought under control.

After filing, WLF issued the following statement by Chief Counsel Richard Samp: “The lower courts failed in their gatekeeping duties. They allowed the jury to base causation findings on the *ipse dixit* of ‘expert’ witnesses without, in advance of admitting the testimony, examining whether there was any scientific validity to the experts’ claims. That failure violated a basic tenet of our legal system: a defendant may not be found liable for an injury in the absence of reliable evidence demonstrating that the defendant’s conduct caused the injury.”

WLF is a public interest law firm and policy center that devotes a significant share of its resources to defending the rule of law, including appropriate standards of admissibility for expert testimony.

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