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Washington High Court Will Hear Argument on Applying State Consumer Protection Act to Other States' Residents

(Thornell v. Seattle Service Bureau, Inc. and State Farm Mutual Auto. Ins. Co.)

“Every State has an interest in regulating consumer transactions involving its residents ... [but] the U.S. Constitution imposes strict limits on the ability of one State to apply its laws to transactions occurring in other States.”

— Richard Samp, WLF Chief Counsel

WASHINGTON, DC—The Washington Supreme Court will hear oral argument tomorrow, Tuesday, October 20, at 9:00 a.m. PDT, in *Thornell v. Seattle Service Bureau, Inc. and State Farm Mutual Automobile Insurance Co.*, a case that will decide whether the Washington Consumer Protection Act (WCPA) applies to consumers nationwide, or only to Washington State residents. Washington Legal Foundation Chief Counsel Richard Samp will be available tomorrow afternoon to discuss the case and its possible ramifications.

The case involves Texas resident Sandra Thornell, whose son became involved in a car accident with another driver in Texas. State Farm, the other driver's insurance company, determined that Thornell's son was at fault. It paid its own insured's claim in full and then sought to recoup its payments from Thornell. State Farm's only connection with Washington was that it retained the Seattle Service Bureau (SSB) to press its subrogation claim. SSB wrote several demand letters to Thornell in Texas, which she claims were misleading. She filed a nationwide class action against SSB and State Farm in Washington court, alleging violations of the WCPA.

WLF's *amicus* brief argues that Washington State adopted the WCPA to protect Washington consumers only and that allowing nonresidents to invoke the statute would transform the State into a magnet for national class actions. Because the WCPA only applies to State residents, WLF contends that Thornell lacks the right to sue under the statute. WLF's brief notes that all parties agree Thornell would have had no claim if she had sued in Texas for violation of its (less expansive) consumer protection laws. WLF further contends that not only would applying the WCPA to a non-resident consumer's claims contradict the statute's language, but it would also show disrespect for the rights of other States—like Texas—to regulate consumer transactions within their own borders. The plaintiffs' bar seeks a ruling that the WCPA applies nationwide.

In advance of oral argument, WLF issued a statement by Chief Counsel Richard Samp: “Every State has an interest in regulating consumer transactions involving its residents. Washington State, which provides broader protections to its consumers than many other States do, should not permit lawyers for consumers from other States to forum shop in order to avail their clients of the WCPA's protections. Indeed, the U.S. Constitution imposes strict limits on the ability of one State to apply its laws to transactions occurring in other States.”

WLF is a free-market, public-interest law firm and policy center that devotes substantial resources to fighting excessive litigation, including suits under state consumer protection acts.

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