

SUPREME COURT OF APPEALS OF WEST VIRGINIA

In re Tobacco Litigation (Personal Injury Cases), 218 W. Va. 301

624 S.E.2d 738 (2005) · No. No. 32552 · Decided December 2, 2005

SUMMARY

The Supreme Court of Appeals of West Virginia answered a certified question concerning whether *State Farm v. Campbell* barred a bifurcated trial plan in consolidated tobacco personal-injury litigation. The court held that *Campbell* did not per se preclude determining certain liability issues and a punitive-damages multiplier in Phase I, followed by individualized compensatory and punitive damages determinations in Phase II. The court emphasized that the trial court retained flexibility to manage the mass litigation and must ensure that evidence and damages awards comply with due-process principles.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Justice Maynard; Justice Starcher; Justice Benjamin
JURISDICTION	West Virginia
DECIDED	December 2, 2005
DOCKET	No. 32552
DISPOSITION	other
PROCEDURAL POSTURE	The Circuit Court of Ohio County certified a constitutional question concerning whether <i>State Farm v. Campbell</i> precluded a bifurcated mass-tort trial plan in which liability and a punitive-damages multiplier would be decided in Phase I and individual compensatory and punitive damages would be decided in Phase II. The circuit court had answered the question affirmatively and vacated its original trial plan.
STANDARD OF REVIEW	De novo review applies to questions of law answered and certified by a circuit court.
PRECEDENTIAL VALUE	published precedential opinion

TOPICS

- civil procedure
- due process
- appellate procedure
- punitive damages
- remedies

PRACTICE AREAS

civil procedure

constitutional law

torts

remedies

appellate procedure

QUESTIONS PRESENTED

1. Whether the Due Process Clause of the Fourteenth Amendment, as interpreted by *State Farm v. Campbell*, categorically precludes a bifurcated mass-tort trial plan that determines certain common liability issues and a punitive-damages multiplier in Phase I and individual compensatory and punitive damages in Phase II.
2. Whether *State Farm v. Campbell* requires the circuit court to tailor all evidence of defendants' conduct to each individual plaintiff before determining entitlement to punitive damages or a punitive-damages multiplier.

HOLDINGS

1. *State Farm v. Campbell* does not preclude bifurcation of a trial into two phases in which certain elements of liability and a punitive-damages multiplier are determined in Phase I, and compensatory damages and punitive damages based on that multiplier are determined for each individual plaintiff in Phase II.
2. The trial court must ensure that evidence offered to support punitive damages is relevant, reasonably related to the acts upon which liability is premised, and supports the punitive-damages claim; *Campbell* does not prohibit all evidence of prior or similar conduct in a mass-tort proceeding.
3. A punitive-damages multiplier determined in Phase I is not constitutionally invalid merely because individual compensatory damages are determined later, provided the trial court reviews each final award for compliance with due-process proportionality principles.

KEY QUOTATIONS

“Therefore, we now hold that the United States Supreme Court's decision in State Farm v. Campbell, 538 U.S. 408, 123 S.Ct. 1513, 155 L.Ed.2d 585 (2003), does not preclude the bifurcation of a trial into two phases wherein certain elements of liability and a punitive damages multiplier are determined in the first phase and compensatory damages and punitive damages, based on the punitive damages multiplier, are determined for each individual plaintiff in the second phase.” (218 W. Va. at 306-07)

“Answer: No. Certified question answered.” (218 W. Va. at 307)

FACTUAL BACKGROUND

The litigation involved approximately 1,100 individual personal-injury claims by smokers against tobacco companies. The circuit court's proposed consolidated trial would have determined common liability issues, entitlement to punitive damages, and a punitive-damages multiplier in Phase I, followed by individual compensatory-damages determinations and application of the multiplier in Phase II. The tobacco defendants argued that *State Farm v. Campbell* constitutionally required individualized proof and prohibited the proposed structure.

PROCEDURAL HISTORY

West Virginia's Chief Justice consolidated and transferred similar tobacco litigation to the Circuit Court of Ohio County under the state's mass-litigation procedures. The circuit court adopted a two-phase trial plan, later vacated that plan after concluding that *State Farm v. Campbell* required individualized consideration of defendants' conduct. The circuit court certified the question to the Supreme Court of Appeals of West Virginia, which answered it in the negative.

DISPOSITION

other

CASES CITED

- *State Farm Mut. Auto. Ins. Co. v. Campbell*, 538 U.S. 408, 123 S. Ct. 1513, 155 L. Ed. 2d 585 (2003)
- *Gallapoo v. Wal-Mart Stores, Inc.*, 197 W. Va. 172, 475 S.E.2d 172 (1996)
- *State ex rel. Mobil Corp. v. Gaughan*, 211 W. Va. 106, 563 S.E.2d 419 (2002)
- *Garnes v. Fleming Landfill, Inc.*, 186 W. Va. 656, 413 S.E.2d 897 (1991)
- *Bowyer v. Hi-Lad, Inc.*, 216 W. Va. 634, 609 S.E.2d 895 (2004)
- *Pacific Mutual Life Insurance Co. v. Haslip*, 499 U.S. 1, 111 S. Ct. 1032, 113 L. Ed. 2d 1 (1991)
- *BMW of North America, Inc. v. Gore*, 517 U.S. 559, 116 S. Ct. 1589, 134 L. Ed. 2d 809 (1996)
- *TXO Production Corp. v. Alliance Resources Corp.*, 187 W. Va. 457, 419 S.E.2d 870 (1992), *aff'd*, 509 U.S. 443 (1993)
- *State ex rel. Appalachian Power Co. v. MacQueen*, 198 W. Va. 1, 479 S.E.2d 300 (1996)
- *State ex rel. H.K. Porter Co. v. White*, 182 W. Va. 97, 386 S.E.2d 25 (1989)
- *Cline v. White*, 183 W. Va. 43, 393 S.E.2d 923 (1990)
- *Sheetz, Inc. v. Bowles Rice McDavid Graff & Love, PLLC*, 209 W. Va. 318, 547 S.E.2d 256 (2001)
- *Bone v. West Virginia Department of Corrections*, 163 W. Va. 253, 255 S.E.2d 919 (1979)
- *Morrissey v. Brewer*, 408 U.S. 471, 92 S. Ct. 2593, 33 L. Ed. 2d 484 (1972)
- *Mathews v. Eldridge*, 424 U.S. 319, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976)
- *Liggett Group Inc. v. Engle*, 853 So. 2d 434 (Fla. Dist. Ct. App. 2003)
- *Philip Morris, Inc. v. Angeletti*, 358 Md. 689, 752 A.2d 200 (2000)
- *Southwestern Refining Co. v. Bernal*, 22 S.W.3d 425 (Tex. 2000)
- *Smith v. Brown & Williamson Tobacco Corp.*, 174 F.R.D. 90 (W.D. Mo. 1997)