

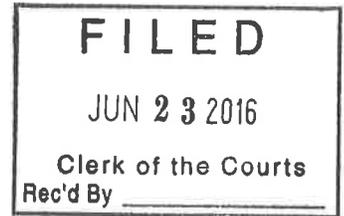
**IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE**

**TAMARIN LINDENBERG, ET AL. v. JACKSON NATIONAL LIFE
INSURANCE COMPANY**

**Rule 23 Certified Question of Law
from the United States District Court
for the Western District of Tennessee**

No. 213cv02657JPMcgc

No. M2015-02349-SC-R23-CV



ORDER

Pursuant to Tennessee Supreme Court Rule 23, a certification order was filed in this Court on December 8, 2015, by the United States District Court for the Western District of Tennessee. Briefs have now been filed pursuant to Section 7, and, upon consideration of the certification order and the briefs filed by the parties and by the amici curiae, this Court declines to answer the following certified questions:

1. Do the punitive damages caps in civil cases imposed by Tennessee Code Annotated Section 29-39-104 violate a plaintiff's right to a trial by jury, as guaranteed in Article I, section 6 of the Tennessee Constitution?
2. Do the punitive damages caps in civil cases imposed by Tennessee Code Annotated Section 29-39-104 represent an impermissible encroachment by the legislature on the powers vested exclusively in the judiciary, thereby violating the separation of powers provisions of the Tennessee Constitution?

Upon thorough review, it appears to this Court that although the certified questions raise issues of first impression not previously addressed by the appellate courts of Tennessee, the context of this case renders it an unsuitable venue within which to provide answers. This case involves a jury's finding of a bad faith refusal to pay pursuant to the terms of a policy of life insurance. The jury determined that the plaintiff was entitled to both the statutory bad faith penalty pursuant to Tennessee Code Annotated section 56-7-105, and punitive damages

pursuant to the common law. The issue of the availability of the common law remedy of punitive damages in addition to the statutory remedy of the bad faith penalty is one which has not before been addressed by this Court, was not certified to this Court by the federal trial court in this case, and is not presently before this Court in this case. It appears to this Court that it would be imprudent for it to answer the certified questions concerning the constitutionality of the statutory caps on punitive damages in this case in which the question of the availability of those damages in the first instance has not been and cannot be answered by this Court.

For these reasons, the Court denies the certification.¹

PER CURIAM

¹ Nothing in the Court's Order is intended to suggest any predisposition by the Court with respect to the United States Court of Appeals for the Sixth Circuit's possible certification to this Court of both the question of the availability of the remedy of common law punitive damages in addition to the remedy of the statutory bad faith penalty and the question of the constitutionality of the statutory caps on punitive damages, in the event of an appeal from the final judgment in this case.