

WISCONSIN SUPREME COURT
THURSDAY, DECEMBER 19, 2013
10:45 a.m.

This is a review of a decision of the Wisconsin Court of Appeals, District III (headquartered in Wausau), which reversed a Door County Circuit Court decision, Judge D. Todd Ehlers, presiding.

2011AP1514

[Robert V. Kimble v. Land Concepts, Inc.](#)

This case arises out of a dispute over legal access to a home site in the town of Nasewaupée in Door County. The Supreme Court will examine whether a jury's \$1 million punitive damage award, which is 33 times the amount of the compensatory damages award, is sustainable.

Some background: Robert L. and Judith W. Kimble bought their homestead property in 2004. They knocked down an existing home and built a new one estimated to be worth about \$1.5 million. They assumed, as had a previous owner, that they had easement rights to a private drive that was the only improved access to their property. But an entity known as Land Concepts Inc. owned the land on which the private drive ran and had never granted easement rights to the Kimbles or their predecessors.

The Kimbles filed a lawsuit against various parties, including their title insurance provider, First American Title, after First American refused to cover any claim for lack of access and unmarketability due to lack of access.

Ultimately, the Kimbles reached a settlement with all of the parties except First American. As part of the settlement, the Kimbles agreed to transfer their interest in their claim against First American to John and Jane Stevenson, who had previously owned the property and still owned an adjacent property.

The Stevensons brought claims against First American for breach of contract, breach of fiduciary duty, and bad faith. Ultimately, a jury awarded the Stevensons \$50,000 in compensatory damages for First American's breach of contract and \$1 million in punitive damages for First American's bad faith.

First American asked the trial court to reconsider several issues, and the trial court agreed that the amount of compensatory damages should be reduced to \$29,738.49. However, it denied First American's other requests, including the argument that the punitive damages award was excessive.

First American appealed on a variety of issues, to no avail. The Supreme Court has granted review of the following issue: Whether the \$1,000,000 punitive damages award against First American Title Insurance Company violates the Wisconsin Constitution or the common law of the state of Wisconsin.