

**FOR IMMEDIATE RELEASE****July 07, 2010**

COURT URGED NOT TO REVIVE SUIT SEEKING \$400 MILLION FOR CO2 EMISSIONS

(Kivalina v. ExxonMobil Corp.)

Earlier this week, the Washington Legal Foundation (WLF) filed a brief in the U.S. Court of Appeals for the Ninth Circuit urging it to reject an appeal filed by the Alaskan village of Kivalina, which seeks to revive a lawsuit contending that global warming is destroying the village by melting Arctic sea ice. Suing under a common law theory of nuisance, Kivalina asked the court to reverse the trial court's dismissal of its complaint against 19 leading American oil and energy companies, which demands up to \$400 million for their role in contributing to global warming through their carbon dioxide emissions. In its brief, WLF asked that the district court's dismissal be affirmed because the lawsuit presents a nonjusticiable political question and because Kivalina lacks standing to bring such an action under these facts.

“The extent of any global warming and its causes and effects remains highly controversial and ultimately should not be decided by unelected federal judges,” said Cory Andrews, WLF's Senior Litigator. “It is one thing for democratically elected state legislatures to adopt a comprehensive regulatory scheme to address the challenging issue of climate change,” Andrews said. “It is quite another for plaintiffs' lawyers to demand hundreds of millions of dollars in damages from power companies for engaging in entirely legal, state-sanctioned conduct.”

WLF's brief was drafted with the *pro bono* assistance of Douglas Halsey and David Draigh with the law firm White & Case LLP.

In its brief on appeal, WLF argued that the relief demanded by Kivalina in this lawsuit, by exposing the defendants to virtually limitless liability, would threaten the viability of entire industrial sectors, even though those industrial sectors admittedly are minor contributors to global greenhouse gas levels, their emissions of greenhouse gases are entirely lawful, and they undoubtedly provide services of great social utility. Under these circumstances, WLF agreed with the judgment of the district court that this lawsuit presents a nonjusticiable political question, and that the village of Kivalina does not have standing to bring its sweeping claims in the action.

WLF is a public interest law and policy center with supporters in all 50 States. WLF regularly litigates in environmental matters to promote a rational balance between

environmental protection, on one hand, and economic growth and property rights on the other.

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For further information, contact WLF Senior Litigator Cory Andrews, (202) 588-0302. A copy of WLF's brief is posted on its web site, www.wlf.org.