



For Immediate Release

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**WLF URGES SUPREME COURT TO REVERSE RULING
EXPANDING LIABILITY UNDER THE FALSE CLAIMS ACT
(*Allison Engine Co. v. U.S. ex rel. Sanders*)**

The Washington Legal Foundation (WLF) recently filed a brief in the United States Supreme Court urging it to reverse a court of appeals' ruling that, if left intact, would greatly expand a company's liability under the False Claims Act (FCA) to cases where it has not been shown that the U.S. Treasury suffered any financial loss due to the alleged false claim.

Under the False Claims Act, a suit may be brought by the United States or a private "relator" on behalf of the United States against a company for submitting a false claim to the United States for payment for goods or services that were, in fact, not delivered or not provided according to the specifications under the government contract. A private person or relator bringing such a suit under the "qui tam" provisions of the law can recoup up to 25 percent of the overpayments made to the contractor as a bounty.

In *Allison Engine Co. v. United States ex rel. Sanders*, a government sub-contractor submitted an allegedly false claim for payment not to the government, but to the private contractor that had hired the sub-contractor. The U.S. Court of Appeals for the Sixth Circuit ruled that even though there was no showing of "presentment" to the government of the claim by the sub-contractor and no showing of financial loss to the Government, liability can nevertheless be imposed because the provision of the FCA in question does not on its face require "presentment" of the claim to the government. WLF's brief presented an exhaustive historical analysis of the FCA demonstrating that Congress intended a showing of financial loss to the Treasury and a causal link between the alleged fraud and the loss. Otherwise, any company doing business with a government contractor runs the risk of being sued under the FCA for seeking payment for work from that contractor, even though no claim was ever presented to the government for payment.

WLF's brief was drafted with the *pro bono* assistance of John T. Boese, Michael J. Anstett, Kerry Hotopp, and Karen S. Bloom, of the Washington, D.C. firm of Fried, Frank, Harris, Shriver & Jacobson, LLP.

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For further information, contact WLF's Senior Executive Counsel, Paul Kamenar, at 202-588-0302. A copy of WLF's brief is posted on its website at www.wlf.org.