



**For Immediate Release**

**April 5, 2005**

**WLF TO PARTICIPATE IN PRESS BRIEFING  
WITH SENATOR GEORGE ALLEN AND EX-POWS**  
*(Colonel Acree, et al. v. Republic of Iraq)*

On April 7, 2005, the Washington Legal Foundation will participate in a press briefing at the National Press Club in Washington, D.C., along with WLF's client, U.S. Senator George Allen, and former ex-POWs Col. (Ret.) Cliff Acree and Lt. Col. (Ret.) Jeff Tice and their counsel representing the POW group who were tortured during the 1991 Gulf War by Saddam Hussein and his Iraqi secret police.

The briefing will discuss the case pending review before the U.S. Supreme Court involving a lawsuit against Iraq and Saddam Hussein filed by the ex-POWs under a 1996 antiterrorism law that gives U.S. nationals the right to hold state sponsors of terrorism accountable for injuries and death for torture, hijacking, and other acts. WLF had filed a brief last month in the Supreme Court on behalf of Senator Allen and 19 other U.S. Senators and Members of Congress in support of the ex-POWs, urging the Court to review their case.

In *Colonel Acree v. Iraq*, Colonel Clifford Acree and 16 other American servicemen filed suit against the Republic of Iraq in early 2002 seeking damages against Iraq, Saddam Hussein, and the Iraqi Intelligence Service for injuries they suffered when they were physically and psychologically tortured after being captured by Iraqi forces during the 1991 Gulf War. Under provisions of the Foreign Sovereign Immunities Act (FSIA), U.S. nationals can bring damage suits against foreign states that sponsor terrorism and commit acts of torture. The suit was filed after Iraq refused to arbitrate as provided by the FSIA. The district court entered a default judgment in their favor in July 2003 after the Iraqi government failed to contest the charges, and awarded damages.

Two weeks after the district court ruling, the Justice Department sought to intervene in the case, arguing that the April 2003 Emergency Wartime Supplemental Appropriation Act to help rebuild Iraq made the FSIA liability provision inapplicable to Iraq and thus, negated jurisdiction by the trial court over the case. The trial court rejected the Justice Department argument and so the government appealed to the U.S. Court of Appeals for the District of Columbia Circuit.

In the court of appeals, WLF argued on behalf of U.S. Senators George Allen, Harry Reid, and Patty Murray; and Representatives John Conyers, Howard Berman, and Gregory Meeks, that the court of appeals should reject DOJ's argument that the trial court lacked

jurisdiction to enter the judgment in favor of the ex-POWs. In particular, WLF argued that emergency appropriations by Congress to help rebuild Iraq cannot be construed to exempt Iraq from liability or retroactively revoke the court's jurisdiction.

The court of appeals agreed with WLF that the supplemental appropriations measure did *not* strip the district court of jurisdiction. In that respect, WLF scored a victory on this major point. However, the court of appeals reversed the district court on other grounds, ruling that while the trial court had jurisdiction over the case, there was no private right of action. In short, the American servicemen won their legal battle but lost the war.

WLF's brief in the Supreme Court supporting review was filed on March 21, 2005, on behalf of a bipartisan congressional group including U.S. Senators George Allen (R-VA), Tom Harkin (D-IA), and Patty Murray (D-WA); and Representatives Roscoe Bartlett (R, MD-06), Howard L. Berman (D, CA-28), John Conyers, Jr. (D, MI-14), Elijah E. Cummings (D, MD-07), Bob Filner (D, CA-51), Virgil H. Goode, Jr. (R, VA-05), Bart Gordon (D, TN-06), Katherine Harris (R, FL-13), Sheila Jackson-Lee (D, TX-18), James McGovern (D, MA-03), Gregory W. Meeks (D, NY-06), Major R. Owens (D, NY-11), Charles B. Rangel (D, NY-15), Silvestre Reyes (D, TX-16), Jim Saxton (R, NJ-03), Ted Strickland (D, OH-06), and Lynn Woolsey (D, CA-06).

In its brief, WLF argued that the Court should review and reverse the court of appeals' decision because it would eviscerate the anti-terrorism law designed to punish and deter those who would injure or kill Americans, including American POWs. In particular, it would negate the Flatow Amendment to the FSIA which was sponsored in 1996 by Congressman Jim Saxton, one of WLF's clients in the case, that expanded the rights of Americans to bring civil actions in federal court. Alisa Flatow was a 20-year-old Brandeis University student killed in 1996 by the Palestinian Islamic Jihad in a bus bombing while studying abroad in Israel.

Other individuals supporting the ex-POWs in the Supreme Court along with WLF include Anthony Lake, the former Assistant to the President for National Security Affairs, John Lehman, the former Secretary of the Navy, Ambassador Max Kampelman, one of the deans of the United States Diplomatic Corp, and John Jay Douglas, a former Commandant of the Judge Advocate General's School of the Army.

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For further information, contact Paul Kamenar, WLF Senior Executive Counsel, at 202-588-0302. WLF's brief, written with pro bono assistance from Steven Perles and Edward MacAllister of the Perles Law Firm, P.C., is posted on its website at [www.wlf.org](http://www.wlf.org).