



For Immediate Release

September 28, 2007

WLF CONVERSATIONS WITH Examines U.S. Supreme Court

In a publication released today by the Washington Legal Foundation (WLF), two of America's top U.S. Supreme Court litigators, Latham & Watkins partner **Maureen E. Mahoney** and Akin Gump Strauss Hauer & Feld partner **Thomas C. Goldstein** discuss the Court with moderator **The Honorable Dick Thornburgh**. This paper is being released on the eve of the October 2007 Court term, which commences on October 1.

This publication is the latest installment of WLF's CONVERSATIONS WITH series. Mr. Thornburgh, who has moderated each publication in the series, is Chairman of WLF's Legal Policy Advisory Board and Of Counsel to the law firm Kirkpatrick & Lockhart Preston Gates Ellis LLP. He is a former two-term Governor of the Commonwealth of Pennsylvania and former Attorney General of the United States. Ms. Mahoney, who heads her firm's Appellate and Constitutional Practice Groups, argued four cases before the Court last term and is a former Deputy Solicitor General. Mr. Goldstein heads his firm's Supreme Court practice and is the founder and principal editor of the widely respected Supreme Court blog, SCOTUSblog.com.

The discussion's participants first focus on the similarities and differences in the Court under the late Chief Justice Rehnquist's leadership, compared to that of current Chief Justice Roberts. One significant development Ms. Mahoney and Mr. Goldstein both note is the increase in the number and quality of business cases the Court has accepted for review under John Roberts. One important similarity between the Rehnquist and Roberts Courts, and an unfortunate one according to both lawyers, is the shrinking size of the docket, which in their opinion fosters uncertainty and lack of uniformity in federal law. They also discuss some strategic aspects of Supreme Court practice, such as managing interested parties' filing of *amicus* briefs, and the importance of the Solicitor General's support in seeking *cert* or on the merits.

Mr. Thornburgh then leads the attorneys through a brief overview of the significant business-related rulings from the October 2006 term. Most notable to Mahoney and Goldstein were the Court's handling of intellectual property issues, and its ongoing effort to reshape antitrust jurisprudence to the changing realities of America's economy and economic theory. Ms. Mahoney argues that the 2006 term reflected the Roberts Court's understanding of how regulation and litigation affect the free enterprise system, an approach which bodes well for businesses seeking review of its cases.

The conversation concludes with a short discussion of important cases facing the Justices in the October 2007 term. The Court's early docket features cases involving such key issues as arbitration, securities fraud, employment discrimination, federal regulatory preemption, and federal pension law.

Copies of this educational paper can be obtained by forwarding a request to: Publications Department, Washington Legal Foundation, 2009 Massachusetts Avenue, NW, Washington, D.C. 20036.

Washington Legal Foundation is a national, non-profit public interest law and policy center. By utilizing a unique approach in forwarding its mission – publishing timely legal studies, engaging in innovative litigation, and communicating directly to the public – WLF has become the nation's most effective advocate of free enterprise.