



For Immediate Release

October 3, 2006

WLF URGES SUPREME COURT TO REVIEW IMPORTANT FALSE CLAIMS ACT CASE

(R&F Properties of Lake County, Inc. v. U.S. ex rel. Walker)

The Washington Legal Foundation (WLF) filed a brief in the U.S. Supreme Court this week urging the Court to review and reverse a court of appeals decision that ruled that a company can be subject to substantial penalties under the False Claims Act, even though its billing practices were based on a reasonable interpretation of ambiguous agency regulations and contractual provisions. Unless the High Court reviews and reverses the decision, companies doing business with the federal government will be subject to unfair and ruinous civil suits by so-called private "relators" and their attorneys who stand to get a substantial "bounty" for bringing the suit, even though the government does not believe the case is worth its attention.

In *R&F Properties*, a nurse employed by the medical facility brought a private "qui tam" lawsuit against the company under the FCA claiming that the company had overbilled Medicare for certain medical services provided to patients. The district court ruled in favor of the company because the complex Medicare billing regulations and contractual provisions were ambiguous and the company reasonably interpreted them. Nevertheless, the court of appeals reversed, thereby exposing the company to ruinous financial liability and debarment from further government contracting.

WLF urged the Court to review and reverse the decision because basing liability on complex and ambiguous regulations is not the kind of "fraud" that Congress intended to punish. Allowing such suits would encourage frivolous and costly FCA lawsuits.

Over the years, WLF has participated in major FCA cases. Later this month, WLF will file a brief in the Supreme Court in *Rockwell Int'l Corp v. United States*, an important FCA case that the Court agreed to review this week. In addition, WLF's Legal Studies Division has produced many publications on the topic. A copy of WLF's brief in *R&F Properties* is available on its website at www.wlf.org.

WLF's brief was filed with the *pro bono* assistance of Woody N. Peterson and Andrew Jackson, partners in the Washington, D.C., office of Dickstein Shapiro LLP, and associate Justin A. Chiarodo.

* * *

For further information, contact Paul Kamenar, WLF's Senior Executive Counsel, at 202-588-0302.