



For Immediate Release

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**WLF LAUDS COURT'S DISMISSAL OF
STOLT-NIELSEN INDICTMENT**
(United States v. Stolt-Nielsen, S.A.)

The Washington Legal Foundation (WLF) hailed the recent dismissal of an indictment alleging antitrust violations against Stolt-Nielsen, a shipping company, and two of its executives by U.S. District Court Judge Bruce Kauffman of Philadelphia. Judge Kauffman ruled that the Department of Justice (DOJ) unjustifiably terminated the immunity agreement with the company and its officials.

In a landmark ruling, Judge Kauffman concluded in a detailed 79-page opinion that DOJ did not prove that Stolt-Nielsen had breached any of the conditions of the nonprosecution agreement made with the company for voluntarily coming forward and disclosing evidence of improper antitrust activities between it and two other shipping competitors. That disclosure led to convictions, prison terms, and fines of \$67 million against the other companies and executives. Accordingly, the court concluded that "fundamental fairness demands" that the indictment be dismissed.

"Judge Kauffman's strong rebuke of DOJ for summarily revoking its immunity agreement with Stolt-Nielsen should send a strong message to DOJ and federal prosecutors that they must honor their nonprosecution agreements and treat companies fairly," said Paul D. Kamenar, WLF's Senior Executive Counsel. "DOJ would be wise not to appeal Judge Kauffman's sound ruling. Otherwise, companies will be reluctant to cooperate in future criminal investigations and to expose wrongdoing by some of its employees," Kamenar added.

In January 2003, Stolt-Nielsen took advantage of DOJ's Antitrust Corporate Leniency Policy by coming forward and disclosing improper antitrust activity that it had discovered and corrected. In March 2004, DOJ suddenly revoked the agreement without giving the company or its executives any opportunity to respond to its allegation that they had breached the agreement. Stolt-Nielsen sought preindictment review of the unjustified revocation, but was unsuccessful when the U.S. Supreme Court declined in 2006 to review an adverse appeals court ruling. WLF filed a brief at the time supporting Stolt-Nielsen in the Supreme Court on behalf of itself, the National Association of Manufacturers, and the National Association of Criminal Defense Lawyers. Once the company was indicted, the way was cleared to challenge the indictment. Stolt-Nielsen was eventually vindicated by Judge Kauffman, but at an enormous and unnecessary cost.

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For information about this case and WLF's Criminalization of Free Enterprise-Business Civil Liberties Program, contact WLF Senior Executive Counsel, Paul Kamenar, at 202-588-0302.