

FOR IMMEDIATE RELEASE

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COURT URGED TO REIN IN ABUSIVE CALIFORNIA UCL SUITS *(Korea Supply Co. v. Lockheed Martin Corp.)*

The Washington Legal Foundation (WLF) this month asked the California Supreme Court to rein in abusive lawsuits being filed in California by plaintiffs' lawyers under that State's Unfair Competition Law (UCL).

In a brief filed in *Korea Supply Co. v. Lockheed Martin Corp.*, WLF argued that the California Supreme Court adopted the UCL as a means of ensuring that victims of unfair or fraudulent business practices can recovery their out-of-pocket losses, not as a means of permitting plaintiffs' lawyers to extort large settlements from legitimate businesses in cases where the plaintiff has suffered no real loss. WLF's brief was drafted by James C. Martin, Christina J. Imre, and Michael K. Brown of the Los Angeles law firm of Crosby, Heafey, Roach and May.

"The UCL is having an ever-widening, negative impact on the business community," said WLF Chief Counsel Richard A. Samp after filing WLF's brief. "A law that was initially intended to protect consumers has now evolved into a vehicle promoting vexatious and harassing litigation that is costly to resolve. The California Supreme Court should use this case to eliminate some of those excesses," Samp said.

The case arose as a result of an effort by the Republic of Korea to purchase a military radar system. The plaintiff was assisting one of the companies seeking to win the supply contract, but Korea awarded the contract to Lockheed Martin instead. The plaintiff asserts that Lockheed Martin won the contract by using improper procurement methods. The plaintiff sued under the UCL, which prohibits unfair competition, including unlawful, unfair, and fraudulent business acts. The trial court dismissed the case for failing to state a claim under the UCL, but the California Court of Appeal reversed and reinstated the case. The California Supreme Court has agreed to hear Lockheed Martin's appeal from that dismissal.

WLF's brief focuses on one of the questions raised in the appeal: what types of damages are available in UCL actions? The plaintiff asserts that it is entitled to sue under the UCL to require

Lockheed Martin to disgorge all profits derived from the contract. In its brief, WLF argued that the UCL limits damages to restitution – recovery of any funds lost by the plaintiff as a result of the defendant’s allegedly unfair conduct. Because the plaintiff in this case had no out-of-pocket expenses as a result of Lockheed Martin’s alleged misconduct, the plaintiff is not entitled to any recovery under the UCL, WLF argued.

WLF argued that permitting the plaintiff to take from Lockheed all profits derived under the radar supply contract would create a windfall for the plaintiff. WLF argued that by interpreting the UCL as permitting such windfalls, some California appellate courts have given plaintiffs’ lawyers all the incentive they need to file harassing UCL suits against legitimate businesses, in the hope of sharing some of that windfall.

WLF is a public interest law and policy center with supporters in all 50 states, including many in California. WLF devotes a significant portion of its resources to tort reform and efforts to rein in abusive litigation that seeks creation of new causes of action.

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For further information, contact WLF Chief Counsel Richard Samp, (202) 588-0302. A copy of WLF’s brief is available at WLF’s web site: www.wlf.org.