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June 26, 2003

COURT URGED TO REIN IN NATIONWIDE CLASS ACTION SUITS

(Peterson v. BASF Corp.)

The Washington Legal Foundation (WLF) today urged the Minnesota Supreme Court to limit the certification of nationwide class action lawsuits, in which the plaintiff seeks to sue on behalf of himself and every similarly situated person throughout the nation.

In a brief filed in *Peterson v. BASF Corp.*, WLF argued that plaintiffs' lawyers often bring such nationwide class actions as a means of coercing a settlement, without regard to the merits of the suits. Such suits tend to be totally unmanageable, because class members will often have widely varying damages claims, and different sets of laws often apply to class members from different states.

The trial judge in this case tried to avoid those unmanageability problems by decreeing that all claims would be judged under New Jersey law, the state in which the defendant has its corporate headquarters. WLF argued that applying New Jersey law violated the due process rights of the vast majority of litigants who had no connection with New Jersey. WLF argued that each class member's claim must be governed by the law of his home state since class members come from all 50 states. WLF argued that the class should be decertified because any trial involving the application of the laws of all 50 states would be too cumbersome.

The case involves claims brought by a group of Minnesota farmers who complained that BASF was charging too much for one of its herbicides. They claimed that BASF's business practices, allegedly designed to maintain a high price, violated state consumer protection laws. They are seeking millions of dollars in damages, on behalf of all farmers nationwide who purchased the herbicide during a five-year period. BASF appealed the trial judge's decision to certify a nationwide class action and to judge BASF's conduct pursuant to New Jersey consumer protection laws.

In its brief, WLF argued that the Fourteenth Amendment's Due Process Clause prohibits a state's law from governing resolution of litigation unless the State has a meaningful connection to the parties' claims. WLF noted that BASF's herbicide sales activity took place almost exclusively at the local level. Moreover, sales of BASF's agricultural products were coordinated

out of BASF's North Carolina office. Virtually none of the farmers who purchased the herbicide from BASF had any idea that BASF had a connection with New Jersey.

WLF stated that it is understandable why judges would like to apply a single state's law to the claims of all class members -- applying one law to everyone makes a case far more manageable. But such manageability concerns are not sufficient reason to ignore constitutional limitations on the application of a state's laws to transactions having no connection with the state, WLF argued. The solution is to avoid certification of massive class actions which serve the interests of no one other than plaintiffs' lawyers seeking to coerce unwarranted settlements, WLF argued.

WLF is a public interest law and policy center with supporters in all 50 states, including many in Minnesota. It devotes a significant portion of its resources to advancing the interests of the free-enterprise system and to ensuring that economic development is not impeded by excessive litigation.

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For further information, contact WLF Chief Counsel Richard Samp, (202) 588-0302. WLF's brief can be viewed on its web site, www.wlf.org.