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January 9, 2014

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## WLF Asks Supreme Court to Bar Federal Lawsuits Brought by Uninjured Plaintiffs

*(First National Bank of Wahoo v. Charvat)*

**“Individual citizens may be unhappy when they conclude that someone else is violating federal law. But that sense of outrage gives them no right to file a lawsuit seeking damages, unless they can show that the misconduct injured them.”**

**– Rich Samp, WLF Chief Counsel**

WASHINGTON, DC—The Washington Legal Foundation (WLF) this week asked the U.S. Supreme Court to review (and ultimately overturn) an appeals court decision that allows uninjured plaintiffs to sue those whom they believe are violating federal law. In a brief filed in support of a petition for review filed by two small Nebraska banks, WLF argued that Article III of the Constitution bars federal courts from hearing claims brought by plaintiffs who were not injured by the alleged misconduct; such individuals lack “standing” to sue.

The incentives motivating uninjured individuals to file lawsuits are chiefly financial: numerous federal statutes entitle prevailing plaintiffs to recover “statutory damages” (*i.e.*, a fixed damages sum computed without regard to injuries incurred) as well as attorney’s fees. If such lawsuits are certified as class actions, they can generate millions of dollars. But, WLF argued in its brief, the Constitution does not permit federal courts to hear suits filed by those whose only alleged injury is another party’s bare, technical violation of a federal statute.

Federal law requires that before a bank may charge an ATM fee, it must provide clear, advance notice to customers of the fee. The plaintiff in this case conceded that he knew he would be charged a fee and agreed to pay it. Nonetheless, he noticed the banks were only providing notice on the ATM computer screen and not a second form of notice (also required by federal law) with a sticker on the ATM. So, he used five of the defendants’ ATM machines, paid multiple \$2.00 ATM fees, and then filed a lawsuit seeking to recover millions of dollars in “statutory damages” on behalf of all who used one of the five ATMs. WLF argued that the plaintiff did not suffer an injury and thus lacks Article III standing, because he received the information (the fact he would be charged a \$2.00 transaction fee) to which federal law entitled him.

After filing its petition, WLF issued the following statement by Chief Counsel Richard Samp: “Individual citizens may be unhappy when they conclude that someone else is violating federal law. But that sense of outrage gives them no right to file a lawsuit seeking damages, unless they can show that the misconduct injured them. Congress occasionally adopts statutes that create a right of action by private citizens; but such statutes do not alter the constitutional provision that bars courts from hearing a case unless the plaintiff can show that he suffered a concrete injury.”

*WLF is a public interest law firm and policy center that litigates against lawsuit abuse in order to ensure that unwarranted lawsuits do not drive up costs for all consumers.*

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