



FOR IMMEDIATE RELEASE

April 25, 2014

Media Contact: Cory Andrews | 202-588-0302

WLF Asks N.Y. High Court to Invalidate Municipal Ban on Large Sugary Beverages

*(New York Statewide Coalition of Hispanic Chambers of Commerce v.
New York City Dep't of Health and Mental Hygiene)*

“New York City’s misguided soda ban is arbitrary, paternalistic, and profoundly inconsistent with separation-of-powers principles. By striking it down, the Court will vindicate fundamental constitutional values, protect consumer freedom, and encourage sound regulatory policies.”—Cory Andrews, WLF Senior Litigation Counsel

WASHINGTON, DC—The Washington Legal Foundation (WLF) today asked the New York State Court of Appeals to affirm a decision invalidating a controversial effort by the New York City Department of Health and Mental Hygiene’s Board of Health to ban all large sugary beverages—those containing more than 25 calories per 8 fluid ounces and that exceed 16 ounces in size.

In a brief filed in *New York Statewide Coalition of Hispanic Chambers of Commerce v. New York City Dep’t of Health and Mental Hygiene*, WLF argued that the Board of Health, in enacting the soda ban, exceeded its administrative authority by improperly attempting to exercise *legislative* power, which is exclusively reserved to the New York City Council. WLF reminded the New York Court of Appeals of its important precedents enforcing the separation of powers and resisting executive overreach. As WLF described in its brief, separation-of-powers principles are indispensable to liberty and good governance, and serve as a bulwark against misconceived and heavy-handed policies such as the City’s “soda ban.”

WLF’s brief also demonstrated that the separation-of-powers principles articulated by the New York Appeals Court are part of a rich intellectual tradition that stretches back at least to the Founding Era of the United States. Its lineage is directly traceable to some of the most profound and influential writings in the American legal tradition and should not be sidestepped as the City has urged the Court to do.

Upon filing its brief, WLF issued the following statement by Senior Litigation Counsel Cory Andrews: “New York City’s misguided soda ban is arbitrary, paternalistic, and profoundly inconsistent with separation-of-powers principles. By striking it down, the Court will vindicate fundamental constitutional values, protect consumer freedom, and encourage sound regulatory policies.”

WLF’s brief was filed on its own behalf and on behalf of its client, the Allied Educational Foundation. WLF’s brief was filed with the *pro bono* legal assistance of Roy Englert, Jr., Sarah Prins, and Alex Potapov of the law firm Robbins, Russell, Englert, Orseck, Untereiner & Sauber LLP.

WLF is a national public interest law and policy center with supporters in all 50 States. WLF regularly litigates in cases raising separation-of-powers concerns and overreaching government regulation.

###