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WLF Urges Supreme Court to Provide Due Process for Out-of-State Defendant Ignored by California's Appellate Courts

(First Advantage Background Services Corp. v. Superior Court of California)

“Out-of-state defendants have a right to have their jurisdictional objections meaningfully reviewed. California’s appellate courts violate due process by not seriously considering trial courts’ jurisdictional rulings.”

—Marc Robertson, WLF Staff Attorney

WASHINGTON, DC— Washington Legal Foundation filed an *amicus curiae* brief with the United States Supreme Court today, urging the court to grant certiorari to review a personal-jurisdiction objection that California’s appellate courts failed meaningfully to review. Allied Educational Foundation joined WLF’s brief.

In *First Advantage Background Services Corp. v. Superior Court of California*, the Supreme Court has the opportunity to reverse an erroneous personal-jurisdiction ruling and to draw attention to a state writ-of-mandate procedure that provides inadequate process to defendants challenging personal jurisdiction.

First Advantage conducted a background investigation of a California resident who was applying for a job with Frito-Lay. First Advantage is a Florida corporation with headquarters in Georgia. The California Superior Court found specific personal jurisdiction without citing a meaningful connection between First Advantage and California.

In order to challenge personal jurisdiction in California courts, defendants must, in their first filing, move to quash service for lack of personal jurisdiction. Unlike in federal courts, California does not allow a defendant to preserve for appeal a challenge to the trial court’s personal jurisdiction. If the trial court denies a motion to quash, and the defendant proceeds to litigate the case on the merits, the defendant waives the jurisdictional issue. To avoid this outcome, the defendant must either (1) default and then appeal or (2) petition for a writ of mandate. Since no rational defendant would accept the grave risks of default, the petition for a writ of mandate is the only viable option. But such petitions are almost never granted, and in this case the petition was summarily denied by the Court of Appeal.

In its brief, WLF argues that the Supreme Court is the only tribunal that can provide meaningful review of First Advantage’s legitimate objection to personal jurisdiction. The Court, WLF argues, should step in and ensure that First Advantage receives the due process that California’s appellate courts failed to provide.

Celebrating its 41st year, WLF is America’s premier public-interest law firm and policy center advocating for free-market principles, limited government, individual liberty, and the rule of law.

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