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Supreme Court Agrees to Decide Scope of Liability Under the Alien Tort Statute

(Nestle USA, Inc. v. Doe)

“The Ninth Circuit’s view of the reach of the Alien Tort Statute is dramatically out of step with that of the Supreme Court and every other federal circuit.”

—Cory Andrews, WLF Vice President of Litigation

WASHINGTON, DC—The U.S. Supreme Court today agreed to review an appeals court decision that would invite activists to seek to impose aiding and abetting liability on U.S. entities for alleged human rights violations overseas. The Court’s decision to grant certiorari was a victory for Washington Legal Foundation (WLF), which filed an amicus brief urging review. WLF’s brief was joined by the Allied Educational Foundation.

The plaintiffs are citizens of Mali who claim to have worked, as children, on Ivory Coast cocoa farms. They allege that cocoa farmers mistreated them. The U.S. Court of Appeals for the Ninth Circuit held that their lawsuit could proceed under the Alien Tort Statute (ATS), which authorizes tort claims bottomed on a violation of “the law of nations.” Citing evidence that the defendants, U.S.-based cocoa processors and chocolate manufacturers, exploited the lower prices available for cocoa harvested on Ivory Coast farms, the Ninth Circuit held the defendants must stand trial for aiding and abetting human rights abuses.

In its brief in support of two related certiorari petitions, WLF argued that review was needed to put an end to abusive ATS lawsuits whose principal goal is to attract publicity by keeping litigation alive. WLF’s brief showed that the lawsuit is part of a 14-year-long human-rights campaign being waged in the press and before legislatures, not a legitimate effort to pursue a claim for any harm the defendants may have caused.

Celebrating its 43rd 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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