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## WLF Asks Supreme Court to Correct Widespread Misreading of FTC Act Remedy Provision

(*AMG Capital Management, LLC v. FTC*; *FTC v. Credit Bureau Center*)

**“The Supreme Court should direct the lower courts to apply the FTC Act as it is written, not as the FTC would prefer it to be read.”**

—Cory Andrews, WLF Vice President, Litigation

WASHINGTON, DC—Washington Legal Foundation (WLF) today filed an *amicus* brief urging the U.S. Supreme Court to correct a widespread misreading of an FTC Act remedy provision. WLF’s brief was joined by the Allied Educational Foundation.

Section 13(b) of the FTC Act empowers the FTC to sue, in federal court, to obtain an injunction against deceptive trade practices. At least seven courts of appeals have said, however, that “injunction” in § 13(b) unlocks the entire vault of equitable remedies.

WLF argues that the lower courts’ rewriting of § 13(b) resembles the English Common-law courts’ use of the “equity of the statute,” a doctrine that empowered a judge to enforce his subjective sense of justice rather than a law’s text. The equity of the statute arose in the Late Middle Ages. It gradually died out, however, as judges came to realize that it is inconsistent with democratic governance.

In the mid-twentieth century, the Supreme Court briefly adopted a new version of the equity of the statute to “imply” new rights and remedies into federal laws. The courts of appeals relied on that jurisprudence to justify stretching § 13(b) well beyond its text. But as WLF explains in its brief, the Supreme Court later reversed course, recognizing that it is solely for Congress to decide how, and by whom, statutes are enforced. WLF asks the Supreme Court to restore modern and binding rules of statutory interpretation to the FTC Act.

*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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