



FOR IMMEDIATE RELEASE

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## WLF Urges Supreme Court to Clarify Disclosure Obligations Under Federal Securities Law

*(Alphabet Inc. v. Rhode Island)*

**“The Ninth Circuit has created an unworkable disclosure regime, one that forces companies to fill their risk disclosures with extraneous details of past incidents rather than focusing on the most important future risks.”**

—Cory Andrews, WLF General Counsel & Vice President of Litigation

WASHINGTON, DC— Earlier today, Washington Legal Foundation (WLF) filed an *amicus curiae* brief with the U.S. Supreme Court, urging it to review, and ultimately reverse, a decision of the U.S. Court of Appeals for the Ninth Circuit that would hold companies liable for failing to include irrelevant and stale information in their forward-looking risk disclosures. WLF’s *amicus* brief was prepared with the pro bono assistance of Lyle Roberts, George Anhang, and Michael Holt of Shearman & Sterling LLP.

The case arose in connection with a software bug in the Google+ social network, which Google promptly fixed as soon as it was discovered. Securities and Exchange Commission (SEC) regulations require companies to disclose, in their annual and quarterly filings, “risk factors” that may affect their business. To help investors make informed investment decisions, those risk disclosures cover future potential threats or harms to the company’s bottom line. Because the Google+ bug had been fully resolved and posed no future risk to the company, Google did not include it in its SEC filings. But when the plaintiff learned about the short-lived bug, it sued Google for securities fraud for failing to “disclose” the incident in its SEC filings.

Although the trial court dismissed the suit, the Ninth Circuit reversed. Under the Ninth Circuit’s ruling, any time a company discloses a potential future risk, it must also state whether that risk ever came to fruition in the past—even if the risk in question was fully neutralized before the company’s filing and caused no harm to the company.

As WLF explains in its *amicus* brief urging review, the Ninth Circuit’s ruling will force companies to disclose extensive, immaterial information about past incidents, which will likely confuse investors who must navigate a company’s SEC filings to find information relevant to their investment decisions. Even worse, companies will be subject to potentially frivolous securities litigation based on accurate forward-looking statements, which is exactly the outcome that Congress sought to avoid when it passed the Private Securities Litigation Reform Act.

*Celebrating its 44th 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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