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September 23, 2022

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## In Victory For WLF, En Banc Fourth Circuit Affirms Applying *Safeco* Test for Willfulness In FCA Cases

(*United States ex rel. Sheldon v. Allergan*)

**“*Safeco* ensures due process by not penalizing government contractors for innocent mistakes or mere negligence. It does so while accomplishing Congress’s goal of ensuring that companies do not bury their heads in the sand when submitting claims for reimbursement.”**

—John Masslon, WLF Senior Litigation Counsel

WASHINGTON, DC—Today, the en banc U.S. Court of Appeals for the Fourth Circuit protected defendants’ due-process rights in False Claims Act cases. The en banc court affirmed the District Court’s applying the test for willfulness announced by the Supreme Court in *Safeco*. This decision was a victory for Washington Legal Foundation (WLF), which filed an *amicus curiae* brief urging the Court to apply *Safeco*.

As WLF’s brief showed, applying the *Safeco* standard is necessary to protect defendants’ due-process rights. Because FCA violations carry both punitive civil sanctions and criminal penalties, even civil defendants are entitled to heightened due-process protections. At the core of these protections is the right to fair notice of prohibited conduct. The brief explained that *Safeco* ensures due process by not penalizing government contractors for innocent mistakes or mere negligence. It does so while accomplishing Congress’s goal of ensuring that companies do not bury their heads in the sand when submitting claims for reimbursement. WLF is pleased to have another court of appeals reject the plaintiffs’ bar’s attempts at avoiding the Supreme Court’s *Safeco* decision.

*Celebrating its 45th 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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