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## WLF Urges Ninth Circuit To Bar Uninjured Plaintiffs From Pursuing Money Damages

*(In re Google Play Store Antitrust Litigation)*

**“The District Court’s opinion would allow millions of uninjured plaintiffs to pursue claims for money damages.”**

—John Masslon, WLF Senior Litigation Counsel

WASHINGTON, DC—Washington Legal Foundation (WLF) today urged the U.S. Court of Appeals for the Ninth Circuit to follow Supreme Court precedent in an important multi-district litigation case. In an amicus brief, WLF argues that (1) the District Court lacked jurisdiction to certify a class including uninjured members and (2) Google’s alleged illegal conduct was procompetitive.

The case arises after consumers, developers, and States sued Google for alleged anticompetitive policies for Google Play—a digital marketplace for apps, movies, and games. According to the plaintiffs, Google illegally drove consumers to Google Play. Because Google charges a service fee for Google Play transactions, the consumers claim they overpaid for apps.

In its brief supporting Google, WLF argues that the District Court lacked jurisdiction to certify the class. Many of the class members bought only cheap apps—those costing \$0.99 or a little more. A natural experiment and marketing theory both show that developers would not have lowered prices for these apps, even if they incurred no Google service fee. This means that many consumers were uninjured and lack standing to sue under the Supreme Court’s *TransUnion* decision.

WLF’s brief also explains that many pro-competitive effects flow from Google’s policies, while there are few, if any, anti-competitive effects. Google spends significant resources ensuring that all apps on Google Play are safe and are not violating its terms of service. Other app stores do not have such robust protections for consumers. So at bottom, the plaintiffs want to hold Google liable for legal innovation that improved all Americans’ lives.

*Celebrating its 46th 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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