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## WLF Urges Ninth Circuit To Reaffirm Core Federalism Principles

*(Epic v. Apple)*

**“The Ninth Circuit’s decision allows California to apply its law across the nation, which violates core federalism principles.”**

—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 partially rehear a case raising important federalism concerns. In an amicus brief, WLF argues that the panel’s decision affirming a nationwide injunction for alleged violation of California law violates the Constitution and Ninth Circuit precedent.

The case arose after Epic chose not to follow its contract with Apple. Under that agreement, developers may distribute their apps only through the App Store. Developers are also prohibited from steering customers to outside payment processors to make in-app purchases. Apple removed Epic’s Fortnite from the App Store when Epic breached its contract. Epic then sued for violations of the Sherman Act and California’s unfair competition law.

A Ninth Circuit panel rejected Epic’s antitrust arguments and affirmed the District Court’s judgment for Apple on those claims. But it also affirmed the District Court’s ruling that Apple violated California’s unfair competition law and an injunction barring Apple from violating that law throughout the country.

In its brief supporting Apple, WLF explains that the panel’s opinion violates horizontal federalism principles. The injunction regulates Apple’s out-of-state conduct that is directed at developers outside California. It deprives other States of the ability to define what is unfair competition law in those jurisdictions. Ninth Circuit precedent recognizes that California cannot apply its laws outside its borders. But the panel here ignored that precedent. The full court should fix this error.

*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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