



FOR IMMEDIATE RELEASE

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## WLF Urges Supreme Court To Retain Sarbanes-Oxley's Intent Requirement

(*Murray v. UBS*)

**“A ruling for Murray would limit companies’ ability to fire underperforming workers.”**

—John Masslon, WLF Senior Litigation Counsel

WASHINGTON, DC—Washington Legal Foundation (WLF) today urged the U.S. Supreme Court to affirm a Second Circuit decision properly interpreting Sarbanes-Oxley’s whistleblower protections. In its amicus brief, WLF argues that plaintiffs must show intent to discriminate to prove a violation of Sarbanes-Oxley’s whistleblower provision.

The case arises from UBS’s decision to curtail its commercial mortgage-backed securities business. Because Murray was the only analyst working for that business group, UBS decided to let him go. He sued, arguing that UBS discriminated against him after pressuring him to alter his public research. The District Court instructed the jury that Murray need not prove that UBS intended to retaliate against him for whistleblowing activity. The Second Circuit reversed, holding that plaintiffs must prove intent to prevail in a whistleblower suit under Sarbanes-Oxley.

In its brief, WLF argues that the Second Circuit correctly interpreted Sarbanes-Oxley. Intent is an important component of anti-discrimination statutes. The Supreme Court and courts of appeals have consistently interpreted statutes that use the word ‘discriminate,’ without qualification, to require that plaintiffs prove intent. In other statutes, Congress has used broader language that relieves plaintiffs of this burden. These decisions are not random. Congress had solid policy reasons for requiring plaintiffs to prove intent under some statutory schemes but not others.

WLF’s brief also argues that Sarbanes-Oxley should not be interpreted the same way the Federal Circuit has interpreted the Whistleblower Protection Act. First, the language of the two statutes differs in meaningful ways. Second, the two statutes’ legislative history shows Congress’s different purposes in passing each statute. Finally, federal employees require different protections than individuals employed by private industry. So the Court should require that plaintiffs prove intent to prevail under Sarbanes-Oxley.

*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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