



FOR IMMEDIATE RELEASE

January 23, 2024

Media Contact: Glenn Lammi | glammi@wlf.org | 202-588-0302

WLF Urges Supreme Court To Bar States From Interfering With Nationally Chartered Banks' Operations

(Cantero v. Bank of America)

“As federal regulations make clear, States lack the ability to force banks to pay interest on escrow accounts.”

—John Masslon, WLF Senior Litigation Counsel

WASHINGTON, DC—Washington Legal Foundation (WLF) today urged the U.S. Supreme Court to affirm the dismissal of a case filed under New York state law. WLF argues that the Supreme Court’s decision on the scope of National Bank Act preemption will have broad implications for preemption provisions in other federal statutes.

The case arises from mortgages that Bank of America issued in New York State. Under New York law, lenders are required to pay interest on borrowers’ escrow accounts. Complying with a federal regulation confirming that New York’s law is preempted by federal law, Bank of America does not pay interest on borrowers’ escrow accounts. A group of consumers sued, arguing that the New York statute is not preempted. The District Court agreed with the consumers, but the Second Circuit reversed. It correctly held that the National Bank Act preempts the New York law. As other circuits have reached the opposite conclusion, the Supreme Court agreed to hear the dispute.

In its amicus brief supporting Bank of America, WLF explains how many of the largest and most important sectors of America’s economy benefit from express-preemption provisions. For example, both Medicare and the Employee Retirement Income Security Act expressly preempt state laws. So too for the Tobacco Control Act and the Airline Deregulation Act. These express-preemption provisions allow companies to operate without the regulatory burden of complying with different laws in each jurisdiction.

WLF’s brief also explains why the Court’s ruling here will affect the interpretation of these other express-preemption provisions. The purpose of having express preemption is alleviating administrative burdens. And although the language of the statutes differs slightly, narrowing the National Bank Act’s preemption provision will lead the plaintiffs’ bar to push for the same result for other statutes’ express-preemption provisions. This is a dangerous path that the Supreme Court should avoid by affirming the Second Circuit’s decision.

Celebrating its 47th 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.

###