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## WLF Urges Supreme Court To Hear Important Separation-Of-Powers Case

*(Laboratory Corporation of America v. Davis)*

**“The Ninth Circuit enlarged the judicial power at the expense of the executive power. This violation of the separation of powers—if unchecked—could lead to the tyranny our Founders wanted to avoid.”**

—John Masslon, WLF Senior Litigation Counsel

WASHINGTON, DC—Washington Legal Foundation (WLF) today urged the U.S. Supreme Court to review a decision by the U.S. Court of Appeals for the Ninth Circuit that blessed certifying classes with uninjured class members. WLF’s brief argues that Article III of the Constitution bars federal courts from hearing claims brought on behalf of those who suffered no concrete harm from alleged statutory violations.

The case arises from Labcorp’s alleged violation of the Americans with Disabilities Act. In October 2017, Labcorp installed iPads in their waiting rooms to allow patients to check-in. Plaintiffs sued arguing that this violated the ADA because the iPads are inaccessible to the blind. But many of the putative class members were unaware of the iPads or wanted to check-in with a human. So most class members were not harmed by the inaccessibility of the iPads. Still, the District Court certified two classes, and the Ninth Circuit affirmed that decision. Labcorp now seeks Supreme Court review.

In its brief supporting Labcorp, WLF argues that while Congress occasionally adopts statutes that create a right of action by private citizens, such statutes cannot alter the Constitution’s fundamental separation of powers, which bars courts from hearing claims by those who suffered no injury-in-fact. As WLF’s brief points out, authorizing federal courts to enforce federal statutes at the behest of private individuals who have suffered no concrete injury would permit Congress to interfere unduly with the Executive Branch’s constitutional duty to enforce the nation’s laws under Article II’s Take Care Clause.

Private citizens may be unhappy to discover a violation of federal law. But they cannot pursue money damages on behalf of uninjured citizens. That is the Executive Branch’s duty. By allowing district courts to certify classes with uninjured members, the Ninth Circuit enlarged the judicial power at the expense of the executive power. This violation of the separation of powers—if unchecked—could lead to the tyranny our Founders wanted to avoid.

*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.*