

MONTH IN REVIEW

July 2025

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Washington Legal Foundation

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WLF.org



Washington Legal Foundation's *Month in Review* report is a Litigation Division feature that highlights WLF's court and regulatory filings each month, as well as activity in WLF litigation filings.

To learn more about WLF's litigation work, visit our website at WLF.org.

New Filings

*Painters Fund v. Takeda
Pharmaceuticals Co.*

*Learning Resources, Inc.
v. Trump*

*United States ex rel.
Penelow v. Janssen Products*

*Malco Enterprises v.
Woldeyohannes*

*In re FDA's Front-of-
Package Labeling Rule*

Hutchins v. HP Inc.

*Hain Celestial Group v.
Palmquist*

Activity

*Epic Games, Inc. v.
Google LLC*

NEW FILINGS

Painters Fund v. Takeda Pharmaceutical Co.

WLF urges the Ninth Circuit to grant en banc review and reverse a panel decision certifying a sprawling civil-RICO class action.

On July 25, WLF urged the Ninth Circuit to grant en banc review and reverse a panel decision certifying a sprawling class action against Takeda Pharmaceutical. The case arises from a civil-RICO suit by third-party payers and others to recover treble their prescription costs for Actos, an FDA-approved diabetes drug. In its amicus brief, WLF argues that the panel's decision conflicts with Supreme Court and Ninth Circuit precedent requiring a thorough predominance inquiry. By endorsing a flawed statistical model that fails to isolate causation, the panel undermines Rule 23's gatekeeping function, risks a circuit split, and invites unmanageable litigation. WLF urges en banc review to restore Rule 23's integrity, protect due process, and prevent class actions from becoming vehicles for coercive settlements.

On July 24, WLF urged the D.C. Circuit to affirm a district court decision declaring that the tariffs President Trump purported to impose under the International Emergency Economic Powers Act (IEEPA) are unlawful. As WLF's amicus curiae brief makes clear, IEEPA does not give the President any legal basis to impose tariffs, and the administration's strained reading to the contrary violates the major questions doctrine.

Learning Resources v. Trump

WLF asks the D.C. Circuit to clarify that the International Emergency Economic Powers Act does not authorize the President to impose tariffs.

United States ex rel. Penelov v. Janssen Products

WLF urges the Third Circuit to declare the False Claims Act's qui tam provisions unconstitutional.

On July 21, WLF asked the Third Circuit to reverse a district court decision and declare the False Claims Act's qui tam provisions unconstitutional. In its amicus brief urging reversal, WLF argues that the FCA's qui tam provisions violate the Constitution's Vesting, Appointments, and Take Care Clauses by delegating enforcement power to unaccountable relators driven by financial bounties rather than the public interest. As WLF's brief clarifies, only the Executive, answerable to the people, may enforce federal law and uphold the constitutional balance.

On July 15, WLF asked the Supreme Court to review (and ultimately reverse) a Nevada Supreme Court decision that flouts the Graves Amendment's preemption of state laws imposing vicarious liability on auto-rental and leasing companies. In its amicus brief supporting review, WLF argues that Nevada's ruling distorts the Graves Amendment's text and purpose, which shields auto-lessors from liability for lessee actions absent negligence or criminal conduct. By mischaracterizing a tort law as a "financial responsibility" regulation, Nevada undermines Congress's goal of a uniform national auto-leasing market. This decision risks higher costs, reduced vehicle availability, and a resurgence of baseless lawsuits, harming consumers and businesses alike. WLF urges the Court to grant review to restore federal supremacy and protect interstate commerce.

Malco Enterprises v. Woldeyohannes

WLF asks Supreme Court to uphold federal preemption in auto-lessor liability case.

In re FDA's Front-of-Package Labeling Rule

WLF opposes the FDA's latest front-of-package labeling rule.

On July 15, WLF filed a public comment opposing the FDA's proposed rule mandating interpretive front-of-package nutrition labeling. WLF argues that the rule is constitutionally flawed, legally baseless, and procedurally unsound. It violates the First Amendment, exceeds the FDA's statutory authority, and usurps Congress's role in setting national policy. The rulemaking process also suffers from serious procedural flaws that violate the Administrative Procedure Act.

On July 9, WLF asked the Ninth Circuit to enforce ERISA and defined-contribution plan provisions as written. In an amicus brief supporting a district court's dismissal of an ERISA challenge to HP's use of "forfeitures," WLF argued that ERISA, IRS guidance, and HP's own plan expressly permit forfeitures either to cover administrative costs or to fund future matches. WLF also warned that creating new judicial duties beyond ERISA's text could discourage employers from offering any retirement plan. The true victims, WLF cautioned, would be the workers left without retirement security—not the lawyers.

Hutchins v. HP Inc.

WLF reminds the Ninth Circuit that only statutory text and plan documents determine fiduciary duties under ERISA.

Hain Celestial Group v. Palmquist

WLF urges the Supreme Court to avoid wasteful state-court do-over in federal removal dispute.

On July 7, WLF urged the Supreme Court to reverse a decision by the Fifth Circuit that would require a Texas court to re-try a tort case between a Texas plaintiff and an out-of-state defendant. As WLF's amicus brief explains, once a case has been tried to verdict, substantial interests in judicial economy and finality overwhelm any jurisdictional flaws that may have existed at the time of trial. In particular, the brief highlights two reasons to preserve the federal judgment. First, founding-era skepticism, which has been proven true by experience, that state courts may discriminate against out-of-state parties. Second, the modern practice of judicial elections only amplifies that risk, given that judges are elected by a (necessarily) in-state constituency.

Celebrating its 48th year, WLF is America's premier public-interest law firm and policy center advocating for free-market principles, limited government, individual and business civil liberties, and the rule of law.

To learn more about our new briefs and regulatory filings, visit our website at wlf.org/litigation.

ACTIVITY

Epic Games, Inc. v. Google LLC

The Ninth Circuit affirms a controversial verdict and sweeping injunction in a major antitrust case.

On July 31, the Ninth Circuit affirmed a trial court’s controversial verdict and sweeping injunction in a major antitrust case. The decision was a setback for WLF, which argued in its amicus brief that a business—even an alleged monopolist—may choose with whom it transacts. Exceptions are rare. Not only would a contrary rule allow courts to become “central planners”—something antitrust law seeks to avoid—but worse, they would be centrally planning on a blank slate. The Ninth Circuit disagreed, concluding that the district court enjoyed broad discretion to issue the post-trial remedies at issue here.

Litigation is the backbone of WLF's public-interest mission. We litigate nationally before state and federal courts and agencies. Our team, at times with the pro bono assistance of leading private attorneys, litigates original actions, files amicus briefs, participates in the regulatory process, and provides constitutional analysis before federal agencies and Congress.

If you become aware of a pending legal or regulatory matter in which WLF's unique public-interest participation would advance economic liberty, please contact our General Counsel and Vice President of Litigation, Cory Andrews.

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