Press Release

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WLF Urges Sixth Circuit to Uphold ERISA's Preemption of Conflicting State Law

(*McKee Foods v. BFP Inc.*)

> "***Allowing States to override ERISA risks harming the very employees Congress sought to protect.***"
> —Cory Andrews, WLF General Counsel and Vice President of Litigation

WASHINGTON, DC—Washington Legal Foundation (WLF) today urged the U.S. Court of Appeals for the Sixth Circuit to affirm a district court's ruling that the Employee Retirement Income Security Act (ERISA) preempts a Tennessee law that regulates employer-sponsored health plans.

The case stems from McKee Foods' lawsuit against Tennessee's Commissioner of Commerce and Insurance's, alleging that Tennessee's any-willing-pharmacy law is preempted under ERISA. The district court granted summary judgment to McKee in May 2025, finding a justiciable dispute and rejecting the Commissioner's defenses. But the Commissioner now appeals, arguing that McKee lacks standing to sue and that Tennessee law should prevail over federal law.

In its amicus brief urging affirmance, WLF contends that Tennessee's appeal misreads ERISA's preemption and remedy provisions, which broadly protect employers' ability to manage their own benefit plans. WLF argues that ERISA's preemption clause shields ERISA plans from state mandates that undermine plan integrity. McKee, as an ERISA fiduciary, has standing to seek pre-enforcement declaratory and injunctive relief. It also has a fiduciary obligation to do so. WLF's brief urges the Sixth Circuit to affirm and preserve ERISA's balance of encouraging voluntary plans while protecting participants.

Celebrating its 48th 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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