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

WLF Urges Second Circuit to Strike Down Privacy-Busting New York City Law

(DoorDash v. City of New York)

“The Constitution prevents New York City from sharing your personal information with anyone who asks—especially on behalf of a rent-seeking market competitor.”

— Zac Morgan, WLF Senior Litigation Counsel

WASHINGTON, DC—Washington Legal Foundation (WLF) today urged the U.S. Court of Appeals for the Second Circuit to uphold a district court decision that declared a New York City disclosure law unconstitutional.

The case arises from a New York City law that forces delivery services like DoorDash to give private customer information (including an email and home address) to brick-and-mortar restaurants. Typically, that’s not the case—the restaurant only gets the first name, last initial, and the customer’s food order. The City’s restaurant owners want this personally identifiable information (PII) to directly market to those diners, and the City Council compliantly passed a law to do so.

As WLF’s amicus brief explains, the Court of Appeals should affirm. Compelled commercial association is strongly disfavored by the First Amendment. It is generally allowed only in the context of public accommodations laws advancing civil rights—not helping the financial interests of private firms. There are good reasons, especially in today’s privacy-minimizing world, for users to want to limit the number of outlets with access to their PII. And finally, the City’s admission that the law was passed to bail out the local restaurant industry may be honest, but rent-seeking is “woefully insufficient to carry a First Amendment burden.”

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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