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WLF Urges Ninth Circuit to Apply Direct-Purchaser Rule in Civil RICO Cases *(Biederman v. FCA US LLC)*

“Extending RICO standing beyond direct purchasers would unleash duplicative lawsuits, draining judicial resources and undermining enforcement efficiency.”

— Cory Andrews, WLF General Counsel & Vice President of Litigation

WASHINGTON, DC—Washington Legal Foundation (WLF) today urged the U.S. Court of Appeals for the Ninth Circuit to affirm dismissal of a civil-RICO claim in a class action against a leading automotive manufacturer under the direct-purchaser rule announced in *Illinois Brick Co. v. Illinois*. WLF contends that allowing indirect purchasers to sue under RICO would create risks of multiple liability and overdeterrence, contrary to the statute’s history and unanimous courts of appeals’ precedents. WLF’s brief was prepared with the generous pro bono assistance of Ryan Sandrock, co-chair of Shook, Hardy & Bacon’s antitrust practice group.

The case stems from a 2023 lawsuit by California consumers alleging FCA US LLC installed “defeat devices” in RAM diesel trucks to evade emissions standards, leading to inflated prices passed on to dealerships. The U.S. District Court for the Northern District of California dismissed the RICO claim, holding plaintiffs lacked standing as indirect purchasers, while allowing state-law fraud and warranty claims to proceed. The plaintiffs appealed.

In its amicus brief, WLF argues that the direct-purchaser rule, grounded in the Clayton Act’s private right of action and affirmed by the Supreme Court, applies to civil RICO’s analogous private-action provision. By limiting standing to direct purchasers and avoiding complex pass-on defenses, the rule promotes efficient litigation. Rejecting plaintiffs’ call for a case-by-case proximate-cause analysis, WLF warns that such a rule would complicate causation and damages determinations for multi-level distribution chains.

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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