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January 6, 2026

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WLF Urges Supreme Court to Bar Class Certification for Uninjured Disparate-Impact Plaintiffs *(City of Cleveland v. Pickett)*

“Allowing uninjured plaintiffs to sue for disparate impact in federal court erodes the separation of powers and burdens free enterprise.”

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

WASHINGTON, DC—Washington Legal Foundation (WLF) today urged the U.S. Supreme Court to grant certiorari and reverse a U.S. Court of Appeals for the Sixth Circuit decision that blessed certifying a disparate-impact damages class with many uninjured members. WLF contends that federal courts lack jurisdiction over claims by class members who suffered no concrete injury.

The case arises from a class-action lawsuit by black homeowners alleging that Cleveland’s facially neutral policy of placing liens on delinquent water bills has a disparate racial impact under the Fair Housing Act. Plaintiffs’ expert conceded that up to 20% of class members incurred no added costs. Even so, the district court certified a class of all affected black customers, and the Sixth Circuit affirmed.

In its amicus brief, WLF argues that certifying classes with uninjured members violates Article III’s standing requirements and encroaches on the Executive’s enforcement powers under Article II. This disturbing trend also invites abusive class actions that distort markets and stifle innovation.

Celebrating its 49th 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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