Press Release

WASHINGTON LEGAL FOUNDATION
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WLF Asks Supreme Court to Review False Claims Act's Unconstitutional Qui Tam Provisions

(*Eli Lilly & Co. v. United States et al., ex rel. Ronald J. Streck*)

"Congress cannot delegate core executive power to unaccountable private bounty hunters seeking personal gain."

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

WASHINGTON, DC—Washington Legal Foundation (WLF) today urged the U.S. Supreme Court to grant review in a case challenging the constitutionality of the False Claims Act's qui tam provisions. WLF contends that these provisions unconstitutionally allow private relators to exercise the President's executive authority without any meaningful oversight.

The case stems from a qui tam suit by serial relator Ronald J. Streck against Eli Lilly & Company. Streck alleged that Lilly violated Medicaid's obscure rebate rules through its interpretation of Average Manufacturer Price. Despite Lilly's repeated disclosures to the government and prior judicial decisions deeming its position reasonable, a jury found for Streck, and the Seventh Circuit affirmed a nearly $200 million judgment.

In its amicus brief, WLF argues that the FCA's qui tam regime violates Article II's Vesting, Appointments, and Take Care Clauses by empowering self-appointed private citizens to prosecute public rights for personal profit. This privatized enforcement threatens the unitary executive, invites abusive litigation against businesses, and undermines constitutional separation of powers. WLF urges the Supreme Court to grant the petition for certiorari to resolve these pressing Article II questions.

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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