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WLF Urges Ninth Circuit to Reject Canadian Plaintiff's Attempt to Invoke U.S. Antitrust Law (Hurley v. Google LLC)

“The Sherman Act isn’t a global competition code. It isn’t meant to benefit foreign plaintiffs who sue for alleged injuries abroad.”

— Jay DeSanto, WLF Senior Litigation Counsel

WASHINGTON, DC—Washington Legal Foundation (WLF) today filed an amicus brief in the U.S. Court of Appeals for the Ninth Circuit, urging the court to affirm dismissal of a Canadian plaintiff’s class-action antitrust suit against Google. In its brief, WLF argues that the Federal Trade Antitrust Improvements Act (FTAIA) bars Canadians from using the Sherman Act to sue Google for app purchases made on Google’s Canadian platform.

The case arises from allegations by a Canadian, Connor Hurley, who bought apps for his cell phone through Google Play’s Canadian storefront. Hurley bases his Sherman Act claims on allegations that Google charged app developers supra-competitive commissions on app sales in the United States. Although he purchased the apps in Canada—and developers, not Google, independently set the prices—Hurley contends that Google’s commissions in the United States ultimately affected those prices, resulting in overcharges to himself and other Canadians.

WLF’s brief argues that the FTAIA bars Hurley’s claims because his concession that app developers set consumer prices defeats the statute’s proximate-cause requirement. WLF argues that allowing Hurley’s claims to proceed would undermine the respect sovereign nations afford each other by permitting Canadians to circumvent Canada’s Competition Act and invoke U.S. law for transactions and alleged injuries occurring in Canada. Such extraterritorial application of U.S. antitrust law would effectively transform American courts into a global forum for disputes over app pricing—a result at odds with the FTAIA.

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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