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WLF Asks Supreme Court to Bar Courts from Imposing Contempt Based on an Injunction's "Spirit" (*Apple Inc. v. Epic Games, Inc.*)

"The Court should not revive the Chancellor's foot. A rule that punishes conduct the words never mention cannot be priced—only feared."

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

WASHINGTON, DC—Washington Legal Foundation (WLF) today asked the U.S. Supreme Court to reverse a Ninth Circuit ruling that allows federal courts to impose civil contempt for violating an injunction's "spirit." WLF contends that the 2021 decree never mentioned the conduct punished. Punishing Apple for running afoul of silent terms collapses fair notice and threatens every firm that must live under an injunction.

The case arises from a 2021 injunction that barred Apple from prohibiting developers from placing links to outside payment options in their apps. The decree said nothing about commissions. Apple allowed the links and charged a commission on the resulting sales. The district court held Apple in civil contempt for violating the order's "spirit," and the Ninth Circuit affirmed that finding.

In its amicus brief, WLF argues that civil contempt reaches only conduct an order's terms explicitly forbid. Courts already have four textual tools against evasion, including prospective modification on notice. A "spirit" rule makes vagueness an asset and precision a concession. The free market cannot run on such vagueness. The Ninth Circuit's rule leaves firms to fear hidden commands they cannot read.

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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