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WLF Urges Supreme Court to Review South Carolina's Assertion of Control Over Foreign Corporations

(*Charter Consolidated Ltd. v. Cape Intermediate Holdings Ltd.*;
Altrad Investment Authority S.A.S. v. Cape Intermediate Holdings Ltd.)

“A State can’t embroil the Nation in international controversy by hijacking the litigation decision-making of overseas companies.”

— Jay DeSanto, WLF Senior Litigation Counsel

WASHINGTON, DC—Washington Legal Foundation (WLF) today urged the U.S. Supreme Court to grant review of two petitions challenging the application of South Carolina’s receivership law over foreign corporations. In its amicus brief, WLF argues that South Carolina’s appointment of a receiver to control the litigation decisions of an active, overseas company raises serious concerns under the Foreign Commerce Clause.

The dispute stems from an asbestos action in which a South Carolina court appointed a local attorney to make litigation decisions on behalf of Cape Intermediate Holdings Limited, an English corporation and a defendant in the action. Acting under his receivership appointment, the attorney accepted service on CIHL’s behalf, answered the complaint without preserving affirmative defenses, and pursued claims in CIHL’s name—all despite objections from CIHL’s board and an English court’s rulings that the receiver lacked authority under English law.

WLF argues that South Carolina’s receivership practice burdens foreign commerce and intrudes on the Nation’s foreign relations. The brief explains that the State’s asserted authority over foreign companies has already sparked conflict with courts in the United Kingdom, France, and Canada. It argues that permitting a state court to displace the litigation decision-making of a foreign corporation risks retaliation against American companies abroad. And it argues that the practice obstructs federal efforts to promote British investment in the U.S. and frustrates the purposes of the Hague Service Convention. WLF warns that, if left unchecked, the practice could become a recurring source of friction in the Nation’s foreign commerce and international relations.

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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