Press Release

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FOR IMMEDIATE RELEASE November 13, 2026

Media Contact: Glenn Lammi | glammi@wlf.org | 202-588-0302

WLF Urges Tenth Circuit to Reverse Erroneous Remand in Snap Federal-Officer Removal Appeal

(*State of Kansas ex rel. Kris Kobach v. Snap Inc.*)

"A cramped reading of federal-officer removal deters private partners from assisting with federal projects and invites state interference with federal aims."

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

WASHINGTON, DC—Washington Legal Foundation (WLF) today asked the U.S. Court of Appeals for the Tenth Circuit to reverse a district court order remanding Kansas's consumer-protection suit against Snap Inc. to state court. In its amicus brief, WLF contends that the lower court imposed an artificially high bar for federal-officer removal that undermines the statute's purpose.

The case arises from a suit by the State of Kansas alleging that Snap deceptively marketed Snapchat as suitable for teens aged 13 to 17 and employed features that render the platform addictive. Snap removed the action to the U.S. District Court for the District of Kansas, asserting that its work assisting the Department of Homeland Security and the Food and Drug Administration with public-service campaigns entitled it to a federal forum under 28 U.S.C. § 1442(a)(1). The district court remanded to state court, holding that Snap did not "act under" the agencies because they exercised insufficiently stringent oversight and the relationship bore the hallmarks of ordinary commercial dealings.

In its amicus brief, WLF argues that the federal-officer removal statute must be liberally construed, and that Snap satisfies the "acting under" and "relating to" prongs by helping the agencies fulfill statutory outreach duties through custom digital tools, targeted algorithms, and guidance on content placement and design. The district court's demand for detailed command and exclusive government relationships would bar removal for countless contractors who also serve private customers, threatening to interfere with vital federal public-health and safety initiatives.

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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