Press Release

FOR IMMEDIATE RELEASE November 18, 2026

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

WLF Urges Ninth Circuit to Review Class Certification That Deferred Key Findings

(*In re Meta Pixel Healthcare Litigation*)

"***Deferring Rule 23's core findings until after certification creates unreviewable settlement pressure on businesses.***"

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

WASHINGTON, DC—Washington Legal Foundation (WLF) today urged the U.S. Court of Appeals for the Ninth Circuit to grant Meta Platforms' petition for permission to appeal a class-certification order under Rule 23(f). In its amicus brief, WLF contends that the district court improperly certified four nationwide classes while deferring the predominance findings that Rule 23 requires at certification.

The case stems from consolidated class-action litigation in the U.S. District Court for the Northern District of California over Meta's tracking tools on thousands of healthcare websites and apps. Plaintiffs allege Meta obtained protected health information without consent, and the district court certified four classes of Facebook users. That order left open provider-specific questions about coverage, tool use, and consent, yet still exposed businesses to $5,000 in statutory damages per violation.

In its amicus brief, WLF argues that Rule 23 demands a predominance finding before certification, not after, and that the district court skipped that inquiry by treating individualized questions as mere complexity. The resulting settlement pressure makes interlocutory review the only realistic opportunity to correct the error. WLF urges the Ninth Circuit to grant the petition.

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.

###