



For Immediate Release

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**WLF URGES SUPREME COURT TO RULE
THAT FEDERAL COURTS LACK
JURISDICTION OVER STATE PROBATE MATTERS
(*Vickie Lynn Marshall v. E. Pierce Marshall*, No. 04-1544)**

The Washington Legal Foundation (WLF) filed a brief in the United States Supreme Court urging it to uphold a court of appeals decision that held that the federal bankruptcy court did not have jurisdiction to hear a challenge by the bankrupt to the rights to the estate of her late husband that were in probate proceedings in state court.

In *Vickie Lynn Marshall v. E. Pierce Marshall*, the petitioner (also known as Anna Nicole Smith) originally challenged the will and trust estate plan of her billionaire husband, J. Howard Marshall II, in a Texas probate court. The jury in that court upheld the will and ultimately rejected her claims. In the meantime, Ms. Marshall filed for personal bankruptcy in federal court in California and filed a counterclaim in that court against E. Pierce Marshall, the primary beneficiary of her late husband's estate. In those federal proceedings, she made claims similar to those pending in the probate proceeding, namely, that Pierce Marshall had allegedly interfered with her expectation of an inheritance. The bankruptcy court awarded her \$450 million which was reduced to \$88.5 million on appeal to the federal district court.

The U.S. Court of Appeals for the Ninth Circuit vacated the district court ruling, finding that this was a "thinly veiled will contest," and thus, the probate exception to federal jurisdiction applies. This is so because the exercise of a court of *in rem* jurisdiction over disputed property has a binding effect "upon the whole world." Thus, the federal bankruptcy court could not simultaneously exercise jurisdiction over the same property over which another court had assumed jurisdiction. WLF argued in its brief that if the court of appeals decision were reversed, that would have a disastrous impact upon the orderly and effective administration of justice in many other lawsuits where one court has already asserted *in rem* jurisdiction over the property.

WLF's brief was drafted with the *pro bono* assistance of Sidney P. Levinson, partner in the Los Angeles law firm of Hennigan, Bennett & Dorman, LLP. Mr. Levinson specializes in bankruptcy law. The Justice Department filed a brief supporting Ms. Marshall. Oral argument in the Supreme Court is scheduled for February 28, 2006.

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For further information, contact Paul Kamenar, WLF's Senior Executive Counsel, at 202-588-0302. WLF's brief is posted on its website at www.wlf.org.