



For Immediate Release

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**SUPREME COURT URGED TO ALLOW REMOVAL
OF STATE CASES TO FEDERAL COURT
(*Watson v. Philip Morris Companies, Inc.*)**

The Washington Legal Foundation (WLF) filed a brief in the U.S. Supreme Court last week urging the Court to uphold a lower court ruling that allowed a company to invoke the so-called Federal Officer Removal Statute, which permits certain state court cases to be removed or transferred to federal courts. Oral argument in the case is scheduled for April 25, 2007. A decision in this case could affect the ability of government contractors and other companies subject to regulation by federal government agencies who are sued by plaintiffs' attorneys in state courts to have their cases removed to federal courts where they are more likely to get a more favorable ruling.

Although tracing its roots to 1815, the modern version of the Federal Officer Removal Statute was enacted in 1948 and amended in 1996. That law provides that when a lawsuit is filed in state court against a federal officer or federal agency, or any person acting under that officer or agency, that person can remove the case from state court to federal court. Since that time, companies have been successful in removing certain tort cases involving asbestos, Agent Orange, tobacco, and other products from state court to federal court. However, the lower courts have not been clear on the standards to apply in deciding whether removal is permitted.

In *Watson v. Philip Morris Companies, Inc.*, a class action suit was filed in state court against Philip Morris regarding the marketing of its "light" cigarettes. The company's marketing practices are strictly regulated by the Federal Trade Commission, and therefore, the company sought to remove the state case to federal court because it was acting under the direction of a federal government agency. The U.S. Court of Appeals for the Eighth Circuit agreed, and the plaintiff sought review in the Supreme Court. In its brief, WLF argued that companies are "persons" legally entitled to invoke the removal statute, contrary to the argument made by Public Citizen in its brief.

WLF's brief was filed with the *pro bono* assistance of Katharine R. Latimer, Rebecca A. Womeldorf, Michael L. Junk, and Stephanie J. Dawson, attorneys with the Washington, D.C. law firm of Spriggs & Hollingsworth.

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