News Release

WLF Washington Legal Foundation
Advocate for freedom and justice®
2009 Massachusetts Avenue, NW
Washington, DC 20036
202.588.0302

For Immediate Release **April 4, 2006**

WLF URGES COURT TO DENY $22.5 MILLION FEE REQUEST IN COUPON CLASS ACTION
(*Chance v. United States Tobacco Co.*)

The Washington Legal Foundation (WLF) filed a brief in the District Court of Seward County, Kansas, yesterday opposing a fee request by plaintiffs' attorneys for $22.5 million for settling a class action lawsuit where users of smokeless tobacco products will receive only coupons toward the purchase of future products. WLF argued that the coupon settlement was highly inflated, and that the court should base any fee on the hourly rate which plaintiffs estimate to be $4.6 million, and which defendants estimate to be closer to $3.6 million.

In *Chance v. United States Tobacco Co.*, a class action lawsuit was filed claiming that U.S. Tobacco (UST) and their affiliates engaged in unfair competition with their competitors with respect to the marketing of their products at retail stores. UST denied liability, but agreed to settle the case by dispensing coupons whose face value is $60 million; however, UST agreed to guarantee that only $24 million in coupons will actually be delivered if not enough class members sign up for the coupons by the September 26, 2006 deadline. UST also agreed to pay the plaintiffs' attorneys $15 million in fees, which was more than generous, but the class action attorneys wanted $22.5 million. On March 7, 2006, the district court awarded the attorneys $15 million as a reasonable fee, but indicated it would consider awarding even more fees after a two-day hearing to be held on April 4-5, 2006.

WLF argued that the $15 million in fees was already excessive and that the Court should refuse to award a penny more. WLF argued that the value of coupons depends upon their claim rate (*i.e.*, the rate at which class members sign up for coupons by a certain deadline), and the redemption rate (i.e., the rate at which the coupons are actually redeemed by consumers). WLF cited cases where coupon redemption rates were only in the 3 to 6 percent range, and where part of the attorneys' fees were ordered to be paid in coupons. The recent federal Class Action Fairness Act as well as the law in Texas provide that fees should be based on the amount of coupons actually redeemed.

"This is just another example of greedy plaintiffs' attorneys seeking millions of dollars in exorbitant fees in a class action case where consumers receive only coupons in return," said Paul Kamenar, WLF's Senior Executive Counsel.

* * *

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