



For Immediate Release

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CALIFORNIA SUPREME COURT URGED TO REVIEW SECURITIES CASE (*Roskind v. Morgan Stanley Dean Witter & Co.*)

Today, the Washington Legal Foundation filed a brief with the Supreme Court of California urging it to review and reverse a lower court decision that held that the federal Securities and Exchange Act does not preempt California's unfair competition law. In this case, the California Court of Appeal, First Appellate District, held that the Securities and Exchange Act, which provides for "the establishment of a national market system for securities," 15 U.S.C. § 78 k-1(a)(2), and under which broker-dealers are comprehensively regulated, did not preempt an unfair trade practice claim brought under California law. The state tort claim alleged that the manner in which Morgan Stanley executed a securities transaction for a customer – by failing to obtain the best execution and by trading ahead of the customer – constituted a violation of California's Unfair Competition Law and a breach of fiduciary duty.

In its brief, WLF argued that the case warrants review by the California Supreme Court for four reasons: (i) the issue is highly important to securities consumers and to the securities industry; (ii) the case involves the contours of federal preemption, a critical and recurring issue of federal constitutional law; (iii) the decision of the Court of Appeal is in conflict with a decision of the Court of Appeal, Second District; and (iv) the Court of Appeal's decision in this case was erroneous, particularly in light of two United States Supreme Court decisions that have been issued since the decision of the Court of Appeal, namely, *Geier v. American Honda Motor Co.*, and *Crosby v. National Foreign Trade Council*. WLF had filed briefs in both of those cases.

The California Supreme Court will decide later this summer whether it will hear the case. If it does take the case, WLF will file a brief on the merits arguing that the federal law preempts the local law.

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