

**FOR IMMEDIATE RELEASE****June 12, 2008**

**WLF FILES BRIEF IN KEY
CORPORATE CRIMINAL LIABILITY CASE**
(United States v. Ionia Management, S.A.)

On June 6, the Washington Legal Foundation (WLF) filed a brief in the U.S. Court of Appeals for the Second Circuit in a major corporate criminal case, joining with the **U.S. Chamber of Commerce**, the **National Association of Manufacturers**, the **Association of Corporate Counsel**, the **National Association of Criminal Defense Lawyers**, and the **New York State Association of Criminal Defense Lawyers**.

In *United States v. Ionia Management, S.A.*, a ship management company was criminally prosecuted because an employee on one of the tanker vessels, employed by a separate company in the Bahamas, had improperly treated and discharged oil from the vessel in violation of the Act to Prevent Pollution from Ships. Based on jury instructions which allowed the acts of a single, low-level employee to be imputed to the entire company, and despite the company's compliance program forbidding such misconduct, the company was fined \$4.9 million and placed on probation for four years.

In the brief, WLF argued that the jury instructions improperly allowed the corporation to be liable for a rogue employee's misconduct because such imputation of liability was not authorized either by Congress or U.S. Supreme Court precedents. Not only was the employee acting for his own benefit to save himself the extra work of complying with the oil discharge regulations, the employee acted in direct contravention of corporate policy and a robust compliance program.

The brief urged the court of appeals to revisit a century-old, often misapplied, Supreme Court precedent which first authorized corporate criminal liability. Instead, the appeals court should follow the lead of more recent Supreme Court cases, involving discrimination and punitive damages, where the acts of low-level employees did not subject a company to liability. If the conviction is reversed in this case, it would establish a major precedent for limiting corporate criminal liability in a variety of contexts.

WLF's brief was filed with the pro bono assistance of Andrew Weissman, Richard F. Ziegler, Joseph J. McFadden, and Luke P. McLoughlin, with the New York law firm of Jenner & Block, LLP.

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