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COURT URGED TO LET STATES REGULATE PERSONAL INFORMATION

(Condon v. Reno, No. 98-1464)

The Washington Legal Foundation (WLF) filed a brief last week urging the U.S. Supreme Court to leave the regulation of private information obtained through automobile licensing in the hands of state governments.

This case is a constitutional challenge to the Driver's Privacy Protection Act of 1994 (DPPA or Act). The DPPA prohibits state governments from releasing personal information obtained through automobile licensing. With certain exceptions, a person who knowingly releases such information may be convicted of a crime and ordered to pay a fine; a state that substantially violates the Act may be ordered to pay a civil penalty of up to \$5000 per day. South Carolina filed suit in federal district court, claiming that the DPPA violates the constitutional principles of federalism. The district court agreed. It granted a motion for summary judgment in favor of South Carolina and ordered the federal government not to enforce the DPPA in the state. On appeal, the U.S. Court of Appeals for the Fourth Circuit affirmed the district court's decision, ruling that the DPPA violates federalism by ordering state officials to administer a federal regulatory program.

In its brief filed with the U.S. Supreme Court, WLF argued that the Fourth Circuit's decision ought to be affirmed. WLF urged the Court to decide conflicts between the federal government and the states by determining whether the federal government has acted within its authority, as staked out in the written Constitution. WLF further urged the Court not to decide such conflicts by trying to identify powers that the Constitution leaves to the states.

"Federalism is more than a speed bump on the road to national progress," said WLF Senior Counsel for Litigation Affairs R. Shawn Gunnarson. "It preserves liberty by dividing power. And the Court ought to safeguard that division of power by keeping the federal government within the bounds established by the Constitution."

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For further information, contact WLF Senior Counsel for Litigation Affairs Shawn Gunnarson at (202) 588-0302.