



**For Immediate Release**

**October 9, 2008**

**WLF URGES SUPREME COURT TO REVIEW  
ABUSIVE FALSE CLAIMS ACT LITIGATION**  
*(Graham County v. United States ex rel. Wilson)*

The Washington Legal Foundation (WLF) filed a brief yesterday in the U.S. Supreme Court urging the Court to review and reverse a lower court of appeals decision that, if left intact, would allow for more abusive lawsuits by plaintiffs' attorneys under the False Claims Act (FCA).

Under the *qui tam* provisions of the FCA, so-called realtors or private individuals may file a civil action against a government contractor alleging that the contractor made a false or fraudulent claim for payment for services or goods provided to the government. If successful, the realtor can receive a bounty of up to 30 percent of the amount recovered from the contractor, plus attorneys' fees. However, in order to prevent opportunistic plaintiffs and their attorneys from abusing the law by filing suit simply based on public rather than inside information, there is a provision in the FCA that precludes such suits if the information was already publicly disclosed, including information provided in an "administrative audit" or report.

In *Graham County Soil & Conservation Water District v. United States ex rel. Karen Wilson*, the realtor filed an FCA suit claiming that Graham County, North Carolina, sought reimbursement from the federal government to help defray expenses from storm damage, but that some of the work performed was not properly billed or accounted for. However, Graham County had already conducted an audit of the program uncovering the alleged irregularities. Although the FCA's public disclosure bar includes a provision for administrative audits, the U.S. Court of Appeals for the Fourth Circuit ruled that the exemption applies only to *federal* rather than state or local audits or reports. That ruling is in conflict with other circuits that read the public disclosure provision broadly to cover both federal and state audits and reports.

WLF's brief was filed on behalf of itself and the Allied Educational Foundation with the *pro bono* assistance of John T. Boese, Michael J. Anstett, and Nancy N. Barr of the Washington, D.C. law firm of Fried, Frank, Harris, Shriver & Jacobson, LLP.

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