



For Immediate Release

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WLF URGES SUPREME COURT TO CURB ABUSIVE FALSE CLAIMS ACT LAWSUITS

(Rockwell Int'l Corp. v. United States ex rel. Stone)

The Washington Legal Foundation (WLF) filed a brief last week with the U.S. Supreme Court on behalf of itself and the Allied Educational Foundation, urging it to reverse a court of appeals decision that, if left intact, would greatly expand the ability of so-called relators and their attorneys to file abusive False Claims Act (FCA) cases against government contractors, contrary to the intent of Congress,

The FCA forbids government contractors from submitting claims for payment to the federal government for goods or services where the work performed did not fully meet government requirements as specified in the contract. The FCA also has a very narrowly drafted "qui tam" provision that allows certain insiders or whistleblowers to file suit on behalf of the government if they are an original source of the information showing the claims were false. If they prevail at trial, the court may award them a "bounty" between 15 and 30 percent of the recovery from the contractor.

In *Rockwell Int'l Corp v. U.S. ex rel. Stone*, the relator claimed that Rockwell disposed of certain waste materials in a manner that did not fully comport with the contract terms. However, the relator had been terminated from the company long before such disposal took place, and he filed his suit after the relevant information had already been reported in the press. Nevertheless, the court of appeals ruled that the relator could be considered an original source, simply because he predicted long before the disposal took place that problems may occur due to design of the plant's piping system.

WLF argued in its brief filed last week that since the relator never had direct and independent knowledge of the information that was publicly disclosed, he could not, by definition, be an original source of that information. At best, he had general background information related to the disposal process, which was not even relied upon at trial.

WLF's brief was filed with the *pro bono* assistance of Alan I. Horowitz, Robert K. Hoffman, Peter B. Hutt, II, and R. Weston Donehower of the Washington, D.C., law firm of Miller & Chevalier. Oral argument is scheduled for December 5, 2006.

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For 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.