Press Release

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In Victory for WLF, Federal Appeals Court Agrees to *En Banc* Rehearing in Antitrust Case

(Quality Auto Painting Ctr. of Roselle, Inc. v. State Farm Indem. Co.)

"The Eleventh Circuit's decision to grant *en banc* rehearing is welcome news. This case is a prime example of why the Supreme Court in *Twombly* imposed a much-needed 'plausibility' requirement on antitrust complaints in federal court—to eliminate the risk of wasteful, protracted litigation in cases where all of the defendants' alleged acts are perfectly consistent with vigorous competition."
—Cory Andrews, WLF Senior Litigation Counsel

WASHINGTON, DC—Late last week, the U.S. Court of Appeals for the Eleventh Circuit vacated an earlier panel decision and granted the appellees' petitions for a rehearing *en banc* in *Quality Auto Painting Ctr. of Roselle, Inc. v. State Farm Indem. Co*. The decision was a victory for WLF, which filed a brief in the case urging *en banc* rehearing to ensure that free-market competition remains the animating goal of federal antitrust law.

The case is a consolidated appeal of five actions by auto-body-shop plaintiffs alleging that defendant insurers violated the Sherman Act by conspiring to fix prices for body-shop repairs. Those claims were dismissed by the U.S. District Court for the Middle District of Florida, but a panel majority of the Eleventh Circuit later reversed that decision.

As WLF's brief explained, the panel's decision, if allowed to stand, would permit an antitrust complaint to allege mere parallel conduct among competitors as a sufficient basis for pleading an illegal agreement among those competitor defendants. Given the great uncertainty such a rule would create for market participants and other stakeholders, WLF urged the Eleventh Circuit to vacate the panel's decision in light of the Supreme Court's decision in *Twombly v. Bell Atlantic Corp*., which emphasized the need for plaintiffs to assert more than mere parallel conduct among competitors to state an antitrust conspiracy. As *Twombly* makes clear, parallel conduct alone could just as well be the result of rational and competitive business strategy prompted by the free market.

The Eleventh Circuit has set *en banc* oral argument in the case for the week of October 22, 2018. WLF intends to file an additional brief on the merits later this summer.

Celebrating its 41st year, WLF is America's premier public-interest law firm and policy center advocating for free-market principles, limited government, individual liberty, and the rule of law.

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