



FOR IMMEDIATE RELEASE

May 31, 2016

Media Contact: Mark Chenoweth | mchenoweth@wlf.org | 202-588-0302

In WLF Victory, Supreme Court Agrees to Review Fifth Circuit's Relaxation of False Claims Act's Seal Provision

(State Farm Fire & Casualty Co. v. United States ex rel. Rigsby)

“By granting review today, the Supreme Court has taken the first crucial step necessary to vindicate Congress’s unambiguous command that a *qui tam* relator’s complaint ‘shall’ remain under seal.”

—Cory Andrews, WLF Senior Litigation Counsel

WASHINGTON, DC—The U.S. Supreme Court today agreed to review a recent decision of the U.S. Court of Appeals for the Fifth Circuit that would turn a blind eye to plaintiffs’ repeated and flagrant violations of the False Claims Act’s (FCA) mandatory seal provision. The decision to grant review marks a victory for Washington Legal Foundation, which filed an *amicus* brief in support of certiorari in *State Farm Fire & Casualty Co. v. United States ex rel. Rigsby*. WLF’s brief argued that the seal requirement is not a mere procedural formality, but rather a mandatory prerequisite to filing and maintaining a *qui tam* suit. WLF’s *amicus* brief was joined by the Allied Educational Foundation.

The case arose from allegations that State Farm submitted a false claim to the federal government in connection with a homeowner’s property-insurance claim after Hurricane Katrina. The FCA requires *qui tam* relators to keep their lawsuits under wraps for at least 60 days while the U.S. government decides whether to join the suit. It is undisputed that plaintiffs (and their counsel) deliberately and repeatedly violated the FCA’s mandatory seal provision by informing news organizations and a Member of Congress about the existence and nature of their *qui tam* suit while it was still under seal.

Despite these egregious and flagrant violations, the Fifth Circuit affirmed the district court’s refusal to dismiss plaintiffs’ suit. As WLF’s brief argued, the Fifth Circuit’s ruling exacerbates a widening split among the federal appeals courts regarding what standard governs dismissal of the relator’s claims when the relator is found to have violated the FCA’s seal provision, and it contradicts the plain language and structure of the FCA.

Upon learning of the certiorari grant, WLF issued the following statement by Senior Litigation Counsel Cory Andrews: “When a court does not require dismissal of FCA claims after deliberate *qui tam* seal violations occur, it incentivizes further abuses by relators who seek to damage a defendant’s public reputation in an improper effort to pressure that defendant to settle. By granting review today, the Supreme Court has taken the first crucial step necessary to vindicate Congress’s unambiguous command that a *qui tam* relator’s complaint ‘shall’ remain under seal.”

WLF is a national, public-interest law firm and policy center that regularly litigates in False Claims Act cases to ensure that unwarranted qui tam lawsuits do not drive up costs for all consumers.

###