Press Release

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WLF Calls on Federal Appeals Court to Provide Much Needed Certainty to Antitrust Law

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

"This case serves as 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—Washington Legal Foundation filed an *amicus* brief yesterday in the U.S. Court of Appeals for the Eleventh Circuit supporting the appellees' petitions for a rehearing *en banc* in *Quality Auto Painting Ctr. of Roselle, Inc. v. State Farm Indem. Co*. This antitrust lawsuit prompted WLF's involvement in an effort to assert free-market competition as the objective of federal antitrust law.

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

The panel's reversal allows an antitrust complaint to allege mere parallel conduct among competitors as a sufficient basis for pleading an illegal agreement among those competitor defendants. WLF filed its brief out of grave concern for the amount of uncertainty the decision creates for market participants and other stakeholders. In *Twombly v. Bell Atlantic Corp.*, the Supreme Court emphasized the need for plaintiffs to assert more than mere parallel conduct among competitors to state an antitrust conspiracy, as this conduct alone could just as well be the result of rational and competitive business strategy prompted by the free market.

WLF calls on the court to provide clear threshold pleading requirements for antitrust conspiracy claims so that businesses may best assess their potential litigation exposure to Section 1 claims under the Sherman Act. WLF's brief argues that *en banc* review is necessary to prevent disruption not only of the insurance industry but the larger business community as a whole, which result is sure to happen if the competitive activity in question is allowed to trigger expensive antitrust discovery.

Celebrating its 40th 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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