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December 22, 2016

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Three Groups File in Support of WLF's Supreme Court Cert Petition in Key Case Against CFPB

(Docket No. 16-673, *Gordon v. Consumer Financial Protection Bureau*)

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—Mark Chenoweth, WLF General Counsel

WASHINGTON, DC—This week the Cato Institute, the Center for Constitutional Jurisprudence, and the US Chamber of Commerce filed three separate *amicus curiae* briefs in support of Washington Legal Foundation’s petition seeking a writ of *certiorari* on behalf of our client, Chance Gordon. WLF’s petition in *Gordon v. Consumer Financial Protection Bureau* asks the Court to review, and ultimately reverse, a US Court of Appeals for the Ninth Circuit decision that created a circuit split on when and how a federal agency may ratify prior conduct that was not allowed at the time the agency did it. The three briefs filed this week encourage the Supreme Court to grant the petition and hear this case.

The Cato Institute’s *amicus* brief supported the first Question Presented in WLF’s petition, having to do with what proper ratification requires and whether an executive branch official can even ratify a prior judicial decision. The *amicus* brief from the Chamber of Commerce supported the second Question Presented, concerning whether the CFPB had standing to appear in federal court when it brought the enforcement action against Mr. Gordon—or at any time thereafter. The brief from the Center for Constitutional Jurisprudence supported aspects of both Questions Presented.

The Office of the Solicitor General sought and recently received a 30-day extension for its response to WLF’s petition, which is now due on or before January 23, 2017.

For a full summary and analysis of each *amicus curiae* brief, please visit WLFlegalPulse.com.

In reaction to the show of support for WLF’s cert petition, WLF issued the following statement from General Counsel Mark Chenoweth: “The show of support from three seasoned Supreme Court advocates confirms WLF’s view that the *Gordon* case merits Supreme Court review. If the Ninth Circuit panel’s expansive ratification theory is upheld, future Presidents would receive a ‘free pass’ to install executive officers without Senate confirmation, knowing that a perfunctory ‘ratification’ by some future, validly appointed official could cure any defects. But that’s not the way the Constitution says recess appointments are supposed to work.”

WLF is a public-interest law firm and policy center that regularly litigates in support of limited, accountable government—and to ensure that administrative agencies adhere to the rule of law.

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