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PACIFIC LEGAL FOUNDATION PETITIONS U.S. SUPREME COURT TO REVIEW GROCERY WORKER RETENTION ORDINANCE

SACRAMENTO, CA (November 28, 2011) – Attorneys with Pacific Legal Foundation have petitioned the U.S. Supreme Court on behalf of the California Grocers Association to review a City of Los Angeles ordinance that denies new grocery store owners the right to hire their own employees, unless they agree to maintain a unionized workforce.

The petition for certiorari asks the Court to review the city’s Grocery Worker Retention Ordinance, which requires companies that purchase grocery stores of 15,000-square feet or larger to hire employees only from existing staff and retain them for at least 90 days. This restriction does not apply if the new owner consents to a collective bargaining agreement with a union.

The Foundation agreed to petition the Court on CGA’s behalf after the California Supreme Court in June overturned a First District Court of Appeal decision that had ruled against the ordinance. Employers, the State Supreme Court’s majority opinion said, have no right to choose their own workforce, and the ordinance is a routine regulation of the economy.

“While we’re extremely disappointed with the California Supreme Court’s decision, we are encouraged that the Pacific Legal Foundation finds merit in petitioning the highest court in the land,” said Ron Fong, CGA President and CEO. “The challenge is important enough to grocers that CGA believes it needs to exhaust every legal remedy.”

Fong said the ordinance is a major step backwards in a national effort to bring affordable and healthy food to some of the most underserved areas in Los Angeles. “Putting politics before helping inner-city working families is bad public policy,” he said.

The ordinance was passed in 2005 and challenged by CGA in 2006. A Los Angeles County Superior Court judge ruled the ordinance unconstitutional, which was later upheld by the Second District Court of Appeal in 2009. The case then moved to the California Supreme Court where the decision was overturned.

“This law is a brazen scheme to punish non-union employers,” said PLF Principal Attorney Timothy Sandefur. “But federal law prohibits localities from muscling in on the bargaining process between businesses and unions. To be specific, the National Labor Relations Act bars states and local governments from interfering with the bargaining of unions and employers, yet that’s exactly what L.A. has done through this ordinance.”

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The California Grocers Association is a non-profit, statewide trade association representing the food industry since 1898. CGA represents approximately 500 retail members operating over 6,000 food stores in California and Nevada, and approximately 300 grocery supplier companies.