

WRF Selected as Lead Counsel in Country's Most Important Wireless Telecom Case Before the U.S. Supreme Court

August 10, 2005

Washington, DC—Today Wiley Rein & Fielding, acting as lead counsel on behalf of a broad range of wireless handset manufacturers and service providers, filed a petition for certiorari with the Supreme Court of the United States. The petition arises out of the Fourth Circuit's decision in *Pinney v. Nokia, Inc.* 402 F.3d 430 (4th Cir. 2005), which reversed a lower court and allowed a series of purported class actions to proceed. Each alleges that wireless telephones that meet federal safety standards are nonetheless "unreasonably dangerous" under state law.

The petition, styled *Nokia Inc. v. Naquin*, asks the Court to grant plenary review and reverse the Fourth Circuit's ruling, which disregards uniform federal safety and emissions standards for all wireless telephones and authorizes state courts to conduct their own inquiry into what constitutes a "safe" wireless telephone. As the wireless petitioners tell the Court in their filing today: "This Court's intervention is necessary to prevent the balkanization of network standards invited by the decision below, which will, if uncorrected, undermine the ability of consumers to use an FCC-approved wireless telephone in every state in the Union." The petition in *Naquin* also makes the Supreme Court aware that the Federal Communications Commission has publicly signaled its disagreement with the Fourth Circuit's decision.

In addition, WRF assisted with a second petition for certiorari arising out of the *Pinney v. Nokia* opinion that was also filed today. The second petition, styled *Cellco Partnership v. Pinney*, challenges the separate ruling of the Fourth Circuit that there is no federal

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jurisdiction to assess the impact of these state suits on the FCC's comprehensive scheme for regulating all fixed and mobile wireless transmitters. That petition seeks more narrow relief, requesting only that this aspect of the case be remanded to Fourth Circuit for reconsideration in light of the Supreme Court's decision in *Grable & Sons Metal Prods., Inc. v. Darue Eng. & Mfg.*, 123 S. Ct. 2363 (2005).

Both petitions are expected to be considered by the Supreme Court in early October and, if granted, the Naquin case would be heard by the Supreme Court in early 2006.

WRF attorneys Andrew G. McBride, Helgi C. Walker, Kate Comerford Todd and Joshua S. Turner participated in this matter.

[View petition for a writ of certiorari.](#)