

PRESS RELEASE

Wiley Rein Files Supreme Court *Amicus* Brief on Behalf of the Chamber of Commerce of the United States of America

March 2, 2009

Wiley Rein LLP has filed an *amicus curiae* brief with the Supreme Court of the United States in *VFJ Ventures, Inc. v. Surtees* (No. 08-916). The brief was filed in support of the petitioner on behalf of the Chamber of Commerce of the United States of America, the world's largest business federation representing more than three million businesses and organizations of every size, sector and region.

The case involves an Alabama "add-back" tax statute—one of many similar statutes that have proliferated throughout the United States—which denies corporations an income tax deduction for certain royalty payments made to affiliated corporations located in states that do not share Alabama's tax policy of taxing royalty income. The Alabama Supreme Court rejected the petitioner's argument that the add-back tax was unconstitutionally discriminatory and held that the add-back provision does not violate the Commerce Clause.

The Chamber's *amicus* brief argues the court should grant a writ of certiorari because the Alabama statute violates the inherent limits on state sovereignty and the Commerce Clause by regulating out-of-state business activities and projecting the force of Alabama's laws into other states. Alabama's add-back statute penalizes Alabama corporate taxpayers that are affiliated with corporations in other states that do not share Alabama's tax policy on trademark royalty income. Moreover, the brief argues, the add-back statute seeks to undermine the tax policies of sister states that choose to adopt pro-business taxing regimes.

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The Chamber's *amicus* brief also points out that businesses in all sectors of the economy are disadvantaged by state tax laws that seek to regulate out-of-state business activities and interfere with the tax policies of sister states. By contrast, respecting the limitations imposed by state sovereignty and the Commerce Clause promotes healthy competition among the states to attract business activities consistent with the constitutional principles that facilitate interstate commerce and prevent one state from imposing its public policy agenda on any other state.

The Chamber's *amicus curiae* brief was submitted by partners Bert W. Rein and John E. Barry and associate Brett A. Shumate.