

# Wiley Rein & Fielding Files Supreme Court *Amicus* Brief on Behalf of Law Faculty and Students in Challenge to the Solomon Amendment



July 20, 2005

Washington, DC—Wiley Rein & Fielding LLP has filed an *amicus* brief with the United States Supreme Court in *Rumsfeld v. FAIR*, a case that will decide whether the Solomon Amendment violates the First Amendment to the United States Constitution. The brief is filed on behalf of 32 distinguished law faculty and over 50 students at numerous schools throughout the country.

The Solomon Amendment prohibits discrimination against military recruiting by educational institutions that receive federal funds. It was passed in response to the growing practice of many law schools of excluding the United States Armed Forces from otherwise open on-campus recruiting opportunities. While the District Court rejected *FAIR's* original challenge to the statute, the Third Circuit struck down the anti-discrimination requirement as an "unconstitutional condition" that violated the universities' First Amendment rights.

The *amicus* brief supports the United States and reversal of the Third Circuit. First, the brief notes that, pursuant to *United States v. Dole*, Congress may attach conditions to federal funding and that the anti-discrimination provision at issue here is an acceptable condition. Invalidating the Solomon Amendment would also call into question the conditions attached to federal funds referenced in anti-discrimination statutes such as Title VI (race) and Title IX (gender). Finally, the brief argues that the Solomon Amendment does not implicate the right to freedom of association recognized in *Boy Scouts v. Dale* and *Hurley v. Irish-American Gay, Lesbian & Bisexual Group of*

## Practice Areas



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The brief represented a cooperative effort between Wiley Rein & Fielding, Dean Daniel Polsby, and Professors Nelson Lund and Joseph Zengerle of George Mason University School of Law.