

First Amendment & Media Litigation

From the Pentagon Papers case in 1971 to our representation of Senator Mitch McConnell before the U.S. Supreme Court on the constitutionality of the McCain-Feingold campaign finance regulations, Cahill has been the nation's most prominent defender of free speech. Recognized as a leading law firm by *Chambers USA* in Media & Entertainment: First Amendment Litigation, our sophisticated and varied practice focuses on complex disputes involving speech restrictions, defamation, libel, privacy rights, and copyright and trademark infringement. Led by lawyers who are consistently recommended as leading practitioners in *Chambers USA*, Cahill's First Amendment & Media Litigation practice earned the firm a Tier 1 ranking by *Media Law International*.

Our prominent First Amendment practice has involved arguing over a dozen cases in the Supreme Court and filing briefs, *amicus curiae*, in many others. Most recently, we represented Senator McConnell and the National Association of Broadcasters in a constitutional challenge to the McCain-Feingold campaign finance law (*McConnell v. Federal Election Commission*) and then Senator McConnell, as *amicus curiae*, in the *Citizens United* case. We have represented the First Amendment Coalition and the ACLU, among others, as *amici* in litigation pending before the Foreign Intelligence Surveillance Court, in connection with efforts to increase disclosures and transparency in the wake of the Snowden controversy. We have represented many journalists in response to government efforts to require disclosure of the identities of their confidential sources (*United States v. Sterling*), (subpoena to James Risen), (*Miller v. United States*); combated the effort of a trial judge to enter a prior restraint against publishing the names of jurors (*United States v. Quattrone*); represented the Brooklyn Museum, in its defense against Mayor Rudolph Giuliani, of its right to determine what art to display (*Brooklyn Institute of Arts and Sciences v. City of New York*); and commenced litigation to prohibit the Department of Justice from serving subpoenas on telephone service providers seeking the disclosure of the phone records of two reporters for *The New York Times* (*New York Times v. Gonzales*). For the past 30 years, we have successfully represented journalists including ABC, the Associated Press, CBS, CNN, Fox News and NBC Universal in actions against various states challenging state statutes or policies prohibiting exit-polling activities at polling places on Election Day. To date we have instituted 13 actions against state officials who sought to restrict our clients' newsgathering activities. We have been successful in all, most recently in Ohio, Florida, Nevada, New Jersey and Minnesota.

We have, as well, successfully litigated numerous defamation matters on behalf of significant media clients. Examples include our winning dismissal of defamation claims brought against Time Warner Cable Inc. by state court judge Justice Francois Rivera (*Rivera v. NYP Holdings, Inc., et al.*; affirmed on appeal *Rivera v. Time Warner, Inc.*); Yale University Press against an Islamic Charity which agreed to drop its libel suit in the face of anti-SLAPP motions brought by Yale and other defendants (*KinderUSA v. Yale University Press et al.*); NBC in its dispute with Wayne Newton resulting in the reversal of a \$19 million verdict entered in Newton's favor (*Newton v. National Broadcasting Co.*); summary judgment for *The New York Times* in a libel suit brought by New York City's former medical examiner (*Gross v. New York Times*); and Time Magazine in a libel action commenced by the Church of Scientology (*Church of Scientology International v. Time Warner, Inc.*).

Cahill also has significant experience handling commercial speech matters. Most recently, we successfully represented Amarin Pharma in its successful First Amendment challenge to FDA's regulation of Amarin's truthful and non-misleading speech about unapproved uses of its drug, Vascepa® (*Amarin Pharma, Inc. v. FDA*). Cahill has also successfully represented Lorillard Tobacco Company in its First Amendment challenge to FDA's proposed graphic warnings on cigarette packages (*R.J. Reynolds Tobacco Co., et al. v. FDA*) and has represented Ocean Spray Cranberries in challenging FDA's proposed disclosure requirements concerning "added sugars" in the nutrition facts box on food labels. Cahill has also represented various outdoor advertisers in challenging various advertising restrictions on First Amendment grounds.

Cahill has a strong track record in litigating privacy rights. We have represented the media in seminal cases such as our successful litigation through the New York Court of Appeals to retain the narrow statutory focus of New York privacy law (*Arrington v. New York Times*). We succeeded in persuading the Second Department to adopt a narrow interpretation of Sections 50 and 51 of New York's Civil Rights Law in the face of an effort to sweep television satire within the scope of the statute (*Frank v. NBC*).

We have extensively and successfully litigated copyright and trademark cases as well. Significant copyright and trademark cases of note include: defending CBS against a copyright infringement claim brought by the Estate of

Martin Luther King, Jr., Inc., alleging that a documentary violated the Estate's copyright in Dr. King's "I Have a Dream" speech (*CBS v. King*); defeating efforts to enjoin the distribution of Al Franken's book *Lies and the Lying Liars Who Tell Them: A Fair and Balanced Look at the Right* (*Fox News Network v. Penguin Group and Al Franken*); successfully defending a publisher and author against efforts by Chuck Norris to restrain publication of *The Truth About Chuck Norris: 400 Facts About the World's Greatest Human* in a case asserting trademark, anti-dilution and cybersquatting claims; and representing Pepperidge Farms, maker of the familiar goldfish crackers, in a trademark dilution claim brought against Nabisco arising out of Nabisco's efforts to market a goldfish-shaped cracker of its own (*Nabisco v. PF Brands*).