

## Cahill Prevails in Landmark Supreme Court Decision in *Citizens United v. Federal Election Commission*

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In a 5-to-4 sweeping decision in *Citizens United v. Federal Election Commission*, the U.S. Supreme Court ruled on January 21, 2010 that government may not ban political spending by corporations in candidate elections. The highly publicized ruling in the rare re-argument ordered by the Court in September 2009 to decide the constitutionality of McCain-Feingold made it clear that the First Amendment protects corporate speech about politics, a position articulated by Floyd Abrams when he delivered oral argument to the Court as *amicus curiae* on behalf of Senator Mitch McConnell. In his oral argument to the Court, Floyd defended the rights of corporations and unions to speak publicly about politics and elections.

*Citizens United v. Federal Election Commission* originated over whether Citizens United's film concerning then-presidential candidate Hillary Rodham Clinton could be considered an "electioneering communication" subject to regulation under the McCain-Feingold campaign finance law. Passed by Congress in 2002, the McCain-Feingold law prohibits corporations and unions from using their treasury funds to pay for advertisements and certain other speech that refers to a candidate for federal office during specified black-out periods.

Arguments in this case were first made to the Supreme Court in March 2009. Following that hearing, the Court ordered a rare re-argument, asking parties specifically to address the question of whether two precedents should be overturned. The first addressed the Court's 1990 decision in *Austin v. Michigan Chamber of Commerce*, in which it upheld a state law that said corporations could be barred from spending their treasury funds to support or oppose a candidate, and the second addressed part of the 2003 decision upholding provisions of McCain-Feingold.

In the January 21, 2010 ruling, the Court overturned both of these precedents.

### Attorneys

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