

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

Date: 01/21/10

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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