Supreme Court Provides Guidance On When Speech Regulations Are Content-Based And Level Of Scrutiny Applicable In Commercial Speech Cases

Date: 07/12/22

On April 22, 2022, the United States Supreme Court decided City of *Austin, Texas* v. *Reagan Nat'l Advert. of Austin, LLC*, 2022 WL 1177494 (U.S. Apr. 22, 2022), in which the Court held that a city regulation allowing digital signs for businesses operating on the premises where the sign was placed, but banning digital signs for off-premises activities, was not unconstitutional under the First Amendment. In so holding, the Court ruled that the law at issue was not content-based and clarified that a law is content-based only if the law discriminates based on the "topic discussed or the idea or message expressed." This holding is significant for two reasons. First, the opinion provides important clarification, following *Reed v. Town of Gilbert, Ariz.* and *NIFLA v. Becerra*, on when regulations will be considered content-based. Second, the opinion offers additional guidance on the level of scrutiny applicable to content-based restrictions on commercial speech.

Attorneys

- Joel Kurtzberg
- John MacGregor
- Jason D. Rozbruch