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NEWSLETTER

Pay-to-Play Spotlight: Second Circuit Upholds NYC's Pay-to-Play Law

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With a concurrence by Judge Calabresi that calls parts of the Supreme Court's recent campaign finance jurisprudence impractical and problematic, the U.S. Court of Appeals for the Second Circuit upheld New York City's pay-to-play law against a constitutional challenge. As a result, lobbyists, companies and other entities holding or seeking a contract with the city, and certain of their officers and employees remain strictly limited in the amount they may contribute to city candidates.

The Second Circuit decided the case of *Ognibene v. Parkes* on December 21, 2011, and the decision can be found here. In its opinion, the court found that the city's special pay-to-play contribution limits were constitutional because they applied only to current or prospective contractors and sought to reduce corruption or the appearance thereof. The court noted recent allegations of corruption in New York state and said that an effort to prevent such corruption in the city was constitutionally permissible. The court rejected arguments that the Supreme Court's 2010 decision in *Citizens United v. FEC,* which permitted corporate independent expenditures, changed any jurisprudential rationale in favor of these types of limits on contributions. In fact, the court used some language and reasoning from *Citizens United* to support its decision.

This decision of the Second Circuit follows its 2010 decision in *Green Party of Connecticut v. Garfield,* in which it upheld the contractor pay-to-play contribution limits in Connecticut.

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