

Wiley Rein Files *Amicus* Brief for National Business Groups Supporting First Amendment Rights of Commercial Speakers

August 31, 2018

Press Contact

Patricia O'Connell
T: 202.719.4532
poconnell@wiley.law

Washington, DC—Wiley Rein LLP filed an *amici curiae* brief on behalf of the National Association of Manufacturers and the U.S. Chamber of Commerce supporting the plaintiff-appellant in *Exxon Mobil Corporation v. Healey*. The appeal, filed by Exxon in the U.S. Court of Appeals for the Second Circuit, involves longstanding and burdensome investigative tactics by some state Attorneys General into advocacy and speech about climate science. This is the latest in a series of briefs and thought leadership by Wiley Rein attorneys on commercial First Amendment rights, which our team has championed for years. To read the brief, please [click here](#).

Exxon appeals a federal judge's March 29 dismissal of Exxon's suit against the state attorneys general (AGs) of New York and Massachusetts. That suit claimed that New York AG Eric Schneiderman and Massachusetts AG Maura Healey worked with other state AGs and environmental groups to use their investigative power to suppress Exxon Mobil's free speech rights under the First Amendment with respect to climate change.

Wiley Rein's August 10 brief argues that corporations contribute to important policy discussions involving economic, scientific, and other issues of public concern. The brief was authored by partners Megan L. Brown, Richard W. Smith and Stephen J. Obermeier. Associates

Related Professionals

Megan L. Brown
Partner
202.719.7579
mbrown@wiley.law
Stephen J. Obermeier
Partner
202.719.7465
sobermeier@wiley.law
Krystal B. Swendsboe
Of Counsel
202.719.4197
kswendsboe@wiley.law
Wesley E. Weeks
Partner
202.719.7569
wweeks@wiley.law

Practice Areas

First Amendment/Commercial Speech

Krystal B. Swendsboe and Wesley E. Weeks played key roles.

The brief argues that governmental actions targeting speech should be evaluated in “light of the First Amendment’s purpose to preserve an uninhibited marketplace of ideas in which truth will ultimately prevail.” Because corporations conduct research and advocate on topics across the social, economic, and physical sciences – and because the First Amendment protects such activities – the brief argues that the expansive use of government investigatory powers in this case will inevitably chill corporations’ contribution to the exchange of ideas.

“Corporations, by themselves and in association with others, are valuable contributors to the marketplace of ideas and debates over public policy. These contributions are protected by the First Amendment,” the brief concluded. “This Court should closely scrutinize the AGs’ actions” to ensure that government power is not abused.

Wiley Rein’s Appellate and Litigation Team has extensive experience vindicating the speech rights of our clients in defensive litigation and in proactive constitutional challenges. In conjunction with thought leadership by founding partner Bert Rein, we assist companies and associations considering the impact of government action on their businesses and constitutional rights.

A few notable Wiley Rein engagements include filing an amicus brief at the Supreme Court in *CTIA v. City of Berkeley* in a compelled speech case in which the Court vacated and remanded back to the Ninth Circuit, and ongoing work in the high-profile litigation over California’s mandatory warnings about sugar sweetened beverages (now scheduled for en banc review in the Ninth Circuit). We also were involved in the challenge to Vermont’s GMO labeling law, among other cases. One of our recent pro bono First Amendment cases involved the successful First Amendment challenge to the Lanham Act’s disparagement bar on trademarks in *Lee v. Tam*, in which the Supreme Court again vindicated the First Amendment.

For a summary of some current First Amendment issues, see our Legal Opinion Letter for Washington Legal Foundation on the direction of First Amendment doctrine.