

Wiley Rein Files *Amicus* Brief in U.S. Supreme Court on Behalf of Roman Catholic Archdiocese of Newark in Case of “Economic Protectionism”

November 23, 2015

Wiley Rein has filed an *amicus* brief on behalf of the Roman Catholic Archdiocese of Newark in support of a petition for a writ of certiorari in the Supreme Court of the United States.

In *Sensational Smiles LLC et. al v. Mullen et el*, a teeth-whitening business has asked the Supreme Court to determine whether Connecticut can restrict the use of LED lights for teeth whitening to only licensed dentists. The petitioner is challenging a July 2015 ruling by the U.S. Court of Appeals for the Second Circuit that state governments are allowed to impose such restrictions on grounds of economic protectionism.

Wiley Rein’s client currently faces a similar situation of economic protectionism. The Archdiocese maintains an “inscription-rights program” to purchase and maintain monuments in its cemeteries. Those operations are now prohibited under a recently passed bill amending New Jersey’s Religious Corporations Law, in response to substantial lobbying by the Monument Builders Association, whose members conduct similar operations in the private sector. This prohibition currently impacts about 600 of the Archdiocese’s parishioners.

Wiley Rein’s brief stated: “In concluding that pure economic protectionism is a legitimate state interest for purposes of rational basis review, the Second Circuit here not only exacerbated a circuit split on the issue but also fundamentally misconstrued this Court’s

Related Professionals

Megan L. Brown
Partner
202.719.7579
mbrown@wiley.law

Stephen J. Obermeier
Partner
202.719.7465
sobermeier@wiley.law

Practice Areas

Election Law & Government Ethics
Government Contracts
Issues and Appeals
Litigation
Privacy, Cyber & Data Governance
Telecom, Media & Technology
White Collar Defense & Government Investigations

precedent."

The brief further noted: "Pure economic protectionism is nothing more than naked discrimination in the economic context and serves no public purposes....failure to reverse the Second Circuit will thus have real and substantial negative effects on parties such as the Archdiocese."

Wiley Rein partners Megan L. Brown and Stephen J. Obermeier, and associate Stephen J. Kenny, filed the *amicus* brief with the Supreme Court of the United States on November 18 in *Sensational Smiles v. Mullen*.