

Wiley Rein Files Supreme Court *Amicus* Brief in Compelled Commercial Speech Case

AFTER NINTH CIRCUIT UPHOLDS BERKELEY CELL PHONE ORDINANCE FOR SECOND TIME

November 1, 2019

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Washington, DC—Wiley Rein LLP filed an *amicus* brief today in the U.S. Supreme Court on behalf of The Cato Institute in an important First Amendment commercial speech case, *CTIA v. City of Berkeley*. The brief, filed in support of CTIA – The Wireless Association, asks the Supreme Court to clarify that government attempts to impose content-based speech mandates are subject to strict scrutiny.

The *amicus* brief urges the Supreme Court to review a July 2 ruling from the Ninth Circuit which, for the second time, declined to stop enforcement of a Berkeley, California ordinance requiring “safety warnings” for cell phone use.

The Ninth Circuit originally upheld the Berkeley ordinance in an April 2017 decision that was later reviewed by the Supreme Court. In 2018, the Justices remanded the case back to the Ninth Circuit for further review, in light of the Supreme Court’s new ruling in a separate First Amendment case – *NIFLA v. Becerra*.

Today’s Wiley Rein brief states that it is important for the Supreme Court to address the appropriate degree of scrutiny now, because state and local governments increasingly are turning to warning regimes that force sellers to disparage their products and participate in policy debates. The *amicus* brief urges the Supreme Court to grant

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Practice Areas

First Amendment/Commercial Speech
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certiorari to address the expansion of commercial speech mandates and establish the degree of applicable scrutiny.

The Wiley Rein litigation team previously filed *amicus* brief on behalf of the Cato Institute in January 2018, in support of CTIA's petition for the Supreme Court to review the 2017 Ninth Circuit ruling. Wiley Rein has represented clients in numerous First Amendment business cases, including in challenges to San Francisco's warning label requirements for cell phones and sweetened beverages, as well as Vermont's efforts to require labeling of products containing GMOs. The firm regularly advises clients on the scope of their constitutional rights and the legality of federal, state, and local regulatory activity that impinges on free speech rights.

The brief, filed November 1, was authored by Wiley Rein partners Megan L. Brown, Joshua S. Turner, and associates Jeremy J. Broggi and Boyd Garriott.

A copy of the brief can be found [here](#).