



To All Broadcast Clients

May 15, 2007

COURT HOLDS RADIO TALK SHOW SUPPORT FOR BALLOT INITIATIVE NOT A POLITICAL CONTRIBUTION

The Supreme Court of the State of Washington recently held that comments broadcast by radio talk show hosts in support of a proposed ballot initiative did not constitute campaign contributions reportable under that state's campaign laws, but rather fell within the law's "media exemption," which exempts certain media activities from the definition of a "campaign contribution" for purposes of campaign finance reporting. Exempt activities include news features, commentaries and editorials that occur in a regularly scheduled news medium that is (i) of primary interest to the general public, (ii) controlled by a person whose primary business is that news medium, and (iii) not controlled by a candidate or political committee.

In this case, two radio talk show hosts promoted an on-air ballot initiative, and urged listeners to contribute to the campaign and to collect voter signatures to get the measure on the ballot. The hosts were principals of the organization behind the ballot initiative. Local prosecutors filed a complaint against the ballot initiative campaign, charging that it should have reported the "valuable radio announcer professional services and valuable commercial radio airtime" as campaign contributions. Given the hosts' roles in the organization, the prosecutors argued that the media exemption did not apply because the hosts' comments were controlled by a political committee.

The Supreme Court of the State of Washington, following the U.S. Supreme Court's view on the issue, found that exempting the media from campaign finance regulations is necessary in order to protect the press' unique role in informing and educating the public, offering criticism and providing a forum for debate. The Court concluded that the analysis in such media cases should focus on whether the *media entity*, rather than any particular broadcast, is exempt from campaign finance reporting requirements under the media exemption.

The Court determined that the station was not owned and controlled by a political candidate or committee, and that the station was exercising one of its core media functions by broadcasting the talk shows during the course of its regularly scheduled programming. The Court therefore decided the station, and by extension the station's broadcast, was exempt.

Please let us know if you have any questions about this case, or how the campaign finance reporting requirements in your jurisdiction apply to politically-oriented broadcasts.

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This memorandum is intended only as a general discussion of these issues and should not be regarded as legal advice. We would be pleased to provide additional details or advice about specific situations if desired. To discuss any of the issues presented here, please contact any attorney in our office.