



Construction Industry Round Table

Judicial News

A force for positive change in the design / construction industry

1/25/10 – Supreme Court Strikes Down “Gag” Rule on Corporations

On January 21, 2010, the U.S. Supreme Court announced its decision in *Citizens United v. FEC*, 558 U.S. ____ (2010), changing the “landscape” of campaign finance law. The Court struck down as inconsistent with the First Amendment a provision of the Bipartisan Campaign Reform Act (commonly known as the McCain-Feingold Act) regarding independent expenditures by corporations (and unions) that the FEC had said would forbid the airing of advertisements before the Presidential primaries in 2008. The Court's decision struck down a provision of the Act that prevented corporations—for-profit and not-for-profit—and unions from spending freely from their own treasuries in the final days of political campaign – but, it left in tact large portions of the Act's structure with respect to the requirements for disclaimer and disclosure by sponsors of advertisements, and the ban on direct contributions (sometimes called “soft money”) from corporations or unions to candidates. Given the President's and Democrats' general condemnation of the decision it is ironic that the facts in the case were over an advertisement about a documentary on Hillary Clinton that Citizens United sought to air. [It should be noted, when the law was first passed many First Amendment observers thought the Supreme Court would strike down large portions of the Act – and were surprised when that did not happen, including the gag rule that was overturned in this case].