

Supreme Court Applies *Citizens United* Decision to State Laws in *American Tradition Partnership v. Bullock*

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On July 25, the Supreme Court summarily reversed (by a 5-4 vote) the Montana Supreme Court's decision in *American Tradition Partnership v. Bullock*, a decision that had upheld the state's restrictions on corporate spending in connection with candidate elections. Although the outcome had been anticipated, the decision nevertheless represents an important reaffirmance of the corporate free speech rights recognized in *Citizens United v. FEC*, 130 S. Ct. 876 (2010). The Wiley Rein Election Law group filed an *amicus* brief on behalf of the U.S. Chamber of Commerce urging summary reversal. A copy of the *amicus* brief may be found [here](#).

In December of 2011, the Montana Supreme Court issued an opinion upholding the state's ban on corporate independent spending in connection with elections, observing that Montana had a history of "rough contests for political and economic domination," and that "[c]learly Montana has unique and compelling interests to protect through preservation of this statute." *American Tradition Partnership (ATP)*, which had sued several state officials to overturn the ban, then asked the Supreme Court to review the case and sought a stay until the Court could issue a ruling.

On February 27, 2012, the Supreme Court granted a stay. In concurring with the Court's order, Justices Ginsburg and Breyer suggested that consideration of the Montana case could lead the Court to reconsider its decision in *Citizens United*. Ultimately, however, the Supreme Court did not follow that approach.

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Instead, the case was decided without full briefing or oral argument, a process known as “summary reversal.” In a short, *per curiam* opinion for the majority, the Court noted simply that the fundamental “question presented in this case is whether the holding of *Citizens United* applies to the Montana state law. There can be no serious doubt that it does.” In dissent, Justice Breyer (joined by three other colleagues) argued that the Court should “grant the petition for certiorari in order to reconsider *Citizens United* or, at least, its application in this case.” Although Court rules would have allowed the four-Justice minority to force the full Court to hear the case, because a “significant possibility of reconsideration” of *Citizens United* did not exist, the dissenters did not pursue this option.