

PRESS RELEASE

Wiley Files *Amicus* Brief in Case Implicating the First Amendment Rights of Businesses

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Washington, DC – On behalf of the U.S. Chamber of Commerce and the Consumer Brands Association (CBA), Wiley Rein LLP submitted an *amicus* brief with the District of Columbia Court of Appeals in a case implicating the First Amendment rights of businesses to discuss issues of public concern, including environmental, social, and governance topics.

The *amicus* brief, filed in support of The Coca-Cola Company in *Earth Island Institute v. Coca-Cola Company*, Case No. 22-CV-895, urges the appeals court to affirm the dismissal of a lawsuit brought under the DC Consumer Protection Procedures Act (CPPA). In a November 2022 ruling, the District of Columbia Superior Court rejected the plaintiff's claims that public statements made by Coca-Cola regarding its environmental sustainability goals constituted false and deceptive marketing under the CPPA.

As noted in the *amicus* brief, all businesses “have a strong interest in this case because an overly broad construction of the District of Columbia Consumer Protection Procedures Act ... would chill protected expression guaranteed by the First Amendment and would impede constructive dialogue to pursue important sustainability goals.”

While the CPPA protects consumers from specific, enumerated, unlawful trade practices, it “does not authorize private plaintiffs to leverage the power of the state to silence any message or speaker with which they happen to disagree,” Wiley argued in the *amicus* brief.

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An “erroneous construction of the CPPA,” if embraced by the court, would have a chilling effect on First Amendment rights, according to the *amicus* brief. “If a business’s claims about its desire for a cleaner planet, for example, could lead to CPPA liability, then many businesses will undoubtedly conclude that the safer course is to say nothing at all,” Wiley explained in the brief. “In this way, the CPPA would put businesses at a disadvantage in communicating their points of view by potentially subjecting them to liability that other types of speakers do not face.”

The *amicus* brief on behalf of the U.S. Chamber and CBA was authored by Wiley partner Jeremy J. Broggi and associate Boyd Garriott, who are members of Wiley’s Issues and Appeals Practice.