

IMPORTANT INFORMATION FOR MUNICIPALITIES

U.S. SUPREME COURT DECISION MAY

IMPACT PROCEDURES FOR PUBLIC SOLICITATION WITH MUNICIPALITIES NATIONWIDE

SEPTEMBER, 2002

An important U.S. Supreme Court decision that may impact procedures for public solicitation within municipalities nationwide was decided on June 17, 2002. In the case of *Watchtower Bible and Tract Society of New York v Village of Stratton*, the Supreme Court held that an ordinance prohibiting door-to-door advocacy for a particular cause without first registering with the City is a violation of the First Amendment as it applies to religious, political speech and the distribution of handbills.

In this case, the Village of Stratton, Ohio created an ordinance prohibiting canvassers from going in and upon private residential property to promote any cause without first obtaining a permit from the Village. The petitioners, a congregation of Jehovah's Witnesses, pursued this ordinance to the U.S. Supreme Court claiming that it violated their First Amendment rights to the free exercise of religion, free speech and freedom of the press. The Village defended its ordinance saying that it served to protect the privacy of residents and prevent crime.

In order for an applicant to obtain a solicitation permit, he or she would have to register with the Mayor's Office and obtain a license. This applied to both commercial activity and solicitations for religious, political or other public information purposes. The Village also provides "No Solicitation" signs for residents who do not wish to be disturbed by door-to-door canvassers.

In his analysis of the ordinance, Justice Stevens, writing for the eight-Justice majority, recognized the legitimate interests that a town may have for the regulation of door-to-door solicitors, particularly when the solicitation of money is involved. He said that had the Village ordinance been construed to apply only to commercial activities and the solicitation of funds, then the ordinance would have been better suited to the Village's interest in protecting privacy and preventing crime. In this case, however, the ordinance went beyond the solicitation of money and included individuals soliciting for religious, political or other public information purposes.

In its analysis, the Supreme Court reviewed the his-

torical importance of door-to-door canvassing and pamphleteering as vehicles for the dissemination of ideas. This included anonymous door-to-door pamphleteering for political or other public information purposes. The Court concluded that as a matter of principle, a requirement that a person register with the City in order to make a public speech would seem generally incompatible with an exercise of rights of free speech and free assembly. The Court concluded that the free speech rights of individuals cannot be subordinated by requiring a registration as a condition for exercising these rights. A requirement that one must register with the government before he or she undertakes to make a public speech to enlist support for a lawful movement is incompatible with the requirements of the First Amendment, the Court said.

The Court also said that it considered the door-to-door canvassing regulation unconstitutional, not only to religious proselytizing, but also to political speech and the distribution of handbills. As the Village also provided residents with "No Solicitation" signs, the Court concluded that these signs, coupled with a resident's unquestioned right to refuse to engage in conversation with unwelcome visitors, provides ample protection for those who do not wish to be disturbed by door-to-door solicitors, regardless of their intentions or their cause.

This decision is significant to municipal governments who may have requirements that individuals register with the City before they can go door-to-door in order to promote a religious or political cause, or some other form of public information purposes. It is our recommendation that such practices be discontinued immediately in light of this decision. This decision, however, upholds a city's right to require a license for any person who intends to go door-to-door to solicit money or to sell goods.

If you have further questions regarding this decision, please contact one of our highly-skilled attorneys.

Kurt L. Heise

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FORUM

From the desk of Owen J. Cummings
Chairman

FORUM is a new feature of our newsletter, which will appear periodically, and is intended to spark an exchange of ideas from our clients. Owen Cummings, as the most senior attorney with the firm, was elected Chairman of the CMDA Corporation at the beginning of 2002. He initiates our FORUM feature in this issue.

The following topics currently top the news and are on the minds of our business and governmental leaders. We welcome your thoughts and opinions on the questions raised and look forward to the possibility of including them in future FORUM columns.

Business 101

Enron, WorldCom, Arthur Andersen...

At what point did corporations **STOP** operating for the benefit of their shareholders and **START** operating for the benefit of their executive officers? What the public has seen is a failure of corporate directorships to protect their shareholders, many of whom are employees, and a failure to govern with their corporate trusteeship foremost in mind. All the investment houses are saying "stay the course" and "don't jump ship" to individual investors. This rings hollow for individual investors who have seen executive officers operate companies for their own benefit by falsifying records to enhance their income and then "jump ship" with their ill-gotten gains. Must Congress do more to avert repetitions of this scenario? Can free market mechanisms ultimately right the course? Tell us what you think.

September 11th. Property Insurance

When you receive your renewal notice for property insurance, you should be angry! Not at insurers, but angry at those responsible for the September 11th tragedy. It is recognized that the direct property damage claims arising from the events of September 11th will **exceed 30 billion dollars**. You and I will help pay that bill. As we pay, we need to consider the underlying causes of that tragedy. The loss of human lives and the loss of property of this scale cannot be excused for any reason.

Fanatical leaders continue to have a ready source of people who give their lives as a price for their cause. In the New York trade center event, the fanatics destroyed what they believed was the symbol of western materialism and commercial culture. It is the responsibility of our leaders in government and in business to disprove the bases for these fanatical beliefs. Where government and/or business practices could result in denial of basic human rights to people, we should be willing to publicly air the issues to form a consensus for action. **It is only when our act is together that we can lead others.** Do you agree?

Send your thoughts and opinions to:

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Attorney Profile

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Owen J. Cummings, the founder of the firm, senior partner and Chairman of the CMDA Corporation, concentrates his practice on Corporate Law, Municipal Law, General Civil Litigation and Insurance Law.

Mr. Cummings is a member of the State Bar of Michigan (Insurance Law and Municipal Law sections), Livonia Bar Association and American Bar Association. He has given numerous speeches and lectures throughout his legal career, including speeches on the Freedom of Information and Open Meeting Act and Risk Management in Law Enforcement.

Mr. Cummings received his Bachelor and Juris Doctorate degrees from Detroit College of Law. His undergraduate majors were Mechanical Engineering and Pre-Law. He can be reached by calling our Livonia office at (734) 261-2400 or via e-mail at ocummings@cmda-law.com.

SUMMER EMPLOYEES A WELCOME ADDITION TO CMDA

Every June new faces start showing up in the hallways of Cummings, McClorey, Davis & Acho. These new employees, usually college students, join the firm during the summer months as a way to gain experience in the legal field and/or to earn extra money for college expenses.

Nicole Lang, a third-year student at Michigan State University-Detroit College of Law, joined the firm this summer as a law clerk. Throughout the summer she had the opportunity to work with several attorneys, but primarily with Eileen Husband and Eugene Pyatenko, both partners in our Livonia office. Nicole gained an abundance of experience in Labor and Employment Law and even got the opportunity to assist Eileen with two major lawsuits. Although Nicole joined the firm as a summer law clerk, we are delighted that she is going to continue working at the firm part-time while attending law school this fall.

After finishing her freshman year at college, Rachel Porter joined the firm part-time as one of Mr. Acho's assistances. She helped him with various projects, such as typing, filing, copying and closing files. Rachel attends the University of Michigan and is majoring in Psychology.

Kristin Kremer worked in our word processing department this summer. She assisted the attorneys and support staff with word processing assignments, filing and copying. Although she is currently majoring in instrumental music education at the Uni-

versity of Michigan to become a middle or high school music teacher, employees have attempted to convince her to go to law school. While it was not something she had thought about before, Kristin now responds with an optimistic "maybe" when asked if that is a possibility.

After finishing his freshman year at Western Michigan University, Chris Young joined the firm as a full-time courier. During his holiday break last December, Chris helped the firm deliver holiday baskets to clients. He did such a wonderful job finding clients' homes and businesses that we welcomed him back this summer. He helps our Livonia, Roseville and Farmington Hills offices deliver important documents to the Courts, other law firms and various locations of business. One of the things Chris enjoys most about his job is always being on the move. He likes driving in his vehicle, listening to music and trying to find different locations throughout Metropolitan Detroit.

Kelsey Burch graduated from high school in June and helped our Battle Creek office this summer by answering the telephone, making copies and doing some light filing. She is starting her first year at a community college in the Battle Creek area this fall. Although Kelsey was planning on majoring in marketing, she is now considering a career in the legal field because she found some of the cases she worked on very interesting.

Timothy Young, Executive Committee

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Our Vision

To meld our legal expertise, professional support staff, technical resources and variety of locations to deliver first rate legal services at a fair value to a full range of business, municipal, insurance and individual clients.

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Comments and questions regarding specific articles should be addressed to the attention of the contributing writer. Remarks concerning miscellaneous features or comments to the editor should be addressed to the attention of Jennifer Sherman.

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