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Supreme Court to Hear Political Swag Case

Christopher Ruvo

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The U.S. Supreme Court is about to consider a case that could have significant implications for the promotional products industry as it centers on the wearing of branded political items on election days at the voting polls.

Scheduled to be heard before the nation's highest court on Feb. 28, the case is rooted in a challenge to a Minnesota state law that bars voters from donning political apparel, buttons, hats and more when they cast their ballots. A number of other states institute similar prohibitions, meaning the court's ruling could have implications for them as well, while also setting a precedent that could potentially impact future policy in states that have not weighed in on the issue.

Certainly some leaders in the promotional products industry are taking an interest in the case. And, many weren't shy about sharing their opposition to Minnesota's prohibition with Counselor.

"I believe people should be able to wear anything they want at a polling place," Chuck Fandos, U.S. CEO for distributor Brand Addition, told Counselor. "I see it like going to a sporting event and wearing your team's jersey. I believe it is part of a first amendment right we have in this country to support what we want to."

Paul Lage, CEO of Top 40 supplier Gill Studios (asi/56950), expressed similar sentiments about Minnesota's law. "We have plenty of rules around protecting our election sites, but this is certainly an overreach," Lage told Counselor. "I think our lawmakers have a lot more things to worry about than logo wear at an election site. I believe in freedom of expression and people's rights to show their support."

Bob Lilly Jr., president of Bob Lilly Promotions (asi/254138), said that what especially bothers him about Minnesota's ban on voter apparel is that it applies to "any clothing that reflects personal values, even clothing with a message that is unrelated to anyone's campaign. I don't disagree that we need to have safe places to cast our voting ballots, but this limitless encroachment on personal expression is a slippery slope. I'm glad the Supreme Court has agreed to hear the case."

The challenge to Minnesota's law comes from the Pacific Legal Foundation, which argues that constitutionally-guaranteed free speech rights dictate that voters should be able to garb themselves in political gear when voting. Wen Fa, a lawyer with the foundation, **told the Associated Press** that wearing political clothes is "a passive way to express core political values." The case is "about the free speech rights of all Americans."

Organizations on opposite ends of the political spectrum, including the liberal American Civil Liberties Union and the libertarian Cato Institute, support the Pacific Legal Foundation's position. "The American electorate is surely hardy enough to vote their conscience even if they notice their fellow citizens wearing, say, a Black Lives Matter or AFL-CIO T-shirt, a Women's March hat, or a pro-life or peace-sign button," the ACLU stated in a court brief.

Minnesota sees things in a different light.

Attorneys for the state filed documents with the court that argue that banning politically branded apparel and the like at polling stations preserves "order and decorum," while preventing "voter confusion and intimidation."

"I think what's important to understand is the purpose of this prohibition is to protect the fundamental right to vote," Daniel Rogan, who is arguing the case for the state, told the AP. He said he is unaware of anyone being issued a fine of up to \$300 allowed under the law. The AP noted that lower courts have sided with the state.

The case before the Supreme Court has its origins with two Minnesota voters who defied election officials. One wore a "Please I.D. Me" button and another wore a tea party T-shirt when voting.