GIBSON DUNN

Gibson Dunn Files Amicus Brief in U.S. Supreme Court in Two Cases with Significant First Amendment Implications

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On December 7, 2023, Gibson Dunn filed an amicus brief in the U.S. Supreme Court in two cases, *NetChoice, LLC v. Paxton* and *Moody v. NetChoice, LLC*, with significant First Amendment implications. The cases arise out of Florida and Texas laws that, in effect, tell certain websites and apps—such as Facebook, YouTube, and X—what material they have to allow on their services. A fundamental question presented by the cases is whether legislatures can, consistent with the First Amendment, curtail editorial discretion that way. Our brief on behalf of a group of prominent historians explains that the answer to that question is no. Printers in the 18th century "would select which material to publish (and which not to publish), based on a variety of motivations" without the government infringing on that exercise of editorial discretion, and that freedom of editorial discretion was "enshrined . . . in the First Amendment's Press Clause." In other words, the Founders recognized that freedom of the press necessarily encompasses editorial discretion. The Gibson Dunn team included partners Ted Boutrous and Kristin Linsley, partner-elect Lee R. Crain, and associates Jason Bressler, Chase Weidner, Sasha Dudding and Iason Togias.

Related Capabilities

Litigation

First Amendment and Free Expression

Related People

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