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Project CIVICA, Liberty Legal Foundation Ask Supreme Court to Protect Independent Legal Advocacy

Amicus brief in Eastman case argues that states should not use disbarment to punish lawyers for controversial political advocacy or disputed legal and constitutional arguments.

New York, New York — Project CIVICA, Inc. and Liberty Legal Foundation announced today the filing of an [amicus curiae](#) (“friend of the court”) brief with the U.S. Supreme Court in [John C. Eastman v. State Bar of California, U.S. Supreme Court No. 26-336](#), arising from California Supreme Court Case No. S292011.

Eastman was disbarred in California following disciplinary proceedings centered substantially on his public statements, legal advice, and advocacy concerning the 2020 election. In their amicus brief, the organizations argue that the disciplinary action raises broader questions about the extent to which a state may sanction an attorney for speech, legal advice, and advocacy involving disputed political and constitutional issues.

The organizations argue that the answer matters far beyond John Eastman or the 2020 election.

“Americans must be able to find lawyers willing to take difficult cases, represent unpopular clients, and challenge prevailing legal views,” said representatives of Project CIVICA and Liberty Legal Foundation. “Lawyers should not have to fear losing their careers simply because the arguments they make are controversial or are later rejected.”

The brief does not ask the Supreme Court to endorse Eastman’s views about the 2020 election or every legal or factual position attributed to him. It asks the Court to set clear standards on when a state may discipline an attorney for speech and advocacy.

The brief acknowledges the authority of states to discipline attorneys for defined professional misconduct, while arguing that controversial speech or an unsuccessful legal argument should not, without more, be treated as intentional professional misconduct.

The brief challenges the application of California disciplinary standards concerning “moral turpitude” and an attorney’s duty to “support the Constitution.” The amici argue that when broad standards like these are applied to political speech and disputed legal arguments, they can become tools for punishing controversial advocacy after the fact.

As the brief explains, lawyers are often asked for advice when facts are incomplete, deadlines are short, the law is unsettled, or public controversy is intense. That is particularly true in cases involving elections, constitutional rights, religious liberty, civil rights, government accountability, and other politically sensitive issues.

“If lawyers face professional ruin whenever regulators later deem a controversial position unreasonable, unconventional, or politically unacceptable, independent legal representation and vigorous advocacy will suffer,” the organizations said. “If lawyers believe taking a controversial case or advancing an unconventional legal argument could later jeopardize their careers, some will simply refuse those cases. The people who ultimately lose are the citizens and organizations who need independent legal representation.”

Project CIVICA and Liberty Legal Foundation were joined by the North Carolina Values Coalition, attorneys Christopher Byrne, Ronald D. Coleman, Nathan Earle, and Harry MacDougald, and Professor Randy E. Barnett, writing in his individual capacity.

The organizations thanked Patrick R. Sciacca, Esq., counsel of record, for his work preparing and filing the brief.

The brief asks the Supreme Court to hear the case and reverse the California Supreme Court's decision.

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ABOUT PROJECT CIVICA

Project CIVICA is a New York-based, nonpartisan, tax-exempt social-welfare organization dedicated to civic engagement, citizen oversight of government, and public confidence in lawful and verifiable elections.

ABOUT LIBERTY LEGAL FOUNDATION

Liberty Legal Foundation is a nonprofit legal organization dedicated to defending the rule of law and protecting due process, equal protection, and freedom of expression.