

Bird Marella to Represent Law Professors Before U.S. Supreme Court on Key First Amendment Issue

Bird Marella partner [Ronald J. Nessim](#) and counsel [Gregory T. Nolan](#) are representing a group of law school professors pro bono in their amicus brief before the United States Supreme Court in *Sittenfeld v. United States*. Granting certiorari of this case, as the brief requests, will provide the Court an opportunity to clarify and vindicate the First Amendment's role in public corruption cases.

The case concerns Alexander "P.G." Sittenfeld, a once-rising star in Ohio's Democratic Party, who was indicted by the U.S. Department of Justice on bribery charges. His prosecution focused on statements that he had made to an FBI cooperator posing as a donor. In talking with the "donor," Sittenfeld explicitly rejected any quid pro quo. But other statements of his were more ambiguous, where some could infer an improper intent and some would not.

Sittenfeld was convicted but has always maintained his innocence. A divided Sixth Circuit upheld the conviction, deciding that a quid pro quo need not be express, and that the prosecutors are not required to prove one with "unambiguous evidence."

Bird Marella's amicus brief argues that the Sixth Circuit's decision will chill protected First Amendment protected speech. That's because politicians must discuss their stances on issues to raise money from voters who already agree with them. Such discourse benefits not only politicians, but also voters who are trying to identify which candidates to support.

The brief explains that this matching of candidates with aligned supporters will be frustrated if ambiguous evidence of a quid pro quo can sustain a bribery conviction. For instance, if candidates fear that a statement at a group's fundraiser about what they plan to do in office to help the group could be misinterpreted as an implicit agreement to help the group for a donation, then they will be much more guarded in discussing their platform. With political speech lying at the core of the First Amendment, the brief argues that is an outcome the Constitution cannot accept.

Read the amicus brief [here](#).