

Nevada HOA Update: Will The Nevada Supreme Court Limit the Negative Impact of the SFR Decision to HOA Sales Occurring After September 18, 2014?

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The Nevada Supreme Court has scheduled oral argument before an En Banc Panel in K&P Homes vs. Christiana Trust, Case No. 69966. The oral argument will take place in Carson City on May 1, 2017 at 11:30 a.m. and will be live streamed via the Nevada Supreme Court website. Attorney Dana Jonathon Nitz from the law firm of Wright Finlay & Zak, LLP will argue on behalf of Christiana Trust.

U.S. Supreme Court - Credit Card Disclosure Statute Regulates Free Speech

by John Delikanakis and V.R. Bohman Snell & Wilmer

In a unanimous decision, the U.S. Supreme Court recently held that retailers engage in protected speech when they communicate their prices to customers. Specifically, the Court addressed communication regarding differential pricing between cash and credit card purchases. The Court held that statutes requiring differential pricing to be described as cash “discounts” rather than credit card “surcharges” are subject to heightened scrutiny under the First Amendment. The Court reasoned that such statutes regulate speech and not conduct. *Expressions Hair Design v. Schneiderman*, Docket No. 15-1391, issued on March 29, 2017, addressed a New York statute targeting such differential pricing and can be read by clicking [here](#).

The Court remanded the case to the U.S. Court of Appeals for the Second Circuit to determine whether New York General Business Law § 518 passes constitutional muster as a restriction on free speech. The Supreme Court is also considering petitions for certiorari addressing similar statutes in Texas and Florida. Those cases will likely be remanded to their respective lower courts for further review in light of *Expressions Hair Design*.

This decision is part of a protracted disagreement between retailers and credit card issuers regarding whether and how retailers should communicate differential pricing, such as the common two-to-three percent surcharge on credit card transactions, to the affected consumers.

The practical effect of Wednesday’s ruling is that similar state statutes are now subject to attack as an impermissible restriction of a retailer’s right to free speech when communicating their prices. It will also likely dampen efforts by state legislatures to enact similar laws modeled on the New York statute or similar laws in Texas and Florida.

http://info.swlaw.com/reaction/2017/Alerts/0330_USSupremeCourtCreditCardDisclosureStatuteRegulatesFreeSpeech_WEB.html

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