

For Immediate Release

**IN SIGNIFICANT AND UNANIMOUS WIN,
APPELLATE COURT UPHOLDS
NEW YORK CITY'S REGULATION OF BILLBOARDS**

**FEDERAL APPEALS COURT REJECTS INDUSTRY'S CONSTITUTIONAL ATTACK
ON THE CITY'S ATTEMPT TO REIGN IN
THE PROLIFERATION OF ILLEGAL BILLBOARDS AND ADVERTISING SIGNS**

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New York, February 3, 2010 – A federal appeals court, the Manhattan-based Second Circuit Court of Appeals, this morning completely rejected several constitutional challenges brought by a number of large national outdoor advertising companies against the City's regulation of outdoor advertising. The court's ruling affirms the March 31, 2009, of U.S. Southern District Court Judge Paul A. Crotty.

In upholding the constitutionality of the regulations, in a unanimous (3-0) opinion written by Second Circuit Judge Richard C. Wesley, the Court held that the City may restrict advertising along the City's arterial highways and public parks, as well as throughout certain zoning districts, notwithstanding the fact that it allows outdoor advertising in certain circumstances, such as on bus stop shelters and other "street furniture" (i.e. bus shelters, newspaper stands). Today's ruling decides two cases, which were heard together:

- The first case was filed by Clear Channel Outdoor, Inc.; Atlantic Outdoor Advertising, Inc.; Scenic Outdoor, Inc.; Troystar City Outdoor, LLC; and Willow Media, LLC. These companies (referred to as "the Clear Channel plaintiffs") all operate large-formal billboards along the City's arterial highways. In their appeal, the Clear Channel plaintiffs contended that provisions of the City's Zoning Resolution which regulate the size and location of advertising signs in proximity to the City's arterial highways and public parks are unconstitutional, because they do not advance the City's interest in promoting traffic safety and aesthetics. In addition, Clear Channel also challenged the constitutionality of the requirement that outdoor advertising companies must register all their arterial signs with the Buildings Department. In rejecting the Clear Channel plaintiffs' challenge, the Appeals Court held that, "Supreme Court precedent instructs that, if the City's determination about how to regulate outdoor commercial advertising is 'reasonable'—and we find that it is in this case—then we should defer to that determination."
- The second case involved challenges brought by Metro Fuel, LLC, the owner of smaller 24-square foot, internally-illuminated "panel" signs often located in parking lots or on the sides of buildings. In rejecting this challenge, the Court upheld the constitutionality of the portions of the Zoning Resolution that prohibit this type of advertising sign on buildings and other private property even though limited advertising is otherwise allowed on certain street furniture on the City's sidewalks. In upholding the City's regulations, the Court stated, "The City may legitimately allow limited and controlled advertising on street furniture, while also reducing clutter on City

sidewalks. Allowing some signs does not constitutionally require a city to allow all similar signs.”

“Today’s decision makes it clear that the Department’s regulation of outdoor advertising is integral to protecting public safety and preserving quality of life in New York City,” said Edward Fortier, Executive Director of the Special Enforcement Unit at the Department of Buildings. “By upholding restrictions on advertising along arterial highways and public parks, and in certain zoning districts, the Department can more effectively enforce against these illegal signs and the companies behind them.”

“We are pleased that the Appellate Court has upheld the City’s ability to eliminate the proliferation of illegal billboards and other advertising signs throughout New York City,” said Karen Griffin, Senior Counsel in the Appeals Division, NYC Law Department, and the City’s lead appellate lawyer in the case. “The purpose behind the City’s efforts is to eliminate the visual clutter caused by illegal advertising and preserve the esthetics and character of the City’s neighborhoods.”

Deputy Appeals Chief Francis Caputo worked on the case with Karen Griffin, and Administrative Law Division Senior Counsel Sheryl Neufeld and Christina Hoggan successfully litigated the matter in the lower court.

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