

From the office of U.S. Representative Dennis Kucinich



Do Corporations Have A Constitutional *Right to Lie*? **Join a Congressional *Amicus* Brief to Protect Consumers**

Dear Colleague:

The US Constitution accords less protection to commercial speech than to other forms of expression, such as political speech. But in early April, the Supreme Court will hear oral arguments in *Kasky versus Nike*, a case that could reshape Constitutional definitions of commercial and political speech, giving corporations unprecedented freedom to make false and misleading statements in advertisements, newspaper editorials, and other venues.

A 1996 *48 Hours* broadcast reported the horrific and illegal working conditions Nike workers endured in overseas factories. In response, Nike used advertisements, press releases, and letters to newspaper editors and university presidents to refute these claims and to defend their factory conditions. Mark Kasky, on behalf of the public, sued Nike under California's false advertising and unfair competition laws. The California Supreme Court ruled in favor of Mr. Kasky. The US Supreme Court will now determine if false statements made by Nike in defense of their factory working conditions are protected by the Constitution as free, political speech or if the statements should be considered commercial speech afforded less First Amendment protections.

It is critical that the Supreme Court does not severely narrow the definitions of commercial speech, giving corporations greater reign to make false claims to consumers and the public about their products, working conditions, and corporate philosophy. Instead, the Supreme Court should protect consumers everywhere by making clear that political speech is clearly distinct from commercial speech and should be afforded greater Constitutional protection than speech made by corporate entities motivated to sell products.

Join me in filing a Supreme Court *amicus curiae* brief in support of Kasky, the public, consumers, and the United States Constitution. Please contact Michael Oswalt in my office at 55871 with any questions or to sign on to the brief.

Sincerely,

Dennis J. Kucinich
Member of Congress

**When did Nike become so concerned about Freedom of Speech?
Perhaps after their own audit of overseas factory conditions contradicted their
claims to consumers.**

Dear Colleague:

Lately, the folks at Nike have been pretty concerned with the First Amendment. Nike wants to make sure their public statements, and those of other corporations, constitute political speech, which is protected fully under the Constitution and immune from citizen lawsuits.

Why is Nike concerned? Let's see how their speech has been used in the past to inform the public about their business practices and encourage them to buy their products.

NIKE: “Average line-workers’ wage in Asian subcontracted facilities is double the government-mandated minimum” (Nike Responds to Sweatshop Allegations).

TRUTH: *Workers at the Tae Kwang Vina factory in Vietnam earn \$45 per month with overtime hours that often exceed Vietnam’s limits. The minimum wage for workers in Vietnam is \$40 per month. (Nike’s own Ernst & Young Audit)*

NIKE: “[Nike] provides free meals, housing and health care.” (NIKE CEO Phil Knight 6/21/96 NY Times)

TRUTH: *Workers who produce Nike products are forced to pay 9 cents for their lunches. For perspective, workers are paid about 16.8 cents per hour. In addition, workers pay for their own health care. (Vietnam Labor Watch)*

NIKE: “Nike takes full responsibility for working conditions wherever its products are produced.” (Nike Document: Please Consider This...)

TRUTH: *In Vietnam, a plant supervisor fled the country after he was accused of sexually molesting several workers. In a speech on 9/16/96, CEO Phil Knight stated the supervisor was just trying to wake the workers and must have touched them in the wrong place. The Vietnam government took a different view: it instigated extradition procedures against the supervisor (Kasky v. Nike Complaint Exhibit).*

With yearly revenues of over \$9 billion, NIKE has the resources to spread their corporate message far and wide. **Do they also have the Constitutionally protected right to distort or misrepresent the truth for commercial gain?**

Corporations are not people, and the First Amendment should account for their unique motivation: sales. **Join me in filing an amicus brief in the Supreme Court case Kasky vs. Nike to ensure citizens do not lose one of the few tools they have to hold corporations accountable.** Please contact Michael Oswald x55871 to sign on to this brief.

Sincerely,

Dennis Kucinich
Member of Congress