

<MARKETPLACE OF IDEAS> VS. <CORRUPTION>: RHETORICAL EXAMINATION OF
CITIZENS UNITED V. FEDERAL ELECTION COMMISSION

by

ANDREW W. GOODWIN

B.A., HASTINGS COLLEGE, 2009

A THESIS

submitted in partial fulfillment of the requirements for the degree

MASTER OF ARTS

Department of Speech, Theatre, & Dance
College of Arts & Sciences

KANSAS STATE UNIVERSITY
Manhattan, Kansas

2011

Approved by:

Major Professor
Charlie J.G. Griffin

Copyright

ANDREW W. GOODWIN

2011

Abstract

The primary purpose of the Supreme Court is to interpret the constitution. The Court determines whether acts in society are Constitutional. Because of this responsibility, the Court itself is an institution that influences and is influenced by ideology and rhetoric. Because society's ideology changes due to humans conversing with one another, so does the law. Given this context, America's First Amendment provides an abundant body of artifacts where the law and rhetorical ideology overlap. One particular right granted in the First Amendment is the freedom to speak. This right granted by the Constitution is titled the free speech clause. This clause has been a subject of debate throughout American history. Furthermore, this right has been defined, re-defined, and shaped to fit certain particular interests in society. The Supreme Court last year made a recent landmark decision that concerns freedom of speech and campaign finance. This study will examine *Citizens United v. Federal Elections Commission* in order to investigate the rhetorical strategies and ideological influences embedded within the decision. The methodological tool of McGee's proposed ideograph will be used in order to answer the following research question: What role does ideology, concerning free speech, play in the *Citizens United v. FEC*? From the given analysis, two ideographs emerged, <Marketplace of ideas> and <Corruption>. These two ideographs provided the basis to articulate an ideological framework by which scholars can understand the Supreme Court and answer the following research question. Furthermore, the analysis of this decision assisted this study to explain possible implications and conclusions from the ruling in *Citizens United*.

Table of Contents

Acknowledgements	v
Dedication.....	vi
Chapter 1 - Introduction	1
Chapter 2 - Examination of the Literature.....	5
Freedom of Speech in America	6
Supreme Court as Rhetorical Institution	16
Rhetorical Examination of The Supreme Court	18
Chapter 3 - Method	24
Ideograph.....	24
Development of the Ideograph	26
Procedure.....	30
Identifying the Nature and Strategies of an Ideograph.....	30
Diachronic.....	30
Synchronic	31
Artifact.....	32
Chapter 4 - Analysis.....	33
Marketplace of Ideas	35
Speech.....	36
First Amendment.....	39
Identity	40
<Marketplace of ideas>	42
Corruption.....	45
Integrity of the Political Process	46
Tradition.....	48
First Amendment.....	50
<Corruption>.....	52
Chapter 5 - Conclusion.....	60
References	67

Acknowledgements

I would like to recognize and thank my committee chair, Charlie Griffin, PhD, and my committee members – William Schenck-Hamlin, PhD and John Fliter, PhD – for their guidance and support throughout this process.

I would also like to thank my family for their ongoing support and encouragement during my time at Kansas State University. Their many prayers allowed me to make it and finish strong.

Finally, to all my friends, colleagues, and professors who have helped me throughout my education; whether or not your names appear here, your support is remembered and appreciated.

Dedication

For my family and friends: To my Dad, Wesley, who has provided advice and encouragement to me throughout my education. To my brother, Kevin, who has always been a good friend and been there for me. To my Aunt Crizzy, who always listened to me and reminded me of my inner determination.

To my good friends Augustine Agyei, Alex Roseland, and Vincent Dipalo: who were there for me during my best and worse times. To the rest of my family: for their prayers and love that gives me the strength to move forward towards my passion in life.

Finally, in remembrance to those who have shaped my life but no longer here with me: Jacqueline W. Goodwin, Rebecca M. McKenzie, Rev. Clarence R. Goodwin PhD, Johnny McKenzie, and Rev. Kenneth V. Wallace. Their lives and example provided me the motivation to finish my program of study and continue striving for my dreams.

Chapter 1 - Introduction

The First Amendment provides U.S. citizens a number of rights that are to be protected by and from the government. Some of these include the right to practice religion, to assemble and to petition the government. One particular right granted in the First Amendment is the freedom to speak. The freedom of speech clause reads “Congress shall make no law...abridging the freedom of speech.” The language drafted in this sentence makes it clear that no law by the government shall prohibit the freedom of speech. In the vernacular, this right can be considered absolute. However, the Supreme Court has not always seen this right as absolute. This is because of the constant changes to the Court and its responsibility as a governmental institution.

The primary responsibility of the Supreme Court is to interpret the Constitution and assert what is constitutional. Because of this responsibility, the Supreme Court holds a principle by which judges are obliged to respect the precedents established by prior decisions. This principle is called *stare decisis*, and it means “to stand by decisions and not disturb the undisturbed” (Walker, 2010). Because the composition of the Court changes through time, as a result, so does the Court’s jurisprudence. An example can be noted in the first landmark case that concerns freedom of speech. In 1919, the Court handed down *Schenk v. United States*. Because of this legal principle, the presumed thought would be that the ideological doctrine of “clear and present danger” test would stand. However, in *Abrams v. United States*, the Supreme Court backtracked from this test and created a new test, the “bad tendency” test. The facts of both cases are similar, but the Court still changed its stance from the prior test. Given this short turn around and the binding influence the Supreme Court holds, it is vital for rhetoricians to examine these decisions and understand what rhetorical and ideological influences are at play. In light of these

examples, one particular area the Court has struggled to maintain a steady ideological position concerns corporation activity during elections.

On January 21, 2010, the Supreme Court handed down *Citizens United v. Federal Election Commission* 558 U.S. 50 (2010). This landmark decision gave corporations, unions, and non-profits the ability to contribute unlimited from their general treasuries into the campaign cycle through TV/Radio broadcasts and Political Action Committees (PACs). This decision virtually created a new ideological position concerning this issue. Though corporations still cannot contribute directly to candidates, this decision released the bans on how much they can contribute to a campaign for the election or defeat of a candidate. The significance of this decision provoked President Obama to say in the 2010 State of the Union Address:

Last week, the Supreme Court reversed a century of law to open the floodgates for special interests - including foreign corporations - to spend without limit in our elections. Well, I don't think American elections should be bankrolled by America's most powerful interests, or worse, by foreign entities. (Toobin, 2010)

In the wake of the 2010 mid-term elections, some of the practical implications concerning this decision are now being realized. In fact, financial disclosures in the 2010 election cycle show that congressional candidates have raised \$3.8 billion, virtually eclipsing fundraising in the last three election cycles going back to 2004. Michael Toner, a former Federal Election Commission chairman, told the AP during the election “We may be on track for the most expensive cycle ever, even more than ‘08, which is really hard to believe!” (Weber, 2010). Understanding that campaign expenditures in a mid-term election had eclipsed the most televised and anticipated presidential election in recent history shows how this recent decision can have foundational

impacts in our society. Finally, because *Citizens United* overturned a series of landmark laws and cases, it is vital to understand that departure. Therefore, this paper's research question is:

RQ1: What role does ideology, concerning free speech, play in the *Citizens United v. FEC*?

In the field of Communication Studies, a body of literature and practice specializes in examining human discourse. This field of study is appropriately titled rhetorical studies. The practice of rhetorical criticism begs a critic to examine an array of messages within a document. A critic examines these messages that are created through the process of human discourse. Rhetorical studies call these documents rhetorical artifacts, as they resemble an artifact that contains clues concerning human thought patterns (Hart, 2005). Therefore, rhetorical critics practice their work by examining a document, articulates the thought patterns, and surface specifiable consequences from human decision making within a given moment. No other documents are more fruitful for examination than Supreme Court decisions. Because of the given research question, a methodology in rhetorical criticism can assist the critic in establishing how ideology played a role in *Citizens United*.

Michael McGee's ideographic methodology will be the vehicle of this research project. McGee proposed a method that assists a critic in establishing a cultural ideology by identifying an ideograph and its usage. McGee defines an ideograph as an abstract and ill-defined term that promotes cultural commitment to a normative goal (McGee, p.15). Identifying the ideographs in *Citizens United* can explain the justices' ideology and the justification for their decision making. Because the ruling had both a majority and a dissenting opinion, examining both opinions will be important. Because of this endeavor, it will be expected that competing viewpoints will arise, and as a result, colliding ideographs. In order to reach the analysis though, a few other steps will

need to be taken. Therefore, this study will be organized into five chapters. Chapter one provides a rationale and basis for this research project. Chapter two examines the robust literature concerning how the Supreme Court treated freedom of speech and how rhetoricians examined this institution. Chapter three lays out the methodological procedure and examples of how the ideograph has been used. Chapter four is the analysis. Chapter five discusses the possible implications concerning the analysis of *Citizens United*.

Chapter 2 - Examination of the Literature

Scholars have long acknowledged that ideology plays a significant role in the creation and implementation of laws (Haplin, 2006; Nelson, 2001; Hansen-Thomas, 2007). Because ideology has remained a term that scholars in a variety of disciplines define in several ways, the broadest and most applicable definition of ideology is a body of doctrine, belief, or myth that guides an individual, large class of people, social movement, or institution (Webster's, 2010). However, ideology does not uproot itself from nothing. In fact, the creation of an individual's ideology comes from humans conversing. It is understandable then that the ideological position of society will change by allowing citizens to voice their concerns and interact with one another. This in turn will influence how laws are created and maintained. As a result, it is understandable then holding onto the notion that the law is an objective concept free from the pressures of sophistry and rhetoric is a false conception. Because the law is designed to shape political and social communities, the process of making the law and its application is intrinsically and thoroughly communicative (Parker, 2003; Lewis, 1994 p. 8; Lucaites & Weithoff, 1994, p.1). Therefore, the position of this study falls on White's assumption, that binding documents, such as the law, is constitutive rhetoric because language creates communities among speakers, listeners, and those about whom they speak (White, 1985). No other rhetorical artifacts are more fruitful for examination than the laws created through the institutions of government. One institution that heavily influences societal thought patterns and ideology is the Supreme Court. Because of the given research question, the process of reviewing the literature will examine how freedom of speech developed within the Supreme Court and how rhetoricians examined this institution. First, it will be important to know how "freedom of speech" influenced the Supreme Court's jurisprudence.

Freedom of Speech in America

One of the rights, designated in the First Amendment, is the freedom of speech. It reads: “Congress shall make no law...abridging the freedom of speech.” Because this study concerns the freedom of speech clause, it is important to know that the U.S. Supreme Court handed down its first landmark decision in 1919. During World War I, Charles Schenck, a member of the Socialist party, was responsible for printing, distributing, and mailing 15,000 leaflets to men eligible for the draft that advocated opposition to the draft (Tedford & Herbeck, 2001). These leaflets contained statements such as: “Do not submit to intimidation,” “Assert your rights,” “If you do not assert and support your rights, you are helping to deny or disparage rights which it is the solemn duty of all citizens and residents of the United States to retain.” Charles Schenck would be convicted under the Seditious Act of 1917 and Espionage Act of 1918. The Court would uphold the conviction. From this sole decision, a century of battle and interpretation would confront the Court concerning freedom of speech in the United States. A number of cases preceded this case concerning a variety of legal questions under the free speech clause.

Proceeding shortly after *Schenck v. United States*, 249 U. S. 47 (1919), the Court was faced with the legal question of whether does the Espionage Act violates the free speech clause of the First Amendment. In *Abrams v. United States*, 250 U. S. 616 (1919), the defendants were convicted on the basis of two leaflets they printed and threw from windows of a building. One leaflet, signed “revolutionists,” denounced the sending of American troops to Russia. The second leaflet, written in Yiddish, denounced the war and US efforts to impede the Russian Revolution. The defendants were charged and convicted for inciting resistance to the war effort and for urging curtailment of production of essential war material. They were sentenced to 20 years in

prison. The Court, in a 7-2 decision, determined that the law did not violate First Amendment protection freedom of speech. Oliver Wendell Holmes eloquently dissented by saying:

Every idea is an incitement. It offers itself for belief and if believed it is acted on unless some other belief outweighs it or some failure of energy stifles the movement at its birth. The only difference between the expression of an opinion and an incitement in the narrower sense is the speaker's enthusiasm for the result.

Eloquence may set fire to reason. But whatever may be thought of the redundant discourse before us it had no chance of starting a present conflagration. If in the long run the beliefs expressed in proletarian dictatorship are destined to be accepted by the dominant forces of the community, the only meaning of free speech is that they should be given their chance and have their way. (p. 9)

These two cases, established the tension between the “clear and present danger” test and the “bad tendency” test. This tension between the competing tests demonstrates how the Supreme Court itself is a rhetorical institution that influences and is influenced by ideology. Because of this, Justice Holmes would later assert the “marketplace of ideas.” This model overtime has become a standard that the Court placed as a goal when deciding cases. One of those cases that highlight the development of this model would be *Brandenburg v. Ohio*, 395 U. S. 444 (1969).

Brandenburg, a leader in the Ku Klux Klan, made a speech at a Klan rally and was later convicted under an Ohio criminal syndicalism law. The law made illegal advocating “crime, sabotage, violence, or unlawful methods of terrorism as a means of accomplishing industrial or

political reform,” as well as assembling “with any society, group, or assemblage of persons formed to teach or advocate the doctrines of criminal syndicalism.” The Court accepted the case for review. The legal question in front of the Court was whether the criminal syndicalism law in Ohio violated Brandenburg’s right to free speech as protected by the First and Fourteenth Amendments. The Court’s Per Curiam opinion held that the Ohio law did violate Brandenburg’s right to free speech. The Court used a two-pronged test to evaluate speech acts: (1) speech can be prohibited if it is “directed at inciting or producing imminent lawless action” and (2) it is “likely to incite or produce such action.” With this landmark case, the Court demonstrated that they were backing away from the “bad tendency” test and show their will to provide an absolute freedom of speech to the citizens of America. The Court would take another turn concerning freedom of speech that was a direct influence on the Citizens United case. This turn can be found in the *Texas v. Johnson* 491 U. S. 397 (1989) and *Tinker v. Des Moines* 393 U.S. 503 (1969) cases respectively. These two cases show the Court’s willingness to protect political and symbolic speech.

In *Texas v. Johnson* 491 U. S. 397 (1989), Gregory Lee Johnson burned an American flag as a means of protest against the Reagan administration’s policies. Johnson was tried and convicted under a Texas law outlawing flag desecration. He was sentenced to one year in jail and assessed a \$2,000 fine. After the Texas Court of Criminal Appeals reversed the conviction, the case went to the Supreme Court. The legal question in front of the Court concerned whether the desecration of an American flag, by burning or otherwise, a form of speech that is protected under the First Amendment. In a 5-to-4 decision, the Court held that Johnson's burning of a flag was protected expression under the First Amendment. The Court found that Johnson's actions fell into the category of expressive conduct and had a distinctively political nature. The fact that

an audience takes offense to certain ideas or expression, the Court found, does not justify prohibitions of speech. The Court also held that state officials did not have the authority to designate symbols to be used to communicate only limited sets of messages, noting that “if there is a bedrock principle underlying the First Amendment, it is that the Government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable.” Like the *Brandenburg* case, this was a stand by the Court to demonstrate their willingness to protect political speech and expression, even if it was highly disagreeable. Unlike this case, another case gave the precedent by which the Court would acknowledge as basis for the decision in *Citizens United*. *Tinker v. Des Moines* was a case that allowed the Court to carve out the interpretation that the Constitution even protects symbolic speech.

John Tinker, 15 years old, his sister Mary Beth Tinker, 13 years old, and Christopher Echardt, 16 years old, decided along with their parents, to protest the Vietnam War by wearing black armbands to their Des Moines schools during the Christmas holiday season. Upon learning of their intentions and fearing the armbands would provoke disturbances, the principals of the Des Moines school district resolved that all students wearing armbands be asked to remove them or face suspension. When the Tinker siblings and Echardt wore their armbands to school, they were asked to remove them. When they refused, they were suspended until after New Year's Day. The lawsuit would find itself resting in front of the Court with this legal question: does a prohibition against the wearing of armbands in public school, as a form of symbolic protest, violate the First Amendment's freedom of speech protection? The Court would decide that it was a violation of their constitutional freedoms.

These decisions highlight how the Court at first limits speech to then break down prior precedent to extend the constitutional freedom of speech to the citizens. Because of the nature of

this study, it is important to address how another ideological influence of the Court assisted the result in *Citizens United*. This concerns the notion that individual corporations have rights like a person and the rights of a business to enter and exit in contracts. Given these two notions, there are other cases that shape our understanding the logic behind *Citizens United*.

Corporate personhood has always been an area of debate and will continue to be. This constitutional notion provides civil liberties to a corporation as if they were normal citizens. The idea of corporate personhood first emerges in *Santa Clara County V. Southern Pacific R. Co.*, 118 U. S. 394 (1886). In this case, the state of California taxed fences owned by Southern Pacific Railway Company, but Southern Pacific asserted that the state Constitution only allowed taxes on “the franchise, roadway roadbed, rails, and rolling stock.” Southern Pacific also claimed that state tax board did not properly subtract its outstanding mortgages from the value of its property. Southern Pacific refused to pay taxes on its fences and the difference account for by subtracting outstanding mortgages. Santa Clara County brought action against it in a state Court. The county argued that since it could tax the land which situated the fences, it could also tax the additional value of the land added by the fences. Southern Pacific had the action moved to a federal district Court, which ruled that the state did not have jurisdiction to tax fences. The county appealed to the Supreme Court. The Court was faced with two legal questions: Did the California Constitution allow the state to increase property taxes against railroad companies when the companies added additional value to the property by building fences? Did the state tax board wrongfully tax property without deducting for the outstanding mortgages against the property owners? The Court concluded unanimously that the state tax board tried to levy a single sum against the railway company which both wrongfully included the value of the fences and excluded a deduction for the outstanding mortgages. The state tax board increased taxes on the

property based on an arbitrary measure of the value added by the fences. The state Constitution required the state and its counties to separately assess the “land, and improvements thereon” before increasing taxes. A state statute specified fences as a form of land improvement. This decision famously implied that equal protection laws provided by the Fourteenth Amendment applied to corporations. Amid this decision, the Court would further provide protections to corporations and the beginning precedent of campaign finance would emerge.

The beginnings of protected campaign spending can be found in *Trustees of Dartmouth Coll. V. Woodward*, 17 U. S. 518 (1819). Though this case does not directly consider political campaigns, the legal logic behind the case considers the notion of how corporations can spend their money. In 1816, the New Hampshire legislature attempted to change Dartmouth College—a privately funded institution--into a state university. The legislature changed the school's corporate charter by transferring the control of trustee appointments to the governor. In an attempt to regain authority over the resources of Dartmouth College, the old trustees filed suit against William H. Woodward, who sided with the new appointees. The legal question before Court considers whether the New Hampshire legislature unconstitutionally interfered with Dartmouth College's rights under the Contract Clause? In a 6-to-1 decision, the Court held that the College's corporate charter qualified as a contract between private parties, with which the legislature could not interfere. The fact that the government had commissioned the charter did not transform the school into a civil institution. Chief Justice Marshall's opinion emphasized that the term “contract” referred to transactions involving individual property rights, not to “the political relations between the government and its citizens.” This decision gave corporations the ability to donate, spend, and expedite their private finances in the way they feel best. Amid these two cases and its direct effects on the ideological framework of preceding Justices for the Court,

there are a few direct cases that are vital to the knowledge and understanding of the decision in *Citizens United*.

Given the basis of how free speech has developed in the United States, this paper can now turn to examine how the Court directly examined issues that concerned protecting the political process and freedom of speech. The cases to examine that are critical to the *Citizens United* case are *Buckley v. Valeo*, 424 U. S. 1 (1976); *Austin V. Mich. Chamber Of Comm.*, 494 U. S. 652 (1990); and *McConnell v. Federal Election Commission Et Al* - 540 U.S. 93 (2003). These three cases highlight the development of how the Court struggled to balance protecting the integrity of the political process and establishing freedoms for all.

Because of the notion that “money can buy elections,” the Court has always struggled to allow corporations to spend at will like normal citizens in elections, especially due to the distinct advantage corporations concerning immediate access to money. Furthermore, state and federal legislatures have also attempted on many fronts to curb the political participation of corporations. The first landmark case that considered this area directly was *Buckley v. Valeo*, 424 U. S. 1 (1976). In the wake of the Watergate affair, Congress attempted to ferret out corruption in political campaigns by restricting financial contributions to candidates. Among other things, the law set limits on the amount of money an individual could contribute to a single campaign and it required reporting of contributions above a certain threshold amount. The Federal Election Commission was created to enforce the statute. It would not be long till a constitutional challenge developed considering the notion it would violate corporate rights as a person. Therefore, the legal question concerning this case considered whether the limits placed on electoral expenditures by the Federal Election Campaign Act of 1971, and related provisions of the Internal Revenue Code of 1954, violate the First Amendment's freedom of speech and

association clauses? In this complicated case, the Court arrived at two important conclusions. First, it held that restrictions on individual contributions to political campaigns and candidates did not violate the First Amendment since the limitations of the FECA enhance the “integrity of our system of representative democracy” by guarding against unscrupulous practices. Second, the Court found that governmental restriction of independent expenditures in campaigns, the limitation on expenditures by candidates from their own personal or family resources, and the limitation on total campaign expenditures did violate the First Amendment. In other words, money is speech. Since these practices do not necessarily enhance the potential for corruption that individual contributions to candidates do, the Court found that restricting them did not serve a government interest great enough to warrant a curtailment on free speech and association. In essence, this decision started the battle between corporations being discriminated in the political process compared to their human counter-parts. While this decision shut the doors on corporations’ ability to use general treasury funds to support or oppose a candidate, it left open the door for individuals to spend without limit. Even though corporations can still contribute to Political Action Committees (PACs), it would not be long till the Supreme Court decision was challenged again.

In *Austin v. Mich. Chamber Of Comm.*, 494 U. S. 652 (1990), the Court would have to return to their established logic and decide if it holds water constitutionally. In this case, Michigan Campaign Finance Act prohibited corporations from using treasury money for independent expenditures to support or oppose candidates in elections for state offices. However, if a corporation set up an independent fund designated solely for political purposes, it could make such expenditures. The law was enacted with the assumption that “the unique legal and economic characteristics of corporations necessitate some regulation of their political

expenditures to avoid corruption or the appearance of corruption.” The Michigan Chamber of Commerce wanted to support a candidate for Michigan's House of Representatives by using general funds to sponsor a newspaper advertisement. This case demonstrates how the Court would even have to recognize the political process on the State level.

The Court was faced with the legal question of whether the Michigan Campaign Finance Act violated the First and Fourteenth Amendments. The Court said ‘no’ and reaffirmed their commitment highlighted in *Buckley*. The basis of the decision recognized the Michigan Chamber of Commerce argument, that it should have been excluded from the act's restrictions since the Chamber was a “nonprofit ideological corporation,” which was more analogous to a political association than a business firm. However, the Court disagreed and upheld the Michigan law. Justice Marshall found that the Chamber was akin to a business group given its activities, linkages with community business leaders, and high degree of members (over seventy-five percent) which were business corporations. Furthermore, Marshall found that the statute was narrowly crafted and implemented to achieve the important goal of maintaining integrity in the political process. Given this commitment, the fight for equal rights by corporations would not end.

In early 2002, a years-long effort by Senators John McCain and Russell Feingold to reform the way that money is raised for--and spent during--political campaigns culminated in the passage of the Bipartisan Campaign Finance Reform Act of 2002 (the so-called McCain-Feingold bill). Its key provisions were a ban on unrestricted (“soft money”) donations made directly to political parties (often by corporations, unions, or well-heeled individuals) and on the solicitation of those donations by elected officials. Two limits on the advertising that unions, corporations, and non-profit organizations can engage in up to 60 days prior to an election.

Finally, there were set restrictions on political parties' use of their funds for advertising on behalf of candidates (in the form of “issue ads” or “coordinated expenditures”).

The campaign finance reform bill contained an unusual provision providing for an early federal trial and a direct appeal to the Supreme Court of the United States, by-passing the typical federal judicial process. In May a special three-judge panel struck down portions of the Campaign Finance Reform Act's ban on soft-money donations but upheld some of the Act's restrictions on the kind of advertising that parties can engage in. The ruling was stayed until the Supreme Court could hear and decide the resulting appeals.

The legal question in front of the Court considers whether the “soft money” ban of the Campaign Finance Reform Act of 2002 exceed Congress's authority to regulate elections under Article 1, Section 4 of the United States Constitution and/or violate the First Amendment's protection of the freedom to speak? And do regulations of the source, content, or timing of political advertising in the Campaign Finance Reform Act of 2002 violate the First Amendment's free speech clause? With a few exceptions, the Court answered “no” to both questions in a 5-to-4 decision written by Justices Sandra Day O'Connor and John Paul Stevens. Because the regulations dealt mostly with soft-money contributions that were used to register voters and increase attendance at the polls, not with campaign expenditures (which are more explicitly a statement of political values and therefore deserve more protection), the Court held that the restriction on free speech was minimal. It then found that the restriction was justified by the government's legitimate interest in preventing “both the actual corruption threatened by large financial contributions and... the appearance of corruption” that might result from those contributions.

In response to challenges that the law was too broad and unnecessarily regulated conduct that had not been shown to cause corruption (such as advertisements paid for by corporations or unions), the Court found that such regulation was necessary to prevent the groups from circumventing the law. Justices O'Connor and Stevens wrote that “money, like water, will always find an outlet” and that the government was therefore justified in taking steps to prevent schemes developed to get around the contribution limits.

The Court also rejected the argument that Congress had exceeded its authority to regulate elections under Article I, Section 4 of the Constitution. The Court found that the law only affected state elections in which federal candidates were involved and also that it did not prevent states from creating separate election laws for state and local elections. Given the basis of how the Court examined the constitutional issue of campaign finance and participation by corporations, the framework by which the Court would decide *Citizens United* would lead to uproar and backlash from all sides and fronts in the United States.

At any rate, what can be drawn from the number of legal cases that uphold governmental regulation and struck down governmental regulation? Simply stated, the Supreme Court is a rhetorical institution confined to the communicative standards of America’s ideological values. The next section will then argue that this institution is rhetorical in nature.

Supreme Court as Rhetorical Institution

One of the most important legal-political institutions in America is the Supreme Court because of its ability to shape American culture (Brigham, 1987; Miller, 1978; Posner 1985), and its role as the ultimate interpreter of legislative and executive decisions. One of the most influential treatments of this issue in recent years is the argument advanced by Robert A. Dahl in 1957. Dahl offers a sophisticated “political” view of the role played by the Court, arguing that it

is an active participant in the ruling of national coalitions which dominate American politics but does not perform the task of protecting fundamental minority rights that is often attributed to it (Casper, p. 2). The Court, like other political institutions provides decisions that are typically supportive of the policies emerging from other political institutions. This effort by the Supreme Court makes them an ideal candidate of study within rhetorical theory.

The idea that the Supreme Court is an institution that is larger than political debate is a false conception. The notion that there will be an institution to interpret the law and determine if it is constitutionally valid was an idea that established during the Constitutional debates. Therefore, knowing the Supreme Court is an idea resulting from rhetorical debate provides any scholar the basis to examine the Court and its decisions through a rhetorical lens. Furthermore, rhetorically analyzing legal documents produced by the Supreme Court is an effective way to establish its impact on society (Gibson, p.160).

Studying the law through this lens demonstrates how ideas created by the Court, e.g. separate but equal, produces rhetorical ideologies that frame America's opinions by the language they use in the given opinions. This endeavor is important because the rhetorical dimensions created within the law institutionalize relations of power in a community, and order society's conceptions of social justice (Crenshaw, p. 183). Therefore, the law is a dependent subject of abstraction and a binding substance that represents the community's political action (Hasain, Condit and Lucaties, p. 333).

Because legal decisions can make a significant impact on a society, the study of judicial decisions can further illuminate the U.S. Supreme Court as a distinctly rhetorical institution bounded by America's ideological culture (Gibson, p. 173). Furthermore, because the Constitution is a political document, it can be reasoned that the Supreme Court is inseparable

from American culture for two reasons. First, the Court is instrumental in shaping culture by defining ideology and second, the Court justices are products of ideology. The Justice's jurisprudential philosophies are shaped through public interaction and discourse (Twigg, p. 4). Providing the rationale that the Supreme Court is a rhetorical institution, many scholars in the field of rhetoric have examined the Court in a variety of ways.

Rhetorical Examination of The Supreme Court

Justice Cardozo himself asserted that dicta statements made by the dissenters “speaks to the future, and his voice is pitched to a key that will carry through the years” (p.6). Furthermore, Justice Harlan once said “one man's vulgarity is another man's lyric.” Furthermore, Harlan states:

Much of linguistic expression serves a dual communicative function: it conveys not only ideas capable of relatively precise, detached explication, but otherwise inexpressible emotions as well... We cannot sanction the view that the Constitution, while solicitous of the cognitive content of individual speech, has little or no regard for that emotive function which, practically speaking, may often be the important element of the overall message sought to be communicated” (p. 26).

With this statement, it is clear that not only is speech a critical component of our Constitutional freedoms, but that the Constitution itself is a rhetorical artifact that bends and turns to fit the need of the day. Because of this notion, scholars in the field of communication studies have taken a number of approaches to examine how the Court operates rhetorically.

One rhetorical approach has been to examine the Court generically. Rodgers analyzed the majority and dissenting opinions of Justice William O. Douglas (Rodgers, p.233). Rodgers analyzed several opinions by Justice Douglas and within his study; substantive and stylistic characteristics emerged within and across each opinion and formed “internal dynamics.” Through this analysis, three types of arguments are used by a jurist: Argument from ideal, argument from rule, and argument from context (p. 233). These three hypothetical rhetorical genres focused the research to determine how jurists create a rationale for their argument. The first argument, argument from ideal, draws its warrant from natural law and self-evident and moral-denote principles such as *justice* and *unalienable rights*. The second argument, argument by rule, draws its warrant from legal positivism and the rule of *stare decisis*. The final argument, argument from context, draws its warrant based legal realism, societal goals and or pragmatic means resolved through litigation (p. 232). Through this scholarship, these arguments are in fact a basis of rhetorical debate within the Court, positioning critical inquiries into these legal opinions (Rodgers, p. 235). Similar to this analysis, other scholars have also focused on how the Supreme Court asserts itself through its legal opinions.

William Murphy points out that “we are so accustomed to thinking of the Constitution as law that we forget that first and foremost it is a political document” (1978). Amid this notion, communication scholars can do well by collaborating with other fields that examine the Supreme Court. In fact, numerous studies have documented how justices decide cases based on their political values and its empirical effects in society (Rhode and Spaeth 1976; Segal and Cover 1989; Tate1981). Furthermore, political scientists have crafted a model for interpreting whether a prediction can be made by a jurist based on their ideological and political positions. This model is referred as the attitudinal model (Segal, Epstein, Cameron, & Spaeth, 1995). This model

articulates that a decision/vote by a justice can be predicted based on their political affiliation and ideological values. Furthermore, research has found that in a post-Warren Court era, justices are in fact more inclined to decide on ideological values rather than adhering to the principle of *stare decisis* (p. 821). These results, coupled with the notion that justices craft their opinions using rhetoric opens the door for more rhetorical examination of the Court. In one area, scholars have taken an ideological analysis of the Court.

Hasian and Klinger found that at times the Court creates an ironic decision that in turn leads to a tragic future (Hasian and Klinger, 2002). The longest example of this ironic and tragic framework can be seen within the genealogical dimensions of the “separate but equal” doctrine (p. 269). In *Roberts v. The City of Boston*, “equal rights” became the tenor for educating young blacks in the city of Boston. It is important to know how in the beginning of 19th century, the City of Boston was facing major divisions concerning integrating the schools. Though intermarriage between the two races was dissolved effectively in Boston (Kull, p. 32), the thought of educating the two races still seemed obscene. Therefore, black and white abolitionist cried out for “equal rights” under the assumption of “separating” the races in order to achieve “equality” (Hasain & Klinger, p. 277) In other words, the only option for blacks to receive an education was to do it by means of separate educational institutions. However, this decision in *Roberts*, to separate the races for equal treatment, created a tragic framework for the next century of debate concerning “equality” among the races in America. This decision became one of many precedents that influenced *Plessy v. Ferguson*.

In the after math of *Roberts*, an ideological framework surfaced. One, judges formulate decisions based on community values, even when they are inconsistent with their own personal views. Two, judges are bound to maintain the legal codification of a system that is inherently

racist (p. 277). This of course begs the question that when approaching the law, should we ask if the law has any substantive social progress, both materially and symbolically. In the end, advocates for the “rule of law” may ignore the moral and political implications of making a decision (p. 280). Furthermore, this demonstrates that the notion of “separate but equal” was a standard representing the ideological position of a community at a time, and for the most part revealed a progress. However, as time passed and the materialistic consequences became more severe and it was too late to reverse before *Plessy*. Of course *Plessy* in turn created a century of battle for equality until *Brown v. Board of Education*.

Both Justice Brown in *Plessy*, and Chief Justice Shaw in *Roberts*, were simply codifying ideological positions that presupposed rhetorical figurations of broader and more complex constituencies (p. 276). This of course further elaborates how justices argue from a legal realism in order to achieve societal goals (Rodgers, p. 235). So it is understandable now how judges can codify a decision based on ideological values and create a devastating legal precedent for later generations. This analysis by Hasian and Klinger provides a basis for this analysis concerning *Citizens United* to emerge. Although this analysis is fruitful, there are other areas where rhetoricians have examined the Court.

The field of rhetorical inquiry can also illuminate insight into how the Supreme Court offers a very rich text that produces a narrative form (Twigg, 1989, p. 1). The next step in rhetorical theory applied to the Court would be a conventional wisdom of the narrative framework (Bennett 1981; Fisher 1987; Pennigton & Hastie 1986; Hollihan Riley, & Freadhoff, 1986). Returning to the concept of the ‘separate but equal’ doctrine, a narrative also surfaces in both *Plessy v. Fergusson* and *Brown v. Board of Education*. What surfaces from these two cases is the concept that the Supreme Court constructs their arguments in a narrative framework by

rationalizing through history in order to support and then to strike down the “separate but equal” doctrine (Twigg, p. 6). Furthermore, these arguments construct a present day reality that is grounded in historical reference. In other words, by using history, the Supreme Court can make the argument that this ‘doctrine’ is either right or wrong.

Given the conventional framework concerning narrative criticism, both Bennett and Fisher argue that narratives do not display realities but rather construct realities (Bennett, 1981; & Fisher, 1987). Therefore, public discourse, or rhetoric, is the central influence between the law—the construction of reality—and ideology—how the justices approach reality. Because of this notion coupled with the fact that the Court’s responsibility is to interpret the Constitution, the process of creating arguments through a narrative construction can lend us to the ideology behind the Court. Because it is a reflection of American ideals and democracy, it could not be ever more important to understand motives by the Court.

Korematsu v. United States was a decision that demonstrates how judicial opinions craft a story about the past, which vindicates judicial action in the present, and sets the stage for disastrous decision making in the future (Rountree, p. 20). This decision also demonstrates how grammatical strains can develop as rhetorical constructions of an action in one place and limit rhetorical opportunities for constructing motives in another act (p.6). Therefore, demonstrating why it is so important to conduct a rhetorical analysis of the Supreme Court because one motive at a certain place in time can effectively strain other decisions over time, causing conflict and rhetorical motives to clash. Amid how the Court is a rhetorical institution that asserts its decisions based on ideology and now understanding how the Court can effectively strain decision making and development due to the binding nature of the law, we have a conventional framework of how the examination of the Court can be done rhetorically.

Given how rhetorical scholars have examined Supreme Court opinions, not much literature has expanded the idea of how the Court uses ideology to decide its cases. Furthermore, how the ideology of the Court influences society. Because the Court is very much the institution that shapes our thoughts concerning political issues, it is worthwhile for rhetorical scholars to employ the ideograph onto Supreme Court opinions.

The significance of living in a post *Citizens United* world can give fertile ground to study the Supreme Court ideologically. Understanding that this decision has sparked a large debate in many circles and causes dissonance among lawmakers and those who contribute to campaigns, it is reasonable to analyze the ideological standing of the Court in *Citizens United v. Federal Election Commission*, 558 U.S. 50 (2010) by employing the ideograph. In order to analyze the decision, a methodological procedure needs to be laid out.

Chapter 3 - Method

The previous literature uncovered how rhetorical scholarship has examined the decisions by the U.S. Supreme Court and how those decisions create some ideological implications. Amid this robust literature leading to some areas of ideological assumptions, rhetorical inquiry is left without an examination of the court's usage and creation of ideology. This clear omission leaves room for an ideographic analysis of a recent Supreme Court decision. In order to answer the previous research question, a description of a theoretical model that McGee proposes as the ideograph will be clearly defined. Furthermore, the artifact will also be addressed.

Ideograph

McGee proposes a model to link “ideology” and “rhetoric” together in order to account for the mass consciousness of the public. This method provides critics the ability to establish abstract terms defined as ideographs. Ideographs are terms or words which operate in political discourse that initiate a high-order of abstraction representing a collective commitment to a particular but equivocal and ill-defined goal (p.15). It warrants the use of power, excuses for behavior, and guides beliefs and behaviors into channels easily recognized by a community as acceptable and laudable (p.15). Ideographs then are purely descriptive terms that conditions humans socially (p.8). Both Foss and McGee argue that ideographs function as a way of persuasion that conditions human thought patterns (p. 6). Unlike the rules of logic, where a person accepts a claim based on the argument's ability that prove the conclusion, ideographs ‘force’ an individual to accept them because they are conditioned to believe that “liberty” has an obvious meaning and behaviorally self-evident. In other words, it is the process that humans are conditioned by language, like a boy learning the ABC's, that ideographs are created and in turn

resonate with its culture or community. Furthermore, McGee argues that ideology in practice is political language preserved in rhetorical documents with the capacity to dictate decisions and control public belief and behavior (p. 5).

The primary goal of the ideological critic then is to discover and make visible the dominant ideology or ideologies embedded in an artifact (Foss, p. 241) by establishing specifiable ideographs. Ideographs appear both diachronically and synchronically, which in turn creates patterns of political consciousness (p. 5). In other words, an ideograph is grounded within its etymology—vertically—and its present usage—horizontally. These two operations of the ideograph need to be defined. However, before defining these two modes of operation, some basic assumptions Foss articulates about how to find and analyze an ideograph needs to be discussed.

Foss defines two steps in order to trace and find ideographs within an artifact: identify the nature of an ideology and identify the strategies in support of that ideology (p. 244). Finding the nature of ideologies, a critic needs to answer questions that define membership, activities, goals, values and norms, positions and group relations, and finally resources of a culture or community. Questions like who we are, where are we from etc... express membership. Questions like why we do this or what we want to gain... express goals. Finally, questions like what is our social position and what are our needs... express position and resources of a community. Therefore, a critic begins to focus on a term such as “liberty” by systematically answering these questions to determine if it is in fact an ideograph within the community. After determining this, a critic can then establish the specific guidelines a community uses to employ this ideology. A few strategies include the communicative genre, the number of individuals who accept this ideology, the content of the ideology etc... Because a critic is responsible for uncovering these inherent

ideologies, going through this process leads to the critical implications an ideology can have within a community. Because the definition, usage, and how to establish an ideograph is clearly articulated, the procedure of this research project can be laid out. However, before the procedure, addressing how the ideograph has developed in rhetorical scholarship is important.

Development of the Ideograph

McGee first proposed the concept of the ideograph (McGee, 1980) and a number of scholars have continued the tradition (Condit 1993; Lucaites 1993; Cloud, 2004; McCann, 2007; Morrissey, 2008; Hayden, 2009; Kuypers & Althouse 2009). This concept links “ideology” and “rhetoric” together in order for a critic to analyze the conscious of the public. The rhetorical use and examination of the ideograph according to McGee is to first, give a detail structure of the society’s ideology, then to expose and analyze the diachronic structure of every ideograph in the society” (McGee, 1980). First, McGee discusses that doing a synchronic analysis considers how ideological suggestive words either associate with other words or undermine other ideological suggestive words. McGee identifies this approach as clusters or clashing. If an ideological suggestive word seems to operate in harmony with another word, then they are clusters. If the word seems to contradict or cause dissonance then they are clashing. The next area concerns the diachronic analysis, which is a vertical method of analysis. This approach considers how ideological suggestive words have changed over time. Furthermore, the examination of this approach can tell the critic whether a word has either expanded or contracted over time. In other words, does the word or phrase significance increased or decreased over time.

Since the methodology was first established, a number of other scholars have employed the ideograph. For example, Morrissey explores how commercials stated in the campaign cycle of California concerning Proposition 8, employed the ideographic language of <equality>, and

how it was successful in that campaign cycle. This analysis covers the history of equality—diachronic analyses—by examining how it was applied to Black Americans. By looking to the “separate but equal” doctrine, the author uncovered how Americans placated an egalitarian sentiment by promising <equality> (p. 7). In hindsight, the “equal” access was not equal at all. By building off of Lucaites and Condit (1993), Black Americans insisted on *full* equality and the author asserts that the ideograph of <equality> promoted the success of Prop 8 (emphasis added). This article displays in a miniature way of how to apply the ideograph diachronically. However, Kuypers, & Althouse also gives a clear insight into how the ideograph is applied.

Kuypers, & Althouse explored how John Pym exploited the ideograph, <law>, in the House debates, and its relation to the opposition to the English Crown, Charles I, in the article “John Pym, Ideographs, and the Rhetoric of Opposition to the English Crown,” (p. 225). These scholars elaborate how the ideograph links ideology to discourse. Furthermore, this article demonstrates how ideographs develop in one particular time—synchronically—and how ideographs develop over time—diachronically. Because of the use of the ideograph, the authors find that Pym manipulated the ideograph <law>, also referred to as <fundamental law>, to rhetorically create a new political reality and unified audience (p. 240). Furthermore, Pym rhetorically harmonized the ideographs of <religion>, <justice>, and <Parliamentary privilege> (clustering) to unite factions in opposition to the alleged abuses of royal power through the usage of this ideograph <law> (p. 240). This was important for Pym to do because it helped solidify how the Parliament would regain power from the regime and the corruption of King Charles I. Though this demonstrates clearly how the ideograph can be applied to the rhetorical discourse in the House of Commons synchronically, the ideograph has been used and applied in other interesting areas as well.

McCann argues that the rhetorical strategies invoked by both sides of the death penalty constituted a tension between “therapeutic” and “material” justice through the usage of the ideograph <victim> in the article “Therapeutic and Material <Victim> hood: Ideology and the Struggle for Meaning in the Illinois Death Penalty Controversy,” (p. 387). The article conveys that therapeutic hood is considered to be the suffering of the prison and death penalty system, which those who are on death row are in turn <victims> of this system (p. 387). The therapeutic portion of the author arguments is to solidify the liberal hegemony towards a philanthropic affinity for the afflicted and downtrodden <victims>. The author analyzed several documents that trace the debate of the death penalty in the state of Illinois to understand the rhetorical strategies and tension between the ideograph <victim>. The authors suggestion to the abolitionist movement against the death penalty is that they must construct the rhetorical device of <victim> and identify capital punishment as the most violent expression of a criminal justice system that consistently reproduces the stratifications of a capitalistic society (p. 395). This article, in its thought provoking way, demonstrates how we can apply the ideograph to specific artifacts and examine how it is done both diachronically and synchronically. The last two scholars have demonstrated how the ideograph can be applied to the traditional way of critical scholarship by examining text. However, the evolvment of the ideograph has also been flexible enough to be applied to the image.

Hayden examines the 2004 March for Women’s Lives that reinvigorates the debate over abortion in the article “Revitalizing the Debate Between <Life> and <Choice>: The 2004 March for Women’s Lives,” (p. 114). More specifically, the author examines how the ideograph <choice> significantly changes to match the strong influence of the ideograph <life>. The examination of these ideographs was unique in nature, as it departs from the textual frame of

reference to the image. The author in this article examines the March's banner by looking to the wording and what surrounded it (p. 116). The phrase of the march was "March for Women's Lives" surrounded by choice, abortion, family planning etc... This image invoked the powerful ideograph of <life> while advocating the ideograph of <choice>. The author then argues that the fixed ideological meaning of <life> can be fixed to mean something else through image events. In this case, the ideograph of <life> became anew with a women's right to <choose>, further embedding the ideograph of <choice> in American society (p. 129). Given this analysis of the image, Dana Cloud, another rhetorical scholar, surfaced how the image can create serious political and ethical implications.

Cloud establishes some critical implications in her article "To Veil the Threat of Terror": Afghan Women and the <Clash of Civilizations> in the Imagery of the U.S. War on Terrorism on three levels: research possibilities, societal criticism, and foreign policy (p. 287). This article explores the role of widely circulated images of Afghans, with emphasis on Afghan women, in national news magazines and their web sites during the Afghanistan war, arguing that images of Afghan women and men establishes a binary opposition between white, Western, modern society and an abject foreign military action (p. 286). Additionally, the article documents the ways that the imagery of the war on terrorism justifies the imperial thrust of U.S. foreign policy. In other words, this binary creates a <clash of civilization> between Western society and the Other—Afghanistan. The author uses Wrinkler and Edwards (1999) argument that images can function as ideographs because they are "culturally grounded, summarizing, and authoritative terms that enact their meaning by expressing an association of cultural ideals and experiences in ever evolving and reifying form within the rhetorical environment" (p. 288) In the end, the author

asserts that the war on terror was exploited due to images that created irrational explanations between superior and inferior civilizations (p. 300).

Given the basis of the ideograph, scholars have come to recognize the ideograph as tool to methodically examine text that perpetuates ideologies that are ill-defined but unite public communities towards a specifiable goal. Because ideographs are abstract in nature and incite raw emotions in the conscious of humans, the ideograph has developed to not only examine text but also the image. Furthermore, the ideograph has been used to determine how the usage of ideological suggestive words creates political, ethical, and even economic implications in society.

Procedure

Identifying the Nature and Strategies of an Ideograph

Using Foss's approach can assist in establishing possible ideographs in *Citizens United*. The first step will be to identify the nature of the ideology and second will be to identify the strategies in support of the ideology. This will be done by examining the in dictum and holding statements within the decision. Secondly, identifying how the justices strategically supported the words or phrases will allow specifiable ideographs to be established. From here, the research can now address the two modes of analyzing ideographs.

Diachronic

Because ideographs like <equality> do not have any empirical observation, they are only known because the meaning associated to the term is acceptable and believable by the community. Therefore, a person attaches meaning to the term when they are forced to make reference to its history and detailing the situations for which the word has been appropriately described (McGee, p. 10). McGee further articulates that communities make comparisons over

time and the communities establish an analog for the proposed present usage of the term. In other words, they become precedents and touchstones for judging the propriety of the ideograph in a current circumstance (p. 10). So the meaning of <equality>, for example, does not remain stagnant, because over time situations change and its usage will vary. As a result, the significance of <equality> can expand or contract over time. This principle of analysis, time, and how the meaning of terms contract or expand over time helps the critic to understand how a term with high importance *now* is based on the fact of its significance *then*. This analysis focuses mainly on the synchronic portion; however, the study will address the diachronic portion in the analysis and conclusion.

Synchronic

Because of the nature of a diachronic analysis, a critic is left with an exhaustive account of specific ideographs development through time, without an account of how they operate or used presently. Because of this methodological gap of connecting ideology to rhetoric, a critic has to analyze an ideograph horizontally. This is called synchronically analyzing an ideograph. Amid ideographs are historically grounded, present day usage of ideographs, for example <confidentiality>, clashes with other ideographs, for example <rule of law> (p. 12). The examination of these two ideographs diachronically may demonstrate a constant relationship. However, because ideographs contract or expand due to present day usage, the two ideographs can clash as time passes, causing direct conflict within a community (p.13). This in turn can create serious rhetorical and practical implications in society. For example, during the Watergate scandal, Congress summoned President Nixon to hand over certain documents and tapes in sake of the <rule of law>. However, Nixon refused on the grounds of <confidentiality>, asking the American public to expand their understanding of <confidentiality>, altering the relationship

with the <rule of law>, making what appeared to be an illegal act acceptable. However, because there was no direct precedent the public or Congress could attach to <confidentiality>, especially as it concerns the President of the United States, the ideograph <rule of law> prevailed as the dominant ideology. Amid this clash, the significance of doing such an analysis increases when rhetorical documents are created that are supposed to control human behavior, i.e. *Citizens United v. Federal Election Commission* 558 U.S. 50 2010.

Artifact

The purpose of this research project is to gain an understanding of how Supreme Court decisions work rhetorically and create significant implications in society. Conducting a synchronic analysis of *Citizens United v. Federal Election Commission* 558 U.S. 50 2010 will be the purpose of this paper. Doing an analysis of both in dictum and holding statements in both the majority and dissenting opinions can establish how particular ideographs have clustered or clashed together, altering these particular ideographs relationship, meaning, and operation in society forever. Given the basis of the method, now an analysis can take place concerning *Citizens United v. Federal Election Commission*.

Chapter 4 - Analysis

Two ideographs emerged after the examination of *Citizens United*. Because the rhetorical artifact is not a unanimous decision, it is clear that both the majority and dissenting opinions had to be analyzed. Conflicting viewpoints, arguments, and concepts emerged from the analysis. In order to establish what the ideographs were, Foss's approach was taken. Foss defines two steps in order to trace and find ideographs within an artifact: identify the nature of the ideology and identify the strategies in support of the ideology (p. 244). Finding the nature of ideologies, a critic needs to answer questions that define membership, activities, goals, values, group relations, and finally resources of a culture or community. This can be done by understanding the development and how the Supreme Court uses terms. The second step can be done by articulating the rhetorical strategies embedded within *Citizens United*. As a result of the analysis, <marketplace of ideas> and <corruption> emerged as the possible ideographs. Based on Foss first step, these ideographs are established by their historical record.

In *Abrams v. United States*, Justice Oliver Wendell Holmes articulated the “marketplace of ideas” as a way to promote a stronger democratic system. Furthermore, it was articulated again in *Dennis v. United States* by Justice Douglas. This idea became a model in the legal field. This model articulates that the best policy (or candidate in concern of this decision) will be accepted based on the viewpoints being allowed to compete within a “marketplace.” Although the model promotes the flow of ideas into the political marketplace, it is important to understand that the model is neither liberal nor conservative. As a result of the prior definition that an ideograph is a precedent to how we judge current circumstances and can be used in a variety of ways, <marketplace of ideas> is established as an ideograph. In other words, an ideograph is not

anchored into a specific ideological position but rather is used to promote an ideological position. Like <freedom>, it can be used and interpreted in different ways; however, we use it in order to establish our ideological position. Based on this notion, the Court in several areas of the opinion use the phrase “marketplace of ideas” as a way establish their ideological position. It is also important to note that this model was first denied in *Abrams*, but as time passed, the Court began to accept this model. An example of how this ideograph expanded can be seen in *Brandenburg v. Ohio*. This case, like many others that followed, demonstrated the growth of this ideograph. However, as stated in chapter 3, ideographs can expand or contract as time passes.

Like Marketplace of ideas, Corruption is a strong word and appeals to fear in voters, lawmakers, and justices around the nation; however, is not anchored into a set ideological position. Rather corruption is used to promote an ideological position. As articulated in Chapter 2, President Roosevelt initiated an effort to stop any appearance or actual <corruption> that corporations may bring about in an election cycle. Because of the historical action taken by President Theodore Roosevelt in 1905, it is expected then that this would be an ideograph. The usage of this ideograph was to maintain integrity of the political process and establish agency for natural persons. This can be no more evident than in *Citizens United* because of the amount of times this word was used and the level of rhetorical strategies to support this ideograph. Based on a broad scope of these two ideographs, the synchronic analysis can be carried out. This can be established by following Foss’s second step by identifying the strategies that support the ideograph.

This can be done by identifying and defining other terms the majority and dissenting opinion uses. The terms or words the majority uses are “speech,” “First Amendment,” and “Identity.” The terms or words the dissenting opinion uses are “Integrity of the political process,”

“Tradition,” and “First Amendment.” Given the context of these two ideographs, this chapter of the paper will be broken down into three sections. Examining how the <marketplace of ideas> was the central ideograph used by the majority will be the first section. The next section of this chapter will examine how the dissenters used <corruption>. The final section will show the rhetorical conflict between <marketplace of ideas> and <corruption>.

Marketplace of Ideas

The central ideograph used by the majority was the <marketplace of ideas>, because their central argument was based on the notion that all ideas should be allowed to freely flow into the political debate. Furthermore, all voters should be exposed to all ideas, regardless of who is promoting those ideas. This can be noted in this passage:

While some means of communication may be less effective than others at influencing the public in different contexts, any effort by the Judiciary to decide which means of communications are to be preferred for the particular type of message and speaker would raise questions as to the courts’ own lawful authority. Substantial questions would arise if courts were to begin saying what means of speech should be preferred or disfavored (p.9).

In this paragraph of the majority’s opinion, they challenge the notion of regulating “speakers” and the “messages” they speak. Furthermore, this begins the majority’s argument that it is unconstitutional to not allow all possible messages to enter the <marketplace of ideas>.

However, before demonstrating how the Court uses the ideograph of <marketplace of ideas>, it is important to outline the rhetorical strategies they use to support this ideograph. This can be done by identifying and defining specifiable terms they use. The first term is “speech.”

Speech

Given the fact that the majority wishes to appeal to the highest ideal of participatory democracy, regardless of who is speaking, the majority had to answer the clear question concerning how corporations can actually “speak.” In order to do this, the majority rhetorically creates “speech” to be synonymous with “electioneering communication.” This can be found in several areas of the opinion, but the majority mentions this notion in the beginning of the opinion:

Federal law prohibits corporations and unions from using their general treasury funds to make independent expenditures for speech defined as an “electioneering communication” or for speech expressly advocating the election or defeat of a candidate (p.1).

Electioneering communication is defined as when TV ads are purchased that promote the election or defeat of a candidate (p.3). The majority then uses this definition as a way to tie it under what is classified as “speech.” It is obvious that corporations cannot physically talk or go to the polls, but the majority interprets these two terms as synonymous. By simply defining speech as electioneering communication, they open the door for corporations to actually “speak.” Because of this rhetorical strategy, the main focus of this part of the analysis concerns how the majority notes “corporations and unions...using their general treasury funds to make independent expenditures for *speech*.” By labeling electioneering communication as speech, the majority creates the issue of corporations’ ability to participate in the political process a constitutional concern. With that said, there are a number of other areas the majority rhetorically opens the door for corporations to actually speak.

In one part of the majority’s opinion, the majority raises the issue of how the movie *Hillary* falls under a prior approach the Court created under the *Federal Election Commission V.*

Wisconsin Right To Life. This part of the majority's opinion, it is suggested that the movie is equivalent to express advocacy and is protected by prior precedents and the First Amendment.

This can be noted in this passage:

WRTL then found an unconstitutional application of §441b where the speech was not "express advocacy or its functional equivalent." 551 U. S., at 481 (opinion of ROBERTS, C. J.). As explained by THE CHIEF JUSTICE's controlling opinion in *WRTL*, the functional- equivalent test is objective: "a court should find that [a communication] is the functional equivalent of express advocacy only if [it] is susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate" (p.7)

A focal point of this text is where the majority states "a court should find that [a communication] is...express advocacy only if [it] is susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate." This section is important because the majority articulates that the movie *Hillary* falls under this area of interpretation because it "appeals to vote for or against a specific candidate." The District Court, however, found that there is no reasonable interpretation of *Hillary* other than as an appeal to vote against Senator Clinton. The majority disagrees with this approach and argues that this is protected speech. Furthermore, a practical message that is important about this text is that the majority argues that the District Court departed from the prior precedent's purpose. This rhetorical strategy that the majority uses is a way to argue that the Court's legal jurisprudence has not changed since *WRTL*. The ironic point of the majority doing this is that the other decision's purpose was to restrict corporation's ability to speak, unlike *Citizens United*. This approach is sprinkled throughout the majority's

opinion. This is the first part where the majority articulates the issue concerning prior precedents and maintaining an important legal principle. The legal principle that is referred here is *stare decisis*, and the majority affirmed that this opinion will depart from prior cases, such as *Austin v. Michigan Chamber of Commerce*, by writing:

In this case we are asked to reconsider *Austin* and, in effect, *McConnell*. It has been noted that “*Austin* was a significant departure from ancient First Amendment principles,” Federal Election Comm’n v. Wisconsin Right to Life, Inc., 551 U. S. 449, 490 (2007) (WRTL) (SCALIA, J., concurring in part and concurring in judgment). We agree with that conclusion and hold that *stare decisis* does not compel the continued acceptance of *Austin*.

This section of the majority’s opinion shows their motive to move away from prior decisions and completely overturn another decision. But in the wake of this rationale, the majority argues that it is actually maintaining traditional First Amendment values and jurisprudence by overturning some laws and decisions. This is of course a unique rhetorical strategy and it can be noted in this sentence: “It has been noted that “*Austin* was a significant departure from ancient First Amendment principles.” The simple fact that they used “ancient First Amendment principles” to justify their reasoning to overturn *Austin* and part of *McConnell*, allows the majority to bypass the legal principle of *stare decisis*. This of course allows them to create rhetorical arguments to justify their rationale. This in turn begins to demonstrate their ideological position concerning campaign finance by corporations. By first defining what speech is, the majority moves on to discuss how electioneering communication is protected by the First Amendment. However, in

order to do this, the majority had to interpret the First Amendment in a different way than the dissenters.

First Amendment

The most important duty of the Supreme Court is to ensure that the rights and liberties of the Constitution are granted to everyone. Within the First Amendment is the free speech clause. This clause prohibits any governmental intrusion concerning a citizen's right to speak. The Court, however, has determined that this clause is not absolute and some types of speech are less restricted than others. Furthermore, some speakers are placed in categories to determine the level of freedom they have to speak (Tedford & Herbeck). Because political speech enjoys the highest level of legal protection of all speech, the majority attempts to place "electioneering communication" under political speech. This can be seen in this part of the opinion:

Courts, too, are bound by the First Amendment. We must decline to draw, and then redraw, constitutional lines based on the particular media or technology used to disseminate political speech from a particular speaker. It must be noted, moreover, that this undertaking would require substantial litigation over an extended time, all to interpret a law that beyond doubt discloses serious First Amendment flaws. The interpretive process itself would create an inevitable, pervasive, and serious risk of chilling protected speech pending the drawing of fine distinctions that, in the end, would themselves be questionable. First Amendment standards, however, "must give the benefit of any doubt to protecting rather than stifling speech." (p. 9 – 10)

This text of the majority's opinion is important because it demonstrates how the majority is using the "First Amendment" as a term to justify their decision making. Though it is their responsibility to uphold constitutional principles, the usage of the First Amendment becomes a rhetorical tool to justify their decision rather than a principle to guide their decision. This is no more evident than in this sentence: "First Amendment standards, however, must give the benefit of any doubt to protecting rather than stifling speech." This sentence demonstrates that the majority is using a "standard" that the First Amendment creates to justify protecting any form of political speech. Furthermore, the majority justifies "electioneering communication" as protected speech by stating: "We must decline to draw, and then redraw, constitutional lines based on the particular media or technology used to disseminate political speech from a particular speaker." Here, the majority argues that no matter the form of speech, it is still protected speech. Therefore, the First Amendment no longer becomes a measure that guides the justices to decide their cases but a tool to enforce an ideological position. The final category that the majority uses to promote corporations participation in the political process is "identity." This term is used heavily throughout the opinion in order to establish why and how massive entities like corporations and unions can freely participate in the political process.

Identity

Because the majority is concerned about corporations' ability to participate in the political process, they had to address the fact that corporations are not "living persons." In order to carry out their ideological position, they rhetorically used the term "identity" or "identity of the speaker" as a way to include corporations under the umbrella term "speaker" and be protected by the First Amendment. As a consequence, corporations and unions would have a chance to participate in the political process. This strategy intended on making an

undistinguishable difference between living persons and corporations. This rhetorical strategy solidifies a basic premise of their ideology, that the First Amendment protects any form of speech, regardless of the “identity of the speaker.” This argument is heavily sprinkled throughout the majority’s opinion and can be no better articulated than in this section of the opinion:

The First Amendment does not permit Congress to make these categorical distinctions based on the corporate identity of the speaker and the content of the political speech. (p. 49)

As this section of the majority’s opinion demonstrates, the First Amendment becomes a tool to justify the majority’s rationale; that political speech can be in any form or content and the identity of the speaker does not matter. This section of the opinion demonstrates how the majority rhetorically crafted terms and adjusted the purpose of the terms in order to establish their ideological position. This position is held in the belief that all ideas and information shall be distributed within the political <marketplace of ideas>.

Because of the time spent allocated to justifying that the First Amendment does not care for the “identity of the speaker,” it is worth looking at another section of the opinion. In this section of the opinion, the majority solely focuses on defining the “identity of a speaker”:

The identity of the speaker is not decisive in determining whether speech is protected. Corporations and other associations, like individuals, contribute to the ‘discussion, debate, and the dissemination of information and ideas’ that the First Amendment seeks to foster” (quoting *Bellotti*, 435 U. S., at 783)). The Court has thus rejected the argument that political speech of corporations or other associations should be treated differently under the First

Amendment simply because such associations are not “natural persons. (p.26)

This section of the majority’s opinion clearly articulates that the majority feels that the contribution to the debate and discussion is vital to the political process. Therefore, whoever is speaking and in what ways they are speaking do not matter. This can be noted in this sentence: “The Court has thus rejected the argument that political speech of corporations or other associations should be treated differently under the First Amendment simply because such associations are not natural persons.” This of course addresses the sole fact that corporations are not natural persons, but also articulates that the First Amendment cannot treat these speakers any different than *natural persons*.” This is done by rhetorically tying corporations under the umbrella term “identity of the speaker” and can be seen in this sentence: “The identity of the speaker is not decisive in determining whether speech is protected. Corporations and other associations, like individuals, contribute to the ‘discussion...’” One part of this text speaks directly to their central argument, which is how speakers contribute to the ‘discussion, debate, and the dissemination of information and ideas’ that the First Amendment seeks to foster. The sole purpose and ideological position of the majority is to increase the flow of ideas within the political marketplace. Therefore, the critical ideograph that emerged from the analysis is <marketplace of ideas>. Examining the usage of this ideograph can establish the basis of the majority’s ideology.

<Marketplace of ideas>

The dissenters recognized the majority’s ideology and desire to appeal to the highest potential of the open <marketplace> in their own opinion:

Recognizing the weakness of a speaker-based critique of *Austin*, the Court places primary emphasis not on the corporation's right to electioneer, but rather on the listener's interest in hearing what every possible speaker may have to say. The Court's central argument is that laws such as §203 have "deprived [the electorate] of information, knowledge and opinion vital to its function,'...and this, in turn, "interferes with the 'open marketplace' of ideas protected by the First Amendment," (p.79)

This is important to point out because it demonstrates how the majority was forcefully making their position known. Though the speaker's identity is a critical component of their argument, it is only a supporting term to establish their central argument, to open the <marketplace of ideas>. In this section of the paper, there are a few areas where dissecting the usage of this ideograph, <marketplace of ideas>, can allow a clear understanding of the majority's ideology.

The first area of concern is how the majority wanted to make a clear distinction between two marketplaces. These two marketplaces are the economic and political marketplace. This rhetorical strategy is to create an understanding that all speakers are in fact equal. However, because the empirical fact that corporations have substantially more resources than an individual and is a critical part to the dissenter's argument, the majority had to address this fact.

Austin sought to defend the antidistortion rationale as a means to prevent corporations from obtaining "an unfair advantage in the political marketplace' " by using "resources amassed in the economic marketplace.' " (p.34)

This section articulates the concern of an unfair advantage in the political marketplace that the dissenters and past precedents attempted to address. However, because the majority already established what is speech, First Amendment's protection of that speech, and the irrelevance of the speaker's identity, it is important now to allow all ideas to flow in the political marketplace. They further argue that regardless of position in the economic marketplace, every speaker uses the economic marketplace in order to participate in the political marketplace.

All speakers, including individuals and the media, use money amassed from the economic marketplace to fund their speech. The First Amendment protects the resulting speech, even if it was enabled by economic transactions with persons or entities who disagree with the speaker's ideas. (p. 35).

Asserting the fact that all speakers use resources within the economic marketplace, the implied notion in this section is that all speakers are equal. Because all speakers are equal, the <marketplace of ideas> suffers to a great degree by limiting any speakers from participating. The only way the majority can overrule *Austin* is to point out that this law restricts the flow of ideas within the political marketplace. By clearly stating "*Austin* interferes with the "open marketplace" of ideas" (p. 38), the majority demonstrates how strong an ideograph can develop and influence the law.

Another rhetorical strategy the majority employs the ideograph of <marketplace of ideas> can be seen in this section:

When the FEC issues advisory opinions that prohibit speech, "[m]any persons, rather than undertake the considerable burden (and sometimes risk) of vindicating their rights through case-by-

case litigation, will choose simply to abstain from protected speech—harming not only themselves but society as a whole, which is deprived of an uninhibited marketplace of ideas.” protected by the First Amendment. (p. 19).

The important part of this section is when the majority declares that the issued opinions given by the FEC “deprives the <marketplace of ideas> protected by the First Amendment.” In this section, the ideograph functions as a way to demonstrate how a prior case breaks First Amendment free speech protection. Because the <marketplace of ideas> serves as an ideal by which the First Amendment protects, the majority again uses this ideograph as a measure to promote this ideal.

As a result, the majority justifies their decision using the ideograph <marketplace of ideas>. Their ideology emerges from using this ideograph. It is evident that the majority of the justices were concerned about democracy functioning to its highest order. In order to justify this ideology, words such as “speech”, “First Amendment”, and “identity” allowed the ideograph <marketplace of ideas> to become the catalyst to promote their ideology. Because the decision has a dissenting viewpoint, dissecting it in its entirety is important. In the next section, it will be important to examine how the ideograph <corruption> established the dissenter’s rationale and ideology.

Corruption

Because the Court is a rhetorical institution that operates democratically, there typically is always an opposing opinion drafted from the majority. It is vital then to understand the rhetorical arguments drafted in the opposing opinion in *Citizens United*. Within both the majority and dissenting opinion, <corruption> is used a number of times. In fact, corruption is used in the

entire opinion over a 100 times. The significance and usage of the word solidifies the central argument that the dissenters wish to employ. That corruption will increase as a result of this decision. Therefore, the word <corruption> becomes the central ideograph used by the dissenters. Examining the usage of <corruption> can be found in many areas of the dissenting opinion. However, one section articulates the dissenters' viewpoint very well:

The governmental interest in preventing both actual corruption and the appearance of corruption of elected representatives has long been recognized," the unanimous Court observed, "and there is no reason why it may not . . . be accomplished by treating . . . corporations . . . differently from individuals. (p. 46)

It is obvious that the dissenters want to stress how previous Courts and lawmakers have attempted at all costs to curb corruption. However, like the majority, the dissenters used other terms to build a logical argument around this ideograph. The other terms that will need to be examined in this section of the analysis will be "integrity of the political process," "tradition," and also the "First Amendment." All of these terms were used by the dissenters in order to justify why they must curb <corruption>. So this part of the chapter will also be broken into three sections. Each section will be dedicated to examining how each term supports and builds up to the ideograph <corruption>.

Integrity of the Political Process

The opposite of <corruption> is "integrity." Examining how the dissenters rhetorically use "integrity of the political process" will be critical to the analysis. In a number of areas, they use this term to justify why this decision cannot be ruled this way. This is articulated in this section of the dissenting opinion:

BCRA, we found, is faithful to the compelling governmental interests in “preserving the integrity of the electoral process, preventing corruption, . . .” (p.50)

As a rhetorical strategy, the dissenters place integrity and <corruption> next to one another. This rhetorical strategy plays up the good over the evil. In many of the passages within the opinion, the dissenters focus on the issue of <corruption> rather than integrity. This is driven by the fact that corporations can bankroll the political process and create an image of <corruption>. Because of this, the dissenters first needed to address the duties of the Court and lawmakers in preserving the “integrity of the political process.”

In one such area, the dissenters boldly state “The Court’s ruling threatens to undermine the integrity of elected institutions across the Nation” (p. 4). “Integrity” is based on the premise of voter perception. By stating this, they attempt to make it clear that all elected institutions will appear to lose “integrity” with voters. The dissenters are then concerned about the issue of voters perceiving <corruption> in the political process. Though in this next section, the dissenters did not use the term integrity. However, they point out the clear indication of how voters may lose “faith” within the democratic process:

At stake in the legislative efforts to address this threat is therefore not only the legitimacy and quality of Government but also the public’s faith therein, not only “the capacity of this democracy to represent its constituents [but also] the confidence of its citizens in their capacity to govern themselves,” . . . “Take away Congress’ authority to regulate the appearance of undue influence and ‘the cynical assumption that large donors call the tune could jeopardize

the willingness of voters to take part in democratic governance.’

(p. 60).

As noted within this passage, the dissenters attempt to point out how public perception of a working government is vital. They use the phrase “integrity of the political process” to point out how vital this perception is to the public. Because “integrity” is the goal of a democratic society, it will be obvious in the following passages that the dissenters’ usage of the ideograph <corruption> is meant to identify the great dangers to democracy as a result of the majority’s ruling. The next section will address another term the dissenters used in order to support the ideograph <corruption>. This section will be dedicated to examining the usage of “tradition.”

Tradition

In this section, “tradition” is understood as an umbrella term to include, “framers,” “precedents,” and “*stare decisis*.” Throughout the opinion, the dissenters’ used a variety of terms to mean the same thing, “tradition.” Furthermore, their objective in this sense is to undermine the initiative taken on by the majority and point out their failure to obtain the law. This can be no more evident than in this statement:

A century of more recent history puts to rest any notion that today’s ruling is faithful to our First Amendment tradition. At the federal level, the express distinction between corporate and individual political spending on elections stretches back to 1907,...

(p. 42)

The rhetorical strategies in this passage of the dissenters’ opinion point out the fact that the nation’s laws distinguishing a difference between corporations and individuals have been established for over a century. Furthermore, it asserted that the majority has departed radically

from how the First Amendment has been interpreted for over a century. In effect, the majority is claimed to have lost sight of tradition. Other areas, the dissenters' attempt to make this point is by pointing to legal principles, such "*stare decisis*."

As the dissenters' want to establish a central argument around <corruption>, they of course appeal to how past Courts and law makers have attempted to curb <corruption>. No other legal principle is clear on "tradition" or letting the rule stand than *stare decisis*. In this next passage, the dissenters boldly call out the majority on their failure to obtain this principle:

The final principle of judicial process that the majority violates is the most transparent: *stare decisis*. I am not an absolutist when it comes to *stare decisis*, in the campaign finance area or in any other. No one is. But if this principle is to do any meaningful work in supporting the rule of law, it must at least demand a significant justification, beyond the preferences of five Justices, for overturning settled doctrine. (p. 17).

Examining this portion of the dissenters' opinion, it is important to point out the section where the dissenters note "But if this principle is to do any meaningful work in supporting the rule of law, it must at least demand a significant justification, beyond the preferences of five Justices, for overturning settled doctrine." By rhetorically using the phrase "settled doctrine" and how the majority refuses to uphold this principle, they are attempting to demonstrate the troubled nature of this decision and its departure from tradition. Furthermore, the use of this term underscores how the majority refuses to uphold legal principles, settled doctrine, and maintain legislative and judicial "tradition." The dissenters display such an anxiety in this passage of the dissenting opinion:

It is all the more distressing that our colleagues have manufactured a facial challenge, because the parties have advanced numerous ways to resolve the case that would facilitate electioneering by nonprofit advocacy corporations such as Citizens United, without toppling statutes and precedents. Which is to say, the majority has transgressed yet another “cardinal” principle of the judicial process: “[I]f it is not necessary to decide more, it is necessary not to decide more,” (p. 14)

When the dissenters rhetorically use phrases like “transgressed a cardinal principal,” they point out the failure by the majority to remain “traditional.” With all the rhetorical messages embedded within this decision, it points to the ideological position of the dissenters, to curb all <corruption>. The dissenters point out that even the Court itself is bound to maintain “tradition” and “integrity.” The opposite of such is <corruption>. As a result, the dissenters call out the majority in a way to appear corrupt. In the final section, the dissenters use the “First Amendment.” Unlike the majority, the dissenters use the “First Amendment” as a guiding principle, not a concrete tool.

First Amendment

Because the Court itself is bound to the Constitution, it is obvious that both sides of the argument will attempt to use the First Amendment. The distinction however, is how each side approaches the First Amendment. The majority believes the First Amendment is a concrete and absolute principle. It is a belief in the highest ideal with no consideration about real world implications. The dissenters on the other hand, approach the First Amendment as a guiding principle. A principle that establishes freedoms, but with the consideration of the damaging

affects that too much freedom can create for the public's welfare. This is no more evident than in this sentence of the dissenters' opinion: "The notion that the First Amendment dictates an affirmative answer to that question is, in my judgment, profoundly misguided" (p.1). It is clear that the dissenters want to point out the misguided path that the majority has taken when interpreting the First Amendment. This is not the only area where they point out this notion:

The basic premise underlying the Court's ruling is its iteration, and constant reiteration, of the proposition that the First Amendment bars regulatory distinctions based on a speaker's identity, including its "identity" as a corporation. While that glittering generality has rhetorical appeal, it is not a correct statement of the law. (p. 1-2).

The dissenters point out in this passage how rigidly the majority sees the First Amendment. Furthermore, points out how the majority uses rhetorical appeals to argue their case. While this may be true, it is evident that both sides of the argument are using rhetorical appeals. While one appeals to an ideal, the other appeals to fear. In essence, dissenters appeal to a possible <corrupt> government to carry out their argument. What is unique about the dissenters' approach is the appeal to fear in all areas of their opinion, including how the majority approaches the First Amendment.

Given the prior notion, Supreme Court decisions also have comments made within footnotes. Though the footnotes are not law, they are areas that justify their logic. Because of this, examining these footnotes are also important. In one particular footnote, the dissenters again point out their difference of viewing the First Amendment with the majority:

There is nothing perplexing about the matter, because we are not similarly situated to our colleagues in the majority. We do not

share their view of the First Amendment. Our reading of the Constitution would not lead us to strike down any statutes or overturn any precedents... (p. 16).

In this passage, there is a fundamental difference between the majority and the dissenters concerning the First Amendment. The majority sees fit to overturn a century of law and precedents, while the dissenters see opposite. While, their claims to First Amendment rights are different, the pivotal concern is how the following terms cluster around the central ideograph <corruption>. The final part of this section will address how the dissenters' arguments centered around <corruption>.

<Corruption>

As both sides rhetorically created their arguments, one thing is obvious, it is centered on regulation. Because the majority feels our democracy should reach its highest potential and every speaker should be allowed to speak into the <marketplace of ideas>, the dissenters are concerned that by allowing every potential speaker may <corrupt> our democracy. Examining how the dissenters approach this issue of regulation through the usage of the ideograph <corruption> will be important.

One of the first areas the dissenters point out is the issue of "integrity." What they do next is point out how the majority's ruling will do the exact opposite of "preserving integrity." It will <corrupt> our democracy. This was articulated in this passage of the dissenters' opinion:

It is enough to say that the Act was primarily driven by two pressing concerns: first, the enormous power corporations had come to wield in federal elections, with the accompanying threat of both actual corruption and a public perception of corruption (p.42)

This passage is referring to the Tillman Act. This Act, established in 1907, was initiated by President Roosevelt in his State of the Union Address. The effort brought on by that Congress and the Administration was to curb the power that corporations can use during elections. The sole purpose was to stop the threat of actual <corruption> and perception of <corruption> by voters. It is clear that in this context, the ideograph <corruption> is critical to the development of their arguments. What makes the ideograph <corruption> so powerful is its long history in the Courts and legislatures. Many laws and precedents have been established to curb any type of <corruption>. Because of this, the dissenters valiantly use <corruption> throughout their opinion. In another passage, they appeal to the long history established by the federal system:

While it is true that we have not always spoken about corruption in a clear or consistent voice, the approach taken by the majority cannot be right, in my judgment. It disregards our Constitutional history and the fundamental demands of a democratic society. (p. 57).

In this statement, the dissenters' appeal to the historical element that prior Courts had already established. Furthermore, it violates the "fundamental demands of a democratic society." Their rhetorical strategy is to build on other terms that were defined earlier in this paper, while promoting the ideograph <corruption>. <Corruption> is then of course considered an ideograph because of its abstract nature while promoting a clear effort by a class of people. Furthermore, because both sides acknowledge there is little evidence of actual <corruption> within the political process due to increase of money by corporations. This further demonstrates why <corruption> is an ideograph and why it is so heavily used by the dissenters. However, though

there is little statistical evidence of actual <corruption>. One ploy the dissenters use is anecdotal evidence. As a result, in one passage the dissenters put a face to <corruption>:

In that case, Don Blankenship, the chief executive officer of a corporation with a lawsuit pending before the West Virginia high court, spent large sums on behalf of a particular candidate, Brent Benjamin, running for a seat on that court. “In addition to contributing the \$1,000 statutory maximum to Benjamin’s campaign committee, Blankenship donated almost \$2.5 million to ‘And For The Sake Of The Kids,’ ” a...corporation that ran ads targeting Benjamin’s opponent... “This was not all. Blankenship spent, in addition, just over \$500,000 on independent expenditures . . . ‘to support . . . Brent Benjamin.’ ” . . .Applying its common sense, this Court accepted petitioners’ argument that Blankenship’s “pivotal role in getting Justice Benjamin elected created a Constitutionally intolerable probability of actual bias” when Benjamin later declined to recuse himself from the appeal by Blankenship’s corporation...“Though n[o] . . . bribe or criminal influence” was involved, we recognized that “Justice Benjamin would nevertheless feel a debt of gratitude to Blankenship for his extraordinary efforts to get him elected... “The difficulties of inquiring into actual bias,” we further noted, “simply underscore the need for objective rules,” . . .—rules which will perforce turn on the appearance of bias rather than its actual existence. (p. 68)

In this passage of the dissenters' opinion demonstrates an actual case that reflects <corruption>. This rhetorical strategy is to use anecdotal evidence to demonstrate the "real" problems that can exist by this decision. Furthermore, it promotes the deep effort held by the Court to curb any <corruption>, regardless of actual or perception. Therefore, the central ideograph and driving rhetorical influence is <corruption>.

I have argued how this ideograph plays out in the dissenters' opinion. However, this ideograph collides with the majority's ideograph. Not only because *Citizens United* was decided by a simple majority, but because of the content within both opinions contains sharp contrast. Though it is sometimes unnoticeable how ideographs come to collide until they actually do, it makes sense by the rhetorical arguments crafted within each opinion that they do. The following, and final section, will discuss how these two ideograph played out in this entire decision. Following this last section will be the final chapter. This chapter will address what does this mean for rhetorical scholars, lawyers, politicians, and ordinary citizens.

Clash of Marketplace of ideas and Corruption

After analyzing the opinion, these two ideographs collide. As a critic, when examining text as these, it is important to understand what it is meant by ideographs colliding. Ideographs collide when competing viewpoints seem to be in a "toggle war." In other words, in *Citizens United*, there seems to appear a tipping point of interpretation when it concerns campaign finance. This tipping point surrounds these two ideographs, <marketplace of ideas> and <corruption>. The result of these two ideographs colliding shows the tension between competing ideological beliefs. It is vital to address this tipping point because going forward, society's ideological position can drastically change. What makes these two ideographs colliding is the larger issue at stake.

On one hand, the majority attempts to balance the playing field in the democratic system. In order to do this, they use the <marketplace of ideas> phrase that is protected by the First Amendment. This allowed corporations and unions to participate in the political process. Virtually being “equal” to living persons. On the other hand, the dissenters acknowledge the long effort placed by past Courts and lawmakers who felt that the participation by corporations would <corrupt> the democratic system. Because of the diachronic analysis mentioned in the method section, it is obvious how one ideograph, <marketplace of ideas>, has grown over the years. When this ideograph was first articulated by Justice Holmes, it was not an acceptable idea. In fact, the Court at that time felt any utterance that would cause a tendency for violence is not protected by the First Amendment. Throughout the years within the Court, ideas promoted by many speakers have grown to be protected. As a result, the Court began to accept this ideology and push towards an open <marketplace of ideas>. The result in this case demonstrates how an ideograph can expand and develop over time. The result, however, is that it will eventually bump up another ideological position in society. Within in *Citizens United*, the <marketplace of ideas> ideograph collided with <corruption>.

Like the justices on the Court in *Abrams v. United States*, they wanted to stop any sort of violence or <corruption> that will affect military action during war time. As it pertains to corporations, for over a century, lawmakers and justices felt the need to not only distinguish corporations from individuals, but also limit the power corporations can yield in an election. The sole driving force is to limit or curb any type of <corruption>. By examining past records, the effort to stop <corruption> by corporations was the ideological position of society. As a result, the term <corruption>, whether that be actual or appearance, was the ideograph used to drive lawmakers and justices to stop corporations participating in the political process. Because of

<corruption>'s long history in the federal system and the legal principles that bind Supreme Court Justices, it would be obvious that this ideograph would be used in *Citizens United*.

However, due to the large growth, and of course composition of the Court, <marketplace of ideas> expanded to such an extent to push out the ideological position once held in <corruption>.

In *Citizens United*, not only do these ideographs collide with one another, but one in fact forces another ideograph to contract. Though it is obvious that the composition of the Court has changed, it does not excuse the rhetorical arguments used by the justices to defend their ideology and its effects on society's ideological position. In a few areas, it is obvious these two ideographs collide:

("The hallmark of corruption is the financial quid pro quo: dollars for political favors"); *id.*, at 498. The fact that speakers may have influence over or access to elected officials does not mean that these officials are corrupt: (p. 43)

This passage of the majority's opinion demonstrates how the two ideographs work against one another. Though in this passage, the majority does not directly use the ideograph <marketplace of ideas>, the passage still eludes this premise by noting "speakers access." The concern in this passage is not that a speaker has access, even more so than a natural human, but based on that notion alone does not mean a speaker is <corrupt>. The majority seeks to reveal that it is more important for every speaker to have access rather worry about <corruption>. The access the majority is referring to concerns the <marketplace of ideas> and lawmakers. These two ideographs colliding are also present within the dissenting opinion:

The Court's central argument is that laws such as §203 have " 'deprived [the electorate] of information, knowledge and opinion

vital to its function,'...and this, in turn, "interferes with the 'open marketplace' of ideas protected by the First Amendment,"...There are many flaws in this argument. If the overriding concern depends on the interests of the audience, surely the public's perception of the value of corporate speech should be given important weight. That perception today is the same as it was a century ago when Theodore Roosevelt delivered the speeches to Congress that, in time, led to the limited prohibition on corporate campaign expenditures that is overruled today...The distinctive threat to democratic integrity posed by corporate domination of politics was recognized at "the inception of the republic" and "has been a persistent theme in American political life" ever since. Regan 302. (p. 79).

Again, in this passage of the dissenters' opinion, the two ideological positions clash. Though it is obvious they do not use <corruption>, they elude to that effect by discussing the public's "perception" concerning corporate speech for over a century. Furthermore, it is clear they demonstrate what the central argument and ideograph used by the majority.

By examining both areas of the majority and the dissenting opinion, the rhetorical strategies used by each side attempts to justify their ideology can be noted in these two ideographs. By showing both ideographs against one another, good v. evil for example, we as a reader are forced to accept one over the other. In *Citizens United*, it is obvious that the ideological position that must be accepted in <marketplace of ideas>. This further stresses why rhetorical scholars must examine judicial opinions. Simply because of the power the Supreme

Court has and the purpose of the law, regulating human behavior and in many cases their ideological perspective of the world.

Because this case is a landmark decision, many of the implications that will follow are unknown. However, as a rhetorical critic, doing an ideological analysis of the opinion can help draw possible implications. The following chapter will address those implications and possible conclusions from this given decision.

Chapter 5 - Conclusion

Though the Supreme Court is only one branch of the United States Government, it serves as the ultimate interpreter of Constitutional principles and the civil rights of the American people. Because our decisions in this world are heavily influenced by both rhetoric and ideology, there are major implications to consider when these decisions bind citizens to behave in a certain way, such as the law. This alone provides rhetorical scholars the avenue to scrutinize and draw possible implications from decision making by the Supreme Court, like in *Citizens United*. The rhetorical usage within *Citizens United* provided this analysis the ability to articulate both the majority and dissenting ideological position. By establishing two ideographs, this analysis came to understand how basic and abstract concepts can heavily dictate the Court's decision making. Furthermore, this analysis provides one piece to the larger scholarship concerning the Supreme Court and will help other scholars begin to understand how ideology, rhetoric, and the law overlap.

To rhetorical scholars, a few implications from this analysis may be salient. These implications can be drawn on three levels: legal, practical, and rhetorical. One, it is only reasonable that significant dissonance will occur within the legal community. This is because of the given collision between the two ideographs and amount of weight American society gives to the law. This is because after a century of lawmakers, lawyers, policy makers, and business owners viewed corporate political activity in one way now has to change their perspective. Though the law is only a rhetorical product of a lawmaking institution, it binds citizens to think and behave in a certain way. Given the facts of this case, regardless of how citizens may feel about corporations participating in the political process, they are going to have to accept their activity now. Further elaborating this point, lawyers and lawmakers will now have to believe that

corporate participation in the political process is a civil right granted by the Constitution. This is a major step away from America's long history of barring corporate activity.

The second implication from this ruling concerns the amount of money being spent during campaign cycles will increase. *Citizens United* allowed corporations to have the same freedoms that individuals have when it comes to using personal expenditures. Prior to this decision, individuals could literally go bankrupt by using all their money to help elect or defeat a candidate. Now that corporations and unions enjoy this freedom, it is only logical to expect that the amount of money being spent during an election will increase dramatically. This was even noticeable in the 2010 mid-term election. During this election, over \$3.98 billion was spent on campaign ads and materials. This is by far the most expensive mid-term election in history (Levinthal, 2010). The next Presidential election is already underway and it is logically expected to be the most expensive election in history. In fact, President Obama has already made a pledge to reach \$1 billion dollars in campaign fundraising (Epstein and Thrush, 2011). *Citizens United* will have far reaching implications that we may not be able to measure for years to come. However, *Citizens United* provides rhetorical scholars a basis in understanding the Supreme Court.

Because the Supreme Court is a rhetorical institution, answering the research question can draw a rhetorical implication on a theoretical basis. This implication concerns how scholars in the future may approach the Supreme Court when deciding cases that concern the free speech clause. After examining both opinions in *Citizens United*, understanding how ideology plays within the Supreme Court concerning the free speech clause can be articulated through a dichotomized framework. This framework emerged as a result from analyzing the ideographs and their usage within *Citizens United*. The ideographs then became a tool to uncover the

underline ideological conflict and positions concerning the freedom of speech clause. This framework can be articulated through by both “Equality” and “Democracy.” These two ideals can be examined in a number of areas within *Citizens United*. However, first it is important to understand which opinion appealed to which ideal.

The majority opinion appealed to “Democracy.” The majority’s opinion had an attempt to fulfill the perfect ideals of “Democracy.” In one area of the majority’s opinion this notion is established:

The First Amendment underwrites the freedom to experiment and to create in the realm of thought and speech. Citizens must be free to use new forms, and new forums, for the expression of ideas. The civic discourse belongs to the people, and the Government may not prescribe the means used to conduct it. (p. 57)

Within this passage, the majority uses rhetoric to indicate their true ideological position on this issue. This ideological position concerns that any government regulation should never influence the potential growth of “democracy.” Reexamining the literature established earlier, it is obvious that a primary goal of the Supreme Court concerning free speech is to increase “democracy.”

The dissenting opinion also provides scholars a way to understand another ideological position of the Court. This ideological position concerns “Equality.” While the majority wanted to erase specifiable distinctions between corporations and natural persons, this part of the framework is to establish an equal playing field among possible speakers. This part of the framework concerns how the dissenters were weary of natural person’s ability to engage within the political process now that powerful corporations have the same liberties as they do. This is established by the simple notion of the two marketplaces mentioned earlier, economic and

political. Because of the massive access corporations have within the economic marketplace, unlike natural persons, there is a significant disparity between the two. As a result, the dissenters used rhetoric to establish the notion of the inequality that the ruling in *Citizens United* will create. This ideological position can be seen as an ideal of the Court in many recent and historical cases, i.e. *Brandenburg v. Ohio*. At any rate, though this may have been the losing ideological position in *Citizens United*, this can be seen in several areas of the dissenting opinion, such as in this passage:

Consequently, when corporations grab up the prime broadcasting slots on the eve of an election, they can flood the market with advocacy that bears “little or no correlation” to the ideas of natural persons or to any broader notion of the public good, ... The opinions of real people may be marginalized. “The expenditure restrictions of [2 U. S. C.] §441b are thus meant to ensure that competition among actors in the political arena is truly competition among ideas.” (p.81).

This passage indicates how the dissenters view a distinct difference between corporations and living persons. Furthermore, stresses why the dissenters want “Equality” among all speakers. This is simply because of the fact that those natural persons’ voices will be marginalized due to the large access corporations will now have by spending their money.

These competing ideological positions challenge scholars to further examine the complexities of the Supreme Court. *Citizens United* demonstrated these viewpoints and this study examined a battle between the competing ideological positions that collided. Though the Court for most of its existence has attempted to maintain both “Democracy” and “Equality” in

perfect harmony, *Citizens United* tipped the balance against “equality.” As a result, this framework will assist future scholars in rhetorical criticism and other fields when it concerns the Court’s decision making through an ideological framework.

Though this research was able to provide a basis in understanding how the Supreme Court is a rhetorical and ideological institution, there were a number of limitations. The first limitation concerns the methodology. Because of the extent to which Supreme Court decisions have been made concerning campaign finance and corporate activity, this analysis only took on a synchronic analysis. Though this analysis yielded fruitful criticism and results, further research will have to be done that includes a diachronic analysis. Including a diachronic analysis will establish the historical significance of both ideographs, <marketplace of ideas> and <corruption>. This analysis only established that in *Citizens United* they were significant. Examining other cases, other results may be yielded. Adding depth to this study will further establish the dichotomized framework. The second limitation concerns the actual method itself.

While McGee’s proposed ideographic methodology address how text can perpetuate an ideology, the method does not tell the motivating factors or predict future ideological outcomes. This method intent is to be subjective rather than objective. However, considering this notion, it is well worth noting that this methodology can be used to bridge how scholars in Political Science and Communication Studies approach the Supreme Court. This is because there is already a model in Political Science titled the Attitudinal Model. This model articulates that scholars can predict the outcome of a decision based on the justices conservative or liberal tendencies (Walker, 2010). Because this methodology concerns the explanation of an outcome, it can be used as a working method with the Attitudinal Model to bridge how ideology can both predict why an outcome occurred and how ideology influences the outcome.

Another limitation to note is that while this study examines the Court as a whole, it is important to state that this ruling came about because the composition of the Court. As a result, if the composition was different, it is very likely a different outcome would have occurred. While this is an important fact, it only underscores the importance to examine the Court. This is because of the fact of how much weight America gives to the law and how much the Supreme Court stands by the law. Because of this, it is vital to understand that now this decision is the law of the land, people will now have to accept this as law and it will very well dictate society's ideological view. A clear cut example of this can be found in the difference between *Plessey v. Ferguson* to *Brown v. Board of Education*. This is an example of how society first felt "Separate" was "Equal." However, as *Board of Education* was handed down and schools began to integrate, society's ideological position began to change. Though there will be pockets of those who may hold onto prior ideological viewpoints, the law creates an atmosphere where majority of individuals viewpoints will change. Finally, this research can be a step towards producing further research concerning the Court. As stated before, this decision resembles a tipping point in how the Supreme Court decides cases that concern freedom of speech. As a result, future scholars will have to analyze the Court decisions and its effects. Possibly the future research can be produced to quantify the implications drawn within this study.

This study explored the premise that the law is just as important to examine in rhetorical scholarship as much as speeches and other rhetorical text. Rhetoricians have to understand that the law is a binding influence on human behavior. As a result, it is very applicable to the field of Communication Studies and will help our field make better sense concerning human behavior. The Supreme Court is a great institution to analyze because the simple fact that their decisions are heavily packed with rhetoric and ideology.

References

- Austin V. Mich. Chamber Of Comm., 494 U. S. 652 (1990)*
- Buckley V. Valeo, 424 U. S. 1 (1976)*
- Burgchardt, C. (2005). *Readings in Rhetorical Criticism*. Pennsylvania: Strata Publishing, Inc. .
- Cardozo, B.N. (1931). Law and Literature. In Law and Literature and other essays and addresses. Harcourt, Brace and Company. Ney York, NY
- Citizens United v. Federal Election Commission 558 U.S. 50 2010*
- Cloud, D. (2004). "To Veil the Threat of Terror": Afghan Women and the <Clash of Civilizations> in the Imagery of the U.S. War on Terrorism. *Quarterly Journal of Speech*. Vol. 90, No. 3, pp. 285 – 306
- Corrado, A. e. (1987). Campaign Finance Reform: A Sourcebook. The Brookings Institution.
- Deridre N. McCloskey, P. (1996). *Rhetoric on Economics; The Struggle towards an adequate description of exchange*. Retrieved March 13, 2009, from Siry's Ecology: <http://web.rollins.edu/~jsiry/McCloskey.html>
- Dharmapala, D., & Palda, F. (2002). Are Campaign Contributions a Form of Speech? Evidence from Recent US House Elections. *Public Choice*, Vol. 112. No. ½, pp. 81-114
- Fathers, F., & Madison, J. (2010, January 1). *Bill of Rights*. Retrieved April 13, 2010, from Cornell Law School: <http://topics.law.cornell.edu/Constitution/billofrights>
- Foss, S. (2004). *Rhetorical Criticism: Exploration & Practice; Third Edition*. Waveland Press, Inc. Long Grove, IL.
- Gall, J. (2008). *Living With Republican Party of Minnesota v. White: The Birth and Death of Judicial Campaign Speech Restrictions*. Taylor & Francis Group, LLC
- Gibson, K. (2006). *United States v. Virginia: A Rhetorical Battle Between Progress and Preservation*. *Women's Studies in Communication*. Vol. 29, No. 2, pp. 1-33
- Gibson, K.L. (2007). Judicial Rhetoric and Women's "Place": The United States Supreme Court's Darwinian Defense of Separate Spheres. *Western Journal of Communication*. Vol. 71, No. 2, pp. 159-175
- Hamilton, A. (1987). *Federalist Papers: Nos. 78, 79*. Penguin Classics.
- Hart, R. (2006). *Modern Rhetorical Criticism; Third Edition*. Pearson Education, Inc. Austin, TX.
- Halpin, A. (2006). Ideology and law. *Journal of Political Ideologies*,

11(2), 153-168. doi:10.1080/13569310600687932

- Hasian, M., & Klinger, G.D. (2002). Sarah Roberts and the Early History of the “Separate but Equal” Doctrine: A study in Rhetoric, Law, and Social Change. *Communication Studies*. Vol. 53, No. 3, pp. 269 – 28
- Hansen-Thomas, H. (2007). Language ideology, citizenship, and identity: The case of modern Germany. *Journal of Language & Politics*, 6(2), 249-264.
- Hayden, S. (2009). Revitalizing the Debate Between <Life> and <Choice>: The 2004 March for Women’s Lives. *Communication and Critical/Cultural Studies*. Vol. 6, No. 2, pp. 111-131
- Holloway, B.T. (2004). *McConnell v. FEC: The Supreme Court Rewrites the Book on Campaign Finance Law. Will Political Speech Survive This Most Recent Onslaught?*
- Kull, A. (1992). *The Color-Blind Constitution*. Harvard University Press. Cambridge, MA 0674142926
- Kuypers, J.A., & Althouse, M.T. (2009). John Pym, Ideographs, and the Rhetoric of Opposition to the English Crown. *Rhetoric Review*. Vol. 28, No. 3, pp. 225 – 245
- Lazarus-Black, M. (2000). *Ideology in the Language of Judges: How Judges Practice Law, Politics, and Courtroom Control* by Susan U. Philips. *American Anthropologist, New Series*, Vol. 102, No. 1. Pp. 170 -171
- McConnell, United States Senator, Et Al. V. Federal Election Commission Et Al - 540 U.S. 93 (2003)*
- McCloskey, D. (1996). *Rhetoric on Economics: The Struggle towards an Adequate Description of Exchange*. *Siry's Ecology*.
- McCann, B.J. (2007). Therapeutic and Material <Victim> hood: Ideology and the Struggle for Meaning in the Illinois Death Penalty Controversy. *Communication and Critical/Cultural Studies*. Vol. 4, No. 4, pp. 382 – 401
- McCaskill, C. (2010). Who’s Funding these Attack Ad’s? It’s a Secret. *CNN Commentaries*. October 19th. <http://www.cnn.com/2010/OPINION/10/19/mccaskill.anonymous.politics/index.html>
- McGee, M. (1980). “The ‘Ideograph’: A Link Between Rhetoric and Ideology.” *Quarterly Journal of Speech* , Vol 66. No 1, pp. 1-16.
- Morrissey, M.E.(2008). *Equality as an Ideograph: The Gay Rights Movement and Proposition 8*. National Communication Association/American Forensic Association Conference Paper. University of Colorado Boulder
- Murphy, W.P. (1978). In Miller, A.S. *The Supreme Court: Myth and Reality*. Westport, CN: Greenwood Press
- Nelson, W.E. (2001). *The Legalist Reformation: Law, Politics, and Ideology in New York, 1920-1980* The University of North Carolina Press

- Rodgers, R.S. (1982) Generic Tendencies in Majority and Non-majority Supreme Court Opinions: The Case of Justice Douglas. *Communication Quarterly*. Vol. 30, No. 3, pp. 232-236
- Rountree, C. (2001). Initiating "The Law" and its Dissents in *Korematsu v. United States*: A Dramatic Analysis of Judicial Discourse. *Quarterly Journal of Speech*. Vol. 87, No. 1, pp. 1-24
- Santa Clara County V. Southern Pacific R. Co., 118 U. S. 394 (1886)*
- Schneyer, K.L. (1993). "Talking About Judges, Talking About Women: Constitutive Rhetoric in the Johnson Controls Case." *American Business Law Journal* 120
- Segal, J.A., Epstein, L., Cameron, C.M., Spaeth, H.J. (1995). Ideological Values and the Votes of U.S. Supreme Court Justices Revisited. *The Journal of Politics*, Vol. 57, No. 3. pp. 812-823
- Segal, J., Spaeth, H.J. (1996). The influence of *Stare decisis* on the Votes of United States Supreme Court Justices. *American Journal of Political Science*. Vol. 40, No. 4, pp. 971-100
- Sheehan, R.S., Mishler, W., Songer, D.R. (1992). Ideology, Status, and the Differential Success of Direct Parties Before the Supreme Court. *The American Political Science Review*. Vol. 86, No. 2. pp. 461-471
- Smith, M.(2009). *Campaign Finance Reform Leads to Fragment Campaigns, Not Party Strength*. *The Review of Communication*. Vol. 9, No. 3. Pp 239-242
- Smith, B.A. (1997). Money Talks: Speech, Corruption, Equality, and Campaign Finance. *George Town Law Journal*. Vol 86, Issue 45
- Tedford, T.L., Herbeck, D.A. (2005). *Freedom of Speech in the United States*. Strata Publishing. 1891136216
- Tinker V. Des Moines Sch. Dist., 393 U. S. 503 (1969)*
- Trustees Of Dartmouth Coll. V. Woodward, 17 U. S. 518 (1819)*
- Twigg, R. (1989). Narrative Justice: An analysis of Selected Supreme Court Decisions. *National Communication Association Conference Proceedings*. Spheres of Argument, p86-93, 8p
- Walker, L. E. (2010). *Rights, Liberties, and Justice: Constitutional Law for a Changing America*. Washington, DC: CQ Press.
- Webster's Dictionary Online. <http://www.dictionary.com>
- Wood, J.K. (2005). Balancing Innocence and Guilt: A Metaphorical Analysis of the US Supreme Court's Rulings on Victim Impact Statements. *Western Journal of Communication*. Vol. 69, No. 2, pp. 129 – 146
- Wright, W.E. (1964). Judicial Rhetoric: A Field for Research. *Speech Monographs* Vol. 31, pp. 64-72
- Zardhooki, A. (1985). On the Political Participation of the Firm in the Electoral Process.

Southern Economic Journal (Southern Economic Association) , 804-817.

Zelizer, J.E. (2010). Obama Dropped the Ball on Campaign Reform. CNN Commentaries.
October 18th, <http://www.cnn.com/2010/OPINION/10/18/zelizer.obama.finance/index.html>