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CONSTITUTIONAL - CALIFORNIA

Delano Farms Company v. California Table Grape Commission

Supreme Court of California, California - May 24, 2018 - 2018 WL 2347160 - 18 Cal. Daily Op. Serv. 4912

Grape producers brought declaratory judgment action against Table Grape Commission to challenge constitutionality of compelled assessments funding the Commission's promotional activities.

The Superior Court granted summary judgment for Commission. Producers appealed, and the Court of Appeal, affirmed. The Supreme Court granted review, superseding the opinion of the Court of Appeal.

The Supreme Court held that grape advertising assessments were not unconstitutional compelled speech.

State of California exercised effective control over California Table Grape Commission, and thus Commission's generic advertising of table grapes through assessments paid by grape producers under Ketchum Act's compelled-subsidy scheme constituted government speech and was not improper "compelled speech" under First Amendment or State constitution, where Commission was established by an act of the Legislature with intent that Commission implement policy through expressive conduct, and Legislature was specific about its expectations for the Commission and its messaging, tasking the Commission with promoting single commodity, table grapes, for fresh human consumption and developing specific messaging campaigns.