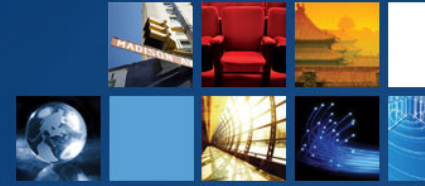




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## Michael Jordan Congratulatory Ad Found to Be Noncommercial Speech

February 27, 2012 By Nate Hole

A federal judge in Chicago held that a grocery store's full-page magazine "ad" congratulating Michael Jordan on his election to the Basketball Hall of Fame was noncommercial speech entitled to full First Amendment protection. The page appeared in a commemorative issue of *Sports Illustrated* dedicated to Jordan, and included a pair of basketball shoes emblazoned with Jordan's #23, the Jewel-Osco logo and slogan, "Good things are just around the corner slogan," and a congratulatory message that read:

"A Shoe In! After six NBA championships, scores of rewritten record books and numerous buzzer beaters, Michael Jordan's elevation in the Basketball Hall of Fame was never in doubt! Jewel-Osco salutes #23 on his many accomplishments as we honor a fellow Chicagoan who was 'just around the corner' for so many years."

The court reinforced that a company's speech is not automatically deemed commercial just because the company has an inherent profit motive in everything it does and says. Here, the court considered that Jewel-Osco did not pay for placement of the page in the magazine as it would in traditional media (it was provided gratis by *Sports Illustrated* in exchange for Jewel agreeing to stock the magazine in a prominent in-store location), and that the ad did not mention a specific product, only the Jewel logo and slogan.

Given the increasing ease with which social media allows companies to have natural conversations with consumers and celebrities, this decision gives an important reminder that for-profit companies can still engage in protected noncommercial speech, within certain boundaries. The decision also reinforces how critical it is to examine the details of a specific use to determine whether it is entitled to First Amendment protection. The decision is [Jordan v. Jewel Food Stores, Inc.](#), No. 10-C-340 (N.D. Illinois Feb. 15, 2012).

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