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C-Span, Others Push Justices To Limit Copyright Of Laws

By **Bill Donahue**

Law360 (May 7, 2019, 8:51 PM EDT) -- C-Span and a dozen other advocacy and nonprofit groups are urging the U.S. Supreme Court to limit the ability of state and local governments to claim copyright control over legal texts, saying it can undermine key constitutional rights.

In an amicus brief filed Monday, 13 different nonprofits and associations urged the justices to grant certiorari in a case in which the state of Georgia has sued an activist group for republishing portions of its state legal code without permission.

C-Span asked the justices to take on the case in order to affirm **a strongly worded ruling** last year from the Eleventh Circuit that struck down Georgia's case on the grounds that citizens should have "unfettered access to the legal edicts that govern their lives."

"Although the court of appeals reached the correct result in this case, there remains substantial uncertainty and division among the circuits as to which documents a state or local government may exclude its citizens from accessing under the auspices of copyright law," the groups wrote.

"The present case is exceptionally important because it touches upon the relationship between a sovereign and its citizens," they wrote.

Like many states, Georgia makes a simple text of its code available online but also hires a private firm to create a more robust annotated version, which features citations, analysis and opinions from the state attorney general. The simple version is free, but users must pay for the annotated version.

States say the arrangement allows for the cost-efficient creation of more detailed legal materials; critics say it deprives those who can't afford the fees of full access to the law.

Siding with a transparency group called Public.Resource.Org Inc., the Eleventh Circuit ruled in October that the annotations were effectively an extension of state law, making them "a work of the people" and thus "inherently public domain material."

Georgia asked the justices to hear the case in March, calling the ruling a "policy-based" decision that threatens to make it economically unfeasible to print the more fulsome annotated versions. A response brief from Public.Resource is due Friday.

In addition to C-Span, Monday's amicus brief was co-signed by the R Street Institute, the American Library Association, the National Freedom of Information Coalition, Government Accountability Project, Knowledge Ecology International, Government Information Watch, the Re:Create Coalition, the Rural Coalition, Public Knowledge and Engine Advocacy.

Representatives for the state of Georgia and an attorney for the group of amici did not immediately return requests for comment on Monday's brief.

Georgia and its Code Revision Commission are represented by John P. Elwood, Joshua Johnson and Matthew X. Etchemendy of Vinson & Elkins LLP, and Anthony B. Askew, Lisa C. Pavento and Warren Thomas of Meunier Carlin & Curfman LLC.

At the Eleventh Circuit, Public.Resource was represented by Elizabeth H. Rader and Sarah P. Lafantano of Alston & Bird LLP.

The case is Georgia et al. v. Public.Resource.Org Inc., case number 18-1150, at the Supreme Court of the United States.

--Editing by Jack Karp.

Update: This story has been updated to reflect that Georgia did not respond to a request for comment.

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