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NJ Supreme Court Issues Opinion Guaranteeing Free Speech Rights of Residents Living in Communities Governed by Community Associations

June 15, 2012 – Donovan Hatem LLP, a multi-practice law firm with offices in Boston, New York, New Jersey and Rhode Island, is pleased to announce that Dana Wefer, an associate with the firm, recently won a case before the New Jersey Supreme Court holding that the New Jersey State Constitution guarantees homeowners the right to post political signs in their windows, even if such signs are prohibited by their homeowner or condominium association.

Ms. Wefer represented Dr. Wasim Khan in his case against Mazdabrook Commons Homeowner's Association. Dr. Khan was running for Parsippany Town Council in 2005 when he placed two signs supporting his candidacy in his town house window and door. Mazdabrook fined him \$75 for the signs. Dr. Khan pursued his claim against Mazdabrook through a trial and up to the Appellate Division, which found in his favor. Today, the Supreme Court affirmed the Appellate Division decision holding that the right to free speech is so fundamental that it cannot be waived simply by agreeing to a Declaration of Covenants and Restrictions that contains a prohibition on posting signs in windows.

The Court stated that political signs, because they are passive and inexpensive, represent a unique and important part of democratic participation. The Court specifically held that other forms of political communication, such as going door to door and handing out leaflets, are not adequate alternative forms of communication.

Dr. Khan expressed his gratitude for the decision and Ms. Wefer's representation. "It's a glorious day for our justice system, rule of law and free speech in our great Garden State!" Dr. Khan effused. Ms. Wefer added, "I am so pleased that in this important election year, the estimated 1 million New Jersey residents who live in communities governed by homeowner or condominium

associations can express their political free speech through signs in their windows without fear of reprisal or fines.”

The opinion can be found at the following link:

<http://www.judiciary.state.nj.us/opinions/supreme/A6510MazdabrookCommonsHOAvKahn.pdf>

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