

No. 14-1887

**UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT**

DELAWARE STRONG FAMILIES,
Plaintiff-Appellee,

v.

ATTORNEY GENERAL OF THE STATE OF DELAWARE AND
COMMISSIONER OF ELECTIONS FOR THE STATE OF DELAWARE,
Defendants-Appellants.

On Appeal from the United States District Court
for the District of Delaware, No. 1:13-01746 (Robinson, J.)

JOINT APPENDIX VOLUME II (JA34-JA241)

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TABLE OF CONTENTS

VOLUME I (BOUND WITH BRIEF)

Notice of Appeal to the Third Circuit, Dkt. No. 39, Apr. 10, 2014..... JA1

Order, Dkt. No. 38, Apr. 8, 2014 JA4

Order Denying Motion for Protective Order and Setting Briefing
Schedule, Dkt. No. 27, Feb. 6, 2014..... JA5

Memorandum Opinion, Dkt. No. 35, Mar. 31, 2014 JA8

VOLUME II

Docket Sheet, D. Del. No. 13-1746 JA34

Complaint, Dkt. No. 1, Oct. 23, 2013 JA41

Exhibit A, Delaware Strong Families 2012 General Election
Values Voter Guide JA60

Exhibits to Defendants’ Brief in Opposition to Motion for Preliminary
Injunction, Dkt. No. 30, Mar. 7, 2014

Declaration of Weili Shaw, Dkt. No. 30-1 JA65

Exhibit A, Minutes from May 2, 2012 Delaware House
Administration Committee hearing on H.B. 300,
and accompanying certification from the Chief
Clerk of the Delaware House of Representatives JA67

Exhibit B, 2011 Tax Return for Delaware Strong
Families, Inc..... JA78

Exhibit C, 2011 Tax Return for Delaware Family Policy
Council, Inc. JA92

Exhibit D, Delaware Family Policy Council 2012
General Election Values Scorecard JA102

Exhibit E, Andrew Staub, <i>Mailers Promote Mayoral Hopeful Through Loophole</i> , Wilmington News Journal, Aug. 31, 2012.....	JA107
Declaration of Mimi Murray Digby Marziani, Dkt. No. 30-2	JA111
Exhibit A, Testimony of Mimi M.D. Marziani on H.B. 300 before the Delaware House Administration Committee, May 2, 2012	JA113
Declaration of Liane Sorenson, Dkt. No. 30-3.....	JA120
Exhibit A, Delaware Family Policy Council 2012 General Election Values Scorecard	JA128
Declaration of Erik Raser-Schramm, Dkt. No. 30-4	JA133
Exhibit A, “P.O. Box 1180” direct mail piece discussing candidate Terry Schooley	JA139
Exhibit B, “P.O. Box 1180” direct mail piece discussing candidate Bill Stritzinger	JA142
Exhibit C, “P.O. Box 1180” direct mail piece discussing candidate Darryl Scott.....	JA145
Exhibit D, “P.O. Box 1180” direct mail piece discussing candidate Pete Schwartzkopf	JA148
Exhibit E, “P.O. Box 1180” direct mail piece discussing candidate John Kowalko	JA151
Exhibit F, Karie Simmons & Josh Shannon, Polly Sierer Elected Mayor Of Newark In Tight Race, Newark Post, Nov. 27, 2013.....	JA154
Declaration of Elaine Manlove, Dkt. No. 30-5	JA158
Exhibit A, Printout of form for third-party advertisement report from Delaware’s online Campaign Finance Reporting System.....	JA161

Declaration of Jonathan D. Moll, Dkt. No. 30-6.....	JA164
Exhibit A, Internal Revenue Service online publication, <i>What Kind of Records Should I Keep?</i>	JA171
Exhibit B, Internal Revenue Service online course materials, <i>Maintaining 501(c)(3) Tax-Exempt Status</i>	JA174
Telephone Status Conference Transcript, Dkt. No. 43, Apr. 1, 2014.....	JA197
Telephone Status Conference Transcript, Dkt. No. 44, Apr. 8, 2014.....	JA235

**U.S. District Court
District of Delaware (Wilmington)
CIVIL DOCKET FOR CASE #: 1:13-cv-01746-SLR**

Delaware Strong Families v. Biden et al
Assigned to: Judge Sue L. Robinson
Case in other court: 3d Cir. USCA, 14-01887
Cause: 28:2201 Constitutionality of State Statute(s)

Date Filed: 10/23/2013
Jury Demand: None
Nature of Suit: 950 Constitutional - State Statute
Jurisdiction: Federal Question

Date Filed	#	Docket Text
10/23/2013	1	VERIFIED COMPLAINT filed against Joseph R. Biden, III, Eileen Manlove - Magistrate Consent Notice to Pltf. (Filing fee \$ 400, receipt number 0311-1392280.) - filed by Delaware Strong Families. (Attachments: # 1 Exhibit A, # 2 Civil Cover Sheet) (cla,) (Entered: 10/23/2013)
10/23/2013	2	Notice, Consent and Referral forms re: U.S. Magistrate Judge jurisdiction. (cla,) (Entered: 10/23/2013)
10/23/2013		No Summons Issued. (cla,) (Entered: 10/23/2013)
10/24/2013		Summons Issued with Magistrate Consent Notice attached as to Joseph R. Biden, III on 10/24/2013; Eileen Manlove on 10/24/2013. (cla,) (Entered: 10/24/2013)
10/28/2013	3	SUMMONS Returned Executed by Delaware Strong Families. Eileen Manlove served on 10/25/2013, answer due 11/15/2013. (Wilks, David) (Entered: 10/28/2013)
10/28/2013	4	SUMMONS Returned Executed by Delaware Strong Families. Joseph R. Biden, III served on 10/25/2013, answer due 11/15/2013. (Wilks, David) (Entered: 10/28/2013)
10/30/2013		Case Assigned to Judge Sue L. Robinson. Please include the initials of the Judge (SLR) after the case number on all documents filed. (rjb) (Entered: 10/30/2013)
11/14/2013	5	MOTION for Pro Hac Vice Appearance of Attorney Allen Dickerson - filed by Delaware Strong Families. (Attachments: # 1 Text of Proposed Order Proposed Order Granting Admission Pro Hac Vice of Allen Dickerson, # 2 Exhibit Certification by Counsel for Admission Pro Hac Vice of Allen Dickerson, # 3 Exhibit Certificate of Service to Motion for Admission Pro Hac Vice of Allen Dickerson, Proposed Order, and Certification by Counsel)(Wilks, David) (Entered: 11/14/2013)
11/14/2013	6	MOTION for Pro Hac Vice Appearance of Attorney Zac Morgan - filed by Delaware Strong Families. (Attachments: # 1 Text of Proposed Order Granting Admission Pro Hac Vice of Zac Morgan, # 2 Exhibit Certification by Counsel for Admission Pro Hac Vice of Zac Morgan, # 3 Exhibit Certificate of Service to Motion for Admission Pro Hac Vice of

		Zac Morgan, Proposed Order, and Certification by Counsel)(Wilks, David) (Entered: 11/14/2013)
11/21/2013		SO ORDERED, re 6 MOTION for Pro Hac Vice Appearance of Attorney Zac Morgan filed by Delaware Strong Families, 5 MOTION for Pro Hac Vice Appearance of Attorney Allen Dickerson filed by Delaware Strong Families. Signed by Judge Sue L. Robinson on 11/21/2013. (fms) (Entered: 11/21/2013)
12/11/2013	7	STIPULATION TO EXTEND TIME to Answer Complaint to 12/23/13 - filed by Joseph R. Biden, III, Eileen Manlove. (Handlon, Joseph) (Entered: 12/11/2013)
12/12/2013		SO ORDERED, re 7 STIPULATION TO EXTEND TIME to Answer Complaint to 12/23/13 filed by Eileen Manlove, Joseph R. Biden, III, Set/Reset Answer Deadlines: Joseph R. Biden, III answer due 12/23/2013; Eileen Manlove answer due 12/23/2013. Signed by Judge Sue L. Robinson on 12/12/2013. (fms) (Entered: 12/12/2013)
12/13/2013	8	NOTICE of Appearance by Michael F. McTaggart on behalf of Joseph R. Biden, III, Eileen Manlove (McTaggart, Michael) (Entered: 12/13/2013)
12/13/2013	9	MOTION for Pro Hac Vice Appearance of Attorney Jonathan G. Cedarbaum - filed by Joseph R. Biden, III, Eileen Manlove. (Handlon, Joseph) (Entered: 12/13/2013)
12/13/2013	10	MOTION for Pro Hac Vice Appearance of Attorney Weili J. Shaw - filed by Joseph R. Biden, III, Eileen Manlove. (Handlon, Joseph) (Entered: 12/13/2013)
12/13/2013	11	MOTION for Pro Hac Vice Appearance of Attorney Seth P. Waxman - filed by Joseph R. Biden, III, Eileen Manlove. (Handlon, Joseph) (Entered: 12/13/2013)
12/16/2013		SO ORDERED, re 9 MOTION for Pro Hac Vice Appearance of Attorney Jonathan G. Cedarbaum filed by Eileen Manlove, Joseph R. Biden, III, 10 MOTION for Pro Hac Vice Appearance of Attorney Weili J. Shaw filed by Eileen Manlove, Joseph R. Biden, III, 11 MOTION for Pro Hac Vice Appearance of Attorney Seth P. Waxman filed by Eileen Manlove, Joseph R. Biden, III. Signed by Judge Sue L. Robinson on 12/16/2013. (fms) (Entered: 12/16/2013)
12/18/2013	12	MOTION for Pro Hac Vice Appearance of Attorney Randolph D. Moss - filed by Joseph R. Biden, III, Eileen Manlove. (Handlon, Joseph) (Entered: 12/18/2013)
12/19/2013		SO ORDERED, re 12 MOTION for Pro Hac Vice Appearance of Attorney Randolph D. Moss filed by Eileen Manlove, Joseph R. Biden, III. Signed by Judge Sue L. Robinson on 12/19/2013. (fms) (Entered: 12/19/2013)
12/20/2013	13	MOTION for Pro Hac Vice Appearance of Attorney Paul S. Ryan - filed by Joseph R. Biden, III, Eileen Manlove. (Handlon, Joseph) (Entered: 12/20/2013)
12/20/2013	14	MOTION for Pro Hac Vice Appearance of Attorney J. Gerald Hebert - filed by Joseph R. Biden, III, Eileen Manlove. (Handlon, Joseph) (Entered: 12/20/2013)
12/20/2013	15	MOTION for Pro Hac Vice Appearance of Attorney Megan McAllen - filed by Joseph R. Biden, III, Eileen Manlove. (Handlon, Joseph) (Entered: 12/20/2013)
12/23/2013		SO ORDERED, re 15 MOTION for Pro Hac Vice Appearance of Attorney Megan

		McAllen filed by Eileen Manlove, Joseph R. Biden, III, 14 MOTION for Pro Hac Vice Appearance of Attorney J. Gerald Hebert filed by Eileen Manlove, Joseph R. Biden, III, 13 MOTION for Pro Hac Vice Appearance of Attorney Paul S. Ryan filed by Eileen Manlove, Joseph R. Biden, III. Signed by Judge Sue L. Robinson on 12/23/2013. (fms) (Entered: 12/23/2013)
12/23/2013	16	ANSWER to 1 Complaint, by Joseph R. Biden, III, Eileen Manlove.(Handlon, Joseph) (Entered: 12/23/2013)
01/02/2014		Pro Hac Vice Attorney Zachary R. Morgan,Allen J. Dickerson for Delaware Strong Families added for electronic noticing. (dmp,) (Entered: 01/02/2014)
01/06/2014	17	STIPULATION and Order Permitting Discovery Prior to Rule 26(f) Conference by Joseph R. Biden, III, Eileen Manlove. (Handlon, Joseph) (Entered: 01/06/2014)
01/07/2014	18	NOTICE OF SERVICE of Defendants' Discovery Requests to Plaintiff filed by Joseph R. Biden, III, Eileen Manlove.(Handlon, Joseph) (Entered: 01/07/2014)
01/08/2014		SO ORDERED, re 17 Stipulation and Order Permitting Discovery Prior to Rule 26(f) Conference filed by Eileen Manlove, Joseph R. Biden, III. Signed by Judge Sue L. Robinson on 1/8/2014. (fms) (Entered: 01/08/2014)
01/14/2014	19	NOTICE OF SERVICE of Plaintiff's Responses and Objections to Defendants' Discovery Requests re 18 Notice of Service filed by Delaware Strong Families.(Wilks, David) (Entered: 01/14/2014)
01/14/2014	20	MOTION for Protective Order - filed by Delaware Strong Families. (Attachments: # 1 Certification Pursuant to Rule 7.1.1 to Motion for Protective Order)(Wilks, David) (Entered: 01/14/2014)
01/14/2014	21	OPENING BRIEF in Support re 20 MOTION for Protective Order filed by Delaware Strong Families.Answering Brief/Response due date per Local Rules is 1/31/2014. (Attachments: # 1 Exhibit to Opening Brief in Support of Motion for Protective Order) (Wilks, David) (Entered: 01/14/2014)
01/14/2014	22	MOTION for Preliminary Injunction - filed by Delaware Strong Families. (Attachments: # 1 Certification Pursuant to Rule 7.1.1 to Motion for Preliminary Injunction)(Wilks, David) (Entered: 01/14/2014)
01/14/2014	23	OPENING BRIEF in Support re 22 MOTION for Preliminary Injunction filed by Delaware Strong Families.Answering Brief/Response due date per Local Rules is 1/31/2014. (Attachments: # 1 Exhibit to Opening Brief in Support of Motion for Preliminary Injunction)(Wilks, David) (Entered: 01/14/2014)
01/15/2014	24	ORDER Setting Teleconference: plaintiff to initiate the call. A Telephone Conference is set for 1/17/2014 at 11:00 AM before Judge Sue L. Robinson. Signed by Judge Sue L. Robinson on 1/15/2014. (nmfn) (Entered: 01/15/2014)
01/16/2014	25	ORDER re 24 Order Setting Teleconference.IT IS ORDERED that the parties shall be prepared to discuss both a schedule for the pending motion for preliminary injunction and

		the discovery plan for the above captioned case. (The form of scheduling order can be found on Judge Robinson's website at www.ded.uscourts.gov.). Signed by Judge Sue L. Robinson on 1/16/2014. (nmfn) (Entered: 01/16/2014)
01/16/2014	26	ORDER, Setting Hearings(A Discovery Conference is set for 1/24/2014 at 02:00 PM in Courtroom 2A before Judge Sue L. Robinson., A Rule 16 Scheduling Conference is set for 1/24/2014 at 02:00 PM in Courtroom 2A before Judge Sue L. Robinson). The form of scheduling order is available on Judge Robinson's website. The telephone conference scheduled for Friday, January 17, 2014 is CANCELLED. SEE ORDER FOR FURTHER DETAILS. Signed by Judge Sue L. Robinson on 1/16/2014. (nmfn) (Entered: 01/16/2014)
01/24/2014		Minute Entry for proceedings held before Judge Sue L. Robinson - Scheduling Conference held on 1/24/2014, Discovery Conference held on 1/24/2014. (Court Reporter V. Gunning.) (nmfn) (Entered: 01/24/2014)
02/03/2014		Pro Hac Vice Attorney Jonathan G. Cedarbaum, Weili Shaw for Joseph R. Biden, III, Weili Shaw for Delaware Strong Families added for electronic noticing. (els) (Entered: 02/03/2014)
02/06/2014	27	ORDER denying 20 MOTION for Protective Order . ORDER Setting Briefing Schedule: re 22 MOTION for Preliminary Injunction . (Opening Brief due 2/21/2014., Answering Brief due 3/7/2014., Reply Brief due 3/14/2014.), SCHEDULING ORDER: (A Telephonic Status Conference is set for 4/1/2014 at 10:00 AM before Judge Sue L. Robinson, An Oral Argument is set for 3/18/2014 at 03:30 PM in Courtroom 4B before Judge Sue L. Robinson. A discovery conference shall be conducted at the conclusion of oral argument. An In-Person Status Conference is set for 5/6/2014 at 04:30 PM in Courtroom 4B before Judge Sue L. Robinson). The court has reserved the week of June 2, 2014 for trial in this matter, if needed. SEE ORDER FOR FURTHER DETAILS. Signed by Judge Sue L. Robinson on 2/6/2014. (nmfn) (Entered: 02/06/2014)
02/10/2014		Pro Hac Vice Attorney Randolph D. Moss for Joseph R. Biden, III added for electronic noticing. (els) (Entered: 02/10/2014)
02/21/2014	28	OPENING BRIEF in Support re 22 MOTION for Preliminary Injunction filed by Delaware Strong Families. Answering Brief/Response due date per Local Rules is 3/10/2014. (Attachments: # 1 Certificate of Service)(Wilks, David) (Entered: 02/21/2014)
02/21/2014	29	NOTICE OF SERVICE of Plaintiff's Production of Materials re 27 Order,,,, Set Briefing Schedule,,,, Scheduling Order,,, filed by Delaware Strong Families.(Wilks, David) (Entered: 02/21/2014)
03/07/2014	30	ANSWERING BRIEF in Opposition re 22 MOTION for Preliminary Injunction filed by Joseph R. Biden, III, Eileen Manlove. Reply Brief due date per Local Rules is 3/17/2014. (Attachments: # 1 Declaration of Weili J. Shaw, # 2 Declaration of Mimi Murray Digby Marziani, # 3 Declaration of Liane Sorenson, # 4 Declaration of Erik Raser-Schramm, # 5 Declaration of Elaine Manlove, # 6 Declaration of Jonathan D. Moll, CPA)(Handlon, Joseph) (Entered: 03/07/2014)

03/07/2014	31	NOTICE OF SERVICE of Defendants' Production of Materials re 27 Order, Set Briefing Schedule, Scheduling Order,,,,,,,,, filed by Joseph R. Biden, III, Eileen Manlove. (Handlon, Joseph) (Entered: 03/07/2014)
03/14/2014	32	REPLY BRIEF re 22 MOTION for Preliminary Injunction <i>Plaintiff's Reply Brief in Support of Its Motion for Preliminary Injunction</i> filed by Delaware Strong Families. (Wilks, David) (Entered: 03/14/2014)
03/18/2014		Minute Entry for proceedings held before Judge Sue L. Robinson - Oral Argument held on 3/18/2014 re 22 MOTION for Preliminary Injunction filed by Delaware Strong Families. (Court Reporter V. Gunning.) (nmfn) (Entered: 03/19/2014)
03/24/2014	33	SUR-REPLY BRIEF re 22 MOTION for Preliminary Injunction filed by Joseph R. Biden, III, Eileen Manlove. (Handlon, Joseph) (Entered: 03/24/2014)
03/28/2014	34	RESPONSE TO OBJECTIONS by Delaware Strong Families re 33 Sur-Reply Brief <i>Plaintiff's Response to Defendant's Supplemental Filing in Opposition to Plaintiff's Motion for a Preliminary Injunction</i> . (Attachments: # 1 Certificate of Compliance COS Plaintiff's Response to Defendant's Supplemental Filing)(Wilks, David) (Additional attachment(s) added on 3/31/2014: # 2 Exhibit) (fms). (Entered: 03/28/2014)
03/31/2014		CORRECTING ENTRY: Per request of filer, an exhibit has been attached to D.I. 34 . (fms) (Entered: 03/31/2014)
03/31/2014	35	MEMORANDUM OPINION granting 22 Motion for Preliminary Injunction. No order shall be executed until the court has conferred with the parties at the scheduled April 1, 2014 telephonic status conference. Signed by Judge Sue L. Robinson on 3/31/2014. (nmfn) (Entered: 03/31/2014)
04/01/2014		Minute Entry for proceedings held before Judge Sue L. Robinson - Telephone Conference held on 4/1/2014. (Court Reporter V. Gunning.) (nmfn) (Entered: 04/01/2014)
04/02/2014	36	ORDER Setting Teleconference: Counsel for defendants to initiate the call. A Telephone Conference is set for 4/8/2014 at 10:00 AM before Judge Sue L. Robinson. Signed by Judge Sue L. Robinson on 4/2/2014. (nmfn) (Entered: 04/02/2014)
04/08/2014	37	Joint STATUS REPORT by Joseph R. Biden, III, Eileen Manlove. (Attachments: # 1 Exhibit A - Defendants' Proposed Second Set of Discovery Requests to Plaintiff, # 2 Exhibit B - Proposed Order)(Handlon, Joseph) (Entered: 04/08/2014)
04/08/2014		Minute Entry for proceedings held before Judge Sue L. Robinson - Telephone Conference held on 4/8/2014. (Court Reporter V. Gunning.) (nmfn) (Entered: 04/08/2014)
04/08/2014	38	ORDER re 35 Memorandum Opinion. IT IS ORDERED that, pending resolution of this case or until otherwise ordered by the court, defendants are preliminarily enjoined from enforcing 15 Del. C. §§ 8002(10), 8002(27) and 8031 against plaintiff with respect to plaintiff's creation and distribution of a 2014 voter guide similar to its 2012 voter guide. IT

		IS FURTHER ORDERED that, by consent of the parties, no security shall be required of plaintiff. Signed by Judge Sue L. Robinson on 4/8/2014. (nmfn) (Entered: 04/08/2014)
04/10/2014	39	NOTICE OF APPEAL of 38 Order,, 35 Memorandum Opinion, . Appeal filed by Joseph R. Biden, III, Eileen Manlove. (Handlon, Joseph) (Entered: 04/10/2014)
04/10/2014		APPEAL - Credit Card Payment of \$505.00 received re 39 Notice of Appeal (Third Circuit) filed by Eileen Manlove, Joseph R. Biden, III. (Filing fee \$505, receipt number 0311-1496143.) (Handlon, Joseph) (Entered: 04/10/2014)
04/10/2014		The 5/6/2014 status conference and the reserved trial time during the week of June 2, 2014 have been removed from the court's calendar per D.I. 35 , 38 and 39 . (nmfn) (Entered: 04/10/2014)
04/14/2014	40	NOTICE of Docketing Record on Appeal from USCA for the Third Circuit re 39 Notice of Appeal (Third Circuit) filed by Eileen Manlove, Joseph R. Biden, III. USCA Case Number 14-1887. USCA Case Manager: Tonya (DOCUMENT IS RESTRICTED AND CAN ONLY BE VIEWED BY COURT STAFF) (tw,) (Entered: 04/14/2014)
04/15/2014	41	Official Transcript of scheduling conference held on January 24, 2014 before Judge Robinson. Court Reporter/Transcriber Valerie Gunning, Telephone number (302) 573-6194. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 5/6/2014. Redacted Transcript Deadline set for 5/16/2014. Release of Transcript Restriction set for 7/14/2014. (vjg) (Entered: 04/15/2014)
04/15/2014	42	Official Transcript of oral argument held on March 18, 2014 before Judge Robinson. Court Reporter/Transcriber Valerie Gunning, Telephone number (302) 573-6194. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 5/6/2014. Redacted Transcript Deadline set for 5/16/2014. Release of Transcript Restriction set for 7/14/2014. (vjg) (Entered: 04/15/2014)
04/15/2014	43	Official Transcript of telephone conference held on April 1, 2014 before Judge Robinson. Court Reporter/Transcriber Valerie Gunning, Telephone number (302) 573-6194. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 5/6/2014. Redacted Transcript Deadline set for 5/16/2014. Release of Transcript Restriction set for 7/14/2014. (vjg) (Entered: 04/15/2014)
04/15/2014	44	Official Transcript of telephone conference held on April 8, 2014 before Judge Robinson. Court Reporter/Transcriber Valerie Gunning, Telephone number (302) 573-6194. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 5/6/2014. Redacted

		Transcript Deadline set for 5/16/2014. Release of Transcript Restriction set for 7/14/2014. (vjl) (Entered: 04/15/2014)
04/16/2014	45	TRANSCRIPT REQUEST by Joseph R. Biden, III, Eileen Manlove Transcript not Needed (Handlon, Joseph) (Entered: 04/16/2014)

PACER Service Center			
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05/29/2014 12:43:33			
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Billable Pages:	5	Cost:	0.50

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

DELAWARE STRONG FAMILIES,)	
a Delaware nonprofit corporation,)	
)	
Plaintiff,)	C.A. No.
)	
v.)	
)	
JOSEPH R. BIDEN III,)	
In his official capacity as Attorney General, of)	
the State of Delaware)	
EILEEN MANLOVE,)	
In her official capacity as State Commissioner)	
of Elections,)	
)	
Defendants.)	

VERIFIED COMPLAINT

Plaintiff, Delaware Strong Families, hereby sets forth its Complaint as follows:

NATURE OF THE CASE

1. This case challenges provisions of the Delaware Elections Disclosure Act, as codified at 15 *Del. C.* § 8001, *et. seq.*
2. Plaintiff Delaware Strong Families (“DSF”) is a Delaware corporation exempt from taxation pursuant to §501(c)(3) of the Internal Revenue Code. DSF regularly releases voter guides before general elections in the state of Delaware.
3. DSF believes that, under certain provisions of Delaware’s election laws, it will be forced to file reports with the State. Such reports are burdensome and require disclosure of an organization’s confidential information, including the identities and home addresses of its contributors. DSF believes this mandatory reporting is unconstitutional under the First and Fourteenth Amendments.

4. DSF reasonably fears that, should it fail to disclose its contributors or report to the State as demanded, it and/or its officers may be subject to enforcement actions, investigations, and penalties levied by the Defendants and their agents.

5. Delaware's election laws function to chill discussion of state government and public issues by forcing would-be speakers, including DSF, to comply with unconstitutional regulatory burdens merely for mentioning a candidate for office, even if that speech neither promotes nor disparages the candidate.

JURISDICTION AND VENUE

6. This Court has jurisdiction, because this action arises under the First and Fourteenth Amendments to the United States Constitution. *See* 28 U.S.C. § 1331.

7. This Court also has jurisdiction, because this action arises under the Civil Rights Act of 1871. *See* 42 U.S.C. §§ 1983, 1988; 28 U.S.C. § 1343(a).

8. This Court also has jurisdiction under the Declaratory Judgment Act. *See* 28 U.S.C. §§ 2201 and 2202.

9. Venue in this Court is proper under 28 U.S.C. § 1391(b)(1) and (b)(2).

PARTIES

10. Plaintiff Delaware Strong Families is a Delaware corporation exempt from taxation pursuant to § 501(c)(3) of the Internal Revenue Code.

11. Defendant Joseph R. Biden III is the Attorney General of Delaware and is empowered to "investigate matters involving the public peace, safety and justice" in the State of Delaware. *29 Del. C.* § 2504. Under *15 Del. C.* § 8044(c)(2), "the Commissioner shall notify the Office of the Attorney General" of parties which fail to file required reports. Failure to file such reports constitutes a class A misdemeanor. *15 Del. C.* § 8043(c).

12. Defendant Elaine Manlove is the Commissioner of Elections of the State of Delaware, and is empowered to issue regulations with the force of law regarding Delaware election laws pursuant to 15 *Del. C.* § 302. The Commissioner also has the power to levy fines against those “who fail[] to file or deliver to the Commissioner any report required” under Delaware’s campaign finance laws. 15 *Del. C.* § 8044.

STATEMENT OF FACTS

13. This case arises from vague and overbroad provisions of Chapter 15 of the Delaware Code Annotated, as amended by the Delaware Elections Disclosure Act.

14. The Delaware Elections Disclosure Act went into effect on January 1, 2013.

The Past and Future Activities of DSF

15. DSF is a registered Delaware nonprofit corporation exempt from taxation pursuant to § 501(c)(3) of the Internal Revenue Code. DSF’s current president is Nicole Theis.

16. DSF is not under the control or influence of any political party or any political candidate. DSF does not offer memberships to any persons.

17. DSF is affiliated with a 501(c)(4) organization, the Delaware Family Policy Council. DSF and the Delaware Family Policy Council maintain separate bank accounts and websites.

18. DSF’s mission is to promote Biblical worldview values, resources and programs, and educate and empower citizens to stand strong for those values in all arenas.

19. DSF plans to publish a voter guide within 60 days of the 2014 general election. The voter guide will be distributed to Delaware registered voters via U.S. mail and public distribution. It will also be placed on the DSF website and available to the general public for download. DSF engaged in similar activity in 2012.

20. The 2012 voter guide did not contain words of express advocacy, nor was it the functional equivalent of express advocacy. The guide listed all candidates running for state-wide office in Delaware. The guide then listed candidate responses to a series of questions.

21. DSF's affiliate organization also produced a legislative scorecard. That organization sent out neutrally worded questions to all state and federal candidates on the ballot in 2012. The candidate responses to these neutrally worded questions were shared with DSF, which used them to create its own separate voter guide.

22. The DSF voter guide is attached as Exhibit A.

23. The 2012 voter guide contained fifteen questions which had been answered by state and county-level candidates. The guide also contained fourteen questions answered by federal candidates.

24. For candidates for the U.S. House of Representatives and Senate, these questions concerned national issues, such as a federal ban on human cloning, the Employment Non-Discrimination Act and the Patient Protection and Affordable Care Act and its implementing regulations.

25. For state-wide and county-wide candidates, these questions concerned state-level issues, such as sex education, parental consent laws governing abortions for minors and state inspections of abortion clinics.

26. If a candidate did not reply to the questionnaire within approximately four weeks, DSF searched for that candidate's public statements regarding the surveyed issues and then used this publicly-available material to complete the guide. References for these responses were placed as "endnotes" on the DSF website and the guide directed readers seeking more information to visit the website.

27. The guides listed publicly-available telephone contact information for all candidates, where such information was available.

28. Candidate comments on the guide's questions, if any, were limited to 75 words per question and made available on DSF's website. The guide noted that the DSF website contained this information.

29. The guide also contained the following message from DSF President Nicole Theis: "this Voter Guide does not address a candidate's character, only their position on the issues. It should not take the place of your effort to personally evaluate a candidate."

30. DSF plans to produce and distribute similar voter guides for the 2014 primary and general elections. Upon information and belief, the production and distribution of the voter guides before the 2014 primary elections will cost DSF more than \$500.

31. In 2014, DSF plans to produce and disseminate voter guides in a manner substantively similar to the process used in 2012.

32. In 2012, DSF spent over 250 hours of employee time on the creation of DSF's voter guide.

33. The voter guides involve an extensive process of developing questions, researching candidates and contracting for services (such as printing and mailing). Further, the guides are published only after consultation with counsel.

34. This process must begin by July 1st, 2014 in order for the guides to be made available before the 2014 election.

35. None of DSF's activities constitute express advocacy or its functional equivalent. Aside from its production and distribution of the voter guide discussed *supra*, none of its

activities constitute “third-party advertisements” as that term is defined under Delaware law. 15 *Del. C.* § 8002(27). This will remain true for its activities in 2014.

36. Upon information and belief, DSF’s activities will place it under the regulatory purview of Defendants, the State Attorney General and Election Commissioner. Regulating the speech of DSF is unconstitutional under a line of cases dating back to *Buckley v. Valeo*, 424 U.S. 1 (1976).

37. Absent a declaratory judgment, DSF will not publish and disseminate its voter guides in 2014, for fear of risking enforcement of the Delaware Elections Disclosure Act. Thus, Delaware’s campaign finance regime—left untouched—will chill speech in a manner found unconstitutional by the Supreme Court. *Buckley v. Valeo*, 424 U.S. 1, 42 (1976).

**Delaware’s Regulatory Scheme for Electioneering Communications
and Third-Party Advertisements**

38. Delaware law defines an “electioneering communication” as any communication distributed by “television, radio, newspaper or other periodical, sign, Internet, mail or telephone” which “[r]efers to a clearly identified candidate” and “[i]s publicly distributed within 30 days before a primary election or special election, or 60 days before a general election to an audience that includes members of the electorate for the office sought by such candidate.” 15 *Del. C.* § 8002(7)(10). This definition did not exist before the Delaware Elections Disclosure Act (“the Act”) took effect on July 1, 2013.

39. The Act also created a new category of regulable speech: the “third-party advertisement.” 15 *Del. C.* § 8002(27).

40. “‘Third-party advertisement’ means an independent expenditure or an electioneering communication.” 15 *Del. C.* § 8002(27).

41. In relevant part, 15 *Del. C.* § 8031 states that any person (that is, “any individual, corporation, company, incorporated or unincorporated association, general or limited partnership, society, joint stock company, and any other organization or institution of any nature,” 15 *Del. C.* § 8002(17)) that spends more than \$500 on third-party advertisements must “file[] under penalty of perjury” a “third-party advertisement report with the Commissioner.”

42. The third-party advertisement report must contain, *inter alia*, “[t]he full name and mailing address of each person who has made contributions to such person during the election period in an aggregate amount or value in excess of \$100; the total of all contributions from such person during the election period, and the amount and date of all contributions from such person during the reporting period.” 15 *Del. C.* § 8031(a)(3).

43. Delaware does not define a single “election period.” 15 *Del. C.* § 8002(11).

44. Rather, “[f]or a candidate for reelection to an office to which the candidate was elected in the most recent election held therefor, the period beginning on January 1 immediately after the most recent such election, and ending on the December 31 immediately after the general election at which the candidate seeks reelection to the office” is the election period. 15 *Del. C.* § 8002(11)(a)(1). And, “[f]or a candidate for election to an office which the candidate does not hold, the period beginning on the day on which the candidate first receives any contribution from any person (other than from the candidate or from the candidate's spouse) in support of that candidate's candidacy for the office, and ending on the December 31 immediately after the general election at which the candidate seeks election to the office” is the election period. 15 *Del. C.* § 8002(11)(3).

45. “For a person who makes an expenditure for a third-party advertisement, the election period shall begin and end at the same time as that of the candidate identified in such advertisement.” 15 *Del. C.* § 8002(11)(d).

46. “If the expenditure is made more than 30 days before a primary or special election or 60 days before a general election, the report required under this section shall be filed within 48 hours after such expenditure is made. If the expenditure is made 30 days or less before a primary or special election or 60 days or less before an election, such report shall be filed with the Commissioner within 24 hours after such expenditure is made.” 15 *Del. C.* § 8031(d).

47. If a contributor “is not an individual,” the third-party advertisement report must list “the full name and mailing address of...[a]ny person who, directly or otherwise, owns a legal or equitable interest of 50 percent or greater in such entity; and...[o]ne responsible party, if the aggregate amount of contributions made by such entity during the election period exceeds \$1,200.” 15 *Del. C.* § 8031(a)(4).

48. Those “required to file reports under this section shall retain complete records of all expenditures made and contributions received in connection” with the third-party advertisement for three years “following the election for which such report was filed.” 15 *Del. C.* § 8031(f).

49. These burdens are essentially the same as—and in some instances, more burdensome than—those imposed by the state of Delaware when an entity becomes a political committee (“PAC”), as demonstrated below:

<p>Third-Party Advertisement Report <i>After spending more than \$500 on any combination of independent expenditures or electioneering communications, a Delaware group must...</i></p>	<p>Political Committee Report <i>After spending more than \$500 or receiving more than \$500 in contributions, a Delaware PAC must...</i></p>
<p>Disclose all contributions to the organization during the election period of over \$100, including names and addresses of contributors. §8031(a)(3).</p>	<p>Disclose all contributions to the organization during the election period of over \$100, including names and addresses of contributors. §8030(d)(2).</p>
<p>If not an individual, disclose the full name and address of anyone with a 50 percent stake in the entity and “one responsible party” if aggregate contributions from a non-individual exceed \$1,200. §8031(a)(4)(a)-(b).</p>	<p>If aggregate contributions from a non-individual exceed \$1,200, name and address of “one responsible party.” §8030(d)(2).</p>
<p>At minimum, file reports during the same reporting period used by PACs. §8031(b).</p>	<p>Abide by mandatory reporting period. §8030(b).</p>
<p>48 hour reporting if expenditure is made more than 60 days before a general election or 30 days before of a primary/special election. §8031(d).</p>	<p>If an independent expenditure or electioneering communication is made, must abide by same rule.</p>
<p>24 hour reporting if expenditure is made 60 days or less before a general election or 30 days or less before a primary/special election. §8031(d).</p>	<p>If an independent expenditure or electioneering communication is made, must abide by same rule.</p>
<p>Mandatory retention of “complete records” of all expenditures and contributions for three years following the election. §8031(f).</p>	<p>Mandatory retention of “complete records” of all expenditures and contributions for three years following the election. §8005(3).</p>
<p>File report under penalty of perjury. §8031(a).</p>	<p>Candidate or PAC treasurer must file a sworn affidavit supporting the report. §8030(f).</p>

50. The Delaware General Assembly’s web page for the Act, as well as the bill as introduced, contains a summary explaining the Legislature’s intent. The Synopsis summarizes the new electioneering communication definition as directly encompassing speech which

“advocate[s] indirectly for a candidate (for example, ‘Call Candidate X and tell him he’s wrong on education.’)” 146th General Assembly, *House Bill # 300 w/HIA 2, HA 1 to HA 2, HA3*, DELAWARE GENERAL ASSEMBLY, <http://legis.delaware.gov/lis/lis146.nsf/vwLegislation/HB+300>.

51. The Act further provides, “Without limitation of the foregoing, no later than December 31, 2012, the Commissioner shall promulgate all forms required in connection with the filing of reports under this chapter, as well as regulations (a) [e]xempting, to the extent possible, persons from reporting duplicative information hereunder; (b) [p]romulgating standards with respect to the size, layout and timing of the statements required under § 8021 of this chapter; (c) [a]dopting any amendments or modifications to the statements required under § 8021 or exemptions from the requirements thereunder; and (d) [a]dopting procedures for the electronic filing of reports and the posting of said reports to the Commissioner of Elections’ web site.” 15 *Del. C.* § 8041(1).

52. The Commissioner has promulgated new regulations to implement the Act. 1-900-901 *Del. Code Regs.* § 1.0 *et seq.* (LexisNexis 2013). These new regulations have not been posted to the Commissioner’s website.

53. The new regulations define “electioneering communication” and “third-party campaign advertisement” has having the same definition set forth in 15 *Del. C.* § 8002(11) and 15 *Del. C.* § 8002. 271-900-901 *Del. Code Regs.* § 2.0 (LexisNexis 2013).

54. The promulgated regulations neither expand upon nor clarify the statutory provisions at issue in this action. *See* 1-900-901 *Del. Code Regs.* § 9.0-10.3 (LexisNexis 2013).

55. Further, the regulations explicitly “do not excuse any person from the obligation to comply with the provisions of that statute.” 1-900-901 *Del. Code Regs.* § 13.0 (LexisNexis 2013).

56. Upon information and belief, the Commissioner has failed to “promulgate all forms required in connection with the filing of reports under this chapter.”

The First Amendment, Issue Speech and Disclosure

57. In the seminal campaign finance case of *Buckley v. Valeo*, 424 U.S. 1 (1976), the Supreme Court ruled that the governmental interest in “independent reporting requirements on individuals and groups that are not candidates or political committees” dissolves unless the “contributions...[are] earmarked for political purposes or authorized or requested by a candidate or his agent, to some person other than a candidate or political committee” or “when they make expenditures for communications that expressly advocate the election or defeat of a clearly identified candidate.” 424 U.S. at 80.

58. *Buckley* also determined that express advocacy meant directly advocating the election or defeat of a candidate as expressed through words such as “vote for” or “elect.” *Buckley*, 424 U.S. at 42, 44, n. 52.

59. The Court explicitly drew this distinction to prevent the new campaign finance regime from reaching speech discussing issues of public policy, since “the distinction between discussion of issues and candidates and advocacy of election or defeat of candidates may often dissolve in practical application.” *Buckley*, 424 U.S. at 42.

60. The Court also held that the government could only force PAC status upon organizations with “the major purpose” of nominating or electing a candidate. *Buckley*, 424 U.S. at 79. The Court did so explicitly to avoid permitting the law to be “interpreted to reach groups engaged purely in issue discussion.” *Id.*

61. The Court subsequently affirmed this decision, noting that “[i]mposing the full panoply of regulations that accompany status as a political committee under the [law]” is only

permissible if an entity's express advocacy "spending become[s] so extensive that the organization's major purpose may be regarded as campaign activity." *FEC v. Mass. Citizens for Life, Inc.*, 479 U.S. 238, 262 ("MCFL").

62. To do otherwise would "offer[] no security for free discussion" because the fine distinction between expressly supporting a candidate and merely discussing issues "blankets with uncertainty whatever may be said. It compels the speaker to hedge and trim." *Buckley*, 424 U.S. at 43 (internal citations and quotations omitted.); *see also MCFL*, 479 U.S. at 263.

63. In 2002, Congress enacted the Bipartisan Campaign Reform Act (BCRA), which created a novel form of regulated speech, the federal electioneering communication.

64. "BCRA's definition of 'electioneering communication'...encompass[ed] any broadcast, cable, or satellite communication that refer[red] to a candidate for federal office and...aired within 30 days of a federal primary election or 60 days of a federal general election in the jurisdiction in which that candidate is running for office." *FEC v. Wisconsin Right to Life, Inc.*, 551 U.S. 449, 457-458 (2007) ("*WRTL II*") (citing 2 U.S.C. § 434(f)(3)(A)).

65. This new electioneering communication was designed to regulate "advertisements that do not urge the viewer to vote for or against a candidate in so many words, [but] are no less clearly intended to influence the election." *McConnell*, 540 U.S. at 194.

66. In 2003, the Court clarified that this pool of regulable speech encompasses "express advocacy" and speech that is the "functional equivalent of express advocacy." *McConnell v. FEC*, 540 U.S. 93, 206 (2003).

67. "[T]he 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."

Citizens United v. FEC, 558 U.S. 310, 325 (2010) (internal punctuation, quotations, and citations omitted) (emphasis supplied).

68. The Court has also taken pains to provide concrete protection for “genuine issue” speech against a broad reading of the “functional equivalent” test. *FEC v. Wisconsin Right to Life, Inc.*, 551 U.S. 449, 470 (2007) (“*WRTL I*”).

69. The advertisements at issue in *WRTL II* were found not to be express advocacy or its functional equivalent, based on the phrase “Contact Senators Feingold and Kohl and tell them to oppose the filibuster.” *WRTL II*, 551 U.S. at 459; compare Text of H.B. 300 (As Enrolled) at 13 (expressing intent to regulate advertisements stating “Call Candidate X and tell him he’s wrong on education.”).

70. The disclosure regime the Court upheld in *Citizens United* was more limited than Delaware’s. First, it applied to a specific type of speech—federal electioneering communications, distributed via broadcast media, which “referred to [a federal candidate]...by name shortly before a primary and contained pejorative references to her candidacy.” *Citizens United*, 558 U.S. at 368. Second, it required disclosure only after the expenditure of a larger sum of money and required the disclosure of certain contributors of a larger size. 2 U.S.C. 434(f)(2)(E), (F).

71. At the time of the *Citizens United* decision, if “disbursements [for electioneering communications] were made by a corporation” said corporations only needed to disclose to the state “the name and address of each person who made a donation aggregating \$1,000 or more to the corporation...which was made for the purpose of furthering electioneering communications.” 11 C.F.R. § 104.20(c)(9) (Dec. 26, 2007) (emphasis supplied).

72. This “earmark-only” disclosure regime for electioneering communications was explicitly enacted by regulation in order to prevent corporations from disclosing all of their funders as a condition of engaging in First Amendment political speech. Explanation and Justification for Final Rules on Electioneering Communications, 72 Fed. Reg. 72899, Federal Election Commission (Dec. 26, 2007). This was the form of disclosure upheld in *Citizens United*.

73. In cases involving voter guides, the Supreme Court has been extremely wary of imposing burdensome disclosure requirements upon advocacy groups, even when such voter guides plainly constituted express advocacy. *FEC v. Mass. Citizens for Life, Inc.*, 479 U.S. 238, 252-53 (1986).

74. The Supreme Court has also forbidden the government from requiring PAC status as a precondition of corporate speech. *Citizens United*, 558 U.S. at 338-39 (*inter alia*, because of the “onerous restrictions” imposed upon PACs and because “PACs have to comply with these regulations just to speak;” PACs are not an acceptable substitute for direct corporate speech).

75. This unbroken line of Supreme Court precedent prohibits the very chill of constitutionally protected issue speech that has occurred in this case.

76. Delaware’s regime requiring the disclosure of associational activity unrelated to express advocacy of candidates or parties (or its functional equivalent) chills political speech and serves no compelling government interest. Similarly, its burdensome organization and reporting requirements for groups that do not engage in express advocacy or its functional equivalent discourage political speech and are not justified by any constitutionally sufficient government interest.

COUNT I

**Declaratory Judgment Regarding the Definition of
“Electioneering Communication” at 15 Del. C. § 8002(10)**

77. Plaintiff re-alleges and incorporates by reference the foregoing paragraphs as if set forth fully herein.

78. Under Delaware’s definition of “electioneering communication,” DSF’s voter guides would constitute an electioneering communication, even though the guides are not express advocacy or its functional equivalent. *Buckley*, 424 U.S. at 42, *McConnell*, 540 U.S. at 206, *Citizens United*, 558 U.S. at 325.

79. Because the law does not distinguish between express advocacy or its functional equivalent and genuine issue speech, 15 Del. C. § 8002(10) is facially unconstitutional as vague and overbroad under the First and Fourteenth Amendments.

80. Additionally, the law as applied to DSF and its voter guides is unconstitutionally vague and overbroad under the First and Fourteenth Amendments, as it reaches speech conducted without the objective intent of advocating for or against the election of a candidate. *See Buckley*, 424 U.S. at 79-80.

81. Plaintiff is, therefore, entitled to a declaration that the definition of “electioneering communication” at 15 Del. C. § 8002(10) is unconstitutionally vague and overbroad, facially and as applied to DSF.

COUNT II

**Declaratory Judgment on the Definition of
“Third-Party Advertisements” at 15 Del. C. § 8002(27)**

82. Plaintiff re-alleges and incorporates by reference the foregoing paragraphs as if set forth fully herein.

83. Under Delaware’s definition of a third-party advertisement (“independent expenditure” or “electioneering communication”) DSF’s voter guides constitute such an advertisement, even though the guides are not express advocacy or its functional equivalent. *Buckley*, 424 U.S. at 42, *McConnell*, 540 U.S. at 206, *Citizens United*, 558 U.S. at 325-326.

84. Because the law does not distinguish between express advocacy or its functional equivalent, and genuine issue speech, 15 *Del. C.* § 8002(27) is facially unconstitutional as vague and overbroad under the First and Fourteenth Amendments.

85. Additionally, as applied to DSF and its voter guides, 15 *Del. C.* § 8002(27) is unconstitutionally vague and overbroad under the First and Fourteenth Amendments, because it reaches speech conducted without the objective intent of advocating for or against the election of a candidate. *See Buckley*, 424 U.S. at 79-80.

86. Plaintiff is, therefore, entitled to a declaration that the definition of “electioneering communication” at 15 *Del. C.* § 8002(27) is unconstitutionally vague and overbroad, facially and as applied to DSF.

COUNT III

Declaratory Judgment Regarding Reporting for “Third-Party Advertisements” Under 15 *Del. C.* § 8031

87. Plaintiff re-alleges and incorporates by reference the foregoing paragraphs as if set forth fully herein.

88. Because DSF intends to spend more than \$500 on communications which qualify as third-party advertisements under 15 *Del. C.* § 8002(27), DSF must “file[] under penalty of perjury” a third-party advertisement report with the State Elections Commissioner containing the information in paragraphs 40-42, *supra*. 15 *Del. C.* § 8031.

89. The third-party advertisement report, as discussed *supra*, imposes essentially the “full panoply” of Delaware’s state PAC burdens on any entity making a “third-party advertisement.” See *MCFL*, 479 U.S. at 262.

90. Furthermore, the government has no cognizable interest in obtaining information about contributors who do not earmark their funds for an electioneering communication conducted by a corporation. *Citizens United*, 558 U.S. at 366-368 (constitutionally permissible to mandate disclosure to “provid[e] the electorate with information about the sources of *election-related* spending”) (internal citations and quotations omitted, emphasis supplied); see also *NAACP v. Alabama*, 357 U.S. 449 (1958).

91. Thus, Delaware has defined electioneering communication and third-party advertisement disclosure “in terms of amount of annual...expenditures” such that the state’s reach necessarily “could be interpreted to reach groups engaged purely in issue discussion.” *Buckley*, 424 U.S. at 79. Consequently, these disclosure provisions are facially unconstitutional for both vagueness and overbreadth under the First and Fourteenth Amendments.

92. To the extent that §8031 reaches DSF’s voter guides—which are pure issue speech, and contain neither express advocacy nor its functional equivalent—that section is unconstitutional as applied to those activities under the First and Fourteenth Amendments.

93. Plaintiff is, therefore, entitled to a declaration that the definition of “electioneering communication” at 15 *Del. C.* § 8002(10) is unconstitutionally vague and overbroad, facially and as applied to DSF.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for the following relief:

- A. A declaration that the definition of “electioneering communication” at 15 *Del. C.* § 8002(10) is unconstitutionally vague and overbroad, facially and as applied to DSF.
- B. A declaration that the definition of “third-party advertisement” at 15 *Del. C.* § 8002(27) is unconstitutionally vague and overbroad, facially and as applied to DSF.
- C. A declaration that the disclosure regime for third-party advertisements at 15 *Del. C.* § 8031, is unconstitutionally vague and overbroad, facially and as applied to DSF.
- D. Such injunctive relief as this Court may direct.
- E. Costs and attorneys’ fees under 42 U.S.C. § 1988 and any other applicable statute or authority.
- F. Such other relief as this Court may grant in its discretion.

Respectfully submitted this 23rd day of October, 2013.

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VERIFICATION

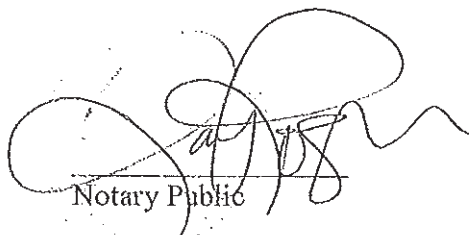
STATE OF DELAWARE)
COUNTY OF Sussex)

I, NICOLE THEIS, being first duly sworn, state under oath that

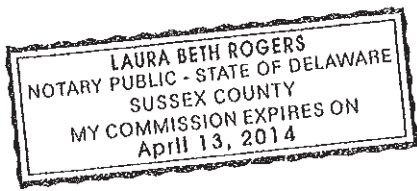
1. I am the president of Delaware Strong Families, a Delaware nonprofit corporation, and that I am authorized to execute this Verification.
2. I have read the foregoing Verified Complaint, and that the statements contained therein are true and correct to the best of my knowledge, information, and belief.

Nicole Theis
Nicole Theis

Subscribed and sworn before me this 22 day of October, 2013.


Notary Public

My Commission expires: 4/13/14



A

2012 General Election Values Voter Guide

DELAWARE STRONG

An affiliate of Delaware Family Policy Council



Delaware Strong Families (DSF) is pleased to present the 2012 Values Voter Guide. DSF, an affiliate of Delaware Family Policy Council, is a 501c3 non-profit organization. DSF does not endorse or oppose candidates for elective office.

All candidates were provided a questionnaire and given an equal opportunity to respond and to provide explanations or comments concerning each question. Any additional explanations or comments that were made by candidates are noted with an asterisk (*) next to the answer and can be found our website.

For your convenience, the Voter Guide includes phone numbers for all candidates if you wish to call those who failed to respond. Position statements for non-responding candidates are based on voting records, public statements, and/or campaign literature.

A printable version of the Voter Guide is available on our website www.delawarestrong.org. Please Facebook and share the Voter Guide and encourage your friends and family to vote on November 6th.

Remember, this Voter Guide does not address a candidate's character, only their position on issues. It should not take the place of your effort to personally evaluate a candidate.

The stakes couldn't be higher this election. Our hope is that on November 6th, this Voter Guide will help you choose candidates who best represent your values.

Nicole Treis

President

Delaware Strong Families

An affiliate of Delaware Family Policy Council



FEDERAL QUESTIONS: Do you Support or Oppose?

1. Taxpayer funding of abortions.
2. Giving tax dollars to Planned Parenthood.
3. The federal funding of embryonic stem cell research.
4. Federal legislation prohibiting human cloning of all kinds, both "therapeutic" and "reproductive."
5. The repeal of the federal estate tax.
6. Parental rights in education (educational choice).
7. The state constitutional amendments preserving natural marriage.
8. Enforcement of the Defense of Marriage Act (DOMA).
9. A marriage protection amendment to the U.S. Constitution that defines marriage as the union of one man and one woman.
10. The Federal Employment Non-Discrimination Act.
11. Strict constructionist judges.
12. Open homosexuality in the military.
13. The healthcare law known as "Obamacare."
14. Protection for institutions, organizations, and individuals from having the government force them to violate their moral or religious beliefs.

Federal Candidates			1	2	3	4	5	6	7	8	9	10	11	12	13	14
Senate	(202) 905-6706	Alexander Pires (I) X	-	-	-	-	-	-	O	O	O	-	-	S	-	-
Senate	(202) 224-2441	Thomas Carper (D) X	S	S	S	-	-	-	-	O	O	-	O	S	S	O
Senate	(302) 339-1763	Kevin Wade (R)	O	O	O	S	S	S	S	S	S	O	S	O	O	S
US Congress	(302) 536-9495	Tom Kovach (R) X	-	-	-	-	-	-	-	-	-	-	-	-	-	-
US Congress	(302) 654-1718	John Carney (D) X	S	S	-	-	-	O	-	O	-	-	-	-	S	-

Explanation of Information

Churches and other nonprofit organizations may distribute nonpartisan, unbiased, voter-education materials without jeopardizing their tax-exempt status. This publication has been reviewed by outside attorneys to ensure that it complies with the rules for 501(c)(3) tax-exempt organizations. If you have questions about this Voter Guide, please contact us at 302-296-8698 or visit our website www.delawarestrong.org.

To find your voting district, and contact information on the candidates in your district, go to www.delawarestrong.org.

Answer Key

S = Support
O = Opposed
U = Undecided
- = Candidate did not respond, and position is unknown based on available research and publicly available information.
X = Candidate failed to respond, any information is compiled from other sources listed online at www.delawarestrong.org .
* = Candidate comments available online at www.delawarestrong.org .

STATE QUESTIONS: Do you Support or Oppose?

1. The right of parents to choose what services their children may receive at school-based wellness centers.
2. Repealing Delaware's estate tax.
3. Tax incentives to encourage natural marriage and incent married couples to stay together as a solution to reducing poverty and dependency on government services.
4. Same-sex civil union legislation (SB30).
5. Parental consent of abortion for minors under the age of 18 (HB80).
6. Strengthening and maintaining marriage as the union of one man and one woman, and not redefining or adding to man/woman marriage.
7. Add "gender identity or gender expression" to the protected classes in Delaware's anti-discrimination laws for housing, employment, and public accomodation.
8. Legislation that includes legalizing Internet gambling as a means to increase state revenue and provide jobs (HB333).
9. Prohibit coverage for abortion in the state insurance exchanges mandated by the new federal health care law.
10. An annual inspection of abortion clinics for unsafe and unsanitary conditions (HA4 to HB47).
11. Reducing Delaware's corporate tax rate.
12. Use tax-payer money to fund Planned Parenthood and other organizations that provide abortion services.
13. A policy that ensures parental guardian notification prior to the introduction or instructional use of classroom curriculum or materials, whether brought or introduced by school educators, administrators, and officials, or by guests invited at their request, which involve human sexual education, human sexuality issues, sexual acts, family planning, profanity, drugs or alcohol.
14. A Single Payer Healthcare System for Delaware.
15. Delaware Marriage Protection Amendment defining marriage between a man and a woman in the state constitution (It does not ban civil unions. SS1 for SB27 2009).

Statewide Races			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Governor	322-8800	Jack Markell (D) X	-	-	-	S	-	O	S	S	-	-	-	-	-	-	O
Governor	521-3761	Jeffrey Cragg (R)	S	S	S	U	S	S	O	O	S	S	S	O	S	O	S
Lt. Governor	Not Listed	Matthew Denn (D) X	-	-	-	S	-	O	S	-	-	-	-	-	-	-	O
Lt. Governor	563-2655	Cheryl Valenzuela (R)	S	S	S	U	S	S	O	O	S	S	S	O	S	O	S
Insurance Com.	559-1434	Karen W Stewart (D) X	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Insurance Com.	690-2403	Benjamin Mobley (R) X	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-

Sussex County: Clerk of the Peace			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
604-4925		Brooks Witzke (R)	S	S	S	O	S	S	O	O	S	S	S	O	S	O	S
542-5189		John Brady (D) X	-	-	-	-	-	-	-	-	-	-	-	O	-	-	O

Sussex County: State Senate			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
703-9090	6	Andrew Staton (D) X	-	-	-	S	-	O	S	-	-	-	-	-	-	-	O
703-2243		Ernesto Lopez (R)	S	S	O	S	S	S	O	O	S	S	S	O	S	O	O
422-3460 No Opponent	18	Gary Simpson (R)	S	S	S	O	S	S	O	O	S	S	S	O	S	O	S
856-6534		Jane Hovington (D)	S	U	S*	-	S	S	O	O	-	S	O	O	S	U	S
858-0694 Write-In	19	Brian Pettyjohn (R)	S	S	S	O	S	S	O	O	S	S	S	O	S	O	S
436-4633		Richard Eakle (D) X	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
539-4140	20	Gerald Hocker (R)	S	S	S	O	S	S	O	O	S	S	S	O	S	O	S
744-4298		Robert Venables (D)	S	U*	S	O	S	S	O	O	O	S	U*	O	S	O	S
629-9788	21	Bryant Richardson (R)	S	S	S	O	S	S	U	O	S	S	S	O	S	O	S

Sussex County: State Representative			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
227-6252		Peter Schwartzkopf (D) X	O	-	-	S	-	O	S	O	-	O	-	-	-	-	O
231-2202	14	Margaret Melson (L)	S	S	S	S	S	O	O*	S	S	S	S	O	S	O	O*
684-1602		Marie Mayor (D) X	-	-	-	S	-	O	-	-	-	-	-	-	-	-	O
684-4577	20	Stephen Smyk (R)	S	S	S	O	S	S	O	O*	S	S	S	O	S	O	S
422-3454		David Wilson (R)	S	S	S	O	S	S	O	O	S	S	S	O	S	O	S
349-5122	35	Ronnie Fitzgerald (L)	S	S	O	S	S	O	S	S	U	S	S	O	S	O	O
422-6155 No Opponent	36	Harvey Kenton (R)	S	S	S	O	S	S	O	O	S	S*	S	O	S	O	S*
947-2984		Elizabeth McGinn (D) X	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
856-2772	37	Ruth Briggs King (R)	S	S	S	O	S	S	U*	O	S	S	S	U*	S	O	S*
539-6738		Shirley Price (D) X	-	-	-	S	-	O	S	-	-	-	-	-	-	-	O
436-7024	38	Ronald Gray (R)	S	S	S	O	S	S	O	O	S	S	S	O	S	O	S
628-5222 No Opponent	39	Daniel Short (R)	S	S	S	O	S	S	O	S*	S	S	S	O	S	O	S
875-5736		Benjamin Lowe (D) X	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
235-9806	40	Timothy Dukes (R)	S	S	S	O	S	S	O	O	S	S	S	O	S	O	S
745-1587		John Atkins (D)	S	S	S	O*	S*	S	O	O*	S	S	S	O	S	O	S
381-1610	41	Richard Collins (R)	S	S	S	O	S	S	O	O	S	S	S	O	S	O	S

New Castle: State Senate			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
656-2921		Harris McDowell (D) X	-	-	-	S	-	O	S	S	-	-	-	-	-	-	O
764-2309	1	Robert Clark (I)	S	S	S	U	S	S	U	O	S	S	S	O	S	O	S
Not Listed		Brian Lintz (L)	S	S	O	S	U	O	O*	S	U*	U*	S	O	U	O	O
425-4148 No Opponent	2	Margaret Henry (D) X	-	-	-	S	-	O	S	S	-	-	-	-	-	-	O
656-7261 No Opponent	3	Robert Marshall (D) X	-	-	-	S	-	S	S	O	-	-	-	-	S	-	S
598-3194		Michael Katz (D) X	-	-	-	S	-	O	S	S	-	-	-	-	-	-	O
478-6128	4	Gregory Lavelle (R) X	S	-	-	O	S	-	-	O	-	S	-	-	-	-	-
439-0992		Christopher Counihan (D) X	-	-	-	S	-	O	S	-	-	-	-	-	-	-	O
478-9616	5	Catherine Cloutier (R)	S	S	S	O	S	S	O	O	S	S	S	O	S	O	S
994-4843		Patricia Blevins (D) X	-	-	-	S	-	O	S	S	-	-	-	-	-	-	O
Not Listed	7	James Christina (L) X	-	-	-	S	-	O	-	-	-	-	-	-	-	-	O
239-2193		David Sokola (D) X	-	-	-	S	-	O	S	S	-	-	-	-	O	-	O
894-4591	8	William Stritzinger (R) X	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
999-7522 No Opponent	9	Karen Peterson (D) X	-	-	-	S	-	O	S	O	-	-	-	-	-	-	-
378-8386 No Opponent	10	Bethany Hall-Long (D) X	-	-	-	S	-	O	S	S	-	-	-	-	-	-	O
709-1516		Bryan Townsend (D) X	-	-	-	S	-	O	S	-	-	-	-	-	-	-	O
754-1787	11	Evan Queitsch (R)	S	S	S	O*	S	S	O	O	S	S	S	O	S	O	S
562-2106		Nicole Poore (D) X	-	-	-	S	-	O	S	-	-	-	-	-	-	-	O
328-8944	12	Dorinda Connor (R) X	-	-	-	O	-	-	-	S	-	-	-	-	-	-	O
322-6100 No Opponent	13	David McBride (D) X	-	-	-	S	-	O	S	S	-	-	-	-	-	-	O
653-7566		Bruce Ennis (D)	S	S	S	O	U	S	U	S	U	S	S	U	S	U	S
378-6036	14	Scott Unruh (R)	S	S	S	O	S	S	O	O	S	S	S	O	S	O	S
New Castle: State Representative			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
762-8322 No Opponent	1	Charles Potter (D) X	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
428-1269 No Opponent	2	Stephanie Bolden (D) X	O	-	-	S	O	-	S	S	-	S	-	-	-	-	-
655-7071 No Opponent	3	Helene Keeley (D) X	O	-	-	S	-	O	S	O	-	O	-	-	-	-	O
655-1373 No Opponent	4	Gerald Brady (D) X	O	-	-	S	S	O	S	S	-	O	-	-	S	-	O
832-1956 No Opponent	5	Melanie Smith (D) X	O	-	-	S	-	O	S	S	-	O	-	-	-	-	O
Not Listed		Debra Heffernan (D) X	O	-	-	S	-	O	S	S	-	O	-	-	-	-	O
478-4754	6	Eric Taylor (R) X	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
475-2252		Bryon Short (D) X	O	-	-	S	-	O	S	O	-	O	-	-	-	-	O
798-0960	7	Daniel Lepre (R)	S	S	O*	S	S	O*	S	O	S	S	S	O	S	O*	U*
378-2681		Quinton Johnson (D) X	S	-	-	S	O	O	S	S	-	O	-	-	-	-	O
919-900-0401	8	Matthew Brown (R)	S*	S	U*	U*	S*	S*	O	S*	S	S	S	O	S*	O	S
293-2356 No Opponent	9	Rebecca Walker (D) X	S	-	-	S	O	O	S	S	-	O	-	-	-	-	O
373-0115		Dennis Williams (D) X	O	-	-	S	-	O	S	S	-	O	-	-	-	-	O
478-4763	10	Robert Rhodunda (R) X	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
653-8247		Lynne Newlin (D) X	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
526-2267	11	Jeffrey Spiegelman (R) X	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
651-9571 No Opponent	12	Deborah Hudson (R) X	S	-	-	O	S	S	S	O	-	S	-	-	S	-	S
995-1803 No Opponent	13	John Mitchell (D) X	O	-	-	S	-	O	S	S	-	O	-	-	-	-	O
562-6640		Valerie Longhurst (D) X	O	-	-	S	-	O	S	S	-	O	-	-	-	-	O
Not Listed	15	Amy Merlino (L) X	U	-	-	S	-	O	-	-	-	-	-	-	-	-	O
322-3521		James Johnson (D) X	O	-	-	S	-	O	S	S	-	O	-	-	-	-	O
985-7025	16	John Machurek (L) X	U	-	-	S	-	O	-	-	-	-	-	-	-	-	O
322-1249		Michael Mulrooney (D) X	O	-	-	S	-	O	S	S	-	O	-	-	-	-	O
395-1998	17	Laura Brown (R) X	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
368-7257 No Opponent	18	Michael Barbieri (D) X	O	-	-	S	O	O	S	S	-	O	-	-	-	-	O
633-1289		Kimberly Williams (D) X	-	-	-	S	-	O	S	-	-	-	-	-	-	-	O
999-8191	19	Dennis Cini (R) X	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
584-8601 No Opponent	21	Michael Ramone (R) X	S	-	-	S	S	-	-	S	-	S	-	-	S	-	-
983-2622		David Ellis (D) X	-	-	-	S	-	O	S	-	-	-	-	-	-	-	O
454-1840	22	Joseph Miro (R)	S	S	U*	O*	S*	S	S*	S*	S	S	S	O	S*	O	S
562-4546		Paul Baumbach (D) X	-	-	-	S	-	O	S	-	-	-	-	-	-	-	O
731-9766	23	Mark Doughty (R) X	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
292-8903 No Opponent	24	Edward Osienski (D) X	O	-	-	S	O	O	S	S	-	O	-	-	-	-	O
547-9351 No Opponent	25	John Kowalko (D) X	O	-	-	S	O	O	S	S	-	O	-	-	-	-	O
832-2209 No Opponent	26	John Viola (D) X	O	-	-	S	-	O	S	S	-	O	-	-	-	-	O
834-9231 No Opponent	27	Earl Jaques (D) X	S	-	-	S	S	O	S	O	-	O	-	-	-	-	O

STATE QUESTIONS: Do you Support or Oppose?

1. The right of parents to choose what services their children may receive at school-based wellness centers.
2. Repealing Delaware's estate tax.
3. Tax incentives to encourage natural marriage and incent married couples to stay together as a solution to reducing poverty and dependency on government services.
4. Same-sex civil union legislation (SB30).
5. Parental consent of abortion for minors under the age of 18 (HB80).
6. Strengthening and maintaining marriage as the union of one man and one woman, and not redefining or adding to man/woman marriage.
7. Add "gender identity or gender expression" to the protected classes in Delaware's anti-discrimination laws for housing, employment, and public accomodation.
8. Legislation that includes legalizing internet gambling as a means to increase state revenue and provide jobs (HB333).
9. Prohibit coverage for abortion in the state insurance exchanges mandated by the new federal health care law.
10. An annual inspection of abortion clinics for unsafe and unsanitary conditions (HA4 to HB47).
11. Reducing Delaware's corporate tax rate.
12. Use tax payer money to fund Planned Parenthood and other organizations that provide abortion services.
13. A policy that ensures parental guardian notification prior to the introduction or instructional use of classroom curriculum or materials, whether brought or introduced by school educators, administrators, and officials, or by guests invited at their request, which involve human sexual education, human sexuality issues, sexual acts, family planning, profanity, drugs or alcohol.
14. A Single Payer Healthcare System for Delaware.
15. Delaware Marriage Protection Amendment defining marriage between a man and a woman in the state constitution (It does not ban civil unions. SS1 for SB27/2009).

Kent County: Clerk of the Peace		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
335-3392	Loretta Wootten (D) X	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
730-0454	Mary McVay (L) X	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Kent County: State Senate		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
653-7566	14 Bruce Ennis (D)	S	S	S	O	U	S	U	S	U	S	S	U	S	U	S
378-6036	14 Scott Unruh (R)	S	S	S	O	S	S	O	O	S	S	S	O	S	O	S
270-2012	15 Kathleen Cooke (D) X	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
492-1155	15 Dave Lawson (R)	S	S	S	O	S	S	O	O	S	S	S	O	S	O	S
698-0960	16 Colin Bonini (R)	S	S	S	O	S	S	O	S	S	S	S	O	S	O	S
697-1740	16 Michael Tedesco (I) X	-	-	-	-	-	-	-	-	-	-	-	-	S	-	S
674-5442 No Opponent	17 Brian Bushweller (D) X	-	-	-	S	-	O	S	S	-	-	-	-	-	-	O
422-3460 No Opponent	18 Gary Simpson (R)	S	S	S	O	S	S	O	O	S	S	S	O	S	O	S
Kent County: State Representative		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
653-8247	11 Lynne Newlin (D) X	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
526-2267	11 Jeffrey Spiegelman (R) X	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
653-8642	28 William Carson (D) X	S	-	-	O	-	S	-	S	-	O	-	-	S	-	S
242-4253	28 Christopher Sylvester (R) X	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
659-5850	29 Charles Paradee (D) X	-	-	-	S	-	O	S	-	-	-	-	-	-	-	O
659-3436	29 Lincoln Willis (R)	S	S	U*	O	S	S	O*	S	S*	S	S	O	S	O	S
Not Listed	30 William Outten (R)	S	S	S	O	S	S	O*	O	S	S	S	O	S	O	S
272-1373	30 Gordon Smith (L)	S	S	S	S	S	U	S	U	S	S	O	O	S	U	U
735-1781	31 Darryl Scott (D) X	O	-	-	S	O	O	S	S	-	O	-	-	-	-	O
222-2577	31 Samuel Chick (R)	S	S	U*	O*	S	O*	O	O*	S	S*	S*	O	S*	O*	O*
545-0198	32 Andria Bennett (D) X	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
697-8271	32 Ellis Parrott (R)	S	S	S	O	O	S	S	O	S	S*	S	O	S	O	S
335-5633	33 John Robbins (D) X	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
335-4261	33 Harold Peterman (R)	S	S	S	O	S	S	O	S	U	S	S	U	U	O	S
697-2554	34 Theodore Yacucci (D) X	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
697-6723	34 Donald Blakey (R)	S	S	S	O	S	S	S	S	U	U	U	O	S	U*	S

Explanation of Information

Churches and other nonprofit organizations may distribute nonpartisan, unbiased, voter-education materials without jeopardizing their tax-exempt status. This publication has been reviewed by outside attorneys to ensure that it complies with the rules for 501(c)(3) tax-exempt organizations. If you have questions about this Voter Guide, please contact us at 302-296-8698 or visit our website www.delawarestrong.org.

To find your voting district, and contact information on the candidates in your district, go to www.delawarestrong.org.

Answer Key

S = Support
O = Opposed
U = Undecided
- = Candidate did not respond, and position is unknown based on available research and publically available information.
X = Candidate failed to respond, any information is compiled from other sources listed online at www.delawarestrong.org .
* = Candidate comments available online at www.delawarestrong.org .

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

DELAWARE STRONG FAMILIES,

Plaintiff,

vs.

Civil Action No. 1:13-cv-1746-SLR

JOSEPH R. BIDEN III, in his official capacity as Attorney General of the State of Delaware; and

ELAINE MANLOVE, in her official capacity as Commissioner of Elections for the State of Delaware,

Defendants.

DECLARATION OF WEILI J. SHAW

I, Weili J. Shaw, declare under penalty of perjury that the following is true and correct:

1. I submit this declaration to accompany Defendants' Opposition to Plaintiff's Motion for a Preliminary Injunction.
2. I am currently a senior associate at Wilmer Cutler Pickering Hale and Dorr LLP, counsel to Defendants in this action.
3. Attached as exhibits are true and correct copies of the following documents:

Exhibit	Description
A	Minutes from the House Administration Committee hearing on H.B. 300 on May 2, 2012, and accompanying certification from the Chief Clerk of the Delaware House of Representatives, both received from the Chief Clerk of the Delaware House of Representatives

B	2011 Tax Return for Delaware Strong Families Inc. that Plaintiff admitted to be a true and accurate copy of the original in Plaintiff's Responses and Objections to Defendants' Discovery Requests, <i>see</i> D.I. 21-1, at 6
C	2011 Tax Return for Delaware Family Policy Council, Inc. ("DFPC") that Plaintiff admitted to be a true and accurate copy of the original in Plaintiff's Responses and Objections to Defendants' Discovery Requests, <i>see</i> D.I. 21-1, at 6
D	DFPC 2012 General Election Values Scorecard, downloaded from the Internet Archive at https://web.archive.org/web/20130301152700/http://www.delawarefamilies.org/pdfs/2012_C4_General_Election_Voter_Scorecard_Final2.pdf
E	Andrew Staub, <i>Mailers Promote Mayoral Hopeful Through Loophole</i> , Wilmington News Journal, Aug. 31, 2012.

I declare under penalty of perjury that the foregoing is true and correct.

Executed: March 7, 2014

/s/ Weili J. Shaw
Weili J. Shaw

EXHIBIT A

RICHARD PUFFER
CHIEF CLERK



HOUSE OF REPRESENTATIVES
STATE OF DELAWARE
411 LEGISLATIVE AVENUE
DOVER, DELAWARE 19901

ROOM H129
Phone: (302) 744-4087
Fax: (302) 739-7854
Richard.Puffer@state.de.us

February 20, 2014

Adam Klein, Esq.
WilmerHale
1875 Pennsylvania Ave. NW
Washington, DC 20006

Dear Mr. Klein,

This letter will confirm the Office of the Chief Clerk of the Delaware House of Representatives has provided a true and correct copy of the May 2, 2012 Delaware House Administration Committee minutes in which House Bill 300 was discussed. The committee meeting took place in the Chambers of the Delaware House of Representatives and was chaired by then-Majority Leader Peter C. Schwartzkopf. The meeting minutes were submitted by Legislative Fellow Abigail N. Stollar and approved by the committee for distribution and publication.

Thank you for your request to provide the minutes. Please do not hesitate to contact me should you need further assistance.

Sincerely,

Richard L. Puffer
Chief Clerk of the House
Delaware House of Representatives





PETER C. SCHWARTZKOPF
MAJORITY LEADER
Fourteenth District

HOUSE OF REPRESENTATIVES
STATE OF DELAWARE
LEGISLATIVE HALL
DOVER, DELAWARE 19901

COMMITTEES
Ethics, Chair
House Administration, Chair
House Rules, Chair
Gaming & Pari-mutuels
Veterans Affairs

House Administration Committee
Meeting Minutes
May 2, 2012

Chairman Schwartzkopf called the meeting to order at 2:45 p.m. Members present included Speaker of the House Robert F. Gilligan and Representatives Hocker, Lavelle, and Longhurst. Rep. Mulrooney was also present. For a list of guests, please see attached.

Chairman Schwartzkopf first introduced **HB 307: AN ACT TO REINCORPORATE THE CHARTER OF THE CITY OF NEW CASTLE, CHAPTER 216, VOLUME 27, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT AMENDING, REVISING, AND CONSOLIDATING THE CHARTER OF THE CITY OF NEW CASTLE"** and asked Rep. Mulrooney, the prime sponsor, to speak on the bill. He indicated that the city has been talking about a potential charter change for a few years and established a committee last year to update the charter. Rep. Mulrooney, as well as co-sponsors Rep. J. Johnson, Sen. Connor, and Sen. Henry, have all met with the City Council and agree with these proposed changes.

Rep. Mulrooney then introduced Daniel Losco, the City Solicitor for the City of New Castle, who noted that it's been over ninety years since this charter has been modernized. Losco stated that there were eight public hearings, all which were advertised via public notice, and three workshops held by the City's charter commission to receive input from citizens regarding the changes. The City also sent out postcards to every citizen inviting them to these workshops. Finally, the City Council voted unanimously for these changes.

Losco summarized the changes within the bill, many of which were housekeeping in nature. Since it hasn't been modernized in over years, the original charter contained various provisions that were out of compliance with federal or state law, and the revised charter fixes those provisions. They also made the charter gender neutral and attempted to omit some of the archaic language.

There were two substantial changes, Losco said. The first major change was changing their current City Council terms from non-staggered two year terms to staggered four year terms. With this change, an election would still occur every two years. In one year, three councilpersons would be up for reelection, and in the next election year, two councilpersons and the Mayor would be up for reelection. Losco noted that this change is a result of studying many other town charters and laws.

JA69

The second substantial change regards borrowing money for the City. Currently, their charter dictates that the City cannot borrow any money without a City-wide referendum. They examined various charters to find a different borrowing system and adopted a three-tiered system found in the Middletown charter. First, they established a new short-term borrowing system, with various checks and balances built in. Therefore, the maximum aggregate that they can borrow is \$150,000 with the super majority vote of Council (four of five councilpersons in favor). The second tier is long-term borrowing with a maximum aggregate of 1.2 percent of their real estate taxes base, which is currently about \$3 million. This also requires a public hearing and a super majority vote from the Council. Finally, the third level of borrowing remains the same, so any other amount must be approved by a City-wide referendum.

Chairman Schwartzkopf then allowed the committee members to ask any questions. Speaker Gilligan, who had heard objections about the bill, asked if there had been public hearings and how many people attended them. Losco responded that they did hold public hearings which were all properly noticed under FOIA and had a turnout of about fifty or sixty individuals. Cathryn Thomas, City Administrator for the City of New Castle, noted that they also included details about the meeting in the town newsletter, which piqued citizen interest. Therefore, they moved the hearing from their regular chambers to the local senior center to accommodate more individuals.

William Barthel, President of the City of New Castle, noted the reasons for these changes in the borrowing provisions. In May 2005, the City needed a loan to meet payroll but wasn't able to do so under the current City-wide referendum. Therefore, they had a choice to violate the charter and take out a \$250,000 line of credit or bankrupt the city. Last year, they ran into another issue when they needed to fix the dikes around the City from flooding. They were up for a matching grant, but they were not able to perform a City-wide referendum in time to get approved for the funds, so they lost out on that opportunity. Therefore, this new tiered borrowing system allows the government to function more efficiently in these types of situations.

Barthel concluded that this change was necessary because of the expense of City-wide referendum. He stated that if the City needed a police car that cost around \$20,000, they would have to have a city referendum that could cost almost \$5,000 to advertise and conduct, which is nearly 25 percent of the actual cost of a police care. He stated that this is impractical and therefore a new borrowing system is necessary.

Rep. Lavelle then clarified that there is a \$150,000 cap on short-term borrowing and then a \$3 million cap on long-term borrowing. He asked how the City chose these numbers. Losco responded that they borrowed these numbers from existing charters. He stated that these short-term borrowing provisions allow the City to take out credit for short-term operational expenses, such as salaries, but are not applicable to capital expenditures. He noted that the second tier applies to capital expenditures to allow a more efficient process, but would remain capped at \$3 million so that the City could not enter crippling debt.

Rep. Lavelle then asked what the City's total budget is. Losco responded that it is around \$5-\$6 million total, and Thomas noted that their capital budget is about \$500,000 per year.

Chairman Schwartzkopf then opened up the meeting for public comment. Jack Klingmeyer, former member of City Council and Mayor of the City of New Castle, stated that he asked for minutes from these charter committee hearings and was told that minutes had never been filed, which is a violation of FOIA.

Klingmeyer stated that a charter acts like a state or federal constitution to set boundaries between people and government, and these changes are very unnecessary. He noted that voters should have the right to referendum. In addition, the City is not in dire financial need, so these borrowing provisions are also unnecessary. He stated that the issue is that the Mayor and other Councilpersons refuse to raise taxes and therefore are looking for other ways to provide funds, which is a political move. He concluded that the City needs to get their financial house in order and get a City Council that will raise taxes rather than try to convince the General Assembly to give them borrowing power.

Next, Carol Hickman, a New Castle citizen, brought up two main issues with this legislation – the term limits and the borrowing power. She noted that many citizens of New Castle were unable to attend the workshops because of work or other commitments and although they were somewhat advertised, they were not public enough. Hickman said that she opposes the changes in term limits because two years should be sufficient, as state representatives serve those two-year terms. Finally, she stated that any major funding decisions should go to the people via referendum, as they always have.

John Cochran, New Castle City Council member, stated that four year terms are necessary because you can gain more experience and run government more efficiently.

Rep. Longhurst then asked if any other towns or cities in Delaware have four-year terms. Losco noted that the City of Wilmington, City of Dover, Delmar, Laurel, and Newark all have four-year terms, while others have three- or two- year terms. Rep. Mulrooney noted that four-year terms help save money for the city while still allowing citizens to be actively involved in the process. He stated that a diverse committee helped make the decision in the best interest of the citizens.

John Houben, former mayor of the City of New Castle, noted that he was elected with no prior political experience and spent the first two years figuring out the job. Therefore, he supports the staggered four-year terms because the learning process takes time. He concluded by sharing the results of a survey which found that the majority of citizens favored four-year terms for councilpersons.

Arlene Harris, New Castle citizen, stated that she has issues with borrowing for operational and capital needs because the City should learn to stay within its means. Harris noted that she attended a workshop but didn't believe her opinion was considered in the Council's decisions. She said that she's been getting a lot of conflicting information and therefore believes the charter needs to be reexamined. Because the citizens pay for whatever the City borrows, she believes they reserve the right to vote on projects.

Rep. Johnson, a co-sponsor of the bill, stated that he represents Buttonwood, which is a largely minority section of the City. He noted that when City flooded and new dikes were needed, there

was very little done because of the referendum issue. Therefore, he supports the legislation because of the changes necessary to correct such issues.

Mark Lally, representing the Delaware League of Local Governments, stated that they support this legislation and asked the committee to release it.

Next, Teel Petty, a New Castle Councilwoman, stated that with the current charter, there is a possibility to have a brand new Council every two years. She noted that term length makes a difference because you understand the job better the longer you're in office. She concluded by saying that anything ninety years old needs updating.

Rep. Hocker stated that he represents seven different cities, and they all have limited borrowing powers. In addition, all of them have some type of borrowing power beyond referendum.

Chairman Schwartzkopf stated that the towns he represents also have staggered terms, which he believes is important. He noted that he's never heard of a City having so many public hearings for a charter change, and they went above and beyond the necessary hearings. Chairman Schwartzkopf said that those hearings were the time for public comment, and the City Council has decided to approve this charter. Finally, he stated that their borrowing system satisfies their short, medium, and long-term needs, and although they shouldn't get into continual debt, it's often necessary to borrow for necessary long-term decisions and projects.

Finally, Klingmeyer read from Title 22 of the Delaware Code and stated that this charter violates the public's right to be part of the democratic process. Chairman Schwartzkopf concluded that these term limits begin in 2013, and if citizens are unhappy with the decisions of the current Council, they can vote them out of office.

After hearing no more questions or comments, Chairman Schwartzkopf then asked for a motion on HB 307. Rep. Longhurst motioned to release the bill from committee and Rep. Hocker seconded the motion. The bill was released from committee on a vote of 5-0.

Next, Chairman Schwartzkopf introduced **HB 300: AN ACT TO AMEND TITLE 15 OF THE DELAWARE CODE RELATING TO ENHANCED DISCLOSURE REPORTING AND DISCLAIMER REQUIREMENTS IN DELAWARE'S CAMPAIGN FINANCE LAWS.** Andrew Lippstone, Deputy Legal Counsel for Governor Markell, spoke on behalf of the legislation.

Lippstone stated that Delaware's election disclosure laws were adopted over twenty years ago, and there has been a rapid increase in spending since then. Therefore, it's necessary to update these laws. He noted that federal laws and Supreme Court decisions have allowed more money to flow into the elections, but courts have consistently upheld disclosure laws.

Lippstone continued that this legislation closes loopholes about the transparency of third-party ads. This bill requires that any person or entity who spends \$500 or more on electioneering communications within 30 days of a primary election or 60 days of a general election submit a

report disclosing this information. This report provides voters with timely information about who's responsible for ads and where the money came from.

Lippstone also noted that this legislation includes "stand-by-your-ad provisions," requiring these third parties to state in the ad how it was paid for. He said it also clarifies the law about political action committees and provides definitions for certain things that were not previously defined. He concluded that the influx of anonymous outside spending could violate Delaware's tradition of direct and honest political dialogue, which is why this legislation is necessary,

Speaker Gilligan then asked if school board elections are covered under this legislation. Lippstone responded that they are covered under this legislation. Speaker Gilligan responded that he hopes they are because there is an issue with undisclosed electioneering communications in Red Clay and other schools districts. The committee discussed adding an amendment if necessary to clarify that school boards are included.

Mimi Marziani, an attorney at the Brennan School for Justice at the New York University School of Law, shared two main reasons for this legislation. First, it's essential for voters to know who's influencing their votes, and with partisan outside groups playing more of a role in electioneering communications, it's more important than ever for disclosure laws. Marziani noted that the Supreme Court has upheld disclosure laws consistently over the last 35 years, both in the Citizens United decision and other decisions.

Secondly, Marziani noted that Delaware's current disclosure law hasn't been updated to reflect the Citizens United decision and it lags behind many other states. Therefore, this legislation modernizes Delaware law in three main ways. First, it better regulates electioneering communications by third-parties. Second, the act enhances reporting requirements to make reports more prompt and accessible to the citizens online. Third, it requires spenders to stand by their advertisements through disclaimers on their ads. Finally, the proposed law provides a link to the Elections website where voters can go to find out more information about these third parties and who's influencing their vote.

Rep. Lavelle asked what information will be on the website that these ads link to. Lippstone responded that the information online will include how the third party receives funding and where that money goes. It also will include short statement about its purpose and goals. Rep. Lavelle then asked if this law also includes state political committees. Lippstone responded that a political committee will abide by the same rules as these third parties, and they will be required to provide that information once they hit that \$500 mark.

Rep. Lavelle then responded that not all of these political committees hit that \$500 mark through advertising but still spend significant money to fund candidates. He noted that it's very difficult to navigate the Department of Elections website because you must know the exact name of the PAC to actually look it up and find these reports. He concluded by asking how they came up with the amount of \$500 to trigger the disclosure of this information.

Lippstone then stated that if you're a PAC, you are required to file regular reports. These reports are also found online. Marziana noted that the disclosure is triggered by an event rather than

periodic reporting because when citizens see or hear an advertisement, they have an immediate interest and therefore deserve immediate information about who's behind that advertisement.

Rep. Lavelle then asked if candidate committees are covered under this law, and Lippstone responded that they are not. Rep. Schwartzkopf stated that candidates are required to file periodic reports, regardless of if or how they advertise.

Rep. Lavelle conveyed his support for disclosure and asked if other parts of speech should also be covered. He stated that you must be careful how you use speech and how you regulate it. He noted that founders like Thomas Payne hid beyond anonymous speech to achieve life and liberty, and that anonymous speech has held an important place in our society.

Rep. Schwartzkopf said that he doesn't view this as regulating speech. Instead, this gives citizens the opportunity to know who sponsored the advertisement and who's trying to influence elections in a district.

Marziana stated that our nation has a long tradition of anonymous speech but not necessary anonymous spending. She also clarified that the legislation regulates all outside groups besides the actual candidate committee, so that all outside spending is subject to disclosure requirements.

Ron Smith, a house attorney, noted that there is a heavy burden on the legislative branch to apply law that isn't too broad or overreaching. Smith expressed concerns about this legislation, as it allows the Election Commissioner to make an exemption without any stipulations or guidelines as to how they can make exemptions. As a result, the state is delegating broad authority to a single person, and this could result in potential long-term problems.

Lippstone responded that the Commissioner could not require any additional information not listed in the bill and must go through a process listed in the Administrative Procedures Act. Smith responded that his concerns deal with delegating such broad power to an executive branch nominee. He asked if there are any avenues for the General Assembly to take to put some guidelines in place here around this exemption. Marziana responded that there is nothing unusual about this type of exemption.

Smith stated that the goal here is equality and a fair and open process, and this exemption process doesn't promote that fairness. He also referenced the case of *McIntyre v. Ohio Elections Commission*, which dealt with a woman who passed out flyers without her name and therefore faced criminal penalties since they were anonymous. Smith said that under this legislation, there are exemptions for any advertisements less than ninety square feet, which could led to many exemptions.

Lippstone responded that the legislation attempts to exempt any less noticeable types of communication, such as yard signs or pamphlets. Marziana also stated that *McIntyre* demonstrates the history of anonymous speech in the United States, but that the Supreme Court has continuously made it clear that *McIntyre* does not apply to spending money in elections.

Rep. Lavelle then asked how they could track down mail that goes out without any type of identification. Marziana replied that they have criminal penalties built into the legislation to try to deter this. Rep. Schwartzkopf also noted that in most cases, people will abide by a law if there are penalties.

Rep. Lavelle asked if out-of-state communications are also regulated. For example, if someone in Ohio sponsors advertisements in Delaware and they do not abide by the disclosure requirements, could the state prosecute whoever sponsored the anonymous communication? Marziana replied that yes, the offender could be prosecuted even if he or she resides outside of Delaware.

Rep. Schwartzkopf then opened the floor for public comment. Kathleen MacRae, representing the ACLU of Delaware and Common Cause, stated Common Cause's support for this legislation because of its ability to disclose "sham issue ads," which mention candidates by name. Because this legislation keeps voters aware of who is trying to influence their elections, these two organizations support the bill.

Charlotte King, League of Women Voters, stated that increased elections disclosure is a priority for their national organization. She said that this legislation is a good step towards campaign finance reform.

Nancy Willing, representing the Civic league, noted her concerns about anonymous spending in school board elections both in Red Clay and Christiana school districts. She asked that school board elections be included under this legislation to help curb the vicious, anonymous spending.

Speaker Gilligan then asked why the legislation is set to take effect on June 30, 2013, versus earlier next year. Lippstone stated that they chose that date to give the Elections Department more time to prepare for these regulatory changes. Speaker Gilligan stated that June 30 would exclude the next school board elections. The committee then discussed a possible amendment to change this date.

Jack Polidori of the Delaware School Board Association stated that his organization supports this disclosure legislation and would like to be sure that school board elections are included in under this bill. He handed out sample literature that has been sent out in certain school districts from a PAC. He demonstrated that this anonymous speech and spending is difficult to track and almost impossible for voters to understand where money comes from and who's trying to influence their votes.

After hearing no more questions of the committee, Chairman Schwartzkopf asked for a motion. Speaker Gilligan motioned to release the bill, and Rep. Longhurst seconded the motion. HB 300 was released from committee on a 4-1 vote.

Rep. Lavelle noted that he voted against the release of this bill because of the concerns Smith brought up. Chairman Schwartzkopf agreed that they need to resolve these issues about the exemptions and signage before bringing the legislation to the floor. The committee and interested parties agreed to review concerns and propose amendments, if necessary.

Chairman Schwartzkopf then introduced the final bill on the agenda, **HB 310: AN ACT TO AMEND CHAPTER 80, TITLE 15 OF THE DELAWARE CODE RELATIN GTO VIOLATIONS OF CAMPAIGN FINANCE LAWS** and asked Rep. Longhurst, the prime sponsor of the bill, to introduce the legislation. Rep. Longhurst stated that this bill enhances the penalties regarding filing election disclosure reports.

Rep. Longhurst stated that the bill has four main parts. First, it increases the penalties of late filing from \$50 per month to \$50 per day. Second, it makes the penalties the same for late or incomplete reports. Third, it imposes a fine of \$500 or 25 percent of the cost of the ad to whatever ad fails to include the “paid by for...” disclaimer. Finally, it requires the Commissioner to send a written notice and allows the party 30 days to appeal.

Rep. Lavelle asks how the Elections Department determines if reports are late or incomplete. He stated that he supports the increase of transparency, but there are issues with enforcement. He stated that they need better enforcement before legislation like this could actually work. Rep. Longhurst responded that because the Governor supports this legislation, she suspects more attention will be paid to enforcement.

Rep. Lavelle then inquired whether or not this bill needs to have a fiscal note. Lippstone replied that, based on their discussions with the Elections Commissioner, there is no additional cost involved.

Rep. Hocker then asked how many individuals have actually paid this fine. Lippstone stated that this legislation seeks to put due process around this filing process. If there is a late filing, the Elections Commissioner must notify the party and allow for a 30-day appeal period.

Smith asked what organizations should do if they absolutely cannot comply with the law, due to illness or any other issues. Lippstone replied that there are standards in existing law to address these concerns.

Chairman Schwartzkopf then asked for a motion. Speaker Gilligan motioned to release HB 310 from committee, and Rep. Longhurst seconded the motion. The bill was released on a 5-0 vote.

Chairman Schwartzkopf adjourned the meeting at 4:37 p.m.

Respectfully submitted by,

Abigail N. Stollar

House Administration Committee

Attendance

May 2, 2012

1. William Barthel, President of City of New Castle
2. Daniel Losco, City of New Castle
3. Cathryn Thomas, City of New Castle
4. Theodore Megginon, City of New Castle
5. John Cochran, City of New Castle
6. Donald Reese, City of New Caslte
7. Marellira Petty, City of New Castle
8. Janet Wurtzel, City of New Castle citizen
9. Linda Ratchford, City of New Castle resident
10. Nancy Willing, Civic League of New Castle County
11. Ron Smith, House Attorney
12. Seth Thompson, House Attorney
13. James Stewart, City of New Castle Property Owner
14. John L. Houben
15. George Lovett
16. William Boyle, New Castle resident
17. Holly Denton, Resident of New Castle
18. Jack Polidori, DSEA
19. Mark Lally, Delaware League of Local Governments
20. Kathleen MacRae, ACLU-DE; Common Cause
21. Arleen Harris, City of New Castle citizen
22. John Klingmeyer
23. Carol Hickman, City of New Castle
24. Charlotte King, League of Women Voters

EXHIBIT B

Short Form

Return of Organization Exempt From Income Tax

Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code

(except black lung benefit trust or private foundation)

▶ Sponsoring organizations of donor advised funds, organizations that operate one or more hospital facilities, and certain controlling organizations as defined in section 512(b)(13) must file Form 990 (see instructions). All other organizations with gross receipts less than \$200,000 and total assets less than \$500,000 at the end of the year may use this form

▶ The organization may have to use a copy of this return to satisfy state reporting requirements

OMB No 1545-1150

2011

Open to Public Inspection

Form **990-EZ**

Department of the Treasury
Internal Revenue Service

A For the 2011 calendar year, or tax year beginning , 2011, and ending , 20

B Check if applicable:
 Address change
 Name change
 Initial return
 Terminated
 Amended return
 Application pending

C Name of organization
DELAWARE STRONG FAMILIES INC

D Employer identification number
26-1294144

Number and street (or P.O. box, if mail is not delivered to street address) Room/suite
50 FALLON DRIVE

E Telephone number

City or town, state or country, and ZIP + 4
SEAFORD, DE 19973

F Group Exemption Number ▶

G Accounting Method Cash Accrual Other (specify) ▶ **INCOME TAX BASIS**

H Check if the organization is not required to attach Schedule B (Form 990, 990-EZ, or 990-PF)

I Website: ▶ **NA**

J Tax-exempt status (check only one) - 501(c)(3) 501(c)() (insert no) 4947(a)(1) or 527

K Check if the organization is not a section 509(a)(3) supporting organization or section 527 organization and its gross receipts are normally not more than \$50,000. A Form 990-EZ or Form 990 return is not required though Form 990-N (e-postcard) may be required (see instructions). But if the organization chooses to file a return, be sure to file a complete return.

L Add lines 5b, 6c, and 7b, to line 9 to determine gross receipts. If gross receipts are \$200,000 or more, or if total assets (Part II, line 25, column (B) below) are \$500,000 or more, file Form 990 instead of Form 990-EZ ▶ \$ **63,212**

Part I Revenue, Expenses, and Changes in Net Assets or Fund Balances (see the instructions for Part I)
 Check if the organization used Schedule O to respond to any question in this Part I

R e v e n u e	1	Contributions, gifts, grants, and similar amounts received	1	63,212
	2	Program service revenue including government fees and contracts	2	
	3	Membership dues and assessments	3	
	4	Investment income	4	
	5a	Gross amount from sale of assets other than inventory	5a	
	5b	Less cost or other basis and sales expenses	5b	
	5c	Gain or (loss) from sale of assets other than inventory (Subtract line 5b from line 5a)	5c	
	6	Gaming and fundraising events		
	6a	Gross income from gaming (attach Schedule G if greater than \$15,000)	6a	
6b	Gross income from fundraising events (not including \$ of contributions from fundraising events reported on line 1) (attach Schedule G if the sum of such gross income and contributions exceeds \$15,000)	6b		
6c	Less direct expenses from gaming and fundraising events	6c		
6d	Net income or (loss) from gaming and fundraising events (add lines 6a and 6b and subtract line 6c)	6d		
7a	Gross sales of inventory, less returns and allowances	7a		
7b	Less cost of goods sold	7b		
7c	Gross profit or (loss) from sales of inventory (Subtract line 7b from line 7a)	7c		
8	Other revenue (describe in Schedule O)	8		
9	Total revenue. Add lines 1, 2, 3, 4, 5c, 6d, 7c, and 8 ▶	9	63,212	
E x p e n s e s	10	Grants and similar amounts paid (list in Schedule O)	10	
	11	Benefits paid to or for members	11	
	12	Salaries, other compensation, and employee benefits	12	
	13	Professional fees and other payments to independent contractors	13	
	14	Occupancy, rent, utilities, and maintenance	14	
	15	Printing, publications, postage, and shipping	15	
	16	Other expenses (describe in Schedule O)	16	59,469
17	Total expenses. Add lines 10 through 16 ▶	17	59,469	
A s s e t s	18	Excess or (deficit) for the year (Subtract line 17 from line 9)	18	3,743
	19	Net assets or fund balances at beginning of year (from line 27, column (A)) (must agree with end-of-year figure reported on prior year's return)	19	15,007
	20	Other changes in net assets or fund balances (explain in Schedule O)	20	
	21	Net assets or fund balances at end of year. Combine lines 18 through 20 ▶	21	18,750

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Part V Other Information (Note the Schedule A and personal benefit contract statement requirements in the instructions for Part V) Check if the organization used Schedule O to respond to any question in this Part V

33 Did the organization engage in any significant activity not previously reported to the IRS? If "Yes," provide a detailed description of each activity in Schedule O
34 Were any significant changes made to the organizing or governing documents? If "Yes," attach a conformed copy of the amended documents if they reflect a change to the organization's name
35 a Did the organization have unrelated business gross income of \$1,000 or more during the year from business activities
35 b If "Yes," to line 35a, has the organization filed a Form 990-T for the year? If "No," provide an explanation in Schedule O
35 c Was the organization a section 501(c)(4), 501(c)(5), or 501(c)(6) organization subject to section 6033(e) notice, reporting, and proxy tax requirements during the year?
36 Did the organization undergo a liquidation, dissolution, termination, or significant disposition of net assets during the year?
37 a Enter amount of political expenditures, direct or indirect, as described in the instructions
37 b Did the organization file Form 1120-POL for this year?
38 a Did the organization borrow from, or make any loans to, any officer, director, trustee, or key employee or were any such loans made in a prior year and still outstanding at the end of the tax year covered by this return?
38 b If "Yes," complete Schedule L, Part II and enter the total amount involved
39 Section 501(c)(7) organizations Enter
39 a Initiation fees and capital contributions included on line 9
39 b Gross receipts, included on line 9, for public use of club facilities
40 a Section 501(c)(3) organizations Enter amount of tax imposed on the organization during the year under section 4911, section 4912, section 4955
40 b Section 501(c)(3) and 501(c)(4) organizations Did the organization engage in any section 4958 excess benefit transaction during the year, or did it engage in an excess benefit transaction in a prior year that has not been reported on any of its prior Forms 990 or 990-EZ?
40 c Section 501(c)(3) and 501(c)(4) organizations Enter amount of tax imposed on organization managers or disqualified persons during the year under sections 4912, 4955, and 4958
40 d Section 501(c)(3) and 501(c)(4) organizations Enter amount of tax on line 40c reimbursed by the organization
40 e All organizations At any time during the tax year, was the organization a party to a prohibited tax shelter transaction?
41 List the states with which a copy of this return is filed
42 a The organization's books are in care of NICOLE THEIS Telephone no 302-548-5106 Located at 50 FALLON DRIVE SEAFORD, DE ZIP + 4 19973
42 b At any time during the calendar year, did the organization have an interest in or a signature or other authority over a financial account in a foreign country (such as a bank account, securities account, or other financial account)?
42 c At any time during the calendar year, did the organization maintain an office outside of the U S?
43 Section 4947(a)(1) nonexempt charitable trusts filing Form 990-EZ in lieu of Form 1041-Check here and enter the amount of tax-exempt interest received or accrued during the tax year
44 a Did the organization maintain any donor advised funds during the year?
44 b Did the organization operate one or more hospital facilities during the year?
44 c Did the organization receive any payments for indoor tanning services during the year?
44 d If "Yes," to line 44c, has the organization filed a Form 720 to report these payments?
45 a Did the organization have a controlled entity within the meaning of section 512(b)(13)?
45 b Did the organization receive any payment from or engage in any transaction with a controlled entity within the meaning of section 512(b)(13)?

46 Did the organization engage, directly or indirectly, in political campaign activities on behalf of or in opposition to candidates for public office? If "Yes," complete Schedule C, Part I

Part VI Section 501(c)(3) organizations and section 4947(a)(1) nonexempt charitable trusts only. All section 501(c)(3) organizations and section 4947(a)(1) nonexempt charitable trusts must answer questions 47-49b and 52, and complete the tables for lines 50 and 51.

Check if the organization used Schedule O to respond to any question in this Part VI

47 Did the organization engage in lobbying activities or have a section 501(h) election in effect during the tax year? If "Yes," complete Schedule C, Part II
48 Is the organization a school as described in section 170(b)(1)(A)(ii)? If "Yes," complete Schedule E
49a Did the organization make any transfers to an exempt non-charitable related organization?
b If "Yes," was the related organization a section 527 organization?
50 Complete this table for the organization's five highest compensated employees (other than officers, directors, trustees and key employees) who each received more than \$100,000 of compensation from the organization

Table with 5 columns: (a) Name and address of each employee paid more than \$100,000; (b) Title and average hours per week devoted to position; (c) Reportable compensation; (d) Health benefits, contributions to employee benefit plans, and deferred compensation; (e) Estimated amount of other compensation. Row 1 contains 'NONE'.

f Total number of other employees paid over \$100,000
51 Complete this table for the organization's five highest compensated independent contractors who each received more than \$100,000 of compensation from the organization

Table with 3 columns: (a) Name and address of each independent contractor paid more than \$100,000; (b) Type of service; (c) Compensation. Row 1 contains 'NONE'.

d Total number of other independent contractors each receiving over \$100,000
52 Did the organization complete Schedule A? Note: All section 501(c)(3) nonexempt charitable trusts must attach a completed Schedule A

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, this return and all such schedules and statements are true, correct, and complete. Declaration of preparer (other than officer) is based on all information of which he or she has any knowledge.

Sign Here: Signature of officer NICOLE THEIS, PRESIDENT. Paid Preparer Use Only: Jeff Premo CPA, Jeffrey L Premo PA, 214 E Front Street, LAUREL DE 19956.

May the IRS discuss this return with the preparer shown above? See Instructions

SCHEDULE A
(Form 990 or 990-EZ)

Public Charity Status and Public Support

OMB No 1545-0047

2011

Open to Public Inspection

Complete if the organization is a section 501(c)(3) organization or a section 4947(a)(1) nonexempt charitable trust.

▶ Attach to Form 990 or Form 990-EZ. ▶ See separate instructions.

Department of the Treasury
Internal Revenue Service

Name of the organization

DELAWARE STRONG FAMILIES INC

Employer identification number

26-1294144

Part I Reason for Public Charity Status (All organizations must complete this part.) See instructions

The organization is not a private foundation because it is (For lines 1 through 11, check only one box.)

- 1 A church, convention of churches, or association of churches described in section 170(b)(1)(A)(i).
- 2 A school described in section 170(b)(1)(A)(ii). (Attach Schedule E.)
- 3 A hospital or a cooperative hospital service organization described in section 170(b)(1)(A)(iii).
- 4 A medical research organization operated in conjunction with a hospital described in section 170(b)(1)(A)(iii). Enter the hospital's name, city, and state _____
- 5 An organization operated for the benefit of a college or university owned or operated by a governmental unit described in section 170(b)(1)(A)(iv). (Complete Part II.)
- 6 A federal, state, or local government or governmental unit described in section 170(b)(1)(A)(v).
- 7 An organization that normally receives a substantial part of its support from a governmental unit or from the general public described in section 170(b)(1)(A)(vi). (Complete Part II.)
- 8 A community trust described in section 170(b)(1)(A)(vi). (Complete Part II.)
- 9 An organization that normally receives (1) more than 33 1/3% of its support from contributions, membership fees, and gross receipts from activities related to its exempt functions - subject to certain exceptions, and (2) no more than 33 1/3% of its support from gross investment income and unrelated business taxable income (less section 511 tax) from businesses acquired by the organization after June 30, 1975. See section 509(a)(2). (Complete Part III.)
- 10 An organization organized and operated exclusively to test for public safety. See section 509(a)(4).
- 11 An organization organized and operated exclusively for the benefit of, to perform the functions of, or to carry out the purposes of one or more publicly supported organizations described in section 509(a)(1) or section 509(a)(2). See section 509(a)(3). Check the box that describes the type of supporting organization and complete lines 11e through 11h.
 - a Type I
 - b Type II
 - c Type III-Functionally integrated
 - d Type III-Other
- e By checking this box, I certify that the organization is not controlled directly or indirectly by one or more disqualified persons other than foundation managers and other than one or more publicly supported organizations described in section 509(a)(1) or section 509(a)(2).
- f If the organization received a written determination from the IRS that it is a Type I, Type II, or Type III supporting organization, check this box
- g Since August 17, 2006, has the organization accepted any gift or contribution from any of the following persons?
 - (i) A person who directly or indirectly controls, either alone or together with persons described in (ii) and (iii) below, the governing body of the supported organization?
 - (ii) A family member of a person described in (i) above?
 - (iii) A 35% controlled entity of a person described in (i) or (ii) above?
- h Provide the following information about the supported organization(s)

	Yes	No
11g(i)		
11g(ii)		
11g(iii)		

(i) Name of supported organization	(ii) EIN	(iii) Type of organization (described on lines 1-9 above or IRC section (see instructions))	(iv) Is the organization in col (i) listed in your governing document?		(v) Did you notify the organization in col (i) of your support?		(vi) Is the organization in col (i) organized in the U.S.?		(vii) Amount of support
			Yes	No	Yes	No	Yes	No	
(A)									
(B)									
(C)									
(D)									
(E)									
Total									

For Paperwork Reduction Act Notice, see the Instructions for Form 990 or 990-EZ.

EEA

Schedule A (Form 990 or 990-EZ) 2011

Part II Support Schedule for Organizations Described in Sections 170(b)(1)(A)(iv) and 170(b)(1)(A)(vi)

(Complete only if you checked the box on line 5, 7, or 8 of Part I or if the organization failed to qualify under

Part III. If the organization fails to qualify under the tests listed below, please complete Part III.)

Section A. Public Support

Calendar year (or fiscal year beginning in) ▶	(a) 2007	(b) 2008	(c) 2009	(d) 2010	(e) 2011	(f) Total
1 Gifts, grants, contributions, and membership fees received (Do not include any "unusual grants")		44,068	54,496	71,154	63,212	232,930
2 Tax revenues levied for the organization's benefit and either paid to or expended on its behalf						
3 The value of services or facilities furnished by a governmental unit to the organization without charge						
4 Total. Add lines 1 through 3		44,068	54,496	71,154	63,212	232,930
5 The portion of total contributions by each person (other than a governmental unit or publicly supported organization) included on line 1 that exceeds 2% of the amount shown on line 11, column (f)						16,129
6 Public support. Subtract line 5 from line 4						216,801

Section B. Total Support

Calendar year (or fiscal year beginning in) ▶	(a) 2007	(b) 2008	(c) 2009	(d) 2010	(e) 2011	(f) Total
7 Amounts from line 4		44,068	54,496	71,154	63,212	232,930
8 Gross income from interest, dividends, payments received on securities loans, rents, royalties and income from similar sources						
9 Net income from unrelated business activities, whether or not the business is regularly carried on						
10 Other income. Do not include gain or loss from the sale of capital assets (Explain in Part IV)						
11 Total support. Add lines 7 through 10						232,930
12 Gross receipts from related activities, etc. (see instructions)					12	1,771
13 First five years. If the Form 990 is for the organization's first, second, third, fourth, or fifth tax year as a section 501(c)(3) organization, check this box and stop here ▶ <input type="checkbox"/>						

Section C. Computation of Public Support Percentage

14 Public support percentage for 2011 (line 6, column (f) divided by line 11, column (f))	14	93.08	%
15 Public support percentage from 2010 Schedule A, Part II, line 14	15	97.41	%
16a 33 1/3% support test - 2011. If the organization did not check the box on line 13, and line 14 is 33 1/3% or more, check this box and stop here. The organization qualifies as a publicly supported organization ▶ <input checked="" type="checkbox"/>			
b 33 1/3% support test - 2010. If the organization did not check a box on line 13 or 16a, and line 15 is 33 1/3% or more, check this box and stop here. The organization qualifies as a publicly supported organization ▶ <input type="checkbox"/>			
17a 10%-facts-and-circumstances test - 2011. If the organization did not check a box on line 13, 16a, or 16b, and line 14 is 10% or more, and if the organization meets the "facts-and-circumstances" test, check this box and stop here. Explain in Part IV how the organization meets the "facts-and-circumstances" test. The organization qualifies as a publicly supported organization ▶ <input type="checkbox"/>			
b 10%-facts-and-circumstances test - 2010. If the organization did not check a box on line 13, 16a, 16b, or 17a, and line 15 is 10% or more, and if the organization meets the "facts-and-circumstances" test, check this box and stop here. Explain in Part IV how the organization meets the "facts-and-circumstances" test. The organization qualifies as a publicly supported organization ▶ <input type="checkbox"/>			
18 Private foundation. If the organization did not check a box on line 13, 16a, 16b, 17a, or 17b, check this box and see instructions ▶ <input type="checkbox"/>			

Part III Support Schedule for Organizations Described in Section 509(a)(2)

(Complete only if you checked the box on line 9 of Part I or if the organization failed to qualify under Part II)

If the organization fails to qualify under the tests listed below, please complete Part II)

Section A. Public Support

Calendar year (or fiscal year beginning in) ▶	(a) 2007	(b) 2008	(c) 2009	(d) 2010	(e) 2011	(f) Total
1 Gifts, grants, contributions, and membership fees received (Do not include any "unusual grants")						
2 Gross receipts from admissions, merchandise sold or services performed, or facilities furnished in any activity that is related to the organization's tax-exempt purpose						
3 Gross receipts from activities that are not an unrelated trade or bus under sec 513						
4 Tax revenues levied for the organization's benefit and either paid to or expended on its behalf						
5 The value of services or facilities furnished by a governmental unit to the organization without charge						
6 Total. Add lines 1 through 5						
7a Amounts included on lines 1, 2, and 3 received from disqualified persons						
b Amounts included on lines 2 and 3 received from other than disqualified persons that exceed the greater of \$5,000 or 1% of the amount on line 13 for the year						
c Add lines 7a and 7b						
8 Public support (Subtract line 7c from line 6)						

Section B. Total Support

Calendar year (or fiscal year beginning in) ▶	(a) 2007	(b) 2008	(c) 2009	(d) 2010	(e) 2011	(f) Total
9 Amounts from line 6						
10a Gross income from interest, dividends, payments received on securities loans, rents, royalties and income from similar sources						
b Unrelated business taxable income (less section 511 taxes) from businesses acquired after June 30, 1975						
c Add lines 10a and 10b						
11 Net income from unrelated business activities not included in line 10b, whether or not the business is regularly carried on						
12 Other income Do not include gain or loss from the sale of capital assets (Explain in Part IV)						
13 Total support. (Add lines 9, 10c, 11, and 12)						

14 First five years. If the Form 990 is for the organization's first, second, third, fourth, or fifth tax year as a section 501(c)(3) organization, check this box and stop here

Section C. Computation of Public Support Percentage

15 Public support percentage for 2011 (line 8, column (f) divided by line 13, column (f))	15	%
16 Public support percentage from 2010 Schedule A, Part III, line 15	16	%

Section D. Computation of Investment Income Percentage

17 Investment income percentage for 2011 (line 10c, column (f) divided by line 13, column (f))	17	%
18 Investment income percentage from 2010 Schedule A, Part III, line 17	18	%

19a 33 1/3% support tests - 2011. If the organization did not check the box on line 14, and line 15 is more than 33 1/3%, and line 17 is not more than 33 1/3%, check this box and stop here. The organization qualifies as a publicly supported organization

b 33 1/3% support tests - 2010. If the organization did not check a box on line 14 or line 19a, and line 16 is more than 33 1/3%, and line 18 is not more than 33 1/3%, check this box and stop here. The organization qualifies as a publicly supported organization

20 Private foundation. If the organization did not check a box on line 14, 19a, or 19b, check this box and see instructions

SCHEDULE C
(Form 990 or 990-EZ)

Political Campaign and Lobbying Activities

OMB No 1545-0047

2011

Department of the Treasury
Internal Revenue Service

For Organizations Exempt From Income Tax Under section 501(c) and section 527
 ▶ Complete if the organization is described below. ▶ Attach to Form 990 or Form 990-EZ.
 ▶ See separate instructions.

Open to Public Inspection

If the organization answered "Yes," to Form 990, Part IV, line 3, or Form 990-EZ, Part V, line 46 (Political Campaign Activities), then

- Section 501(c)(3) organizations Complete Parts I-A and B Do not complete Part I-C
- Section 501(c) (other than section 501(c)(3)) organizations Complete Parts I-A and C below Do not complete Part I-B
- Section 527 organizations Complete Part I-A only

If the organization answered "Yes," to Form 990, Part IV, line 4, or Form 990-EZ, Part VI, line 47 (Lobbying Activities), then

- Section 501(c)(3) organizations that have filed Form 5768 (election under section 501(h)) Complete Part II-A Do not complete Part II-B
- Section 501(c)(3) organizations that have NOT filed Form 5768 (election under section 501(h)) Complete Part II-B Do not complete Part II-A

If the organization answered "Yes," to Form 990, Part IV, line 5 (Proxy Tax) or Form 990-EZ, Part V, line 35c (Proxy Tax), then

- Section 501(c)(4), (5), or (6) organizations Complete Part III

Name of organization DELAWARE STRONG FAMILIES INC	Employer identification number 26-1294144
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Part I-A Complete if the organization is exempt under section 501(c) or is a section 527 organization.

- 1 Provide a description of the organization's direct and indirect political campaign activities in Part IV.
- 2 Political expenditures ▶ \$ _____
- 3 Volunteer hours ▶ _____

Part I-B Complete if the organization is exempt under section 501(c)(3).

- 1 Enter the amount of any excise tax incurred by the organization under section 4955 ▶ \$ _____
- 2 Enter the amount of any excise tax incurred by organization managers under section 4955 ▶ \$ _____
- 3 If the organization incurred a section 4955 tax, did it file Form 4720 for this year? Yes No
- 4a Was a correction made? Yes No
- b If "Yes," describe in Part IV

Part I-C Complete if the organization is exempt under section 501(c), except section 501(c)(3).

- 1 Enter the amount directly expended by the filing organization for section 527 exempt function activities ▶ \$ _____
- 2 Enter the amount of the filing organization's funds contributed to other organizations for section 527 exempt function activities ▶ \$ _____
- 3 Total exempt function expenditures Add lines 1 and 2 Enter here and on Form 1120-POL, line 17b ▶ \$ _____
- 4 Did the filing organization file Form 1120-POL for this year? Yes No
- 5 Enter the names, addresses and employer identification number (EIN) of all section 527 political organizations to which the filing organization made payments For each organization listed, enter the amount paid from the filing organization's funds Also enter the amount of political contributions received that were promptly and directly delivered to a separate political organization, such as a separate segregated fund or a political action committee (PAC) If additional space is needed, provide information in Part IV

(a) Name	(b) Address	(c) EIN	(d) Amount paid from filing organization's funds If none, enter -0-	(e) Amount of political contributions received and promptly and directly delivered to a separate political organization If none, enter -0-
(1)				
(2)				
(3)				
(4)				
(5)				
(6)				

Part II-A Complete if the organization is exempt under section 501(c)(3) and filed Form 5768 (election under section 501(h)).

- A** Check if the filing organization belongs to an affiliated group (and list in Part IV each affiliated group member's name, address, EIN, expenses, and share of excess lobbying expenditures)
- B** Check if the filing organization checked box A and "limited control" provisions apply

Limits on Lobbying Expenditures (The term "expenditures" means amounts paid or incurred.)		(a) Filing organization's totals	(b) Affiliated group totals												
1a	Total lobbying expenditures to influence public opinion (grass roots lobbying)														
b	Total lobbying expenditures to influence a legislative body (direct lobbying)														
c	Total lobbying expenditures (add lines 1a and 1b)														
d	Other exempt purpose expenditures														
e	Total exempt purpose expenditures (add lines 1c and 1d)														
f	Lobbying nontaxable amount Enter the amount from the following table in both columns														
<table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 35%;">If the amount on line 1e, column (a) or (b) is:</th> <th>The lobbying nontaxable amount is :</th> </tr> </thead> <tbody> <tr> <td>Not over \$500,000</td> <td>20% of the amount on line 1e</td> </tr> <tr> <td>Over \$500,000 but not over \$1,000,000</td> <td>\$100,000 plus 15% of the excess over \$500,000</td> </tr> <tr> <td>Over \$1,000,000 but not over \$1,500,000</td> <td>\$175,000 plus 10% of the excess over \$1,000,000</td> </tr> <tr> <td>Over \$1,500,000 but not over \$17,000,000</td> <td>\$225,000 plus 5% of the excess over \$1,500,000</td> </tr> <tr> <td>Over \$17,000,000</td> <td>\$1,000,000</td> </tr> </tbody> </table>		If the amount on line 1e, column (a) or (b) is:	The lobbying nontaxable amount is :	Not over \$500,000	20% of the amount on line 1e	Over \$500,000 but not over \$1,000,000	\$100,000 plus 15% of the excess over \$500,000	Over \$1,000,000 but not over \$1,500,000	\$175,000 plus 10% of the excess over \$1,000,000	Over \$1,500,000 but not over \$17,000,000	\$225,000 plus 5% of the excess over \$1,500,000	Over \$17,000,000	\$1,000,000		
If the amount on line 1e, column (a) or (b) is:	The lobbying nontaxable amount is :														
Not over \$500,000	20% of the amount on line 1e														
Over \$500,000 but not over \$1,000,000	\$100,000 plus 15% of the excess over \$500,000														
Over \$1,000,000 but not over \$1,500,000	\$175,000 plus 10% of the excess over \$1,000,000														
Over \$1,500,000 but not over \$17,000,000	\$225,000 plus 5% of the excess over \$1,500,000														
Over \$17,000,000	\$1,000,000														
g	Grassroots nontaxable amount (enter 25% of line 1f)														
h	Subtract line 1g from line 1a If zero or less, enter -0-														
i	Subtract line 1f from line 1c If zero or less, enter -0-														
j	If there is an amount other than zero on either line 1h or line 1i, did the organization file Form 4720 reporting section 4911 tax for this year?		<input type="checkbox"/> Yes <input type="checkbox"/> No												

4-Year Averaging Period Under Section 501(h)
(Some organizations that made a section 501(h) election do not have to complete all of the five columns below. See the instructions for lines 2a through 2f on page 4.)

Lobbying Expenditures During 4-Year Averaging Period					
Calendar year (or fiscal year beginning in)	(a) 2008	(b) 2009	(c) 2010	(d) 2011	(e) Total
2a Lobbying nontaxable amount					
b Lobbying ceiling amount (150% of line 2a, column (e))					
c Total lobbying expenditures					
d Grassroots nontaxable amount					
e Grassroots ceiling amount (150% of line 2d, column (e))					
f Grassroots lobbying expenditures					

Part II-B Complete if the organization is exempt under section 501(c)(3) and has NOT filed Form 5768 (election under section 501(h)).

Table with 3 main columns: Description, (a) Yes/No, and (b) Amount. Rows include: 1 During the year, did the filing organization attempt to influence foreign, national, state or local legislation...; 2a Did the activities in line 1 cause the organization to be not described in section 501(c)(3)?; 2b If "Yes," enter the amount of any tax incurred under section 4912; 2c If "Yes," enter the amount of any tax incurred by organization managers under section 4912; 2d If the filing organization incurred a section 4912 tax, did it file Form 4720 for this year?

Part III-A Complete if the organization is exempt under section 501(c)(4), section 501(c)(5), or section 501(c)(6).

Table with 3 columns: Question, Yes, No. Rows include: 1 Were substantially all (90% or more) dues received nondeductible by members?; 2 Did the organization make only in-house lobbying expenditures of \$2,000 or less?; 3 Did the organization agree to carry over lobbying and political expenditures from the prior year?

Part III-B Complete if the organization is exempt under section 501(c)(4), section 501(c)(5), or section 501(c)(6) and if either (a) BOTH Part III-A, lines 1 and 2, are answered "No" OR (b) Part III-A, line 3, is answered "Yes."

Table with 3 columns: Description, Yes, No. Rows include: 1 Dues, assessments and similar amounts from members; 2 Section 162(e) nondeductible lobbying and political expenditures (do not include amounts of political expenses for which the section 527(f) tax was paid); 3 Aggregate amount reported in section 6033(e)(1)(A) notices of nondeductible section 162(e) dues; 4 If notices were sent and the amount on line 2c exceeds the amount on line 3, what portion of the excess does the organization agree to carryover to the reasonable estimate of nondeductible lobbying and political expenditure next year?; 5 Taxable amount of lobbying and political expenditures (see instructions)

Part IV Supplemental Information

Complete this part to provide the descriptions required for Part I-A, line 1, Part I-B, line 4, Part I-C, line 5, Part II-A, and Part II-B, line

1 Also, complete this part for any additional information

Multiple horizontal lines provided for supplemental information input.

SCHEDULE O
(Form 990 or 990-EZ)

Supplemental Information to Form 990 or 990-EZ

OMB No 1545-0047

2011

Open to Public Inspection

Department of the Treasury
Internal Revenue Service

Complete to provide information for responses to specific questions on
Form 990 or 990-EZ or to provide any additional information.

▶ Attach to Form 990 or 990-EZ.

Name of the organization

Employer identification number

DELAWARE STRONG FAMILIES INC

26-1294144

01. General explanation attachment

PART 1 LINE 16 OTHER EXPENSES

DE FAMILY POLICY COUNCIL INC A C4 27-0375433 PERFORMS C-3 ACTIVITIES FOR DE STRONG FAMILY

FAMILIES A C3. THESE EXPENSES ARE TRACTED AND REIMBURSED. SCHEDULE C; PART IIB LINE LI

OTHER ACTIVITIES

THIS AMOUNT INCLUDES \$2893 OF STAFF TIME AND \$2224 OF OVERHEAD ATTRIBUTED TO

DIRECT AND INDIRECT LOBBYING.

02. Description of other expenses (Part I, line 16)

DESCRIPTION	AMOUNT
CORPORATE TAXES	164
BANKING AND PROCESSING FEES	52
INFORMATION TECHNOLOGY	186
PY EXP CHARGED BACK TO C4	24,660
DIRECT EXP CHARGED BACK TO C4	34,407

03. Description of other assets (Part II, line 24)

CATEGORY	BEGINNING	
	OF YEAR	END OF YEAR
UNDEPOSITED FUNDS	0	1,470

04. Description of total liabilities (Part II, line 26)

BEGINNING

Name of the organization

Employer identification number

DELAWARE STRONG FAMILIES INC

26-1294144

CATEGORY	OF YEAR	END OF YEAR
ACCOUNTS PAYABLE	24,532	10,789

State of Delaware
Secretary of State
Division of Corporations
Delivered 11:30 AM 10/20/2011
FILED 11:30 AM 10/20/2011
SRV 111123190 - 4477569 FILE

Accr
290805301

**STATE OF DELAWARE
CERTIFICATE OF AMENDMENT
(A CORPORATION WITHOUT CAPITAL STOCK)**

The corporation, Delaware Family Policy Council Education Fund, organized and existing under the laws of the State of Delaware, hereby certifies as follows:

(1) That at a meeting a vote of the members of the governing body was taken for and against the amendment to the Certificate of Incorporation, said Amendment being as follows:

The name of the Corporation shall be Delaware Strong Families Inc.

(2) That said amendment was duly adopted in accordance with the provisions of Section 242 of the General Corporation Law of the State of Delaware.

IN WITNESS WHEREOF, said corporation has caused this certificate to be signed this 13th day of October, A.D. 2011.

By: *Tom Birowski*
Authorized Officer

Name: Tom Birowski, Chairman of the Board
Print or Type

EXHIBIT C

Form **990-EZ**

Return of Organization Exempt From Income Tax
 Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code
 (except black lung benefit trust or private foundation)

2011
Open to Public Inspection

Sponsoring organizations of donor advised funds, organizations that operate one or more hospital facilities, and certain controlling organizations as defined in section 512(b)(13) must file Form 990 (see instructions)
 All other organizations with gross receipts less than \$200,000 and total assets less than \$500,000 at the end of the year may use this form
 The organization may have to use a copy of this return to satisfy state reporting requirements

Department of the Treasury
 Internal Revenue Service

A For the 2011 calendar year, or tax year beginning 01-01-2011, and ending 12-31-2011

B Check if applicable: <input type="checkbox"/> Address change <input type="checkbox"/> Name change <input type="checkbox"/> Initial return <input type="checkbox"/> Terminated <input type="checkbox"/> Amended return <input type="checkbox"/> Application pending	C Name of organization DE FAMILY POLICY COUNCIL INC	D Employer identification number 27-0375433
	Number and street (or P O box, if mail is not delivered to street address) Room/suite 50 FALLON AVENUE	E Telephone number
	City or town, state or country, and ZIP + 4 SEAFORD, DE 19973	F Group Exemption Number

G Accounting method: Cash Accrual Other (specify) INCOME TAX BAS

I Website: DELAWAREFAMILIESORG

J Tax-Exempt status (check only one) — 501(c)(3) 501(c)(4) (insert no) 4947(a)(1) or 527

H Check if the organization is **not** required to attach Schedule B (Form 990, 990-EZ, or 990-PF)

K Check if the organization is not a section 509(a)(3) supporting organization or a section 527 organization and its gross receipts are normally **not** more than \$50,000. A Form 990-EZ or Form 990 return is not required though Form 990-N (e-postcard) may be required (see instructions). But if the organization chooses to file a return, be sure to file a complete return.

L Add lines 5b, 6c, and 7b, to line 9 to determine gross receipts. If gross receipts are \$200,000 or more, or if total assets (Part II, line 25, column (B) below) are \$500,000 or more, file Form 990 instead of Form 990-EZ. **\$ 128,349**

Part I Revenue, Expenses, and Changes in Net Assets or Fund Balances (See the instructions for Part I)
 Check if the organization used Schedule O to respond to any question in this Part I

		1	2	3	4	5a	5b	5c	6a	6b	6c	6d	7a	7b	7c	8	9	10	11	12	13	14	15	16	17	18	19	20	21
Revenue	1	Contributions, gifts, grants, and similar amounts received															53,259												
	2	Program service revenue including government fees and contracts																											
	3	Membership dues and assessments															14,300												
	4	Investment income																											
	5a	Gross amount from sale of assets other than inventory																											
	5b	Less cost or other basis and sales expenses																											
	5c	Gain or (loss) from sale of assets other than inventory (Subtract line 5b from line 5a)																											
	6	Gaming and fundraising events																											
	6a	Gross income from gaming (attach Schedule G if greater than \$15,000)																											
6b	Gross income from fundraising events (not including \$ of contributions from fundraising events reported on line 1) (attach Schedule G if the sum of such gross income and contributions exceeds \$15,000)																												
6c	Less direct expenses from gaming and fundraising events																												
6d	Net income or (loss) from gaming and fundraising events (Add lines 6a and 6b and subtract line 6c)																												
7a	Gross sales of inventory, less returns and allowances															1,723													
7b	Less cost of goods sold															2,650													
7c	Gross profit or (loss) from sales of inventory (Subtract line 7b from line 7a)															-927													
8	Other revenue (describe in Schedule O)															59,067													
9	Total revenue. Add lines 1, 2, 3, 4, 5c, 6d, 7c, and 8															125,699													
Expenses	10	Grants and similar amounts paid (list in Schedule O)																											
	11	Benefits paid to or for members																											
	12	Salaries, other compensation, and employee benefits															58,858												
	13	Professional fees and other payments to independent contractors															12,352												
	14	Occupancy, rent, utilities, and maintenance															2,717												
	15	Printing, publications, postage, and shipping																											
	16	Other expenses (describe in Schedule O)															91,579												
17	Total expenses. Add lines 10 through 16															165,506													
Net Assets	18	Excess or (deficit) for the year (Subtract line 17 from line 9)															-39,807												
	19	Net assets or fund balances at beginning of year (from line 27, column (A)) (must agree with end-of-year figure reported on prior year's return)															73,817												
	20	Other changes in net assets or fund balances (explain in Schedule O)																											
	21	Net assets or fund balances at end of year. Combine lines 18 through 20															34,010												

Part II Balance Sheets

Check if the organization used Schedule O to respond to any question in this Part II

(See the instructions for Part II)

	(A) Beginning of year	(B) End of year
22 Cash, savings, and investments	48,715	22 25,534
23 Land and buildings	570	23 570
24 Other assets (describe in Schedule O)	24,532	24 11,089
25 Total assets	73,817	25 37,193
26 Total liabilities (describe in Schedule O)	0	26 3,183
27 Net assets or fund balances (line 27 of column (B) must agree with line 21)	73,817	27 34,010

Part III Statement of Program Service Accomplishments

Check if the organization used Schedule O to respond to any question in this Part III

Expenses
(Required for section 501(c)(3) and 501(c)(4) organizations and section 4947(a)(1) trusts, optional for others)

What is the organization's primary exempt purpose?
TO INFORM FAMILIES ABOUT PUBLIC POLICES

Describe the organization's program service accomplishments for each of its three largest program services, as measured by expenses. In a clear and concise manner, describe the services provided, the number of persons benefited, and other relevant information for each program title

28 ADVOCATE AND ENCOURAGE PEOPLE TO ACTION ON SPECIFIC ISSUES (Grants \$) If this amount includes foreign grants, check here <input type="checkbox"/>	28a	168,156
29 (Grants \$) If this amount includes foreign grants, check here <input type="checkbox"/>	29a	
30 (Grants \$) If this amount includes foreign grants, check here <input type="checkbox"/>	30a	
31 Other program services (describe in Schedule O) (Grants \$) If this amount includes foreign grants, check here <input type="checkbox"/>	31a	
32 Total program service expenses (add lines 28a through 31a)	32	168,156

Part IV List of Officers, Directors, Trustees, and Key Employees. List each one even if not compensated (See the instructions for Part IV)

Check if the organization used Schedule O to respond to any question in this Part IV

(a) Name and address	(b) Title and average hours per week devoted to position	(c) Compensation (If not paid, enter -0-.)	(d) Contributions to employee benefit plans & deferred compensation	(e) Expense account and other allowances
See Additional Data Table				
		JA94		

Part V Other Information (Note the statement requirements in the instructions for Part V.)

Check if the organization used Schedule O to respond to any question in this Part V

		Yes	No
33	Did the organization engage in any significant activity not previously reported to the IRS? If "Yes," provide a detailed description of each activity in Schedule O		No
34	Were any significant changes made to the organizing or governing documents? If "Yes," attach a conformed copy of the amended documents if they reflect a change to the organization's name. Otherwise, explain the change on Schedule O (see instructions)		No
35	If the organization had income from business activities, such as those reported on lines 2, 6a, and 7a (among others), but not reported on Form 990-T, explain in Schedule O why the organization did not report the income on Form 990-T		
35a	Did the organization have unrelated business gross income of \$1,000 or more during the year from business activities (such as those reported on lines 2, 6a, and 7a, among others)?		No
35b	If "Yes" to line 35a, has the organization filed a Form 990-T for the year? If "No," provide an explanation in Schedule O		
35c	Was the organization a section 501(c)(4), 501(c)(5), or 501(c)(6) organization subject to section 6033(e) notice, reporting, and proxy tax requirements during the year? If "Yes," complete Schedule C, Part III		No
36	Did the organization undergo a liquidation, dissolution, termination, or significant disposition of net assets during the year? If "Yes," complete applicable parts of Schedule N		No
37a	Enter amount of political expenditures, direct or indirect, as described in the instructions <input type="checkbox"/> 37a 19,524		
37b	Did the organization file Form 1120-POL for this year?		No
38a	Did the organization borrow from, or make any loans to, any officer, director, trustee, or key employee or were any such loans made in a prior year and still outstanding at the end of the tax year covered by this return?		No
38b	If "Yes," complete Schedule L, Part II and enter the total amount involved		
39	Section 501(c)(7) organizations. Enter		
39a	Initiation fees and capital contributions included on line 9		
39b	Gross receipts, included on line 9, for public use of club facilities		
40a	Section 501(c)(3) organizations. Enter amount of tax imposed on the organization during the year under section 4911 <input type="checkbox"/> , section 4912 <input type="checkbox"/> , section 4955 <input type="checkbox"/>		
40b	Section 501(c)(3) and 501(c)(4) organizations. Did the organization engage in any section 4958 excess benefit transaction during the year or did it engage in an excess benefit transaction in a prior year that has not been reported on any of its prior Forms 990 or 990-EZ? If "Yes," complete Schedule L, Part I		No
40c	Section 501(c)(3) and 501(c)(4) organizations. Enter amount of tax imposed on organization managers or disqualified persons during the year under sections 4912, 4955, and 4958 <input type="checkbox"/>		
40d	Section 501(c)(3) and 501(c)(4) organizations. Enter amount of tax on line 40c reimbursed by the organization <input type="checkbox"/>		
40e	All organizations. At any time during the tax year, was the organization a party to a prohibited tax shelter transaction? If "Yes," complete Form 8886-T		No
41	List the states with which a copy of this return is filed <input type="checkbox"/>		
42a	The organization's books are in care of <input type="checkbox"/> NICOLE THEIS Telephone no <input type="checkbox"/> (302) 542-5106 50 FALLON AVENUE Located at <input type="checkbox"/> SEAFORD, DE ZIP + 4 <input type="checkbox"/> 19973		
42b	At any time during the calendar year, did the organization have an interest in or a signature or other authority over a financial account in a foreign country (such as a bank account, securities account, or other financial account)? If "Yes," enter the name of the foreign country <input type="checkbox"/> See the instructions for exceptions and filing requirements for Form TD F 90-22.1, Report of Foreign Bank and Financial Accounts.	Yes	No
42c	At any time during the calendar year, did the organization maintain an office outside of the U S ? If "Yes," enter the name of the foreign country <input type="checkbox"/>		No
43	Section 4947(a)(1) nonexempt charitable trusts filing Form 990-EZ in lieu of Form 1041—Check here <input checked="" type="checkbox"/> and enter the amount of tax-exempt interest received or accrued during the tax year <input type="checkbox"/> 43		
44a	Did the organization maintain any donor advised funds? If "Yes," Form 990 must be completed instead of Form 990-EZ.	Yes	No
44b	Did the organization operate one or more hospital facilities during the year? If "Yes," Form 990 must be completed instead of Form 990-EZ		No
44c	Did the organization receive any payments for indoor tanning services during the year?		No
44d	If "Yes" to line 44c, has the organization filed a Form 720 to report these payments? If "No," provide an explanation in Schedule O		
45a	Did the organization have a controlled entity within the meaning of section 512(b)(13)?		No
45b	Did the organization receive any payment from or engage in any transaction with a controlled entity within the meaning of section 512(b)(13)? If "Yes," Form 990 and Schedule R may need to be completed instead of Form 990-EZ (see instructions)		No

46 Did the organization engage, directly or indirectly, in political campaign activities on behalf of or in opposition to candidates for public office? If "Yes," complete Schedule C, Part I

Table with 2 columns: Yes, No. Row 1: 46, Yes

Part VI Section 501(c)(3) organizations and section 4947(a)(1) nonexempt charitable trusts only.

All section 501(c)(3) organizations and section 4947(a)(1) nonexempt charitable trusts must answer questions 47-49b and 52.

Check if the organization used Schedule O to respond to any question in this Part VI

47 Did the organization engage in lobbying activities or have a section 501(h) election in effect during the tax year?
48 Is the organization a school described in section 170(b)(1)(A)(ii)?
49a Did the organization make any transfers to an exempt non-charitable related organization?
49b If "Yes," was the related organization a section 527 organization?

Table with 2 columns: Yes, No. Rows for questions 47, 48, 49a, 49b.

50 Complete this table for the organization's five highest compensated employees (other than officers, directors, trustees and key employees) who each received more than \$100,000 of compensation from the organization. If there is none, enter "None"

Table with 5 columns: (a) Name and address of each employee paid more than \$100,000; (b) Title and average hours per week devoted to position; (c) Compensation; (d) Contributions to employee benefit plans & deferred compensation; (e) Expense account and other allowances.

f Total number of other employees paid over \$100,000

51 Complete this table for the organization's five highest compensated independent contractors who each received more than \$100,000 of compensation from the organization. If there is none, enter "None"

Table with 3 columns: (a) Name and address of each independent contractor paid more than \$100,000; (b) Type of service; (c) Compensation.

d Total number of other independent contractors each receiving over \$10

52 Did the organization complete Schedule A? NOTE: All Section 501(c)(3) must attach a completed Schedule A

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than the taxpayer) is based on preparer's knowledge.

Signature section with fields for Sign Here (Signature of officer: NICOLE THEIS PRES), Paid Preparer's Use Only (Preparer's signature: Jeff Premo CPA, Date: 2012-11-15, Firm's name: Jeffrey L Premo PA, address: 214 E Front Street, LAUREL, DE 19956).

May the IRS discuss this return with the preparer shown above? See instructions

SCHEDULE C
(Form 990 or 990-EZ)

Department of the Treasury
Internal Revenue Service

Political Campaign and Lobbying Activities

For Organizations Exempt From Income Tax Under section 501(c) and section 527
 Complete if the organization is described below.
 Attach to Form 990 or Form 990-EZ. See separate instructions.

2011

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If the organization answered "Yes," to Form 990, Part IV, Line 3, or Form 990-EZ, Part V, line 46 (Political Campaign Activities), then

- Section 501(c)(3) organizations Complete Parts I-A and B Do not complete Part I-C
- Section 501(c) (other than section 501(c)(3)) organizations Complete Parts I-A and C below Do not complete Part I-B
- Section 527 organizations Complete Part I-A only

If the organization answered "Yes," to Form 990, Part IV, Line 4, or Form 990-EZ, Part VI, line 47 (Lobbying Activities), then

- Section 501(c)(3) organizations that have filed Form 5768 (election under section 501(h)) Complete Part II-A Do not complete Part II-B
- Section 501(c)(3) organizations that have NOT filed Form 5768 (election under section 501(h)) Complete Part II-B Do not complete Part II-A

If the organization answered "Yes," to Form 990, Part IV, Line 5 (Proxy Tax) or Form 990-EZ, line 35c (Proxy Tax), then

- Section 501(c)(4), (5), or (6) organizations Complete Part III

Name of the organization DE FAMILY POLICY COUNCIL INC	Employer identification number 27-0375433
--	--

Part I-A Complete if the organization is exempt under section 501(c) or is a section 527 organization.

1 Provide a description of the organization's direct and indirect political campaign activities on behalf of or in opposition to candidates for public office in Part IV	
2 Political expenditures	\$ 19,524
3 Volunteer hours	92

Part I-B Complete if the organization is exempt under section 501(c)(3).

1 Enter the amount of any excise tax incurred by the organization under section 4955	\$
2 Enter the amount of any excise tax incurred by organization managers under section 4955	\$
3 If the organization incurred a section 4955 tax, did it file Form 4720 for this year?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4a Was a correction made?	<input type="checkbox"/> Yes <input type="checkbox"/> No
b If "Yes," describe in Part IV	

Part I-C Complete if the organization is exempt under section 501(c) except section 501(c)(3).

1 Enter the amount directly expended by the filing organization for section 527 exempt function activities	\$
2 Enter the amount of the filing organization's funds contributed to other organizations for section 527 exempt function activities	\$
3 Total exempt function expenditures Add lines 1 and 2 Enter here and on Form 1120-POL, line 17b	\$
4 Did the filing organization file Form 1120-POL for this year?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
5 Enter the names, addresses and employer identification number (EIN) of all section 527 political organizations to which the filing organization made payments For each organization listed, enter the amount paid from the filing organization's funds Also enter the amount of political contributions received that were promptly and directly delivered to a separate political organization, such as a separate segregated fund or a political action committee (PAC) If additional space is needed, provide information in Part IV	

(a) Name	(b) Address	(c) EIN	(d) Amount paid from filing organization's funds If none, enter -0-	(e) Amount of political contributions received and promptly and directly delivered to a separate political organization If none, enter -0-
		JA97		

Part II-A Complete if the organization is exempt under section 501(c)(3) and filed Form 5768 (election under section 501(h)).

- A** Check if the filing organization belongs to an affiliated group (and list in Part IV each affiliated group member's name, address, EIN, expenses, and share of excess lobbying expenditures)
- B** Check if the filing organization checked box A and "limited control" provisions apply

Limits on Lobbying Expenditures (The term "expenditures" means amounts paid or incurred.)	(a) Filing Organization's Totals	(b) Affiliated Group Totals												
1a Total lobbying expenditures to influence public opinion (grass roots lobbying)														
b Total lobbying expenditures to influence a legislative body (direct lobbying)														
c Total lobbying expenditures (add lines 1a and 1b)														
d Other exempt purpose expenditures														
e Total exempt purpose expenditures (add lines 1c and 1d)														
f Lobbying nontaxable amount Enter the amount from the following table in both columns														
<table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th style="width:35%;">If the amount on line 1e, column (a) or (b) is:</th> <th style="width:65%;">The lobbying nontaxable amount is:</th> </tr> </thead> <tbody> <tr> <td>Not over \$500,000</td> <td>20% of the amount on line 1e</td> </tr> <tr> <td>Over \$500,000 but not over \$1,000,000</td> <td>\$100,000 plus 15% of the excess over \$500,000</td> </tr> <tr> <td>Over \$1,000,000 but not over \$1,500,000</td> <td>\$175,000 plus 10% of the excess over \$1,000,000</td> </tr> <tr> <td>Over \$1,500,000 but not over \$17,000,000</td> <td>\$225,000 plus 5% of the excess over \$1,500,000</td> </tr> <tr> <td>Over \$17,000,000</td> <td>\$1,000,000</td> </tr> </tbody> </table>	If the amount on line 1e, column (a) or (b) is:	The lobbying nontaxable amount is:	Not over \$500,000	20% of the amount on line 1e	Over \$500,000 but not over \$1,000,000	\$100,000 plus 15% of the excess over \$500,000	Over \$1,000,000 but not over \$1,500,000	\$175,000 plus 10% of the excess over \$1,000,000	Over \$1,500,000 but not over \$17,000,000	\$225,000 plus 5% of the excess over \$1,500,000	Over \$17,000,000	\$1,000,000		
If the amount on line 1e, column (a) or (b) is:	The lobbying nontaxable amount is:													
Not over \$500,000	20% of the amount on line 1e													
Over \$500,000 but not over \$1,000,000	\$100,000 plus 15% of the excess over \$500,000													
Over \$1,000,000 but not over \$1,500,000	\$175,000 plus 10% of the excess over \$1,000,000													
Over \$1,500,000 but not over \$17,000,000	\$225,000 plus 5% of the excess over \$1,500,000													
Over \$17,000,000	\$1,000,000													
g Grassroots nontaxable amount (enter 25% of line 1f)														
h Subtract line 1g from line 1a If zero or less, enter -0-														
i Subtract line 1f from line 1c If zero or less, enter -0-														
j If there is an amount other than zero on either line 1h or line 1i, did the organization file Form 4720 reporting section 4911 tax for this year?		<input type="checkbox"/> Yes <input type="checkbox"/> No												

4-Year Averaging Period Under Section 501(h)
(Some organizations that made a section 501(h) election do not have to complete all of the five columns below. See the instructions for lines 2a through 2f on page 4.)

Lobbying Expenditures During 4-Year Averaging Period					
Calendar year (or fiscal year beginning in)	(a) 2008	(b) 2009	(c) 2010	(d) 2011	(e) Total
2a Lobbying non-taxable amount					
b Lobbying ceiling amount (150% of line 2a, column(e))					
c Total lobbying expenditures					
d Grassroots non-taxable amount					
e Grassroots ceiling amount (150% of line 2d, column (e))					
f Grassroots lobbying expenditures		JA98			

Part II-B Complete if the organization is exempt under section 501(c)(3) and has NOT filed Form 5768 (election under section 501(h)).

	(a)		(b)
	Yes	No	Amount
1 During the year, did the filing organization attempt to influence foreign, national, state or local legislation, including any attempt to influence public opinion on a legislative matter or referendum, through the use of			
a Volunteers?			
b Paid staff or management (include compensation in expenses reported on lines 1c through 1i)?			
c Media advertisements?			
d Mailings to members, legislators, or the public?			
e Publications, or published or broadcast statements?			
f Grants to other organizations for lobbying purposes?			
g Direct contact with legislators, their staffs, government officials, or a legislative body?			
h Rallies, demonstrations, seminars, conventions, speeches, lectures, or any similar means?			
i Other activities? If "Yes," describe in Part IV			
j Total lines 1c through 1i			
2a Did the activities in line 1 cause the organization to be not described in section 501(c)(3)?			
b If "Yes," enter the amount of any tax incurred under section 4912			
c If "Yes," enter the amount of any tax incurred by organization managers under section 4912			
d If the filing organization incurred a section 4912 tax, did it file Form 4720 for this year?			

Part III-A Complete if the organization is exempt under section 501(c)(4), section 501(c)(5), or section 501(c)(6).

	Yes	No
1 Were substantially all (90% or more) dues received nondeductible by members?	1 Yes	
2 Did the organization make only in-house lobbying expenditures of \$2,000 or less?	2	No
3 Did the organization agree to carryover lobbying and political expenditures from the prior year?	3	No

Part III-B Complete if the organization is exempt under section 501(c)(4), section 501(c)(5), or section 501(c)(6) if BOTH Part III-A, lines 1 and 2 are answered "No" OR if Part III-A, line 3 is answered "Yes".

1 Dues, assessments and similar amounts from members	1	
2 Section 162(e) non-deductible lobbying and political expenditures (do not include amounts of political expenses for which the section 527(f) tax was paid).		
a Current year	2a	
b Carryover from last year	2b	
c Total	2c	
3 Aggregate amount reported in section 6033(e)(1)(A) notices of nondeductible section 162(e) dues	3	
4 If notices were sent and the amount on line 2c exceeds the amount on line 3, what portion of the excess does the organization agree to carryover to the reasonable estimate of nondeductible lobbying and political expenditure next year?	4	
5 Taxable amount of lobbying and political expenditures (see instructions)	5	

Part IV Supplemental Information

Complete this part to provide the descriptions required for Part I-A, line 1, Part I-B, line 4, Part I-C, line 5, and Part II-B, line 1. Also, complete this part for any additional information.

Identifier	Return Reference	Explanation
		JA99

SCHEDULE O
(Form 990 or 990-EZ)

Department of the Treasury
Internal Revenue Service

Supplemental Information to Form 990 or 990-EZ

Complete to provide information for responses to specific questions on Form 990 or to provide any additional information.
▶ **Attach to Form 990 or 990-EZ.**

2011

Open to Public Inspection

Name of the organization
DE FAMILY POLICY COUNCIL INC

Employer identification number
27-0375433

Identifier	Return Reference	Explanation
01 General explanation attachment		990EZ PART I LINE 8 OTHER REVENUE THIS REVENUE IS A CHARGEBACK OF EXPENSES FOR WORK PERFORMED FOR DE STRONG FAMILIES 26-1294144 SCHEDULE C PART IV SUPPLEMENTAL INFORMATION THIS WAS FOR POLLING AND ENCOURAGE PEOPLE TO ACT ON SPECIFIC POLITICAL ISSUES
02 Description of other revenue (Part I, line 8)		DESCRIPTION AMOUNT CHARGEBACK FROM C3 59067
03 Description of other expenses (Part I, line 16)		DESCRIPTION AMOUNT SPECIAL APPEAL 228 LEGISLATIVE ADVOCACY 25979 BANK AND PROCESSING FEES 1291 WEBSITE 41 CRM AND DATABASE SERVICES 11960 TRAILING AND DEVELOPMENT 870 BOOKS AND SUBSCRIPTIONS 411 POSTAGE AND MAILING 971 SUPPLIES 1873 TELEPHONE 2932 TRAVEL AND MEETINGS 11377 MARKETING AND PROMOTION 11135 EVENTS EXPENSE 22511
04 Description of other assets (Part II, line 24)		BEGINNING CATEGORY OF YEAR END OF YEAR ACCOUNTS RECEIVABLE 24532 10699 UNDEPOSITED FUNDS 0 390
05 Description of total liabilities (Part II, line 26)		BEGINNING CATEGORY OF YEAR END OF YEAR ACCOUNTS PAYABLE 0 3183

Software ID:**Software Version:****EIN:** 27-0375433**Name:** DE FAMILY POLICY COUNCIL INC**Form 990-EZ, Special Condition Description:****Special Condition Description****Form 990EZ, Part IV - List of Officers, Directors, Trustees, and Key Employees**

(A) Name and address	(B) Title and average hours per week devoted to position	(C) Compensation (If not paid, enter -0-.)	(D) Contributions to employee benefit plans & deferred compensation	(E) Expense account and other allowances
NICOLE THEIS 50 FALLON AVENUE SEAFORD, DE 19973	PRESIDENT 30	30,000	0	0
TOM BIROWSKI 50 FALLON AVENUE SEAFORD, DE 19973	BOARD CHAIR 1	0	0	0
CHRIS THEIS 50 FALLON AVENUE SEAFORD, DE 19973	SECRETARY 1	0	0	0
ALAN COLE 50 FALLON AVENUE SEAFORD, DE 19973	TREASURER 1	0	0	0
ANN SMITH 50 FALLON AVENUE SEAFORD, DE 19973	DIRECTOR 1	0	0	0
DAVID BOOTHE 50 FALLON AVENUE SEAFORD, DE 19973	DIRECTOR 1	0	0	0
TIM WAMPLER 50 FALLON AVENUE SEAFORD, DE 19973	DIRECTOR 1	0	0	0
JOHN GOOSS 50 FALLON AVENUE SEAFORD, DE 19973	DIRECTOR 1	0 JA101	0	0

EXHIBIT D



Values Scorecard

A Service of Delaware Family Policy Council

Delaware Family Policy Council (DFPC) is pleased to present the 2012 Values Scorecard. DFPC is a 501c4 member-driven organization committed to standing for values that strengthen Delaware families.

All candidates were provided a questionnaire and given an equal opportunity to respond and to provide explanations or comments concerning each question. Any additional explanations or comments that were made by candidates are noted with an asterisk (*) next to the answer and can be found on our website.

For your convenience, the Voter Scorecard includes phone numbers for all candidates if you wish to call those who failed to respond. Positions for non-responding candidates are based on voting records, public statements, and/or campaign literature.

A printable version of the Voter Scorecard is available on our website www.delawarefamilies.org. Please Facebook and share the Voter Scorecard and encourage your friends and family to vote on November 6th.

Remember, this Voter Scorecard does not address a candidate's character, only their position on issues. It should not take the place of your effort to personally evaluate a candidate.

The stakes couldn't be higher this election. Our hope is that on November 6th, this Voter Scorecard will help you choose candidates who best represent your values.

Nicole Treis



President
Delaware Family Policy Council

FEDERAL QUESTIONS:

- Do you oppose taxpayer funding of abortions?
- Do you oppose giving tax dollars to Planned Parenthood?
- Do you oppose the federal funding of embryonic stem cell research?
- Do you support federal legislation prohibiting human cloning of all kinds, both "therapeutic" and "reproductive"?
- Do you support repealing federal estate tax?
- Do you support parental rights in education (educational choice)?
- Do you support the state constitutional amendments preserving natural marriage?
- Do you support enforcement of the Defense of Marriage Act (DOMA)?
- Do you support a marriage protection amendment to the U.S. Constitution that defines marriage as the union of one man and one woman?
- Do you oppose the Federal Employment Non-Discrimination Act?
- Do you support strict constructionist judges?
- Do you oppose open homosexuality in the military?
- Do you support repealing the healthcare law known as "Obamacare"?
- Do you support protection for institutions, organizations, and individuals from having the government force them to violate their moral or religious beliefs?

Federal Candidates			1	2	3	4	5	6	7	8	9	10	11	12	13	14	Grade
Senate	(202) 905-6706	Alexander Pires (I) X	-	-	-	-	-	-	N	N	N	-	-	N	-	-	D
Senate	(202) 224-2441	Thomas Carper (D) X	N	N	N	-	-	-	-	N	N	-	N	N	N	N	F
Senate	(302) 339-1763	Kevin Wade (R)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	A
US Congress	(302) 536-9495	Tom Kovach (R) X	-	-	-	-	-	-	-	-	-	-	-	-	-	-	N/A
US Congress	(302) 654-1718	John Carney (D) X	N	N	-	-	-	N	-	N	-	-	-	-	N	-	F

Color Key	Answer Key	Party Key	Endorsements/Ranking Key
Family Advocate	Y = Yes, Pro-Family Position	D = Democrat	L = Delaware Liberty Fund LGBT
Needs Improvement	N = No, Anti-Family Position	R = Republican	S = Stonewall Democrats
Hostile	U = Undecided	L = Libertarian	V = Gay and Lesbian Victory fund
	X = Candidate failed to respond , information compiled from other sources listed online at www.delawarefamilies.org	I = Independent	P = Scored more than 60% Pro- Choice on Planned Parenthood's Survey
	* = Additional Comments or voting record online at www.delawarefamilies.org		
	- = Failed to respond/Position Unknown		

Explanation of Information

To find your voting district and contact information on the candidates, go to www.delawarefamilies.org. This Values Scorecard is for personal distribution. For a 501c3 or church-friendly Voter Guide, please go to www.delawarestrong.org. To help you make an informed decision, we have included endorsements of organizations that have a mission and agenda opposite of the family values promoted by DFPC. The mission of those organizations can be viewed in the endnotes online.

The A+ grade is only awarded to incumbents who are proven champions of pro-family legislation. Those who earned an A+ grade are considered Outstanding Family Advocates.

JA103

STATE QUESTIONS:

1. Do you support the right of parents to choose what services their children may receive at school-based wellness centers?
2. Do you support tax incentives to encourage natural marriage and incent married couples to stay together as a solution to reducing poverty and dependency on government services?
3. Do you oppose same-sex civil union legislation?
4. Do you support parental consent of abortion for minors under the age of 18? (HB80)
5. Do you support strengthening and maintaining marriage as the union of one man and one woman?
6. Do you oppose adding "gender identity or gender expression" to the protected classes in Delaware's anti-discrimination laws for housing, employment, and public accommodation?
7. Do you oppose legislation that includes legalizing internet gambling as a means to increase state revenue and provide jobs?
8. Do you support prohibiting coverage for abortion in the state insurance exchanges mandated by the new federal healthcare law?
9. Do you support an annual inspection of abortion clinics for unsafe and unsanitary conditions?
10. Do you oppose using taxpayer money to fund Planned Parenthood and other organizations that provide abortion services?
11. Do you support a policy that ensures parental guardian notification prior to the introduction or instructional use of classroom curriculum or materials, whether brought or introduced by school educators, administrators, and officials, or by guests invited at their request, which involve human sexual education, human sexuality issues, sexual acts, family planning, profanity, drugs, or alcohol?
12. Do you support a Delaware Marriage Protection Amendment defining marriage between a man and a woman in the state constitution? (It does not ban civil unions. SS1 for SB27 2009)

Statewide Races				1	2	3	4	5	6	7	8	9	10	11	12	Grade
Governor	322-8800	L,P,S	Jack Markell (D) X	-	-	N	-	N	N	N	-	-	-	-	N	F
Governor	521-3761		Jeffrey Cragg (R)	Y	Y	U	Y	Y	Y	Y	Y	Y	Y	Y	Y	A-
Lt. Governor	328-9036	L,P,S	Matthew Denn (D) X	-	-	N	-	N	N	-	-	-	-	-	N	F
Lt. Governor	563-2665		Cheryl Valenzuela (R)	Y	Y	U	Y	Y	Y	Y	Y	Y	Y	Y	Y	A-
Insurance Co.	559-1434	P	Karen Stewart (D) X	-	-	-	-	-	-	-	-	-	-	-	-	N/A
Insurance Co.	690-2403		Benjamin Mobley (R) X	-	-	-	-	-	-	-	-	-	-	-	-	N/A
Sussex County: Clerk of the Peace				1	2	3	4	5	6	7	8	9	10	11	12	Grade
	604-4925		Brooks Witzke (R)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	A
	542-5189		John Brady (D) X	-	-	-	N	-	-	-	-	-	Y	-	N	C
Sussex County: State Senate				1	2	3	4	5	6	7	8	9	10	11	12	Grade
	703-9090	L,S,V,P	Andrew Staton (D) X	-	-	N	-	N	N	-	-	-	-	-	N	F
	703-2243		Ernesto Lopez (R)	Y	N	N	Y	Y	Y	Y	Y	Y	Y	Y	N	B-
	422-3460	No Opponent	Gary Simpson (R)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	A+
	856-6534		Jane Hovington (D)	Y	Y*	U	Y	Y	Y	Y	U	Y	Y	Y	Y	B+
	858-0694		Brian Pettyjohn (R)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	A
	436-4633		Richard Eakle (D) X	-	-	-	-	-	-	-	-	-	-	-	-	N/A
	539-4140		Gerald Hocker (R)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	A+
	744-4298		Robert Venables (D)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	A+
	629-9788		Bryant Richardson (R)	Y	Y	Y	Y	Y	U	Y	Y	Y	Y	Y	Y	A
Sussex County: State Representatives				1	2	3	4	5	6	7	8	9	10	11	12	Grade
	227-6252	L,S,P	Peter Schwartzkopf (D)X	N	-	N	-	N	N	Y	-	N	-	-	N	F
	231-2202		Margaret Melson (L)	Y	Y	N	Y	N	Y*	N	Y	Y	Y	Y	N*	C+
	684-1602	S,V	Marie Mayor (D) X	-	-	N	-	N	-	-	-	-	-	-	N	F
	684-4577		Stephen Smyk (R)	Y	Y	Y	Y	Y	Y	Y*	Y	Y	Y	Y	Y	A
	422-3454		David Wilson (R)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	A+
	349-5122	L	Ronnie Fitzgerald (L)	Y	N	N	Y	N	N	N	U	Y	Y	Y	N	C-
	422-6155	No Opponent	Harvey Kenton (R)	Y	Y	Y	Y	Y	Y	Y	Y	Y*	Y	Y	Y*	A+
	947-2984		Elizabeth McGinn (D) X	-	-	-	-	-	-	-	-	-	-	-	-	N/A
	856-2772		Ruth Briggs King (R)	Y	Y	Y	Y	Y	U*	Y	Y	Y	U*	Y	Y*	A-
	539-6738		Shirley Price (D) X	-	-	N	-	N	N	-	-	-	-	-	N	F
	436-7024		Ronald Gray (R)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	A
	628-5222	No Opponent	Daniel Short (R)	Y	Y	Y	Y	Y	Y	N*	Y	Y	Y	Y	Y	A-
	875-5736		Benjamin Lowe (D) X	-	-	-	-	-	-	-	-	-	-	-	-	N/A
	235-9806		Timothy Dukes (R)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	A
	745-1587		John Atkins (D)	Y	Y	Y*	Y*	Y	Y	Y*	Y	Y	Y	Y	Y	A
	381-1610		Richard Collins (R)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	A

New Castle: State Representatives															Grade	
			1	2	3	4	5	6	7	8	9	10	11	12		
656-2921	L,P		Harris McDowell (D) X	-	-	N	-	N	N	N	-	-	-	N	F	
764-2309		1	Robert Clark (I)	Y	Y	U	Y	Y	U	Y	Y	Y	Y	Y	B+	
Not Listed	P		Brian Lintz (L)	Y	N	N	U	N	Y*	N	U*	U*	Y	-	D	
425-4148 No Opponent	L,S,P	2	Margaret Henry (D) X	-	-	N	-	N	N	N	-	-	-	N	F	
656-7261 No Opponent	L	3	Robert Marshall (D) X	-	-	N	-	Y	N	Y	-	-	-	Y	C+	
598-3194	L,S,P		Michael Katz (D) X	-	-	N	-	N	N	N	-	-	-	N	F	
478-6128		4	Gregory Lavelle (R) X	Y	-	Y	Y	-	-	Y	-	Y	-	-	B	
439-0992	L,S,P		Christopher Counihan (D) X	-	-	N	-	N	N	-	-	-	-	N	F	
478-9616	P	5	Catherine Cloutier (R)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	A	
994-4843	L,S,P		Patricia Blevins (D) X	-	-	N	-	N	N	N	-	-	-	N	F	
Not Listed		7	James Christina (L) X	-	-	N	-	N	-	-	-	-	-	N	F	
239-2193	L,S,P		David Sokola (D) X	-	-	N	-	N	N	N	-	-	-	N	F	
894-4591		8	William Stritzinger (R) X	-	-	-	-	-	-	-	-	-	-	-	N/A	
999-7522 No Opponent	L,S	9	Karen Peterson (D) X	-	-	N	-	N	N	Y	-	-	-	N	D	
378-8386 No Opponent	L,P	10	Bethany Hall-Long (D) X	-	-	N	-	N	N	N	-	-	-	N	F	
709-1516	L		Bryan Townsend (D) X	-	-	N	-	N	N	-	-	-	-	N	F	
754-1787		11	Evan Queitsch (R)	Y	Y	Y*	Y	Y	Y	Y	Y	Y	Y	Y	A	
562-2106	L,S,P		Nicole Poore (D) X	-	-	N	-	N	N	-	-	-	-	N	F	
328-8944	P	12	Dorinda Connor (R) X	-	-	Y	-	-	-	N	-	-	-	N	C-	
322-6100 No Opponent	L	13	David McBride (D) X	-	-	N	-	N	N	N	-	-	-	N	F	
653-7566	P		Bruce Ennis (D)	Y	Y	Y	U	Y	U	N	U	Y	U	Y	B	
378-6036		14	Scott Unruh (R)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	A	
New Castle: State Representatives				1	2	3	4	5	6	7	8	9	10	11	12	Grade
762-8322 No Opponent		1	Charles Potter (D) X	-	-	-	-	-	-	-	-	-	-	-	-	N/A
428-1269 No Opponent	L,S	2	Stephanie Bolden (D) X	N	-	N	N	-	N	N	-	Y	-	-	C	
655-7071 No Opponent	L,S,P	3	Helene Keeley (D) X	N	-	N	-	N	N	Y	-	N	-	N	D	
655-1373 No Opponent	L	4	Gerald Brady (D) X	N	-	N	Y	N	N	N	-	N	-	Y	C-	
832-1956 No Opponent	L,S	5	Melanie Smith (D) X	N	-	N	-	N	N	N	-	N	-	N	F	
Not Listed	L,S,P		Debra Heffernan (D) X	N	-	N	-	N	N	N	-	N	-	N	F	
478-4754		6	Eric Taylor (R) X	-	-	-	-	-	-	-	-	-	-	-	N/A	
475-2252	L,S		Bryon Short (D) X	N	-	N	-	N	N	Y	-	N	-	N	D	
798-0960		7	Daniel Lepre (R)	Y	N*	N	Y	N*	N	Y	Y	Y	Y	Y	U*	
378-2681	L		Quinton Johnson (D) X	Y	-	N	N	N	N	N	-	N	-	N	D	
919-900-0401		8	Matthew Brown (R)	Y*	U*	U*	Y*	Y*	Y	N*	Y	Y	Y	Y*	Y	
293-2356 No Opponent	L,P	9	Rebecca Walker (D) X	Y	-	N	N	N	N	N	-	N	-	N	D	
373-0115	L,S		Dennis Williams (D) X	N	-	N	-	N	N	N	-	N	-	N	F	
478-4763		10	Robert Rhodunda (R) X	-	-	-	-	-	-	-	-	-	-	-	N/A	
653-8247		11	Lynne Newlin (D) X	-	-	-	-	-	-	-	-	-	-	-	N/A	
526-2267			Jeffrey Spiegelman (R) X	-	-	-	-	-	-	-	-	-	-	-	N/A	
651-9571 No Opponent	P	12	Deborah Hudson (R) X	Y	-	Y	Y	Y	N	Y	-	Y	-	Y	Y	
995-1803 No Opponent	L	13	John Mitchell (D) X	N	-	N	-	N	N	N	-	N	-	N	F	
562-6640	L,S,P		Valerie Longhurst (D) X	N	-	N	-	N	N	N	-	N	-	N	F	
Not Listed		15	Amy Merlino (L) X	-	-	N	-	N	-	-	-	-	-	N	F	
322-3521	L,P		James Johnson (D) X	N	-	N	-	N	N	N	-	N	-	N	F	
985-7025	P	16	John Machurek (L) X	-	-	N	-	N	-	-	-	-	-	N	F	
322-1249	L,P		Michael Mulrooney (D) X	N	-	N	-	N	N	N	-	N	-	N	F	
395-1998		17	Laura Brown (R) X	-	-	-	-	-	-	-	-	-	-	-	N/A	
368-7257 No Opponent	L,S,P	18	Michael Barbieri (D) X	N	-	N	N	N	N	N	-	N	-	N	F	
633-1289	L,S		Kimberly Williams (D) X	-	-	N	-	N	N	-	-	-	-	N	F	
999-8191		19	Dennis Cini (R) X	-	-	-	-	-	-	-	-	-	-	-	N/A	
584-8601 No Opponent	L	21	Michael Ramone (R) X	Y	-	N	Y	-	-	N	-	Y	-	Y	C+	
983-2622	L,S,P		David Ellis (D) X	-	-	N	-	N	N	-	-	-	-	N	F	
454-1840		22	Joseph Miro (R)	Y	U*	Y*	Y*	Y	N*	N*	Y	Y	Y	Y*	Y	
562-4546	L,S,P		Paul Baumbach (D) X	-	-	N	-	N	N	-	-	-	-	N	F	
731-9766		23	Mark Doughty (R) X	-	-	-	-	-	-	-	-	-	-	-	N/A	
292-8903 No Opponent	L,S,P	24	Edward Osienki (D) X	N	-	N	N	N	N	N	-	N	-	N	F	
547-9351 No Opponent	L,S,P	25	John Kowalko (D) X	N	-	N	N	N	N	N	-	N	-	N	F	
832-2209 No Opponent	L,P	26	John Viola (D) X	N	-	N	-	N	N	N	-	N	-	N	F	
834-9231 No Opponent	L,S	27	Earl Jaques (D) X	Y	-	N	Y	N	N	Y	-	N	-	N	C	

STATE QUESTIONS:

1. Do you support the right of parents to choose what services their children may receive at school-based wellness centers?
2. Do you support tax incentives to encourage natural marriage and incent married couples to stay together as a solution to reducing poverty and dependency on government services?
3. Do you oppose same-sex civil union legislation?
4. Do you support parental consent of abortion for minors under the age of 18? (HB80)
5. Do you support strengthening and maintaining marriage as the union of one man and one woman?
6. Do you oppose adding "gender identity or gender expression" to the protected classes in Delaware's anti-discrimination laws for housing, employment, and public accommodation?
7. Do you oppose legislation that includes legalizing internet gambling as a means to increase state revenue and provide jobs?
8. Do you oppose prohibiting coverage for abortion in the state insurance exchanges mandated by the new federal healthcare law?
9. Do you support an annual inspection of abortion clinics for unsafe and unsanitary conditions?
10. Do you oppose using taxpayer money to fund Planned Parenthood and other organizations that provide abortion services?
11. Do you support a policy that ensures parental guardian notification prior to the introduction or instructional use of classroom curriculum or materials, whether brought or introduced by school educators, administrators, and officials, or by guests invited at their request, which involve human sexual education, human sexuality issues, sexual acts, family planning, profanity, drugs, or alcohol?
12. Do you support a Delaware Marriage Protection Amendment defining marriage between a man and a woman in the state constitution? (It does not ban civil unions. SS1 for SB27 2009)

Kent County: Clerk of the Peace			1	2	3	4	5	6	7	8	9	10	11	12	Grade
335-3392		Loretta Wootten (D) X	-	-	-	-	-	-	-	-	-	-	-	-	N/A
730-0454		Mary McVay (L) X	-	-	-	-	-	-	-	-	-	-	-	-	N/A
Kent County: State Senate			1	2	3	4	5	6	7	8	9	10	11	12	Grade
653-7566	14	Bruce Ennis (D)	Y	Y	Y	U	Y	U	N	U	Y	U	Y	Y	B
378-6036		Scott Unruh (R)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	A
270-2012	15	Kathleen Cooke (D) X	-	-	-	-	-	-	-	-	-	-	-	-	N/A
492-1155		Dave Lawson (R)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	A+
698-0960	16	Colin Bonini (R)	Y	Y	Y	Y	Y	Y	N*	Y	Y	Y	Y	Y	A-
697-1740		Michael Tedesco (I) X	-	-	-	-	-	-	-	-	-	-	Y	Y	B-
674-5442 No Opponent	L,S	17 Brian Bushweller (D) X	-	-	N	-	N	N	N	-	-	-	-	N	F
422-3460 No Opponent		18 Gary Simpson (R)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	A+
Kent County: State Representatives			1	2	3	4	5	6	7	8	9	10	11	12	Grade
653-8247	11	Lynne Newlin (D) X	-	-	-	-	-	-	-	-	-	-	-	-	N/A
526-2267		Jeffrey Spiegelman (R) X	-	-	-	-	-	-	-	-	-	-	-	-	N/A
653-8642	28	William Carson (D) X	Y	-	Y	-	Y	-	N	-	N	-	Y	Y	B
242-4253		Christopher Sylvester (R) X	-	-	-	-	-	-	-	-	-	-	-	-	N/A
659-5850	L,P	29 Charles Paradee (D) X	-	-	N	-	N	N	-	-	-	-	-	N	F
659-3436		Lincoln Willis (R)	Y	U*	Y	Y	Y	Y*	N	Y*	Y	Y	Y	Y	A-
Not Listed	30	William Outten (R)	Y	Y	Y	Y	Y	Y*	Y	Y	Y	Y	Y	Y	A+
272-1373		Gordon Smith (L)	Y	Y	N	Y	Y	N	U	Y	Y	Y	Y	U	C+
735-1781	L,S,P	31 Darryl Scott (D) X	N	-	N	N	N	N	N	-	N	-	-	N	F
222-2577		Samuel Chick (R)	Y	U*	Y*	Y	N*	Y	Y*	Y	Y*	Y	Y*	N*	B
545-0198	32	Andria Bennett (D) X	-	-	-	-	-	-	-	-	-	-	-	-	N/A
697-8271		Ellis Parrott (R)	Y	Y	Y	Y	Y	Y	Y	Y	Y*	Y	Y	Y	A
335-5633	33	John Robbins (D) X	-	-	-	-	-	-	-	-	-	-	-	-	N/A
335-4261		Harold Peterman (R)	Y	Y	Y	Y	Y	Y	N	U	Y	U	U	Y	B+
697-2554	S	34 Theodore Yacucci (D) X	-	-	-	-	-	-	-	-	-	-	-	-	N/A
697-6723		Donald Blakey (R)	Y	Y	Y	Y	Y	N	N	U	U	Y	Y	Y	B

Color Key	Answer Key	Party Key	Endorsements/Ranking Key
Family Advocate	Y = Yes, Pro-Family Position	D = Democrat	L = Delaware Liberty Fund LGBT
Needs Improvement	N = No, Anti-Family Position	R = Republican	S = Stonewall Democrats
Hostile	U = Undecided	L = Libertarian	V = Gay and Lesbian Victory fund
	X = Candidate failed to respond , information compiled from other sources listed online at www.delawarefamilies.org	I = Independent	P = Scored more than 60% Pro- Choice on Planned Parenthood's Survey
	* = Additional Comments or voting record online at www.delawarefamilies.org		
	- = Failed to respond/Position Unknown		

EXHIBIT E

Mailers promote mayoral hopeful through loophole

The News Journal - Wilmington, Del.

Author: Staub, Andrew

Date: Aug 31, 2012

Start Page: n/a

Section: Government & Politics

Document Text

The News Journal

A mystery group led by out-of-state political operatives is spending money in the Wilmington mayoral race, paying for three glossy mailers that pump up Bill Montgomery's public safety proposals and attack state Rep. Dennis P. Williams.

Montgomery appears to benefit most from the group's efforts, promoting his favored Safe Communities program, although he said he has no idea who is behind it.

"They stress a program that's near and dear to me," he said. "Do they upset me? No. Somebody obviously has an interest in Safe Communities and in stopping violence. I was surprised to see them. I can't say I'm upset by them."

Montgomery said he doesn't support anonymous donors spending money on campaigns, but he has no plans to investigate whose money is behind the brochures mailed to voters two weeks before the Sept. 11 primary.

The tactic, far more common in federal and state elections, has caught some off guard. It's clear the practice has filtered down to the local level, and that raises accountability issues, said Theo Gregory, a former city councilman with nearly three decades of political experience.

"It's contagious. It's like a cancer," said Gregory, who is running unopposed for City Council president.

The materials identify Citizens for a Secure Community as the group behind the mailings. The group uses a Wilmington address identified by The News Journal as a rented mail space at The Neighborhood Mailbox. The mailings include few details other than a phone number, email address and a website that offers little information.

Messages left at the phone number and email address were not returned.

Voters may never know who is paying for the mailings because the group is using a loophole in Delaware's election laws.

Because Citizens for a Secure Community did not endorse Montgomery or coordinate with him on the mailings and only promotes issues in the mailings, the advertisements are not considered campaign literature under state law, said Elaine Manlove, the state elections commissioner. The group does not qualify as a political action committee and does not have to file a campaign finance report, she said.

As currently constructed, Delaware law has a "weird loophole" in which third-party groups can avoid disclosure requirements if they do not expressly advocate for a candidate's election or defeat with "magic words" such as "vote for" or "don't vote for," said Andrew Lippstone, the deputy legal counsel for Gov. Jack Markell.

That will change next year, when a new law goes into effect. Signed by Markell earlier this month, it will close the loophole by requiring the reporting of "electioneering communications," defined as campaign advertisements that "refer to a clearly identified candidate" and are distributed within 30 days before a primary and 60 days before a general election.

While the name Citizens for a Secure Community connotes a grass-roots organization of concerned Wilmington residents, The News Journal discovered that the group is incorporated in Texas and led by conservative-leaning political operatives based in Nevada, Ohio and Texas.

Jeffrey S. Bensing is listed as president and treasurer of Citizens for a Secure Community on one of the mailers. He previously served as chief of staff to former U.S. Sen. John Ensign, a Nevada Republican, and now runs a consulting

JA108

firm with offices in Reno, Nev., and Washington, D.C. He did not return phone messages seeking comment.

Another director of Citizens for a Secure Community, James Nathanson, answered the phone number listed for JSN Associates, a political and advocacy consulting firm in Dayton, Ohio. He first said he was "never involved" with the group but later acknowledged his association when told that Texas Department of State records showed him as a director.

In explaining his confusion, Nathanson said that the group recently changed its name and that he believed it previously operated as Freedom Vote. Nathanson said he was unaware of any political activity in Delaware.

"I have not been informed of involvement, but that doesn't mean that the involvement has not happened," he said.

Freedom Vote is a nonprofit advocacy group that worked to register voters in Ohio and promoted economic policy, fiscal responsibility and job growth. It took in more than \$1.3 million from July to September 2010 and spent more than \$1.2 million in the same period, mostly on "issues education" and voter registration, according to IRS documents.

Citizens for a Secure Community was incorporated as a Texas nonprofit in April 2011. The group's Wilmington mailers distributed in the mayor's race clearly benefit Montgomery but at no cost to his campaign. Ed Osborne, a Williams supporter who has helped with the candidate's publicity efforts, said a similar mailing cost his candidate's campaign about \$6,000.

One of the group's mailers declares "there's no time to wait" for the Safe Communities program, noting the city's rising number of homicides. One includes a photo of Montgomery that identifies him only as a "Wilmington resident" and the other mailer thanks him for supporting the strategy that targets the worst criminals and offers social services to lower-level offenders.

The advertisements neither identify Montgomery as a candidate for mayor nor expressly urge his election.

Montgomery, the former chief of staff to Mayor James M. Baker, noted the photos used in the mailings were from his campaign website and his Facebook page.

A third mailer takes a more direct approach in attacking Williams for past tax delinquencies. "In tough economic times, does Wilmington really need a mayor who can't pay his taxes?" the ad asks, displaying Williams as a caricature of a politician surrounded by cash.

Williams, who has said he fell behind while paying his mother's medical bills, called the brochures attacking him "cowardly" in a message on his Facebook page. On Thursday, he called them an act of "desperation."

"We're just going to take the high road, and we're going to keep moving," he said.

Sam Hoff, a political science professor at Delaware State University, wonders if they'll play well with state residents who have embraced a culture of increased transparency while often bristling at outside involvement.

"That's not something that Delawareans normally like to see," he said.

The mayoral mailers aren't the only example of third-party advertising playing a role this election cycle.

Last week, Manlove ruled Ernesto Lopez, one of two Republican candidates for the 6th Senate District in Sussex County, had to list about \$28,000 in television advertising from a third-party group, The Project to Restore America, on his campaign finance report as an in-kind receipt and expenditure.

Lopez helped plan the content and appeared in the commercials, which advocated his candidacy, not issues, Manlove wrote in an Aug. 24 letter.

She decided that Lopez would have to reimburse Restore American for the ads - minus the maximum allowed contribution of 600 - and that he could not buy further advertising until satisfying the debt.

Contact Andrew Staub at 324-2837, on Twitter @AndrewStaubTNJ or at astaub@delawareonline.com.

ID_Code: BL-308310030

JA109

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Abstract (Document Summary)

The News Journal A mystery group led by out-of-state political operatives is spending money in the Wilmington mayoral race, paying for three glossy mailers that pump up Bill Montgomery's public safety proposals and attack state Rep. Dennis P. Williams. Voters may never know who is paying for the mailings because the group is using a loophole in Delaware's election laws. Because Citizens for a Secure Community did not endorse Montgomery or coordinate with him on the mailings and only promotes issues in the mailings, the advertisements are not considered campaign literature under state law, said Elaine Manlove, the state elections commissioner.

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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

DELAWARE STRONG FAMILIES,

Plaintiff,

vs.

Civil Action No. 1:13-cv-1746-SLR

JOSEPH R. BIDEN III, in his official
capacity as Attorney General of the State of
Delaware; and

ELAINE MANLOVE, in her official
capacity as Commissioner of Elections for
the State of Delaware,

Defendants.

DECLARATION OF MIMI MURRAY DIGBY MARZIANI

I, Mimi Murray Digby Marziani, declare under penalty of perjury that the following is true and correct:

1. I submit this declaration to accompany Defendants' Opposition to Plaintiffs' Motion for a Preliminary Injunction.
2. I am currently an associate at Sullivan & Cromwell LLP in New York.
3. From September 2009 until December 2012, I was a counsel at the Brennan Center for Justice at New York University School of Law.
4. In that capacity, I testified before the Delaware House Administration Committee on May 2, 2012, in support of the Delaware Elections Disclosure Act.

5. Attached to this declaration as Exhibit A is a true and correct copy of the written statement I submitted to the Committee for that hearing.

I declare under penalty of perjury that the foregoing is true and correct.

Executed: March 5, 2014

/s/ Mimi Murray Digby Marziani
Mimi Murray Digby Marziani

EXHIBIT A

Testimony of
MIMI MURRAY DIGBY MARZIANI¹

Submitted to the
HOUSE ADMINISTRATION COMMITTEE

For the hearing on
HB 300: DELAWARE ELECTIONS DISCLOSURE ACT
May 2, 2012

I appreciate the opportunity to testify today and express my strong support for the Delaware Elections Disclosure Act, which would enhance transparency in Delaware's elections.

Robust disclosure of money in politics is an essential component of a healthy democracy. Voters have a right to know the identities of those seeking to influence their vote. Moreover, disclosure deters corrupt, back-room dealings and enables regulators to detect violations of other campaign finance laws, like contribution limits.

Delaware's current campaign finance disclosure regime has not been updated to meet the challenges of modern elections, and it lags behind the laws of many other states. The Delaware Elections Disclosure Act (the "Act") is necessary to bring Delaware elections into the twenty-first century.

The Act Would Modernize Delaware Elections

Since *Citizens United v. FEC*² lifted restrictions on independent spending in US elections, outside parties, including business corporations, unions, and Super PACs, have spent astronomical sums on campaign advertisements in both federal and state elections. In the 2010 federal elections, for example, outside groups spent a total of \$294 million on political advertising—an increase of more than 400 percent compared with the previous midterm cycle.³ Similarly, an analysis of just 20 states showed that at least \$193 million was spent independent of campaigns during their 2009 and 2010

¹ Mimi Marziani serves as counsel for the Brennan Center's Democracy Program where her work focuses on money in politics and voting rights.

² 130 S. Ct. 876 (2010).

³ See PUBLIC CITIZEN, 12 MONTHS AFTER: THE EFFECTS OF *CITIZENS UNITED* ON ELECTIONS AND THE INTEGRITY OF THE LEGISLATIVE PROCESS 9 (2011).

state elections—a 14% increase from the comparable 2005-2006 cycle.⁴ Delaware has not been immune to this influx of new money. In 2010, for instance, outside groups—many funded by out-of-state interests—spent over \$1.7 million dollars to influence the results of the state’s US Senate race.⁵

As third parties play an increasingly central role in American elections, it becomes even more important that strong disclosure laws promote accountability and deter corruption. To be effective, such laws must be broad enough to capture a significant amount of political spending and rigorous enough to provide useful information to the public. The Act would further these goals in three main ways.

Regulating Electioneering Communications

First, the Act would mend a gaping hole in existing state law by regulating “electioneering communications”—campaign advertisements that target candidates right before an election, but escape disclosure by avoiding the “magic words” of express advocacy like “vote for” or “vote against” that have traditionally triggered disclosure requirements. Over the years, sophisticated players have had little trouble avoiding these magic words and thereby shielding their campaign spending from public scrutiny. Recognizing the problem of so-called sham issues ads in federal elections, the Supreme Court wryly noted that one cannot “satisfactorily answer the question of how ‘uninhibited, robust, and wide-open’ speech can occur when organizations hide themselves from the scrutiny of the voting public.”⁶

State elections nationwide have experienced similar issues, and Delaware is no exception. In 2010, for instance, many Delawareans received colorful mailings about several state legislative candidates, largely attacking them for their stance on taxes. The mailings listed a P.O. Box in Newark, but no other identifying information. And, because the cards carefully never told recipients to “vote against” any candidate, state law did not require those responsible for funding this effort to publically report their spending.⁷

Accordingly, over the last decade, federal law and the laws of twenty-one states have been extended to regulate electioneering communications. Delaware should follow suit, and likewise expand the scope of its disclosure regime to capture these ubiquitous campaign ads.

Enhancing Reporting Requirements

Second, the Act would require prompt disclosure from third parties spending significant amounts on independent expenditures and/or electioneering communications. Specifically, within twenty-four

⁴ See National Institute of Money in State Politics, *Independent Spending’s Role in State Elections: 2005-2010*, FOLLOWTHEMONEY.ORG (March 15, 2012), <http://www.followthemoney.org/press/PrintReportView.phtml?r=481>.

⁵ Center for Responsive Politics, *2010 Race: Delaware Senate, Outside Spending*, OPENSECRETS.ORG (last visited April 30, 2012), <http://www.opensecrets.org/races/index.php?cycle=2010&id=DES2>.

⁶ *McConnell v. FEC*, 540 U.S. 93, 197 (2003) (citation omitted).

⁷ See Celia Cohen, *None of Your Business Who Paid for This Ad*, DELAWAREGRAPEVINE.COM (Oct. 27, 2010), <http://www.delawaregrapevine.com/10-10PObox.asp>.

hours of spending \$500 or more on campaign advertisements right before an election,⁸ outside spenders would have to file a report with information about their political spending and a list of everyone who has recently donated more than \$100 to them. If more than \$1,200 of the underlying funds came from a non-human entity, a representative from that entity must also be identified. Thereafter, the Elections Commission will post the spending report online.

Disclosing information about the spender, the target of their spending, and the people or entities providing the underlying funding is necessary to paint a full and accurate picture of election spending in Delaware. Otherwise, corporate or other political actors seeking to veil their involvement in partisan politics may seek to funnel their funds through another organization, evading meaningful disclosure and thus any public accountability. This, too, has been a substantial problem nationwide.⁹

Delaware thus has a strong interest in joining with the numerous other states that require robust disclosure of outside spending, including information about underlying donors.¹⁰

Requiring Spenders to Stand by their Advertisements

Finally, the Act would require outside spenders to stand by their advertisements, just like candidates must do. As the *Citizens United* Court explained, stand-by-your-ad requirements are necessary to “insure that . . . voters are fully informed about the person or group who is speaking,” and “avoid confusion by making clear that the ads are not funded by a candidate or political party.”¹¹ And so, federal law and the laws of thirty-eight states include disclaimer requirements as part of their campaign finance regimes.

In addition to mandating that groups include their name on the face of campaign ads, the Act would require a link to the Election Commission’s website, where a voter can easily learn more about the spender and its funders. This is of vital importance; too often the name on the face of an ad is that of a benign-sounding group that obscures who is running, the organization and how it obtains its funding. Examples of this problem abound in state elections nationwide:

⁸ If the \$500 threshold is reached more than 30 days before a primary or special election, or 60 days before a general election, spenders have forty-eight hours to file their report.

⁹ Indeed, in the 2010 federal elections, an estimated \$135 million was spent by groups that did not provide any information about their sources of money. 12 MONTHS AFTER, *supra* note 3, at 10. And, of the ten highest spending outside groups that year, seven disclosed nothing about their contributors—even though they collectively accounted for nearly half of all outside spending. *Id.*

¹⁰ Many states that are close to Delaware in population and geographic distance have similar requirements. For states with similar total population, *see, e.g.*, Haw. Rev. Stat. § 11-341(c) (requiring disclosure of *all* underlying donors funding electioneering communications); Alaska Stat. § 15.13.040(d)-(e) (requiring requiring disclosure of *all* underlying donors funding campaign advertisements). For states that are geographically close to Delaware, *see, e.g.*, MD Code Ann., Elec. Law §§ 13-306(e)(5); 13-307(e)(5) (requiring disclosure of underlying donors contributing over \$51 to fund campaign advertisements); Mass. Gen. Laws ch. 55, § 18F (requiring disclosure of underlying donors contributing over \$250 for electioneering communications). *See also* 2 U.S.C. § 434(f)(2) (mandating disclosure of underlying donors contributing over \$1,000 to fund electioneering communications); *Van Hollen v. FEC*, ___ F.Supp.2d ___, 2012 WL 1066717 (March 30, 2012) (striking down FEC interpretations narrowing scope of underlying disclosure required by § 434(f)(2)).

¹¹ *Citizens United*, 130 S. Ct. at 915.

- During the 2011 Wisconsin Supreme Court race, a group named “Citizens for a Strong America” funded an advertising blitz against candidate JoAnne Kloppenburg, but provided no public information about its organization, leadership, or funders. The address listed for the group led to a mailbox at a local UPS store and its phone number led to a full voicemail box. Eventually, the Center for Media and Democracy discovered that “Citizens for a Strong America” was controlled by a leader of Americans for Prosperity, a national organization largely funded by billionaire David Koch.¹²
- In a 2010 Colorado ballot measure election, a group called “Littleton Neighbors Voting No,” spent \$170,000 to defeat a restriction that would have prevented Wal-Mart from coming to town. When the disclosure reports for these groups were filed, however, it was revealed that “Littleton Neighbors” was exclusively funded by Wal-Mart; it was not a grassroots campaign at all.¹³

The Act would prevent this mischief by giving curious voters a link where they can quickly and easily access the outside spender’s campaign finance report, with full information about a spender’s identity, their spending decisions, and the source of their funds.

The Act Stands on Firm Constitutional Ground

For more than three decades—from *Buckley v. Valeo*,¹⁴ upholding the post-Watergate regulation of money and politics in 1976, through *McConnell v. FEC*,¹⁵ upholding the Bipartisan Campaign Reform Act’s (“BCRA”) disclosure requirements in 2003, to *Citizens United*¹⁶ and beyond—the US Supreme Court has consistently and repeatedly held laws requiring the robust disclosure of money in politics. Moreover, the Court has twice upheld the specific reforms that are central to HB 300—mandating robust disclosure of electioneering communications and disclaimers on the face of campaign advertisements.¹⁷ This unbroken chain of precedent leaves no doubt that the Act is constitutional.

In *Buckley v. Valeo*, the Court explained that campaign finance disclosure serves three vital governmental interests:

¹² Lisa Graves, *Group Called “Citizens for a Strong America” Operates out of a UPS Mail Drop but Runs Expensive Ads in Supreme Court Race?*, PRWATCH.ORG (Apr. 2, 2011, 6:37 PM), <http://www.prwatch.org/news/2011/04/10534/group-called-citizens-strong-america-operates-out-ups-mail-drop-runs-expensive-ad>.

¹³ See Def.’s Response Br. to Pls.’ Motion for Summary Judgment, *Sampson v. Coffman*, 06-cv-01858 at 43-44 (D. Co. 2007) (Dkt. #34).

¹⁴ 424 U.S. 1 (1976).

¹⁵ 540 U.S. at 194-96.

¹⁶ 130 S. Ct. at 914-16.

¹⁷ See *Citizens United*, 130 S. Ct. at 914-16; *McConnell*, 540 U.S. at 194-96. Under federal law, an electioneering communication is “any broadcast, cable, or satellite communication that (1) Refers to a clearly identified candidate for Federal office; (2) Is publicly distributed within 60 days before a general election for the office sought by the candidate; or within 30 days before a primary or preference election, or a convention or caucus of a political party that has authority to nominate a candidate, for the office sought by the candidate, and the candidate referenced is seeking the nomination of that political party; and (3) Is targeted to the relevant electorate” Electioneering Communication, 11 C.F.R. § 100.29(a) (2011). See also 2 U.S.C. § 434(f)(3).

(1) “disclosure provides the electorate with information as to where political campaign money comes from and how it is spent;” (2) “disclosure requirements deter actual corruption and avoid the appearance of corruption by exposing large contributions and expenditures to the light of publicity;” and (3) “disclosure requirements are an essential means of gathering the data necessary to detect violations” of other campaign finance regulations.¹⁸

The *Buckley* court went on to find these interests important enough to justify any incidental burdens on political speech that disclosure requirements could cause. In 2003, the *McConnell* Court reaffirmed this triumvirate of governmental interests by upholding the reporting and disclaimer requirements for electioneering communications in BCRA.

More recently, in *Citizens United*, eight justices voted to uphold BCRA’s disclosure requirements as applied to a politically-active nonprofit, Citizens United. In doing so, the Court explained that even if “[d]isclaimer and disclosure requirements may burden the ability to speak, . . . they impose no ceiling on campaign-related activities, and do not prevent anyone from speaking.”¹⁹ And, the Court made clear that laws of this nature further important First Amendment values, and are necessary components of our electoral process:

The First Amendment protects political speech; and disclosure permits citizens and shareholders to react to the speech of corporate entities in a proper way. This transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages.²⁰

Since *Citizens United*, lower federal courts—from Washington to Florida and from Maine to Hawaii—have consistently and repeatedly upheld state campaign finance disclosure laws that target outside spending.²¹ Over and over, these courts have stressed the importance of robust

¹⁸ 424 U.S. at 66-68 (citations and internal quotation marks omitted).

¹⁹ 130 S. Ct. at 914 (citations and internal quotation marks omitted).

²⁰ *Id.* at 916.

²¹ See, e.g., *Family PAC v. McKenna*, Nos. 10–35832, 10–35893, 2012 WL 266111, at *6 (9th Cir. Jan. 31, 2012) (upholding Washington’s \$25 and \$100 disclosure thresholds for reporting information about contributors to political committees that support ballot measures); *Nat’l Org. for Marriage v. Daluz*, 654 F.3d 115, 118 (1st Cir. 2011) (finding that Rhode Island’s “relatively small imposition” for disclosing information about independent expenditures is related to government interest in providing electorate with key information); *Nat’l Org. for Marriage v. McKee*, 649 F.3d 34, 41 (1st Cir. 2011) (upholding Maine’s political committee financial disclosure requirements and finding that provisions “neither erect a barrier to political speech nor limit its quantity”), *aff’d* No. 11-1196, 40 (1st Cir. Jan. 31, 2012) (finding that “ballot question committee” law, like PAC laws, are constitutional and that “transparency is a compelling objective”), *cert. denied*, No. 11-559 (U.S. Feb. 27, 2012); *Human Life of Wash. Inc. v. Brumsickle*, 624 F.3d 990, 1013 (9th Cir. 2010) (upholding Washington’s political committee financial disclosure requirements and noting, “indeed, it is the Supreme Court’s decision in *Citizens United* . . . that provides the best guidance regarding the constitutionality of the Disclosure Law’s requirements.”); *Justice v. Hosemann*, No. 3:11-CV-138-SA-SAA, 2011 WL 5326057, at *14 (N.D. Miss. Nov. 3, 2011) (holding that Mississippi’s disclosure forms are not “overly intrusive” and that \$200 threshold amount is rational and substantially related to government’s important informational interest); *ProtectMarriage.com v. Bowen*, No. 2:09-CV-00058-MCE-DAD, 2011 WL 5507204, at *18 (E.D. Cal. Nov. 4, 2011) (finding that alleged harassment related to financial support of Proposition 8 did not warrant exception from California’s general disclosure laws); *Nat’l Org. for Marriage, Inc. v. Roberts*, 753 F.Supp.2d 1217, 1222 (N.D. Fla. 2010)

transparency of money in state politics. For instance, as the Ninth Circuit Court of Appeals explained, upholding Washington state disclosure laws:

Campaign finance disclosure requirements . . . advance the important and well-recognized governmental interest of providing the voting public with the information with which to assess the various messages vying for their attention in the marketplace of ideas. An appeal to cast one’s vote a particular way might prove persuasive when made or financed by one source, but the same argument might fall on deaf ears when made or financed by another.²²

For the reasons set forth above, the reforms contained in HB 300 should be embraced by the House Administration Committee and recommended to the General Assembly for prompt passage.

(finding that Florida disclosure requirements connected to “electioneering communications organizations” “would not prohibit [plaintiff] from engaging in its proposed speech”); *Yamada v. Kuramoto*, No. 10-00497 JMS/LEK, 2010 WL 4603936, at *1 (D. Haw. Oct. 29, 2010) (finding that “*Citizens United* also endorsed disclosure” and upholding Hawaii’s disclosure regime); *Iowa Right to Life Comm., Inc. v. Smithson*, 750 F.Supp.2d 1020, 1026 (S.D. Iowa 2010) (finding “under *Citizens United*, [t]he Government may regulate corporate political speech through disclaimer and disclosure requirements” and upholding Iowa disclosure regime (alteration in original)); *Wis. Club for Growth, Inc. v. Myse*, No. 10-cv-427-wmc, 2010 WL 4024932, at *5 (W.D. Wis. Oct. 13, 2010) (refusing to enjoin Wisconsin’s disclosure regulations; noting “[P]laintiffs’ reliance on *FEC v. WRTL* ignores the Supreme Court’s later treatment of disclosure and disclaimer regulations in *Citizens United*”); *Ctr. for Individual Freedom v. Madigan*, 735 F. Supp. 2d 994, 1000 (N.D. Ill. 2010) (upholding Illinois’ registration, disclosure, and reporting provisions; noting “in *Citizens United*, the Supreme Court expressly rejected the contention that election-law disclosure requirements are limited to express advocacy or its functional equivalent”). See also *SpeechNow.org v. FEC*, 599 F.3d 686, 696–97 (D.C. Cir. 2010) (upholding federal disclosure requirements for organizations making independent expenditures; finding “*Citizens United* upheld disclaimer and disclosure requirements for electioneering communications as applied to *Citizens United*, again citing the government’s interest in providing the electorate with information”).

²² *Brumsickle*, 624 F.3d at 1008.

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

DELAWARE STRONG FAMILIES,

Plaintiff,

vs.

Civil Action No. 1:13-cv-1746-SLR

JOSEPH R. BIDEN III, in his official
capacity as Attorney General of the State of
Delaware; and

ELAINE MANLOVE, in her official
capacity as Commissioner of Elections for
the State of Delaware,

Defendants.

DECLARATION OF LIANE SORENSON

I, Liane Sorenson, declare under penalty of perjury that the following is true and correct:

1. I submit this declaration to accompany Defendants' Opposition to Plaintiffs' Motion for a Preliminary Injunction.
2. I recently retired from public life but remain active as a volunteer for several community organizations.
3. I served for twenty years as an elected official in the Delaware General Assembly, including eighteen years as a member of the State Senate.
4. I was elected to the Delaware House of Representatives in 1992.
5. I was elected to the Delaware Senate in 1994.

6. My Senate district, the Sixth District, covered primarily North Wilmington until the redistricting preceding the 2002 election cycle. In 2002, my district shifted southwest to cover most of municipal Newark.
7. I was re-elected to the Senate in 1998, 2002, 2004, and 2008.
8. I chose not to run for re-election in 2012.
9. During my last ten years in the Senate, I served in the Republican leadership as Minority Whip.
10. In that capacity, I was frequently involved in other Republican Senators' re-election campaigns.
11. Delaware Senators run for re-election in staggered classes, so three or four incumbent Republican senators came up for re-election in any given election year. I had some degree of involvement in each of these campaigns.
12. I voted in favor of the Delaware Elections Disclosure Act on June 6, 2012, when the Act passed the Senate by a unanimous 21-0 vote.
13. Disclosure enables voters to evaluate the credibility of political messages in light of the track record and interests of those behind them.
14. In my experience, if voters know who is funding political advertisements, that information affects their evaluation of the message.
15. It is important that this disclosure cover all ads that refer to a candidate by name during the run-up to an election.
16. I have seen many electioneering "issue ads"—that is, communications that refer to a candidate or candidates but do not include an express voting appeal—disseminated during the closing days of elections in which I have been involved.

17. I have also seen many such communications aired by campaigns in neighboring states.
18. In my experience, communications that mention candidates during the run-up to an election affect voting behavior. That is why groups put out these communications.
19. Referring to a candidate by name ties the advertisement to the upcoming election and creates a positive or negative association in voters' minds. Those impressions often carry over into the voting booth.
20. Voters are smart enough to understand the subtext of these communications. When a communication criticizes or supports a position taken by a candidate in an impending election, voters understand that they are being urged to vote, respectively, against or for the candidate.
21. In my experience, disclosure of who is funding election-related communications allows voters to evaluate political messages in light of the interests and credibility of those who are funding them.
22. Voters may give more weight to a message about Delaware legislation if it is funded by a grassroots group of fellow citizens; they may give the same message less weight if it is funded by out-of-state activists or a corporation with a financial interest in the issue.
23. For example, voters would likely give less weight to an anti-gun-control message if they knew that it was funded by the firearm industry. They might give the same message more weight if it was funded by a local hunting club.
24. Unlike bans on speech, disclosure laws increase the quantity of information available to voters.

25. By helping voters evaluate the messages they receive during an election campaign, disclosure improves the functioning of the marketplace of ideas, and reduces the likelihood that voters will be misled about the information they receive.
26. Disclosure also informs the public as to what interests are spending money to affect the outcome of elections.
27. This information improves the electoral process and increases accountability for elected officials. Full disclosure of who is supporting a candidate during the campaign allows voters to monitor elected officials' post-election behavior and see if they are responding to those funders with favorable legislation.
28. Without the disclosure required by the Act, groups could hide behind anodyne or misleading names to conceal the true source of their funds. Even when a group does not use a misleading name, the identities of those who fund the group's activities provide valuable information to voters.
29. The public's interest in disclosure applies equally to voter guides.
30. During my career, I have been involved in the planning of some voter guides.
31. Voter guides are typically intended to influence voter behavior, and they, in fact, generally do so. Otherwise, organizations would not go to the expense of producing them.
32. In my experience, the public has the same interest in knowing who is funding voter guides as it has in knowing who is funding other kinds of communications intended to influence voter behavior.
33. Many voter guides portray candidates' positions in a positive or negative light depending on whether a candidate agrees with the organization's views. Moreover,

as the term “voter guide” conveys, they all provide information to inform the decisions that voters make when they cast their ballots.

34. Disclosure enables voters to evaluate a voter guide’s portrayal of a candidate’s positions in light of the reputations and motives of those funding the guide.
35. I have reviewed the copy of the voter guide put out by Delaware Strong Families in 2012 that was attached to the complaint as Exhibit A.
36. This voter guide illustrates how election-related communications of this kind, though lacking words of express advocacy, may well influence voters’ choices. The considerations that lead me to that conclusion include (i) the selection and phrasing of the issues or questions, (ii) the document’s self-description as a “Values Voter Guide,” (iii) its statement near the top of the first page that “The stakes couldn’t be higher this election. Our hope is that on November 6th, this Voter Guide will help you choose candidates who represent your values,” and (iv) its identification of Delaware Strong Families as an affiliate of the Delaware Family Policy Council, an organization that expressly supports and opposes candidates.
37. With reference to the first consideration, for example, federal question 7 refers to “The state constitutional amendments preserving natural marriage,” and state question 6 refers to “Strengthening and maintaining marriage as the union of one man and one woman, and not redefining or adding to man/woman marriage.”
38. With reference to the fourth consideration, the Delaware Family Policy Council, for example, put out a “Values Scorecard” in the 2012 election that is similar to Delaware Strong Families’ “Values Voter Guide,” but it rated the candidates with letter grades and indicated which candidates it considered “Family Advocates” or “Pro-Family” and which candidates it considered “Hostile” or “Anti-Family.” The Delaware

Family Policy Council's 2012 "Values Scorecard," which was supplied to me by counsel for the Defendants, is attached hereto as Exhibit A.

39. Disclosure would not be effective in Delaware if it did not extend to non-broadcast media.
40. Television advertising is not a realistic option for most Delaware campaigns. Some statewide campaigns and political advertisers use radio, but direct mail and phone messaging are the most common media for election-related advertisements.
41. Direct mail is the most common advertising medium for Delaware political campaigns.
42. During my time as an elected official, direct mail was the primary method by which my campaigns communicated with voters.
43. Because Delaware campaigns purchase so little television advertising, the cost of Delaware campaigns is low relative to the cost in other states in the region.
44. Costs are also low because districts are quite small. My Senate district contained fewer than 50,000 residents; a comparable district in New Jersey contains hundreds of thousands of residents.
45. This means that even a relatively small expenditure can have a significant impact on a Delaware campaign.
46. For that reason, the legislature had a sound basis for setting the threshold for disclosure at \$500 of third-party advertising expenditures.
47. A higher threshold would have risked omitting many expenditures that are large enough to affect Delaware campaigns.
48. It is also important that disclosure occur within a short period after an expenditure.

49. Political advertisers are aware of filing deadlines and will time their advertisements to avoid having to submit campaign-finance reports until after the election.
50. I have often seen political advertisers pour money into a race just after the date that would trigger the final campaign-finance report.
51. Without timely disclosure, voters may have no opportunity to evaluate these last-minute electioneering efforts in light of the interests of those funding them.
52. The Disclosure Act's quick filing turnarounds will address this problem by providing disclosure right up until Election Day.
53. During my two decades in elective office, my campaigns filed many campaign-finance reports.
54. Based on that experience, I do not believe that the Act will impose a significant administrative burden on groups subject to its filing and recordkeeping requirements.
55. It is easier than ever to keep the basic records required by the Disclosure Act. Simple software, like Quicken or Excel, can be used to track expenses and contributions. In my experience, most groups that engage in election-related communications use software of this kind to keep records of these sorts.
56. I became familiar with the Commissioner of Elections' electronic-filing system during my last Senate campaign.
57. Electronic filing eliminates the inconvenience of photocopying and trips to the Post Office.
58. I received no compensation for the preparation of this declaration.

I declare under penalty of perjury that the foregoing is true and correct.

Executed: March 5, 2014

/s/ Liane Sorenson
Liane Sorenson

EXHIBIT A



Values Scorecard

A Service of Delaware Family Policy Council

Delaware Family Policy Council (DFPC) is pleased to present the 2012 Values Scorecard. DFPC is a 501c4 member-driven organization committed to standing for values that strengthen Delaware families.

All candidates were provided a questionnaire and given an equal opportunity to respond and to provide explanations or comments concerning each question. Any additional explanations or comments that were made by candidates are noted with an asterisk (*) next to the answer and can be found on our website.

For your convenience, the Voter Scorecard includes phone numbers for all candidates if you wish to call those who failed to respond. Positions for non-responding candidates are based on voting records, public statements, and/or campaign literature.

A printable version of the Voter Scorecard is available on our website www.delawarefamilies.org. Please Facebook and share the Voter Scorecard and encourage your friends and family to vote on November 6th.

Remember, this Voter Scorecard does not address a candidate's character, only their position on issues. It should not take the place of your effort to personally evaluate a candidate.

The stakes couldn't be higher this election. Our hope is that on November 6th, this Voter Scorecard will help you choose candidates who best represent your values.

Nicole Treis



President
 Delaware Family Policy Council

FEDERAL QUESTIONS:

- Do you oppose taxpayer funding of abortions?
- Do you oppose giving tax dollars to Planned Parenthood?
- Do you oppose the federal funding of embryonic stem cell research?
- Do you support federal legislation prohibiting human cloning of all kinds, both "therapeutic" and "reproductive"?
- Do you support repealing federal estate tax?
- Do you support parental rights in education (educational choice)?
- Do you support the state constitutional amendments preserving natural marriage?
- Do you support enforcement of the Defense of Marriage Act (DOMA)?
- Do you support a marriage protection amendment to the U.S. Constitution that defines marriage as the union of one man and one woman?
- Do you oppose the Federal Employment Non-Discrimination Act?
- Do you support strict constructionist judges?
- Do you oppose open homosexuality in the military?
- Do you support repealing the healthcare law known as "Obamacare"?
- Do you support protection for institutions, organizations, and individuals from having the government force them to violate their moral or religious beliefs?

Federal Candidates			1	2	3	4	5	6	7	8	9	10	11	12	13	14	Grade
Senate	(202) 905-6706	Alexander Pires (I) X	-	-	-	-	-	-	N	N	N	-	-	N	-	-	D
Senate	(202) 224-2441	Thomas Carper (D) X	N	N	N	-	-	-	-	N	N	-	N	N	N	N	F
Senate	(302) 339-1763	Kevin Wade (R)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	A
US Congress	(302) 536-9495	Tom Kovach (R) X	-	-	-	-	-	-	-	-	-	-	-	-	-	-	N/A
US Congress	(302) 654-1718	John Carney (D) X	N	N	-	-	-	N	-	N	-	-	-	-	N	-	F

Color Key	Answer Key	Party Key	Endorsements/Ranking Key
Family Advocate	Y = Yes, Pro-Family Position	D = Democrat	L = Delaware Liberty Fund LGBT
Needs Improvement	N = No, Anti-Family Position	R = Republican	S = Stonewall Democrats
Hostile	U = Undecided	L = Libertarian	V = Gay and Lesbian Victory fund
	X = Candidate failed to respond , information compiled from other sources listed online at www.delawarefamilies.org	I = Independent	P = Scored more than 60% Pro-Choice on Planned Parenthood's Survey
	* = Additional Comments or voting record online at www.delawarefamilies.org		
	- = Failed to respond/Position Unknown		

Explanation of Information

To find your voting district and contact information on the candidates, go to www.delawarefamilies.org. This Values Scorecard is for personal distribution. For a 501c3 or church-friendly Voter Guide, please go to www.delawarestrong.org. To help you make an informed decision, we have included endorsements of organizations that have a mission and agenda opposite of the family values promoted by DFPC. The mission of those organizations can be viewed in the endnotes online. **The A+ grade is only awarded to incumbents who are proven champions of pro-family legislation. Those who earned an A+ grade are considered Outstanding Family Advocates.**

STATE QUESTIONS:

1. Do you support the right of parents to choose what services their children may receive at school-based wellness centers?
2. Do you support tax incentives to encourage natural marriage and incent married couples to stay together as a solution to reducing poverty and dependency on government services?
3. Do you oppose same-sex civil union legislation?
4. Do you support parental consent of abortion for minors under the age of 18? (HB80)
5. Do you support strengthening and maintaining marriage as the union of one man and one woman?
6. Do you oppose adding "gender identity or gender expression" to the protected classes in Delaware's anti-discrimination laws for housing, employment, and public accommodation?
7. Do you oppose legislation that includes legalizing internet gambling as a means to increase state revenue and provide jobs?
8. Do you support prohibiting coverage for abortion in the state insurance exchanges mandated by the new federal healthcare law?
9. Do you support an annual inspection of abortion clinics for unsafe and unsanitary conditions?
10. Do you oppose using taxpayer money to fund Planned Parenthood and other organizations that provide abortion services?
11. Do you support a policy that ensures parental guardian notification prior to the introduction or instructional use of classroom curriculum or materials, whether brought or introduced by school educators, administrators, and officials, or by guests invited at their request, which involve human sexual education, human sexuality issues, sexual acts, family planning, profanity, drugs, or alcohol?
12. Do you support a Delaware Marriage Protection Amendment defining marriage between a man and a woman in the state constitution? (It does not ban civil unions. SS1 for SB27 2009)




Statewide Races				1	2	3	4	5	6	7	8	9	10	11	12	Grade
Governor	322-8800	L,P,S	Jack Markell (D) X	-	-	N	-	N	N	N	-	-	-	-	N	F
Governor	521-3761		Jeffrey Cragg (R)	Y	Y	U	Y	Y	Y	Y	Y	Y	Y	Y	Y	A-
Lt. Governor	328-9036	L,P,S	Matthew Denn (D) X	-	-	N	-	N	N	-	-	-	-	-	N	F
Lt. Governor	563-2665		Cheryl Valenzuela (R)	Y	Y	U	Y	Y	Y	Y	Y	Y	Y	Y	Y	A-
Insurance Co.	559-1434	P	Karen Stewart (D) X	-	-	-	-	-	-	-	-	-	-	-	-	N/A
Insurance Co.	690-2403		Benjamin Mobley (R) X	-	-	-	-	-	-	-	-	-	-	-	-	N/A
Sussex County: Clerk of the Peace				1	2	3	4	5	6	7	8	9	10	11	12	Grade
	604-4925		Brooks Witzke (R)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	A
	542-5189		John Brady (D) X	-	-	-	N	-	-	-	-	-	Y	-	N	C
Sussex County: State Senate				1	2	3	4	5	6	7	8	9	10	11	12	Grade
	703-9090	L,S,V,P	Andrew Staton (D) X	-	-	N	-	N	N	-	-	-	-	-	N	F
	703-2243		Ernesto Lopez (R)	Y	N	N	Y	Y	Y	Y	Y	Y	Y	Y	N	B-
	422-3460	No Opponent	Gary Simpson (R)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	A+
	856-6534		Jane Hovington (D)	Y	Y*	U	Y	Y	Y	Y	U	Y	Y	Y	Y	B+
	858-0694		Brian Pettyjohn (R)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	A
	436-4633		Richard Eakle (D) X	-	-	-	-	-	-	-	-	-	-	-	-	N/A
	539-4140		Gerald Hocker (R)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	A+
	744-4298		Robert Venables (D)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	A+
	629-9788		Bryant Richardson (R)	Y	Y	Y	Y	Y	U	Y	Y	Y	Y	Y	Y	A
Sussex County: State Representatives				1	2	3	4	5	6	7	8	9	10	11	12	Grade
	227-6252	L,S,P	Peter Schwartzkopf (D) X	N	-	N	-	N	N	Y	-	N	-	-	N	F
	231-2202		Margaret Melson (L)	Y	Y	N	Y	N	Y*	N	Y	Y	Y	Y	N*	C+
	684-1602	S,V	Marie Mayor (D) X	-	-	N	-	N	-	-	-	-	-	-	N	F
	684-4577		Stephen Smyk (R)	Y	Y	Y	Y	Y	Y	Y*	Y	Y	Y	Y	Y	A
	422-3454		David Wilson (R)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	A+
	349-5122	L	Ronnie Fitzgerald (L)	Y	N	N	Y	N	N	N	U	Y	Y	Y	N	C-
	422-6155	No Opponent	Harvey Kenton (R)	Y	Y	Y	Y	Y	Y	Y	Y	Y*	Y	Y	Y*	A+
	947-2984		Elizabeth McGinn (D) X	-	-	-	-	-	-	-	-	-	-	-	-	N/A
	856-2772		Ruth Briggs King (R)	Y	Y	Y	Y	Y	U*	Y	Y	Y	U*	Y	Y*	A-
	539-6738		Shirley Price (D) X	-	-	N	-	N	N	-	-	-	-	-	N	F
	436-7024		Ronald Gray (R)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	A
	628-5222	No Opponent	Daniel Short (R)	Y	Y	Y	Y	Y	Y	N*	Y	Y	Y	Y	Y	A-
	875-5736		Benjamin Lowe (D) X	-	-	-	-	-	-	-	-	-	-	-	-	N/A
	235-9806		Timothy Dukes (R)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	A
	745-1587		John Atkins (D)	Y	Y	Y*	Y*	Y	Y	Y*	Y	Y	Y	Y	Y	A
	381-1610		Richard Collins (R)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	A

New Castle: State Representatives															Grade	
			1	2	3	4	5	6	7	8	9	10	11	12		
656-2921	L,P		Harris McDowell (D) X	-	-	N	-	N	N	N	-	-	-	N	F	
764-2309		1	Robert Clark (I)	Y	Y	U	Y	Y	U	Y	Y	Y	Y	Y	B+	
Not Listed	P		Brian Lintz (L)	Y	N	N	U	N	Y*	N	U*	U*	Y	-	D	
425-4148 No Opponent	L,S,P	2	Margaret Henry (D) X	-	-	N	-	N	N	N	-	-	-	N	F	
656-7261 No Opponent	L	3	Robert Marshall (D) X	-	-	N	-	Y	N	Y	-	-	-	Y	C+	
598-3194	L,S,P	4	Michael Katz (D) X	-	-	N	-	N	N	N	-	-	-	N	F	
478-6128			Gregory Lavelle (R) X	Y	-	Y	Y	-	-	Y	-	Y	-	-	B	
439-0992	L,S,P	5	Christopher Counihan (D) X	-	-	N	-	N	N	-	-	-	-	N	F	
478-9616	P		Catherine Cloutier (R)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	A	
994-4843	L,S,P	7	Patricia Blevins (D) X	-	-	N	-	N	N	N	-	-	-	N	F	
Not Listed			James Christina (L) X	-	-	N	-	N	-	-	-	-	-	N	F	
239-2193	L,S,P	8	David Sokola (D) X	-	-	N	-	N	N	N	-	-	-	N	F	
894-4591			William Stritzinger (R) X	-	-	-	-	-	-	-	-	-	-	-	N/A	
999-7522 No Opponent	L,S	9	Karen Peterson (D) X	-	-	N	-	N	N	Y	-	-	-	N	D	
378-8386 No Opponent	L,P	10	Bethany Hall-Long (D) X	-	-	N	-	N	N	N	-	-	-	N	F	
709-1516	L	11	Bryan Townsend (D) X	-	-	N	-	N	N	-	-	-	-	N	F	
754-1787			Evan Queitsch (R)	Y	Y	Y*	Y	Y	Y	Y	Y	Y	Y	Y	A	
562-2106	L,S,P	12	Nicole Poore (D) X	-	-	N	-	N	N	-	-	-	-	N	F	
328-8944	P		Dorinda Connor (R) X	-	-	Y	-	-	-	N	-	-	-	N	C-	
322-6100 No Opponent	L	13	David McBride (D) X	-	-	N	-	N	N	N	-	-	-	N	F	
653-7566	P	14	Bruce Ennis (D)	Y	Y	Y	U	Y	U	N	U	Y	U	Y	B	
378-6036			Scott Unruh (R)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	A	
New Castle: State Representatives				1	2	3	4	5	6	7	8	9	10	11	12	Grade
762-8322 No Opponent		1	Charles Potter (D) X	-	-	-	-	-	-	-	-	-	-	-	N/A	
428-1269 No Opponent	L,S	2	Stephanie Bolden (D) X	N	-	N	N	-	N	N	-	Y	-	-	C	
655-7071 No Opponent	L,S,P	3	Helene Keeley (D) X	N	-	N	-	N	N	Y	-	N	-	N	D	
655-1373 No Opponent	L	4	Gerald Brady (D) X	N	-	N	Y	N	N	N	-	N	-	Y	C-	
832-1956 No Opponent	L,S	5	Melanie Smith (D) X	N	-	N	-	N	N	N	-	N	-	N	F	
Not Listed	L,S,P	6	Debra Heffernan (D) X	N	-	N	-	N	N	N	-	N	-	N	F	
478-4754			Eric Taylor (R) X	-	-	-	-	-	-	-	-	-	-	-	N/A	
475-2252	L,S	7	Bryon Short (D) X	N	-	N	-	N	N	Y	-	N	-	N	D	
798-0960			Daniel Lepre (R)	Y	N*	N	Y	N*	N	Y	Y	Y	Y	Y	C	
378-2681	L	8	Quinton Johnson (D) X	Y	-	N	N	N	N	N	-	N	-	N	D	
919-900-0401			Matthew Brown (R)	Y*	U*	U*	Y*	Y*	Y	N*	Y	Y	Y	Y*	B+	
293-2356 No Opponent	L,P	9	Rebecca Walker (D) X	Y	-	N	N	N	N	N	-	N	-	N	D	
373-0115	L,S	10	Dennis Williams (D) X	N	-	N	-	N	N	N	-	N	-	N	F	
478-4763			Robert Rhodunda (R) X	-	-	-	-	-	-	-	-	-	-	-	N/A	
653-8247		11	Lynne Newlin (D) X	-	-	-	-	-	-	-	-	-	-	-	N/A	
526-2267			Jeffrey Spiegelman (R) X	-	-	-	-	-	-	-	-	-	-	-	N/A	
651-9571 No Opponent	P	12	Deborah Hudson (R) X	Y	-	Y	Y	Y	N	Y	-	Y	-	Y	B+	
995-1803 No Opponent	L	13	John Mitchell (D) X	N	-	N	-	N	N	N	-	N	-	N	F	
562-6640	L,S,P	15	Valerie Longhurst (D) X	N	-	N	-	N	N	N	-	N	-	N	F	
Not Listed			Amy Merlino (L) X	-	-	N	-	N	-	-	-	-	-	N	F	
322-3521	L,P	16	James Johnson (D) X	N	-	N	-	N	N	N	-	N	-	N	F	
985-7025	P		John Machurek (L) X	-	-	N	-	N	-	-	-	-	-	N	F	
322-1249	L,P	17	Michael Mulrooney (D) X	N	-	N	-	N	N	N	-	N	-	N	F	
395-1998			Laura Brown (R) X	-	-	-	-	-	-	-	-	-	-	-	N/A	
368-7257 No Opponent	L,S,P	18	Michael Barbieri (D) X	N	-	N	N	N	N	N	-	N	-	N	F	
633-1289	L,S	19	Kimberly Williams (D) X	-	-	N	-	N	N	-	-	-	-	N	F	
999-8191			Dennis Cini (R) X	-	-	-	-	-	-	-	-	-	-	-	N/A	
584-8601 No Opponent	L	21	Michael Ramone (R) X	Y	-	N	Y	-	-	N	-	Y	-	Y	C+	
983-2622	L,S,P	22	David Ellis (D) X	-	-	N	-	N	N	-	-	-	-	N	F	
454-1840			Joseph Miro (R)	Y	U*	Y*	Y*	Y	N*	N*	Y	Y	Y	Y*	B	
562-4546	L,S,P	23	Paul Baumbach (D) X	-	-	N	-	N	N	-	-	-	-	N	F	
731-9766			Mark Doughty (R) X	-	-	-	-	-	-	-	-	-	-	-	N/A	
292-8903 No Opponent	L,S,P	24	Edward Osienki (D) X	N	-	N	N	N	N	N	-	N	-	N	F	
547-9351 No Opponent	L,S,P	25	John Kowalko (D) X	N	-	N	N	N	N	N	-	N	-	N	F	
832-2209 No Opponent	L,P	26	John Viola (D) X	N	-	N	-	N	N	N	-	N	-	N	F	
834-9231 No Opponent	L,S	27	Earl Jaques (D) X	Y	-	N	Y	N	N	Y	-	N	-	N	C	

STATE QUESTIONS:

1. Do you support the right of parents to choose what services their children may receive at school-based wellness centers?
2. Do you support tax incentives to encourage natural marriage and incent married couples to stay together as a solution to reducing poverty and dependency on government services?
3. Do you oppose same-sex civil union legislation?
4. Do you support parental consent of abortion for minors under the age of 18? (HB80)
5. Do you support strengthening and maintaining marriage as the union of one man and one woman?
6. Do you oppose adding "gender identity or gender expression" to the protected classes in Delaware's anti-discrimination laws for housing, employment, and public accommodation?
7. Do you oppose legislation that includes legalizing internet gambling as a means to increase state revenue and provide jobs?
8. Do you oppose prohibiting coverage for abortion in the state insurance exchanges mandated by the new federal healthcare law?
9. Do you support an annual inspection of abortion clinics for unsafe and unsanitary conditions?
10. Do you oppose using taxpayer money to fund Planned Parenthood and other organizations that provide abortion services?
11. Do you support a policy that ensures parental guardian notification prior to the introduction or instructional use of classroom curriculum or materials, whether brought or introduced by school educators, administrators, and officials, or by guests invited at their request, which involve human sexual education, human sexuality issues, sexual acts, family planning, profanity, drugs, or alcohol?
12. Do you support a Delaware Marriage Protection Amendment defining marriage between a man and a woman in the state constitution? (It does not ban civil unions. SS1 for SB27 2009)

Kent County: Clerk of the Peace			1	2	3	4	5	6	7	8	9	10	11	12	Grade
335-3392		Loretta Wootten (D) X	-	-	-	-	-	-	-	-	-	-	-	-	N/A
730-0454		Mary McVay (L) X	-	-	-	-	-	-	-	-	-	-	-	-	N/A
Kent County: State Senate			1	2	3	4	5	6	7	8	9	10	11	12	Grade
653-7566	14	Bruce Ennis (D)	Y	Y	Y	U	Y	U	N	U	Y	U	Y	Y	B
378-6036		Scott Unruh (R)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	A
270-2012		Kathleen Cooke (D) X	-	-	-	-	-	-	-	-	-	-	-	-	N/A
492-1155	15	Dave Lawson (R)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	A+
698-0960		Colin Bonini (R)	Y	Y	Y	Y	Y	Y	N*	Y	Y	Y	Y	Y	A-
697-1740	16	Michael Tedesco (I) X	-	-	-	-	-	-	-	-	-	-	Y	Y	B-
674-5442 No Opponent	L,S	17 Brian Bushweller (D) X	-	-	N	-	N	N	N	-	-	-	-	N	F
422-3460 No Opponent		18 Gary Simpson (R)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	A+
Kent County: State Representatives			1	2	3	4	5	6	7	8	9	10	11	12	Grade
653-8247		Lynne Newlin (D) X	-	-	-	-	-	-	-	-	-	-	-	-	N/A
526-2267	11	Jeffrey Spiegelman (R) X	-	-	-	-	-	-	-	-	-	-	-	-	N/A
653-8642		William Carson (D) X	Y	-	Y	-	Y	-	N	-	N	-	Y	Y	B
242-4253	28	Christopher Sylvester (R) X	-	-	-	-	-	-	-	-	-	-	-	-	N/A
659-5850	L,P	29 Charles Paradee (D) X	-	-	N	-	N	N	-	-	-	-	-	N	F
659-3436		Lincoln Willis (R)	Y	U*	Y	Y	Y	Y*	N	Y*	Y	Y	Y	Y	A-
Not Listed		William Outten (R)	Y	Y	Y	Y	Y	Y*	Y	Y	Y	Y	Y	Y	A+
272-1373	30	Gordon Smith (L)	Y	Y	N	Y	Y	N	U	Y	Y	Y	Y	U	C+
735-1781	L,S,P	31 Darryl Scott (D) X	N	-	N	N	N	N	N	-	N	-	-	N	F
222-2577		Samuel Chick (R)	Y	U*	Y*	Y	N*	Y	Y*	Y	Y*	Y	Y*	N*	B
545-0198		Andria Bennett (D) X	-	-	-	-	-	-	-	-	-	-	-	-	N/A
697-8271	32	Ellis Parrott (R)	Y	Y	Y	Y	Y	Y	Y	Y	Y*	Y	Y	Y	A
335-5633		John Robbins (D) X	-	-	-	-	-	-	-	-	-	-	-	-	N/A
335-4261	33	Harold Peterman (R)	Y	Y	Y	Y	Y	Y	N	U	Y	U	U	Y	B+
697-2554	S	34 Theodore Yacucci (D) X	-	-	-	-	-	-	-	-	-	-	-	-	N/A
697-6723		Donald Blakey (R)	Y	Y	Y	Y	Y	N	N	U	U	Y	Y	Y	B

Color Key	Answer Key	Party Key	Endorsements/Ranking Key
 Family Advocate	Y = Yes, Pro-Family Position	D = Democrat	L = Delaware Liberty Fund LGBT
 Needs Improvement	N = No, Anti-Family Position	R = Republican	S = Stonewall Democrats
 Hostile	U = Undecided	L = Libertarian	V = Gay and Lesbian Victory fund
	X = Candidate failed to respond , information compiled from other sources listed online at www.delawarefamilies.org	I = Independent	P = Scored more than 60% Pro- Choice on Planned Parenthood's Survey
	* = Additional Comments or voting record online at www.delawarefamilies.org		
	- = Failed to respond/Position Unknown		

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

DELAWARE STRONG FAMILIES,

Plaintiff,

vs.

Civil Action No. 1:13-cv-1746-SLR

JOSEPH R. BIDEN III, in his official
capacity as Attorney General of the State of
Delaware; and

ELAINE MANLOVE, in her official
capacity as Commissioner of Elections for
the State of Delaware,

Defendants.

DECLARATION OF ERIK RASER-SCHRAMM

I, Erik Raser-Schramm, declare under penalty of perjury that the following is true and correct:

1. I submit this declaration to accompany Defendants' Opposition to Plaintiff's Motion for a Preliminary Injunction.
2. I am currently a principal at the Twelve Seven Group LLC, an organizing, strategy, and consulting firm in Delaware.
3. I entered Delaware politics in 2002, when I became campaign manager for State Senator Dave Sokola's re-election campaign.
4. After Senator Sokola's re-election, I joined Governor Ruth Ann Minner's 2004 re-election campaign as campaign coordinator.
5. In 2004, I also became Vice Chairman of the New Castle County Democratic Party.

6. During the 2004–2006 election cycle, I managed then-State Treasurer Jack Markell’s re-election campaign. I also advised the re-election campaigns of dozens of local candidates at the legislative and county level.
7. In 2007, I was hired as Chief of Staff for the Minority Caucus in the Delaware House of Representatives.
8. In 2008, when the Democratic Party won a majority in the House, I became Chief of Staff to the Majority Caucus. I held that position until September 2011.
9. In that role, I was involved in the campaigns of dozens of Democratic candidates, including statewide candidates, State House and Senate candidates, and county-level candidates.
10. Beginning in 2009, I also served as Chairman of the New Castle County Democrats.
11. In the 2012 election cycle, I served as Chairman of the statewide Coordinated Campaign for the Democratic Party of Delaware.
12. The Coordinated Campaign had nine field offices and 22 staff members.
13. As Chairman of the Coordinated Campaign, I worked with every Democratic campaign in Delaware during the 2012 election cycle.
14. Delaware has no major-network television station of its own.
15. The major-network television stations covering northern Delaware are based in Philadelphia, Pennsylvania. The major-network stations for southern Delaware are based in Salisbury, Maryland.
16. Ads run on these Pennsylvania- and Maryland-based stations are prohibitively expensive for most Delaware campaigns and are generally a poor investment, given that they reach primarily non-Delaware voters.

17. Accordingly, television advertising does not play as big a role in most Delaware campaigns as it does in many other States.
18. Radio is used by statewide campaigns, but is typically too expensive for most legislative or local races.
19. Direct mail is by far the dominant form of political advertising. Approximately 80% of the spending in Delaware campaigns goes toward direct mail.
20. For that reason, it is essential that Delaware campaign-finance law, including the Disclosure Act, cover direct mail.
21. In my experience, by the 2008 cycle, third-party issue advertisements—that is, advertisements mentioning one or more candidates but without an express appeal to vote for or against a candidate—had become a major phenomenon in Delaware elections.
22. In a typical legislative race, outside issue advertising can double the number of direct-mail pieces, whether positive or negative, influencing voters.
23. Disclosure of contributors to groups issuing third-party ads allows voters to evaluate each message in light of the interests and credibility of those who funded it.
24. During the 2010 election cycle, many anonymous mailings targeted candidates with negative attacks, without disclosing who was behind them or who funded them.
25. For example, one set of mailings listed as the return address only “P.O. Box 1180.”
26. One of these “P.O. Box 1180” ads encouraged recipients to “Call Terry Schooley . . . and tell her our working families can’t afford more taxes.” (Attached hereto as Exhibit A.) Another encouraged recipients to “Call Bill Stritzinger,” Schooley’s

opponent, “and tell him you support his plan to get Delaware working again.”

(Attached hereto as Exhibit B.)

27. Other “P.O. Box 1180” ads encouraged recipients to “Call Darryl Scott,” a candidate for the Delaware House, “and tell him we can’t afford his tax and spending habits” (attached hereto as Exhibit C); to “Call Pete Schwartzkopf & tell him to stop hitting Delaware businesses with his job-killing taxes and fees” (attached hereto as Exhibit D); and to “Call John A. Kowalko and tell him to stop the spending” (attached hereto as Exhibit E).
28. I affirm that the attached exhibits are true and correct copies of these advertisements.
29. Despite their phrasing as appeals simply to call officeholders and candidates, these ads were clearly intended to affect voters’ choices at the ballot box and likely did so.
30. In my experience, these ads were phrased as appeals to “call” candidates, rather than to vote for or against them, in order to avoid disclosure, which at the time was required only for express voting appeals.
31. Having spoken with dozens of candidates about the impact of third-party issue advertising, and having participated in dozens of campaigns in which issue ads were used, on both sides, I can say that these ads influence voters’ choices at the ballot box. That is the reason the groups producing them issue them.
32. In my experience, a negative ad closing with an appeal to vote against a candidate, and a negative ad closing with an appeal to *call* a candidate, may have the same practical effect on voters.
33. This is particularly true in state-legislative and local races, where name recognition is often crucial. The mere fact of having repeatedly seen a candidate’s name in a

- positive or negative context can, in my experience, be as important as the precise content of the message. Issue ads have proven to be very effective at increasing name recognition in this way.
34. Disclosure of the identity of contributors and sponsoring organizations, as required by the Elections Disclosure Act, enables voters to assess the value of the information conveyed in the ad.
 35. The Disclosure Act's monetary thresholds make sense in light of the realities of Delaware campaigns.
 36. Even a small amount of money can purchase a significant amount of advertising in a state- or local-level election in Delaware.
 37. For example, for less than \$500 a campaign can place enough pre-recorded "robo-calls" to reach every household in a Delaware House district. If a hyper-targeted recipient list is used, as is common in campaigns, \$150 would suffice.
 38. The Act's quick turnaround times for filing are important, as a recent example shows.
 39. In the November 2013 Newark mayoral election, a group called the "I Like Polly's Plan PAC" sent a series of direct-mail pieces expressing support for candidate Polly Sierer's plan to approve construction of a data center and power plant at the University of Delaware. *See* K. Simmons & J. Shannon, *Polly Sierer Elected Mayor Of Newark In Tight Race*, Newark Post, Nov. 27, 2013, available at http://www.newarkpostonline.com/news/article_ea5fe3eb-4492-5f2d-b12c-6e51d60458be.html (attached hereto as Exhibit F.).
 40. The "Polly's Plan" ads, which Sierer disavowed, did not contain an express voting appeal.

41. The PAC initially did not comply with the requirement to disclose its donors.
42. After a complaint was filed under the Elections Disclosure Act, the PAC disclosed its funders.
43. The disclosure report revealed that the PAC was funded by interests that would benefit economically from the data center project.
44. Because the PAC did not comply with the Act, disclosure did not occur until the afternoon before the election, so there was limited opportunity for the information to reach the voting public.
45. Sierer won the election by 115 votes.
46. In my experience, disclosure must occur quickly on the heels of a message if voters are to be able to use the information to evaluate the merits of that message.
47. In my experience, timely disclosure would have affected voters.
48. I received no compensation for the preparation of this declaration.

I declare under penalty of perjury that the foregoing is true and correct.

Executed: March 5, 2014

/s/ Erik Raser-Schramm
Erik Raser-Schramm

EXHIBIT A

TERRY SCHOOLEY

Hit Us With Massive Tax and Fee Hikes



At a time when our families are being forced to cut back, TERRY SCHOOLEY voted to increase government spending. Worse, she voted for massive tax and fee hikes to pay for it.

- » Terry Schooley voted to raise our taxes and fees 15 times.
- » Terry Schooley voted to raise our income taxes by nearly 17%.
- » Terry Schooley voted to increase state spending by over \$200 million.
- » We Can't Afford More Out-Of-Control Spending.
- » We Can't Afford More Job-Killing Taxes.

Call TERRY SCHOOLEY at 302-744-4351 and tell her our working families can't afford more taxes.

TERRY SCHOOLEY is Running Up Spending and Tax Increases We Can't Afford.



P.O. Box 1180
Newark, DE 19715

POSTAGE
U.S. POSTAGE
PAID
MODERNA, MD

TI PI

The
Current Resident



109415017

EXHIBIT B

Politicians in Dover Have Hit Us With **MASSIVE JOB-KILLING TAXES.**

They succeeded in raising our taxes 15 times.

They increased state spending by hundreds of millions of dollars.

They raised our personal income tax nearly 17%.

Now, our families are paying the price.

BILL STRITZINGER has a plan to **STOP**
those tax hikes and get Delaware working again.

Control the Spending. Eliminate Waste.

- Streamline government by not replacing non-essential workers that leave state service.
- Require the state's budget bills be introduced earlier - preventing wasteful spending from being passed in the middle of the night with no public scrutiny.
- Provide Incentives for Employers to Work and Hire Locally.

Call BILL STRITZINGER
at 302-468-1421 and tell him
you support his plan to get
Delaware working again.



Delaware Families and Employers Can't Afford Government Reaching into Their Pockets **MORE and MORE**



P.O. Box 11180
Newark, DE 19715

PRSRVTD
U.S. POSTAGE
PA
MODERATED MAIL

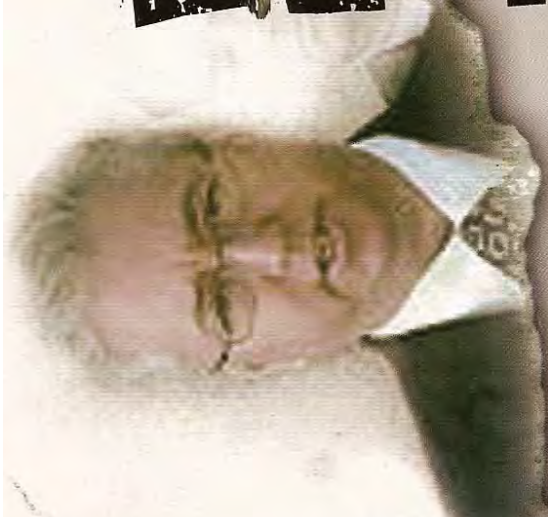
T1 P1

The [REDACTED]

Or Current Resident



109415016



We Can't Afford Darryl Scott's Tax Hikes.



Darryl Scott says "he delivered by cutting wasteful spending."
(Campaign Literature, 2010)

Darryl Scott

voted to:

- Raise our taxes and fees 15 times
- Raise our personal income tax by 16.8%
- Increase spending by \$214 million
- Hurt working families by taking more of their hard-earned money

Call Darryl Scott

and tell him we can't afford his tax and spending habits.

[302] 744-4351



Delaware

can't afford another tax hike.

P.O. Box 1180
Newark, DE 19715

PRSRV STD
U.S. POSTAGE
PAID
MODERN MAIL

T2 P1

The
Or Current Resident



904-13284

DELAWARE BUSINESSES WOULD RATHER CREATE JOBS, BUT CAN'T BECAUSE THEY'RE PAYING **SCHWARTZKOPF'S TAXES**

**SINCE 2009 PETE SCHWARTZKOPF
VOTED TO RAISE -**

- GROSS RECEIPTS TAX** (HOUSE BILL 289)
- ELECTRICITY TAX** (HOUSE BILL 288)
- INCOME TAX** (HS 1 FOR HOUSE BILL 264)
- TELEPHONE TAX** (HOUSE BILL 288)
- BUSINESS FRANCHISE TAX**
(HOUSE BILL HS 1 FOR HOUSE BILL 267)
- NATURAL GAS TAX** (HOUSE BILL 288)
- DEATH TAX** (HOUSE BILL 291)
- INTERNET TAX** (HOUSE BILL 288)
- ALCOHOLIC BEVERAGE LICENSE FEE**
(HOUSE BILL 210)



**CALL
PETE SCHWARTZKOPF &**

TELL HIM TO **STOP HITTING** DELAWARE
BUSINESSES WITH
**HIS JOB-KILLING
TAXES AND FEES.**

302-744-4351

PETE SCHWARTZKOPF'S RECORD ON BUSINESSES IS "Taxing"

P.O. Box 1180
Newark, DE 19715

PRSRV STD
U. S. POSTAGE
PAID
MODERN MAIL

16 P1

The
Or Current Resident



109515008



EXHIBIT E



John A. Kowalko

Voted to Increase the Spending by \$214 Million

- Delaware's budget topped \$3.3 billion this year – a whopping 6.5% increase!
- Delaware is ranked 4th in the nation in per capita spending.
- The budget includes \$124 million in temporary federal stimulus funding – creating a big hole that'll have to be filled next year.
- And voted to raise our personal income tax by nearly 17%.



Call John A. Kowalko
and Tell Him to Stop the Spending.
(302) 744-4351



John A. Kowalko

Must Think
We Print Our
Own Money.

P.O. Box 1180
Newark, DE 19715

107814869

EXHIBIT F

Polly Sierer elected mayor of Newark in tight race

By **Karie Simmons and Josh Shannon Newark Post** | **Posted: Wednesday, November 27, 2013 12:48 am**

Polly Sierer was elected mayor of Newark on Tuesday night, bringing to a close one of the city's most publicized and highly-charged races in recent memory.

Despite rainy and cold weather conditions, a record-setting 3,695 voters cast their ballots during the day at the six polling places around Newark. Looming large in many voters' minds was the controversy over the proposed data center and power plant on the University of Delaware's STAR Campus.

Sierer captured 1,506 votes (41 percent), and Amy Roe finished second with 1,391. Rounding out the field was Rebecca Powers at 487, Mark Morehead at 148, Don DelCollo at 108, Matthew Vento at 41 and Robyn Harland at 14.

Sierer is a Christianstead resident who serves as president of the Newark Area Welfare Committee and has volunteered around the city for more than two decades. She was endorsed by many in the business community and several veterans of city politics, including former mayor Vance A. Funk III and Deputy Mayor Jerry Clifton.

Sierer said Tuesday night she is excited to be Newark's mayor and is looking forward to working with council, residents, the university and even the six other candidates she ran against.

She acknowledged the divisions that exist in the city. Many cast the race as a contest between pro-business Sierer and anti-power-plant Roe, and the vote tally appeared to confirm that.

"We have a polarized community right now," Sierer said. "We need to regroup and come together and work toward the same goals to make this a great place to live, work and visit."

"We have some healing to do," she added.

She thinks it would be helpful to meet with the other candidates to share ideas and come up with a "game plan" to create a cohesive city.

"Getting the candidates together is step number one," Sierer said. "It will be healing for the community if the seven of us get together."

Sierer will be sworn into office at 6 p.m. Dec. 3 at city hall. She replaces Funk, who resigned Sept. 30.

JA155

Sierer will serve out the remainder of Funk's term, which ends in April 2016.

Turnout at 24 percent

Although polls closed at 8 p.m., results were not announced at city hall until about 9 p.m. due to a holdup at one of the polling places, City Secretary Renee Bensley said. Voters at the District 1 polling place at Wesleyan Church of Newark were still in line to vote when the polls closed, which Bensley said delayed the ballot-counting process.

That delay was evidence of unusually high turnout, especially considering the timing of the election – two days before Thanksgiving – and the poor weather on Election Day.

A total of 3,695 people voted, equating to an approximate turnout of 24 percent.

The total eclipsed by 128 the number of voters in 2004, when Funk unseated incumbent Hal Godwin.

“Newark really needed this,” Sierer said of the turnout. “We have a lot of concerns and a lot of issues facing our city at the moment. This kind of turnout is unprecedented for a special election. It says a lot that our community and the people who live here feel this is important. Their voices are going to be heard.”

Roe falls 115 votes short

Runner-up Roe, an avid opponent of the data center and power plant, said she was disappointed that she lost the race but remained proud of her campaign, calling it tasteful and an overall “tremendous success.”

She, too, was overwhelmed by the number of people who came out to vote in the special election.

“We've energized the neighbors in a way that's never occurred in the past,” Roe said.

Although she was unable to win the mayor seat, Roe said she will continue to attend council meetings as a concerned resident and speak out on city issues.

“That won't change,” she said.

Townsend Road resident Stephen Toy, who voted today at the District 4 polling place, said he likes Roe in her current position as a watchdog and strong voice of the Newark people. Over the years, Roe has spoken out on a variety of issues during council meetings, often challenging council's decisions and investigating claims.

“People who are champions like Amy tend to not be very good at working with people to come to a consensus,” Toy said. “Besides, we need a good watchdog. Leave her out there, leave her snarling.”

Roe said she plans to keep up her efforts against The Data Centers, LLC's project and hopes council and Sierer continue to stay up on the issue. She currently spearheads the group Residents Against the Power Plant.

After Tuesday night's results were announced, Roe remained positive and said she was still heading out to celebrate the end of a long two-month campaign.

"Right now, we're going to Iron Hill and we're going to kick back a few pints," Roe said, smiling.

Morehead blasts PAC involvement

Morehead, the only sitting council member running in Tuesday's mayoral election, pulled no punches after the results were announced.

"Newark is not only open for business, but you can buy an election," he said.

In the days before the election, documents revealed that a political action committee, funded to the tune of \$45,000 by Delawareans for Environmental and Economic Development, distributed fliers to Newark homes promoting "Polly's plan."

Sierer denied any involvement with the PAC and issued a public plea for the group to stop.

"She'll never know if she could have done it herself without special interests," Morehead said.

"This sets a bad precedent," he added.

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

DELAWARE STRONG FAMILIES,

Plaintiff,

vs.

Civil Action No. 1:13-cv-1746-SLR

JOSEPH R. BIDEN III, in his official
capacity as Attorney General of the State of
Delaware; and

ELAINE MANLOVE, in her official
capacity as Commissioner of Elections for
the State of Delaware,

Defendants.

DECLARATION OF ELAINE MANLOVE

I, Elaine Manlove, declare under penalty of perjury that the following is true and correct:

1. I submit this declaration to accompany Defendants' Opposition to Plaintiff's Motion for a Preliminary Injunction.
2. I am currently the State Election Commissioner for the State of Delaware. In my official capacity, I am one of the Defendants in this case.
3. In my capacity as State Election Commissioner, I am responsible for promulgating rules, regulations, and forms necessary to implement and enforce the Delaware Elections Disclosure Act. *See* 15 Del. C. § 8041(1). I am also responsible for adopting procedures for the electronic filing of reports under the Disclosure Act. *See id.* § 8041(1)(d).

4. The Office of the State Election Commissioner operates the Delaware Campaign Finance Reporting System, the website through which campaign finance reports required by the Disclosure Act are submitted. That website is located at <https://cfrs.elections.delaware.gov/>.
5. That website contains an online form for submitting the third-party advertisement reports described in 15 Del. C. § 8031. The form is located at <https://cfrs.elections.delaware.gov/Public/ThirdPartyAdvertisersRegistration?isInitial=true>. A true and correct printout of the first page of that form is attached hereto as Exhibit A.
6. I understand that Plaintiff has asserted that it does not—and, in fact, cannot consistent with its 501(c)(3) status—support or oppose particular candidates, yet, in its view, is required to state in this form that it supports or opposes particular candidates. *See* Plaintiff’s Opening Br. in Support of its Motion for Preliminary Injunction 17. That is not an accurate understanding of the form or of the Disclosure Act as interpreted and implemented by the Office of the State Election Commissioner.
7. Mandatory fields on the form are designated by a red asterisk. Mandatory fields must be completed in order to successfully submit the form.
8. Optional fields do not include a red asterisk. The user can successfully submit the form without completing the optional fields.
9. One of the fields on the third-party advertising form is labeled “Affiliated Candidate Information.” The field allows the user to enter the name of a candidate, select “Support” or “Oppose,” and then click “Save.” By repeating this process, the user can list multiple candidates.

10. The “Affiliated Candidate Information” field is an optional field, not a mandatory field. It is not designated with a red asterisk. The user can therefore submit the form successfully without entering any information in this field. In other words, the user can successfully submit the form without listing any candidates or stating whether they “Support” or “Oppose” any candidates.
11. Designating “Affiliated Candidate Information” as an optional field is consistent with my interpretation of the Disclosure Act.
12. As I interpret the Disclosure Act, an organization that is not a “political committee” under Delaware law and is required to submit a third-party advertisement report under 15 Del. C. § 8031 need not submit the information requested in this field if it does not wish to support or oppose any candidates or parties and does not make the relevant expenditure on behalf of any candidate.
13. On multiple occasions, I have been contacted by members of the electorate expressing both dismay about campaign mailings by groups with unrevealing names and a desire for information about who was funding the mailings.

I declare under penalty of perjury that the foregoing is true and correct.

Executed: March 6, 2014

/s/ Elaine Manlove
Elaine Manlove

EXHIBIT A



Delaware Campaign Finance Reporting System

MENU HOME

3rd Party Advertisers



3rd Party Advertisers

Person Organization

Form fields for personal information: Committee Name, Prefix, Last Name, Email, Office Phone, Date of Origination, Party Affiliation, First Name, Middle Name, Suffix, Confirm Email, Home Phone, Cell Phone, Fax, Purpose.

Physical Address

Form fields for physical address: Address Line 1, City, Address Line 2, State, Zip.

Mailing Address

Form fields for mailing address: Address Line 1, City, Address Line 2, State, Zip.

Affiliated Candidate Information

Form fields for candidate information: Candidate Name, Position.

Save Candidate Cancel

Table with columns: Candidate Committee Name, Candidate Name, Office Sought Name, PartyAffiliationName, Position, Status, Delete. Content: No records to view.

Name of Party if entire ticket is supported -- Select Party --

Treasurer Information Self

Form fields for treasurer information: Prefix, Last Name, Email, Work, First Name, Middle Name, Suffix, Confirm Email, Home Phone, Cell Phone, Fax.

Phone* _____ (If entered then Public can view it)

Physical Address

Address Line 1* Address Line 2

City* State* Delaware Zip* -

Mailing Address

Address Line 1* Address Line 2

City* State* Delaware Zip* -

Additional Contacts (Optional)

Contact Role* --Select Role--

Prefix First Name* Middle Name

Last Name* Suffix

Email Confirm Email

Cell Phone* (for Internal use) Work Phone Home Phone (If entered then Public can view it)

Fax Receive Notices For Public

Residence Address

Address Line 1* Address Line 2

City* State* Delaware Zip* -

Mailing Address Same as Residence Address

Address Line 1* Address Line 2

City* State* Delaware Zip* -

Save Contact Cancel

Role	Name	Mailing Address	Work Phone	Cell Phone	Email	Start Date	End Date	Receive Notices	For Public	Actions
No records to view.										

Continue Clear Cancel



Office of the State Election Commissioner

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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

DELAWARE STRONG FAMILIES,

Plaintiff,

vs.

Civil Action No. 1:13-cv-1746-SLR

JOSEPH R. BIDEN III, in his official
capacity as Attorney General of the State of
Delaware; and

ELAINE MANLOVE, in her official
capacity as Commissioner of Elections for
the State of Delaware,

Defendants.

DECLARATION OF JONATHAN D. MOLL, CPA

I, Jonathan D. Moll, declare under penalty of perjury that the following is true and correct:

1. I submit this declaration to accompany Defendants' Opposition to Plaintiff's Motion for a Preliminary Injunction.
2. I am a Director and Shareholder at Belfint, Lyons, & Shuman, PA (Belfint), a Certified Public Accounting (CPA) firm with offices in Delaware and Pennsylvania.
3. I joined Belfint in 2000 immediately after receiving a Bachelor of Science degree in Accounting from the University of Delaware.
4. I received my Delaware CPA certification and CPA permit to practice in 2004. The status of both my permit to practice and certificate is "active."

5. I am a member of the American Institute of Certified Public Accountants and the Delaware Society of Certified Public Accountants, and I am actively involved with the Delaware Alliance for Nonprofit Advancement (DANA).
6. I also serve as the Treasurer of the Board of Trustees of a nonprofit private school in Middletown, Delaware, and am a member of the Board of Directors of the Delaware Society of Certified Public Accountants, a nonprofit membership organization.
7. I currently have primary responsibility for Belfint's nonprofit practice. In that capacity, I provide tax-compliance, financial-statement, and consulting services for nonprofit clients.
8. I personally work with approximately fifty 501(c)(3) organization clients on an annual basis.
9. Most of these clients are Delaware organizations.
10. Over the course of my career, I conservatively estimate to have spent in excess of 10,000 hours providing accounting and tax services to nonprofit organizations.
11. My services for nonprofit clients include preparing IRS Form 990 and Form 990-EZ, the federal tax return for most tax-exempt organizations.
12. I also assist nonprofit clients with preparing financial statements and developing appropriate bookkeeping practices.
13. I am aware that the Delaware Elections Disclosure Act requires third-party advertisers to report certain information about their incoming contributions and outgoing expenditures.

14. Based on my experience providing services to nonprofit organizations, I do not believe that compiling this information should impose a significant administrative burden on nonprofit organizations that already file Form 990 or Form 990-EZ.
15. According to the tax returns provided in this case by Plaintiff Delaware Strong Families (DSF), DSF files IRS Form 990-EZ.
16. Organizations that annually file Form 990 or Form 990-EZ must report their aggregate contributions received. On Form 990-EZ, this information is reported on line 1.
17. Publicly Supported 501(c)(3) organizations that are required to file Form 990 or Form 990-EZ and received, during the year, \$5,000 or more (or 2% of total contributions if greater than \$5,000) from any one contributor are required to complete Schedule B to accompany their Form 990 or Form 990-EZ.
18. Schedule B of Form 990 or Form 990-EZ requires the filing organization to report the identities of contributors whose aggregate contributions exceed the \$5,000 *or* 2% of the gross contributions thresholds.
19. The IRS instructions for Schedule B state that in determining total contributions by donor, all separate and independent gifts of \$1,000 and greater must be identified and considered.
20. In my experience, however, nonprofits, particularly ones obligated to file a Form 990 or Form 990-EZ, generally keep records of contributions from *all donors*, not just large ones, for several reasons.
21. First, comprehensive contribution data is extremely valuable to most nonprofits in carrying out their mission. In the short-term, nonprofits *should* make it a priority to

thank donors for their contributions. Many groups also recognize their donors in annual reports or other publications. In the longer-term, nonprofits should know who their contributors are so they can reach out to them in the future. Repeat donors are the lifeblood of any nonprofit organization.

22. Second, written acknowledgement of each contribution is expected by donors and, in some cases, required by tax law. In order for a contribution to a 501(c)(3) to be tax-deductible, IRS Publication 1771 requires that the donor receive a written acknowledgment of any donation over \$250. Every 501(c)(3) should issue such written acknowledgments when required. If an organization did not do so, it would risk losing many donors.
23. A 501(c)(3) must also issue written disclosure to a donor who receives goods or services in exchange for a single payment in excess of \$75, such that only part of the contribution is tax-deductible. (For example, a group might provide a donor with a \$75 lobster dinner in exchange for a \$250 ticket to a benefit gala. The group would have to issue a written confirmation explaining that only \$175 is tax-deductible.)
24. In practice, it is considered efficient and effective for nonprofits to send written acknowledgement for every contribution. Donors have come to expect an acknowledgement letter or email when they make a charitable contribution. Written acknowledgement of all contributions is considered a standard practice in the nonprofit sector.
25. The operational reasons to acknowledge in writing and record every contribution are so compelling that well-managed 501(c)(3) organizations do so as a best practice, even where federal tax law would not strictly require it.

26. Form 990 and Form 990-EZ also require the filing organization to provide a detailed account of its expenditures. A Form 990 filer must tabulate its expenditures by “natural classification” (e.g., compensation, office supplies) and “functional classification” (e.g., program services, administration, fundraising).
27. Moreover, many vendors need to receive a Form 1099 at the end of the year.
28. For an organization to comply with these tax-reporting obligations, it needs an accounting system in place that tracks payments to each vendor.
29. Such an accounting system is also essential for basic financial management. An organization needs to know how much money it has spent, how much it owes, and to whom.
30. IRS guidance documents reinforce the importance of keeping detailed records of both contributions and expenditures.
31. The IRS instructs nonprofits to retain “supporting documents” verifying “the amounts and sources of your gross receipts,” “purchases,” and “business expenses.” *See IRS, What Kind of Records Should I Keep*, at <http://www.irs.gov/Businesses/Small-Businesses-&Self-Employed/What-kind-of-records-should-I-keep> (last visited Feb. 27, 2014) (attached hereto as Exhibit A).
32. The IRS’s “Stay Exempt” training presentation for nonprofits further explains that 501(c)(3) organizations should retain for three years records of all “money coming in” and “money going out” of the organization. *See IRS, Maintaining 501(c)(3) Tax-Exempt Status Course 4–5*, at <http://www.stayexempt.irs.gov/Portals/0/MaintainingTES-Print.pdf> (last visited Feb. 27, 2014) (attached hereto as Exhibit B).

33. Part VI of IRS Form 990 asks whether an organization has a record-retention policy. The IRS has identified record retention as a best practice for nonprofit management and has acknowledged a correlation between record retention and tax compliance.
34. Basic bookkeeping software, such as QuickBooks, costs less than \$200 and allows even small organizations to easily track every receipt and expenditure, cross-referenced by donor and vendor, respectively.
35. In this way, an organization can easily aggregate contributions received from a given donor and expenditures made to a given vendor.
36. All but one of my existing nonprofit clients utilize accounting software packages that have the capability to generate information about receipts and disbursements with a level of detail comparable to that of QuickBooks.
37. Basic bookkeeping software is essential for sound financial management. Even a small nonprofit should not be operating without it.
38. If one of my nonprofit clients were not using basic bookkeeping software, my first priority would be to implement such a system. If needed, we generally accomplish this within a few weeks of the Firm's acceptance of the client.
39. If the software has been adequately set up, with a few keystrokes, this type of software can generate a report listing contributions arranged by donor or expenditures arranged by vendor.
40. Similarly, basic bookkeeping software can automatically tabulate an organization's gross receipts.
41. I would estimate that, using any one of the many accounting software packages widely available to nonprofit organizations of all sizes, an organization could

calculate its gross receipts and generate a listing of contributor and expenditure data in less than 30 minutes.

42. My compensation for preparing this declaration is \$535 and, if I give testimony, my compensation will not exceed an additional \$535.
43. In the past four years, I testified as an expert at deposition in two cases: *Cars vs. Copart*, Delaware Superior Court, C.A. No. 07C-11-163 MJB, and *In re Catholic Diocese of Wilmington, Inc.*, Bankr. D. Del., Case No. 09-13560; *Official Committee of Unsecured Creditors v. Catholic Diocese of Wilmington et al.*, Bankr. D. Del., Adv. Proc. No.: 09-52866CSS.
44. As far as I am aware, my only publications in the last ten years have been blog posts on my firm's nonprofits blog, available at <http://nonprofit.belfint.com/>.

I declare under penalty of perjury that the foregoing is true and correct.

Executed: March 7, 2014

/s/Jonathan D. Moll, CPA
Jonathan D. Moll, CPA

EXHIBIT A



Small Business/Self-Employed

- [Industries/Professions](#)
- [International Taxpayers](#)
- [Self-Employed](#)
- [Small Business/Self-Employed Home](#)

Small Business/Self-Employed Topics

- [A-Z Index for Business](#)
- [Forms & Pubs](#)
- [Starting a Business](#)
- [Deducting Expenses](#)
- [Businesses with Employees](#)
- [Filing/Paying Taxes](#)
- [Post-Filing Issues](#)
- [Closing Your Business](#)

What kind of records should I keep?

You may choose any recordkeeping system suited to your business that clearly shows your income and expenses. Except in a few cases, the law does not require any special kind of records. However, the business you are in affects the type of records you need to keep for federal tax purposes. Your recordkeeping system should also include a summary of your business transactions. This summary is ordinarily made in your business books (for example, accounting journals and ledgers). Your books must show your gross income, as well as your deductions and credits. For most small businesses, the business checkbook is the main source for entries in the business books.

Some businesses choose to use [electronic accounting software programs](#) to capture and organize their records. In some situations, you will still need to keep original documentation for certain items. The software program you choose should meet the same basic recordkeeping principals mentioned above.

Supporting Business Documents

Purchases, sales, payroll, and other transactions you have in your business will generate supporting documents such as invoices and receipts. Supporting documents include sales slips, paid bills, invoices, receipts, deposit slips, and canceled checks. These documents contain the information you need to record in your books. It is important to keep these documents because they support the entries in your books and on your tax return. You should keep them in an orderly fashion and in a safe place. For instance, organize them by year and type of income or expense. For more detailed information refer to [Publication 583, Starting a Business and Keeping Records](#).

The following are some of the types of records you should keep:

- **Gross receipts** are the income you receive from your business. You should keep supporting documents that show the amounts and sources of your gross receipts. Documents for gross receipts include the following:
 - Cash register tapes
 - Bank deposit slips
 - Receipt books
 - Invoices
 - Credit card charge slips
 - Forms 1099-MISC
- **Purchases** are the items you buy and resell to customers. If you are a manufacturer or producer, this includes the cost of all raw materials or parts purchased for manufacture into finished products. Your supporting documents should show the amount paid and that the amount was for purchases. Documents for purchases include the following:
 - Canceled checks
 - Cash register tape receipts
 - Credit card sales slips
 - Invoices
- **Expenses** are the costs you incur (other than purchases) to carry on your business. Your supporting documents should show the amount paid and that the amount was for a business expense. Documents for expenses include the following:
 - Canceled checks
 - Cash register tapes
 - Account statements
 - Credit card sales slips
 - Invoices
 - Petty cash slips for small cash payments
- **Travel, Transportation, Entertainment, and Gift Expenses**
If you deduct travel, entertainment, gift or transportation expenses, you must be able to prove (substantiate) certain elements of expenses. For additional information on how to prove certain business expenses, refer to [Publication 463, Travel, Entertainment, Gift, and Car Expenses](#).
- **Assets** are the property, such as machinery and furniture, that you own and use in your business. You must keep records to verify certain information about your business assets. You need records to compute the annual depreciation and the gain or loss when you sell the assets. Documents for assets include the following:
 - When and how you acquired the assets.
 - Purchase price
 - Cost of any improvements.
 - Section 179 deduction taken.
 - Deductions taken for depreciation.
 - Deductions taken for casualty losses, such as losses resulting from fires or storms.
 - How you used the asset.
 - When and how you disposed of the asset.

- Selling price.
- Expenses of sale.

The following documents may show this information.

- Purchase and sales invoices.
- Real estate closing statements.
- Canceled checks.

• **Employment taxes**

There are specific employment tax records you must keep. Keep all records of employment for at least four years. For additional information, refer to [Recordkeeping for Employers](#) and [Publication 15, Circular E Employers Tax Guide](#).

Page Last Reviewed or Updated: 03-Feb-2014

EXHIBIT B

Maintaining 501(c)(3) Tax-Exempt Status Course

Print Version

Slide #	Page Content	Audio Script
1	<p>Welcome to the Maintaining 501(c)(3) Tax-Exempt Status Course.</p>	<p>Leagle – Welcome to the Maintaining 501(c)(3) Tax-Exempt Status Course.</p> <p>This course is presented by the Exempt Organizations office of the IRS.</p>
2	<p style="text-align: center;"><i>Introduction</i></p> <p>Before you begin, you may want to:</p> <ul style="list-style-type: none"> • Print out the course for note taking purposes (link to printable version) • Learn to navigate the course (link to navigation mini course) • Get ready for knowledge checks and other activities throughout the course • Know that scores are for reference purposes only 	<p>Leagle: Hi. I'm Leagle and I'll guide you through the courses here at StayExempt.</p> <p>Before you start, there are a few things you should know. First, if you like to take written notes, you might want to print this course first. The print out may make it easier to follow along, especially if you haven't taken many online courses.</p> <p>Next, take a look at our navigation tutorial. It will provide you with helpful tips on how to navigate these courses.</p> <p>Also, this course includes questions and activities to test your knowledge. You'll need to click on the screen to answer the questions and participate in the activities.</p> <p>Finally, the scores given at the end of the course are for your reference only. They're designed to help you understand the material better.</p> <p>When you're ready learn about tax-exempt status, select the "Objectives" button.</p>
3	<p style="text-align: center;"><i>Objectives</i></p> <ul style="list-style-type: none"> • Demonstrate how to appropriately operate a 501(c)(3) organization once tax-exempt status is achieved. • Describe the responsibilities of a tax-exempt organization after achieving tax-exempt status. • List the activities that could jeopardize the tax-exempt status of an organization. • Learn about state charitable solicitation rules • Describe good governance practices. 	<p>Leagle – In this course, we'll talk about running an organization properly, once 501(c)(3) tax-exempt status is achieved. To do that, you'll need to know what responsibilities you have and what activities can jeopardize your organization's 501(c)(3) status. You'll also find it helpful to familiarize yourself with the charitable solicitation rules of your state - and learn a bit about "good governance" practices.</p> <p>First, let's start by meeting someone who just got their tax-exempt status. Select the <i>Meet Richard</i> button to continue.</p>

Slide #	Page Content	Audio Script
4	<p style="text-align: center;"><i>Lifecycle Review</i></p> <p>Link: http://www.irs.gov/Charities-&Non-Profits/Charitable-Organizations/Life-Cycle-of-a-Public-Charity</p> <p>Page Text:</p> <ul style="list-style-type: none"> • Starting out: <ul style="list-style-type: none"> ○ Create your organization ○ Organizing documents ○ Acquire an EIN ○ Identify the appropriate federal tax classification • Applying for Exemption <ul style="list-style-type: none"> ○ Apply to the IRS for tax-exempt status ○ Form 1023 • Required Filings <ul style="list-style-type: none"> ○ Annual exempt organization returns ○ Unrelated business income tax filings ○ Other returns and reports • Ongoing Compliance <ul style="list-style-type: none"> ○ Jeopardizing exemption ○ Employment taxes ○ Public disclosure requirements ○ Other ongoing compliance issues. • Significant Events <ul style="list-style-type: none"> ○ Audits ○ Private letter rulings ○ Termination proceedings 	<p>Richard – Hi, I'm Richard! I just received my determination letter from the IRS. It says my animal rescue organization, <i>Cute and Curly Animal Rescue</i>, has been recognized under Section 501(c)(3) of the Internal Revenue Code as exempt from federal income tax. I've always loved taking care of animals, so managing this animal rescue correctly is really important to me. Starting my organization and applying for tax-exempt status were big steps - and I want to make sure I do everything I can to comply with the law. Leagle, can you offer any advice?</p> <p>Leagle – Sure I can, Richard. Maintaining your federal tax-exempt status isn't difficult, but it sure helps if you're aware of your organization's required interactions with the IRS. Here's the five-stage "life cycle of a public charity" tool the IRS uses to illustrate those interactions and when they occur. You've already completed the first two stages of the process: starting out and applying for exemption – as you may remember during our "Applying for 501(c)(3) Status Overview course. Here's a link if you'd like to review.</p> <p>Now, you have general responsibilities described in the three remaining stages: required filings, ongoing compliance and significant events. Click on each stage in the process to find out more about it.</p> <p>Although these topics were briefly covered in the Applying for Section 501(c)(3) Status Overview course, these three stages are most important to the daily operation of your organization. We'll cover them in more detail now.</p> <p>Let's start out with Required Filings. Select the <i>Required Filings</i> button to continue.</p>

Slide #	Page Content	Audio Script
4	<p>Required Filings – Recordkeeping</p> <p>Page Text:</p> <ul style="list-style-type: none"> • Financial records documenting entries in your organization’s books • Permanent Records <ul style="list-style-type: none"> ○ Organizing Document ○ Copy of the exempt application form (Form 1023) and ○ Determination letter from the IRS • Annual filings - Returns and Attachments(Include list below in a pop-up) <ul style="list-style-type: none"> ○ Form 990 ○ Form 990-EZ ○ Form 990-N ○ Form 990-T • Descriptions of your organization’s programs; • Minutes of meetings of the governing board and any standing committees (include as popup) <ul style="list-style-type: none"> ○ executive committees ○ compensation committees 	<p>Richard –Thanks for helping me keep up with the requirements of a tax-exempt organization! So, what should I focus on first?</p> <p>Leagle –Well Richard, it’s a good idea to take a look at the IRS’s Life Cycle tool. Here’s a link.</p> <p>A very important stage of the Life Cycle is “Required Filings,” which helps you understand just what to file with the IRS. But, before you learn what forms to use and when to file them, let’s talk about something that will help you prepare – and that’s Recordkeeping! If you don’t keep accurate and detailed records of your organization’s activities, you won’t have the information you need to complete the filing requirements.</p> <p>Richard – But I’m still not sure what records I really need to keep.</p> <p>Leagle: I think my friend Vernon can help you with that. He’s the treasurer of the Highland Middle School Parent Teacher Organization.</p> <p>Vernon – Hi Richard! I’ve managed a lot of records for our organization, which is classified as a public charity, just like yours. Your organization’s going to have all kinds of financial records. You need to keep any accounting information you have, whether you do it using paper files, like I do, or fancy computer software.</p> <p>Leagle – That’s right. You should also maintain a set of Permanent Records, which includes your organizing document (which is sometimes called your Articles of Incorporation or your Charter), a copy of your Form 1023 (the exemption application you submitted), and the determination letter from the IRS you just mentioned.</p> <p>Vernon – Have you filed any returns with the IRS yet?</p> <p>Richard – No, not yet.</p> <p>Vernon – Be sure to keep copies of any returns and attachments you send to the IRS. And keep the records you used to prepare the returns handy, too! This includes your financial records and other things, like information about your organization’s programs, meeting minutes for the governing board, and minutes for any standing committees - like an executive or compensation committee. The IRS suggests keeping copies of returns and any supporting information for at least three years after you file the return.</p>

Slide #	Page Content	Audio Script
5	<p><i>Required Filings – Financial Records</i></p> <p>Page Text:</p> <ul style="list-style-type: none"> • Money coming in • Money Going out • Employment tax records • Asset records 	<p>Richard – So what kind of financial records do I need to keep?</p> <p>Vernon – There are four basic types of financial records you should keep. They can be categorized as</p> <p>Money coming in, money going out, employment tax records and asset records.</p> <p>Leagle: Let's discuss each type of record. Select the Money Coming In button to learn more.</p>
6	<p><i>Financial Records – Money Coming In</i></p> <p>Page Text:</p> <p>Examples:</p> <ul style="list-style-type: none"> • Cash register tapes • Bank deposit slips • Receipt books • Invoices • Credit card slips • Form 1099-MISC, <i>Miscellaneous Income</i> - http://www.irs.gov/pub/irs-pdf/f1099msc.pdf • Keep these records for 3 years after the return is due or filed, whichever is later. 	<p>Leagle: First, I recommend that you keep records of all the money that comes into your organization. This includes cash register receipts, bank deposit slips, receipt books, invoices, credit card slips and any Form 1099-MISC documents you send to the IRS.</p> <p>Save these records for three years after the date the return is due or filed, whichever is later, because during that time, you can amend a return to claim a credit or refund. Generally, this is also the period when the IRS can assess penalties or additional tax. In either case, you'll need those records.</p> <p>And remember that some interested parties, such as a grantor, insurance company, creditor, or state agency, may require you to keep certain records for a longer time. You should check with them for their requirements.</p> <p>Next, let's talk about money going out. Select the Money Going Out button to learn more.</p>

Slide #	Page Content	Audio Script
7	<p><i>Financial Records – Money Going Out</i></p> <p>Page Text:</p> <p>Examples</p> <ul style="list-style-type: none"> • Account statements • Canceled checks • Cash register tapes • Credit card sales slips • Invoices • Petty cash slips for small payments • Include documents for items purchased to produce items sold by your organization • Save these for 3 years after the date the return is due or filed, whichever is later. <p>Publication 538, <i>Accounting Periods and Methods</i> - http://www.irs.gov/pub/irs-pdf/p538.pdf</p>	<p>Leagle: You should save any documents that show expenses you incurred while running your organization and its programs, including account statements, canceled checks, cash register receipts, credit card sales slips, invoices and petty cash slips.</p> <p>If your organization produces and sells items, save documents on the materials you purchased to produce those items. These records will also help you determine the value of your inventory at the end of the year.</p> <p>As I mentioned earlier, you should save these documents for three years after the date the return is due or filed, whichever is later.</p> <p>For more information, see Publication 538, <i>Accounting Periods and Methods</i>.</p> <p>Next, let’s talk about Employment Tax Records. Select the Employment Tax Records button to continue.</p>
8	<p><i>Financial Records – Employment Tax Records</i></p> <p>Page Text:</p> <p>Keep any documents showing:</p> <ul style="list-style-type: none"> • Salaries • Wages • Benefits paid • Taxes withheld <p>You should save these records for at least 4 years.</p> <p>Publication 15 (Circular E), <i>Employer’s Tax Guide</i> - http://www.irs.gov/pub/irs-pdf/p15.pdf</p>	<p>Leagle: You should save all employment tax records, including any documents that show salaries, wages, benefits paid and taxes withheld. You may think employment tax records sound like “money going out,” but these documents are really a separate category. Employment records should be kept for at least 4 years.</p> <p>There are other employment-related items that deserve special attention. For those, take a look at Publication 15 (Circular E), <i>Employer’s Tax Guide</i>, for more information.</p> <p>Finally, let’s talk about the Asset Records. Select the Asset Records button to learn more.</p>

Slide #	Page Content	Audio Script
9	<p data-bbox="267 157 836 199"><i>Financial Records – Asset Records</i></p> <p data-bbox="235 220 381 262">Page Text:</p> <p data-bbox="300 273 868 409">Asset Records: documents showing assets that your organization owns and uses in its activities, such as investments, buildings and furniture.</p> <p data-bbox="332 430 690 472">Asset records should show:</p> <ul data-bbox="349 483 852 945" style="list-style-type: none"> • When and how the asset was acquired • Whether any debt was used to acquire it • Purchase price • Selling price and expense of sale • Cost of any improvements • Deductions taken for depreciation or for casualty losses, such as fires or storms • How the asset is or was used • When and how the asset was disposed of <p data-bbox="300 955 592 997">Example documents:</p> <ul data-bbox="349 1008 868 1186" style="list-style-type: none"> • Purchase and sales invoices • Real estate closing statements • Cancelled checks or certain financial account statements • Financing documents <p data-bbox="332 1197 852 1291">Keep documents for as long as you own the asset, plus three years after you dispose of the item.</p>	<p data-bbox="893 157 1518 367">Leagle - Asset records are documents showing the items your organization owns and uses in its activities, such as investments, buildings and furniture. Select this “Asset Records” link to find out more about what kinds of asset records you need to keep.</p> <p data-bbox="893 388 1526 556">Some example documents include purchase and sales invoices, real estate closing statements, cancelled checks or certain financial account statements as well as financing documents.</p> <p data-bbox="893 577 1526 682">Finally, you should keep these documents for as long as you own the asset, plus three years after you dispose of the item.</p> <p data-bbox="893 703 1518 808">Now that you understand the types of financial records you need to keep, let’s try an activity. Select the Knowledge Check button to try it out.</p>

Slide #	Page Content	Audio Script
10	<p style="text-align: center;"><i>Recordkeeping Skills Challenge</i></p> <p>There are four record categories that the IRS suggests you retain: Money coming in, Money going out, Employment tax records, and Asset records. Put the four items below in that order.</p> <ol style="list-style-type: none"> 1) Bank deposit slip (money coming In) 2) Cancelled check for office supplies (money going out) 3) Salary document (Employment tax records) 4) Credit card receipt for a desk (Asset records) 	<p>Leagle – Let’s try an exercise. Richard is still unsure of what documents fall into each category. Help him place the documents in the appropriate categories by dragging them to the correct answer – or by selecting the appropriate letter in each dropdown menu.</p> <p>Incorrect Feedback: Sorry, that’s not correct. Here is the correct order for the documents:</p> <ul style="list-style-type: none"> • Bank deposit slip – money coming in • Cancelled checks for office supplies – money going out. • Salary document – employment tax records • Credit card receipt for a desk – asset records <p>Correct feedback. Great job! Here are the correct matches. (see above)</p>
11	<p style="text-align: center;"><i>Required Filings – Record Keeping System</i></p> <p>Page Text:</p> <ul style="list-style-type: none"> • Choose any record keeping system that works for you & your organization • Organizations with multiple programs need to track income and expenses for each program separately. • Records should include a summary of transactions. 	<p>Richard – So, what record-keeping system should I use?</p> <p>Leagle – Generally, the IRS doesn’t require a specific recordkeeping system, so you can choose one that makes sense for your organization. But remember:</p> <p>If your organization has more than one program, your recordkeeping system should allow you to track the income and expenses for each program separately.</p> <p>Also, your records should include a summary of transactions. This summary can be listed in your books (including journals and ledgers). Or, many small organizations use checkbooks as the main source for entries into the books, and that is fine, too.</p> <p>Next, we’ll learn about the accounting periods and methods your organization should use in its reporting. Select the <i>Accounting Periods and Methods</i> button to continue.</p>

Slide #	Page Content	Audio Script
12	<p>Required Filings – Accounting Periods and Methods</p> <p>Page Text:</p> <ul style="list-style-type: none"> • Does my organization use a calendar or fiscal accounting period? (Link to Definitions in Glossary: Calendar accounting and Fiscal accounting) • Every organization should use a consistent accounting method <ul style="list-style-type: none"> ○ Cash method ○ Accrual accounting method ○ Hybrid method (Link to Definitions in Glossary: Cash Accounting, Accrual Accounting, Hybrid.) <p>Link: Publication 538, <i>Accounting Periods and Methods</i> http://www.irs.gov/pub/irs-pdf/p538.pdf</p> <p>Link: Publication 583, <i>Starting a Business and Keeping Records</i>, http://www.irs.gov/pub/irs-pdf/p583.pdf</p>	<p>Leagle –So Richard, it’s important for you to know if your organization will report to the IRS using a calendar year or a fiscal year? And, does your organization use a cash or accrual accounting method - or some sort of combination of the two? Select the links on the page to see the definitions of these items.</p> <p>Vernon – Every organization must use a consistent accounting method, which is a set of rules for determining when to report income and expenses. Under the cash method, generally, you report income in the tax year you received it; and you deduct expenses in the tax year you paid them.</p> <p>Generally, under an accrual method, you report income in the tax year you earn it, regardless of when payment is received. You deduct expenses in the tax year you incur them, regardless of when payment is made.</p> <p>My organization, for example, uses the cash method and the calendar year as its reporting (or “tax”) year.</p> <p>Leagle – An organization typically makes these decisions when it begins operating and before it files its first annual tax return. When you applied for exemption, you used your application to tell the IRS what tax year and accounting method you planned to use. Make sure you know what your organization told the IRS, so you report the right items at the right time - using the right method.</p> <p>Now that we know about the records you should keep and a little bit about how you’ll report - and for what period - let’s talk about what you have to send to the IRS. Select the <i>Form 990 Options</i> button to move ahead.</p>

Slide #	Page Content	Audio Script
13	<p>Required Filings – Form 990 Options</p> <p>Page Text:</p> <ul style="list-style-type: none"> • No annual filing requirement for Churches and certain church-affiliated organizations don't have an annual filing requirement • May have other filing requirements such as employment tax returns <p>(Fade off when going onto consequences.)</p> <ul style="list-style-type: none"> • Serious consequences for non-compliance • Three consecutive years without filing and tax-exempt status is automatically revoked. • To reinstate, you have to re-apply <ul style="list-style-type: none"> ○ To have it retroactive, you must present a reasonable cause for not filing. <p>Page Links</p> <p>LifeCycle - http://www.irs.gov/Charities-&-Non-Profits/Life-Cycle-of-an-Exempt-Organization</p> <p>www.irs.gov/990filing for Form 990 series thresholds</p> <p>Link: Publication 4221-PC, <i>Compliance Guide for 501(c)(3) Public Charities</i> http://www.irs.gov/pub/irs-pdf/p4221pc.pdf</p> <p>Link to course Form 990</p>	<p>Richard – Ok, so what am I required to file with the IRS?</p> <p>Vernon – Well, there are details on annual filing requirements on the Required Filings page of the Lifecycle at IRS.gov. You'll probably need to file one of the Form 990-series returns – which is the annual information return required for most tax-exempt organizations. Which one you'll file will depend on the type of your organization, the amount of your annual gross receipts and the total of your organization's assets at the end of the tax year. www.irs.gov/990filing shows the dollar thresholds for different forms. You'll also see them in the Form 990 course here on StayExempt.</p> <p>Richard – Do all tax-exempt organizations have to file a Form 990-series return?</p> <p>Leagle – Churches and certain church-affiliated organizations don't have an annual filing requirement, but they may have other filing requirements, such as employment tax records.</p> <p>It's important to note that there are serious consequences for not filing a required annual information return. If your organization doesn't file for three years in a row, its tax-exempt status will be automatically revoked on the due date of the third return. If your tax-exempt status is revoked for not filing - and you want to get your status back - you'll have to redo the application process, including filing Form 1023 and paying the appropriate user fees. Once revoked, If you want your reinstatement to be retroactive (which means "dated back to the day it was revoked"), you'll have to show you had reasonable cause for not filing. So, my best advice is to file annually.</p> <p>Remember that in addition to submitting an annual return, you may need to submit filings for your unrelated business income, or UBI. Select the <i>UBI Basics</i> button to move forward.</p>

Slide #	Page Content	Audio Script
14	<p style="text-align: center;"><i>Required Filings – UBI Basics</i></p> <p>Page Links Link: Publication 4221-PC, Compliance Guide for 501(c)(3) Public Charities http://www.irs.gov/pub/irs-pdf/p4221pc.pdf Link to UBI course</p> <p>Page Text:</p> <p>Unrelated Business Income –</p> <p style="padding-left: 40px;">Any income you generate from business activities that occur on a regular basis and are not substantially related to the exempt purpose of your organization</p> <p>Examples of UBI (link to a pop up with information below)</p> <ul style="list-style-type: none"> • Commercial advertising in publications • Selling goods or services to the public • Link to publication with list of other potentially UBI activities. <p>UBI can be taxable income for tax-exempt organizations</p> <p>Too much UBI can jeopardize tax exemption.</p> <p>Other activities may require separate filings.</p>	<p>Richard – Ok, so what’s UBI?</p> <p>Vernon – Generally, Unrelated Business Income is any income from trade or business activity that your organization conducts on a regular basis - that’s not substantially related to your organization’s exempt purpose. There are lots of activities that can generate UBI, such as commercial advertising in publications created by your organization - or selling goods or services to the public. Income from unrelated activities like these might be taxable. Calculating and reporting UBI is a requirement for maintaining your tax-exempt status. Keep in mind that too much unrelated business can jeopardize your tax exemption.</p> <p>Richard – Hey, that sounds pretty easy.</p> <p>Leagle – Not entirely. He’s just given you a VERY simple explanation, but don’t worry. There’s a whole course dedicated to UBI here on StayExempt. The course teaches you which activities generate UBI. Once you understand UBI, filing the form to report the income and pay any tax due is relatively straightforward.</p> <p>Richard – Alright, I’ll remember to look into that. Is there anything else?</p> <p>Leagle – You might need to file other returns depending on your organization’s activities. You can find out about those on the IRS website as well, but Form 990 is the biggest and most important.</p> <p>The next stage in the lifecycle is ongoing compliance. Select the <i>Ongoing Compliance</i> button to continue.</p>

Slide #	Page Content	Audio Script
15	<p style="text-align: center;"><i>Ongoing Compliance</i></p> <p>Page Links: Employment Issues course.</p> <p>Page Text:</p> <p style="padding-left: 40px;">Avoid activities outside of Exempt Purpose Jeopardizing Exemption</p> <ul style="list-style-type: none"> • Political Activity • Lobbying • Private Benefit/Inurement • Employment Taxes 	<p>Richard – Alright, I understand that most organizations have an annual filing requirement. What’s next?</p> <p>Vernon – Do you know the particulars about what your organization must do – or must not do – to safeguard its exempt status?</p> <p>Richard – I think so. I can’t do too many activities that don’t directly promote my organization’s exempt purpose, which is to prevent animal cruelty.</p> <p>Leagle – Well that’s certainly true. But there are other do’s and don’ts associated with tax-exempt status, which is what this next stage covers. For example, many activities can jeopardize your tax-exempt status, such as political activity, lobbying, or permitting private benefit or inurement. We’ll be covering those later in this course.</p> <p>Vernon - Another challenge facing exempt organizations is accurately classifying and reporting on any paid workers they have. If your organization compensates anyone for services – either employees or independent contractors – there are rules you need to follow. The <i>Employment Issues</i> course here at StayExempt will help you sort all of that out.</p> <p>Leagle - There are two more ongoing compliance issues you need to be aware of, and we’ll go over those next. Select the <i>Public Inspection</i> button to continue.</p>

Slide #	Page Content	Audio Script
16	<p style="text-align: center;"><i>Ongoing Compliance – Public Inspection</i></p> <p>Page Links: Link: http://www.irs.gov/Charities-&-Non-Profits/Charitable-Organizations/Life-Cycle-of-a-Public-Charity---Ongoing-Compliance Links to Required Disclosures courses.</p> <p>Page Text:</p> <ul style="list-style-type: none"> • Exemption application (Form 1023) • Determination Letter • Three most recent annual returns • Three most recently filed Form 990-T • Forms, any attachments and correspondence • Schedule B is does not need to be disclosed 	<p>Richard – So what do I have to share with the public?</p> <p>Leagle – Tax-exempt organizations must make their exemption application, determination letter and the three most recently-filed annual information returns available to the public, upon request and without charge (except for a reasonable charge for copying). If your organization is a 501(c)(3) and files Form 990-T, <i>Exempt Organization Business Income Tax Return</i>, your three most recent 990-Ts must be made available as well. Richard – What about other records I’m keeping?</p> <p>Leagle – You only have to disclose the forms themselves, any attachments or separate items you sent in with the forms, and any correspondence you may have had with the IRS about the forms. There is an exception, though. If you had to file Schedule B of Form 990, that schedule is NOT required to be open for public inspection.</p> <p>For your Form 1023, for example, you would also make your organizing document available for public inspection because you sent that document to the IRS when you submitted Form 1023. Same for the determination letter you received back from the IRS at the end of the application process – that has to be made available. On the other hand, the internal books and records you use to prepare your Form 990 aren’t subject to the inspection requirements, because you didn’t send them in as part of your Form 990 filing – you just used them to prepare it.</p> <p>Richard – Where should I keep the items subject to public inspection?</p> <p>Leagle – You have to make the documents available at the organization’s principal office during regular business hours - as requests can be made in person or in writing. There are more specifics about how and when to meet the public inspection requirements in the Required Disclosures course here at StayExempt.</p> <p>Finally, there is one last stage: Significant Events. Select the <i>Significant Events</i> button for more information.</p>

Slide #	Page Content	Audio Script
17	<p style="text-align: center;"><i>Significant Events:</i></p> <p>Page Links: Link: http://www.irs.gov/Charities-&-Non-Profits/Charitable-Organizations/Life-Cycle-of-a-Public-Charity---Significant-Events</p> <p>Page Text:</p> <ul style="list-style-type: none"> • Audits • Private letter rulings • Termination proceedings 	<p>Richard – So, the last stage is significant events. What kinds of significant events are there?</p> <p>Leagle – The significant events all have to do with your tax-exempt status. The events include, but aren't limited to: audits, private letter rulings, and termination proceedings. More information on this stage can be found using this link.</p> <p>Before we test your knowledge, let's go over what we've covered so far. Select the Recap button to continue.</p>
18	<p style="text-align: center;"><i>Recap</i></p> <p>Page Text:</p> <ul style="list-style-type: none"> • Tax-Exempt Status Lifecycle • Required Filings <ul style="list-style-type: none"> ○ Record keeping ○ Annual exempt returns ○ UBI • Ongoing Compliance <ul style="list-style-type: none"> ○ Jeopardizing exemption ○ Employment taxes ○ Public disclosure requirements • Significant Events 	<p>Leagle –We talked about the tax-exempt status lifecycle as it applies to organizations maintaining their tax-exempt status. This includes issues such as record keeping, annual returns and unrelated business income.</p> <p>We also mentioned jeopardizing tax-exempt status (which we'll cover later in this course), employment tax issues, public inspection requirements and we talked other significant events for tax-exempt organizations. Now that you've learned about the stages of the lifecycle, let's try an exercise. Select the <i>Activity</i> button to continue.</p>
19	<p style="text-align: center;"><i>Knowledge Check</i></p> <p>Page Text: Which of the following includes required responsibilities of Section 501(c)(3) organizations? Select the best answer and then use the submit button to check your answer.</p> <ul style="list-style-type: none"> A) Annual Filings, Public Inspection B) Letter Writing, Annual Gala Events C) House Cleaning, Power-washing D) Political Organizing, Lobbying 	<p>Leagle – Let's test your knowledge. Which of the following are responsibilities that will keep Richard's organization from losing its tax-exempt status? Select the best answer. When you're done, select the "submit" button to check your answer.</p> <p>Correct Feedback: Great job! Annual Filings and Public Inspection are responsibilities of 501(c)(3) public charities. Remember – good recordkeeping is key to good reporting!</p> <p>Incorrect feedback: Sorry, that's not right. Recordkeeping, Annual Filings and Public Inspection are responsibilities of 501(c)(3) public charities.</p>

Slide #	Page Content	Audio Script
20	<p style="text-align: center;"><i>Knowledge Check</i></p> <p>Page Text:</p> <p>What will happen to Richard's organization is he fails to file Form 990, Form 990-EZ or Form 990-N for three years in a row? Select the best answer, then use the submit button to check your answer.</p> <ul style="list-style-type: none"> a) Tax-exempt status revoked for three years b) Tax-exempt status revoked and loss of eligibility to receive tax-deductible donations c) Tax-exempt status revoked and a lifetime ban from 501(c)(3) status d) Tax-exempt status revoked, and bread and water for 3 years 	<p>Leagle –What will happen to Richard's organization is he fails to file Form 990, Form 990-EZ or Form 990-N for three years in a row? Select the best answer. When you're done, select the "submit" button to check your answer.</p> <p>Correct Feedback: That's right! Failure to meet the annual filing requirements for a 501(c)(3) public charity can lead to your tax-exempt status being revoked, as well as a loss of eligibility to receive tax-deductible donations.</p> <p>Incorrect Feedback: Sorry, that's not correct. Failure to meet the annual filing requirements for a 501(c)(3) public charity can lead to your tax-exempt status being revoked, as well as a loss of eligibility to receive tax-deductible donations.</p>
21	<p style="text-align: center;"><i>Progress Check</i></p> <p>Page Text:</p> <p>You have learned how to:</p> <ul style="list-style-type: none"> • Describe the responsibilities of a tax-exempt organization after achieving tax-exempt status. 	<p>Leagle – Congratulations! You've completed the responsibilities and lifecycle section of this course. Next, you'll learn more about activities that can jeopardize the tax-exempt status of your organization.</p> <p>Select the continue button to move forward.</p>
22	<p style="text-align: center;"><i>Jeopardizing Your Tax Exempt Status</i></p> <p>Page Text:</p> <ul style="list-style-type: none"> • Lobbying • Political campaign intervention • Unrelated business income • Private benefit/Inurement 	<p>Richard – So, I know about the things I'm supposed to do to keep my tax-exempt status. What about the things I'm not supposed to do?</p> <p>Vernon – Well, Richard, there are four major categories of activities that can jeopardize your tax-exempt status. Lobbying, political campaign intervention, activities generating excessive unrelated business income, and private benefit/inurement.</p> <p>Leagle - Some of these activities are absolutely prohibited, while others are restricted. Let's take a quick look at the first three - and an in-depth look at the fourth. Select the Prohibited Political Activities button to continue.</p>

Slide #	Page Content	Audio Script
23	<p style="text-align: center;"><i>Prohibited Political Activities</i></p> <p>Page Link: Link to Political Campaigns Course</p> <p>Page Text:</p> <p style="padding-left: 40px;">Lobbying:</p> <p style="padding-left: 80px;">Any activity designed to influence legislation</p> <p style="padding-left: 40px;">Political Campaign Intervention</p> <p style="padding-left: 80px;">Participating in any political campaign on behalf of or in opposition to any candidate for public office</p> <p>Three L's – Lobbying is about Legislation – and a 501(c)(3) can do a Limited amount of it.</p> <p>Three P's – Political Activity is about People running for office and 501(c)(3)s are PROHIBITED from getting involved, either for or against a candidate.</p>	<p>Richard – Isn't lobbying a form of political campaign intervention?</p> <p>Leagle – Actually, lobbying and political campaign intervention are two different things; Lobbying is any activity designed to influence legislation, while political campaign intervention is participating in a political campaign on behalf of, or in opposition to, a candidate for public office. Though they are both related to politics, the activities are different - as are the rules for exempt organizations participating in them.</p> <p>501(c)(3) organizations can conduct a little lobbying without jeopardizing exemption; it just can't be a principal activity of the organization. The "Three L's" help me remember the rule here: Lobbying is about Legislation - and a 501(c)(3) can do a Limited amount of it.</p> <p>The rule for 501(c)(3)s and political activity is very different: A 501(c)(3) can't conduct any political activity. I use the "Three P's" to keep this rule straight: Political activity is about People running for office and 501(c)(3)s are Prohibited from getting involved, either for or against. Doing so jeopardizes their exemption.</p> <p>You'll find lots more about prohibited political intervention in a course called "Political Campaigns and Charities: The Ban On Political Campaign Intervention." Here's the link to the course as StayExempt. (include link)</p> <p>Let's talk a little bit more about unrelated business income next. Select the Unrelated Business Income button to move forward.</p>

Slide #	Page Content	Audio Script
24	<p style="text-align: center;"><i>Unrelated Business Income</i></p> <p>Page Link: UBI course.</p> <p>Page Text:</p> <ul style="list-style-type: none"> • Business activity that generates income • Conducted on a regular basis • Not substantially related to exempt purpose <p>Important facts:</p> <ul style="list-style-type: none"> • UBI can be subject to taxes • Too many UBI-generating activities can jeopardize your status 	<p>Richard – What else can you tell me about UBI?</p> <p>Vernon – Like I said before, Unrelated Business Income is any income you generate from business activities that occur on a regular basis and are not substantially related to the exempt purpose of your organization. The tests and criteria for determining if a fundraising activity generates UBI are covered in the UBI course here at StayExempt.</p> <p>Leagle – And let me add two things about UBI:</p> <p>First, funds generated through unrelated business activities can be subject to taxes. But, what’s more important is that if too many of your activities are not related to your exempt purpose, you’re jeopardizing your exempt status. Remember, your organization received tax-exempt status because you told the IRS it would pursue an exempt purpose. If it’s not doing that, the reason for tax-exempt status isn’t there either.</p> <p>Next, let’s talk about Private Benefits and Inurement. Select the <i>Continue</i> button to move forward.</p>
25	<p style="text-align: center;"><i>Private Benefit and Inurement</i></p> <p>Page Text:</p> <p>Private Benefit:</p> <p style="padding-left: 40px;">Activities that substantially benefit the private interest of an individual or organization.</p> <p>Public charities must serve public interest.</p> <p>Employee salaries and services provided to the public are not private benefit.</p> <p>Income and assets cannot be used so that an individual receives substantial private benefit beyond reasonable compensation for work.</p>	<p>Richard – So, what are private benefit and inurement?</p> <p>Leagle – Private benefit and inurement are two separate, but closely related concepts. Let’s look at private benefit first.</p> <p>Vernon - Private Benefit is any activity that substantially benefits the private interest of an individual or organization, right?</p> <p>Leagle – Exactly, Vernon. A 501(c)(3)s must avoid all activities that provide primarily private benefit. The 501(c)(3)’s activities must serve a public interest.</p> <p>Richard: What if I have employees? Isn’t the salary some kind of private interest?</p> <p>Leagle – No, this doesn’t mean a 501(c)(3) can’t pay reasonable salaries to its employees, or provide services to its constituents. Rather, it means the organization can’t be operated - or its income or assets used in such a way - that someone receives a substantial private benefit well beyond what would be considered reasonable compensation for work.</p> <p>Let’s talk about inurement next. Select the Inurement button to continue.</p>

Slide #	Page Content	Audio Script
26	<p style="text-align: center;"><i>Inurement</i></p> <p>Page Text:</p> <p>Inurement: Allow income or assets to accrue for the benefit of insiders. Examples</p> <ul style="list-style-type: none"> • Paying dividends • Unreasonable compensation • Transferring property for less than fair market value <p>Insider: A person who has a personal and private interest in the activities of the organization. Examples:</p> <ul style="list-style-type: none"> • Officers • Directors • Key employees 	<p>Richard – So, what’s inurement?</p> <p>Vernon – The concept of inurement takes the notion of private benefit a bit further. You can’t conduct activities that will provide anyone with a substantial private benefit. When it comes to “insiders” of the organization, absolutely none of the income or assets can accrue to their benefit.</p> <p>Leagle – In case you haven’t heard that term before, Richard, an “insider” is a person who has a personal and private interest in the activities of the organization.</p> <p>Richard – I’m still not sure who would qualify as an insider.</p> <p>Leagle –Examples of typical insiders are officers, directors and key employees—like you.</p> <p>Richard – Can you give me some examples of inurement?</p> <p>Leagle – Sure. Some examples include paying dividends or unreasonable compensation to insiders, as well as transferring property to insiders for less than fair market value.</p> <p>Select the <i>Continue</i> button to learn about the repercussions of providing inurement.</p>
27	<p style="text-align: center;"><i>Inurement is Forbidden</i></p> <p>Page Text:</p> <ul style="list-style-type: none"> • Inurement is absolutely prohibited: <ul style="list-style-type: none"> ○ Grounds for loss of tax-exempt status ○ Insider may incur excise tax • Private benefit (non-insider) must be substantial to jeopardize status • Not considered Inurement and Private Benefit : <ul style="list-style-type: none"> ○ Reasonable payment for services ○ Payments to further tax-exempt purpose ○ Payments for fair market value of real property. 	<p>Richard – Are there any cases where inurement is allowed?</p> <p>Leagle – No. Any amount of inurement is grounds for loss of tax-exempt status - and the insider involved may be subject to excise tax. But, if the activities of an organization privately benefit someone who is not an insider, that benefit must be substantial in order to jeopardize the organization’s tax-exempt status. But as I said earlier, prohibited inurement or private benefit doesn’t include reasonable payments for services, other payments that further tax-exempt purposes, or payments for the fair market value of real or personal property.</p> <p>Select the Charitable Solicitation button to move forward.</p>

Slide #	Page Content	Audio Script
28	<p style="text-align: center;"><i>Charitable Solicitation</i></p> <p>Page Link: Governance Section in Form 990 Course</p> <p>Page Text:</p> <p>Each state has laws regulating fundraising and soliciting donations requiring</p> <ul style="list-style-type: none"> • Registration before soliciting for contributions • Adherence to special rules for when fundraising activities involve paid solicitors and fundraising counsel • Specific procedures for filing financial documents <p>Check with each state where you may be soliciting funds for its requirements</p>	<p>Richard – I’m eager to start collecting funds, but I’m worried I may be breaking some rules in that area.</p> <p>What should I know first?</p> <p>Leagle – First of all, each state has laws regulating fundraising - as well as how you go about soliciting donations. These include: requiring that you register your organization, special rules when fundraising activities involve paid solicitors and fundraisers counsel, and specific procedures for filing financial reports.</p> <p>Each state is different, so be sure to check with each state you’ll be fundraising in to confirm their requirements.</p> <p>When you’re ready, we should talk about governance next. Select the Governance button to learn more.</p>
29	<p style="text-align: center;"><i>Tips for Governance</i></p> <p>Page Text:</p> <p>General tips for operating consistently with tax law requirements:</p> <ul style="list-style-type: none"> • Clearly articulate organization’s purpose • Select a knowledgeable and committed government body and management team • Adopt sound management practices 	<p>Richard – So, what are your governance tips for my organization?</p> <p>Leagle – Well, we’ve found that an organization is more likely to operate effectively and consistently with tax law requirements if it can clearly articulate its purpose, selects a knowledgeable and committed governing body and management team, and adopts sound management practices.</p> <p>The IRS requests information about an organization’s governance on the application for tax exemption - and again annually on the information return most organizations must file.</p> <p>Before we do an exercise, let’s go over what we’ve covered in this section. Select the <i>Recap</i> button to continue.</p>

Slide #	Page Content	Audio Script
30	<p style="text-align: center;">Recap</p> <p>Page Text:</p> <p>Jeopardizing Tax Exempt status.</p> <ul style="list-style-type: none"> • Political Campaign Activity • Lobbying • UBI • Private Benefit/Inurement • Charitable Solicitation Rules • Tips for Good Governance 	<p>Leagle – In this section, we discussed how to avoid jeopardizing your tax-exempt status. First, we talked about political campaign intervention and lobbying. There’s a separate course on political campaign intervention, but you should have a basic understanding of what those things are. Then we talked about Unrelated Business Income and how that might jeopardize your tax-exempt status. We covered private benefit and inurement. Your organization shouldn’t engage in activities that substantially benefit the private interest of any individual or organization, nor allow any income or assets to accrue for the benefit of insiders. And, we just discussed how to find out more about charitable solicitation rules for your state and implementing good governance practices.</p> <p>Next, let’s try an exercise to see if you are ready to move on. Select the <i>Activity</i> button to continue.</p>

Slide #	Page Content	Audio Script
31	<p style="text-align: center;">Case Study</p> <p>Page Text:</p> <p>Read the scenario, then choose the best answer. Select the submit button to check your answer.</p> <p>Richard is the President of Cute and Curly Animal Rescue. His by-laws require that he has a seven member Board of Directors - and he's a voting member.</p> <p>Richard is also owns 49% of the for-profit Precious Pets pet store. His sister, Deborah, owns 51% of the business and runs the pet store. Cute and Curly Animal Rescue contracted with Precious Pets for \$200,000 worth of animal food and supplies. Richard signed the contract without consulting his Board of Directors for action. Richard's sister knows there won't be a competitive bid for the contract, so she decided to bill for 120% of the fair market value for the products. She called the contract the "Precious Pets Deluxe" package, but in reality, they are the same products she provides to her other customers.</p> <p>True or False: Does this scenario show private benefit or inurement? (True)</p>	<p>Script: Leagle - Let's test your knowledge. Read Richard's scenario, then choose the best answer. Select the submit button to check your answer.</p> <p>Correct Feedback: Good Job! That's right!</p> <p>Incorrect Feedback: Sorry, that's not correct. This is an example of inurement.</p> <ol style="list-style-type: none"> 1. Richard is an insider because he has a personal financial interest in Cute and Curly Rescue taking the contract with Precious Pets as a part owner. 2. Richard used his position with Cute and Curly Animal Rescue to steer the contract towards Precious Pets. 3. The fact that Richard, as president of Cute and Curley, signs a contract to do business with Precious Pets without competitive bidding, or a search for alternative providers, is probably enough to show inurement. 4. Deborah's decision to overcharge for the supplies creates a situation where there's clearly impermissible inurement to Richard. <p>If this kind of a scenario was discovered in an audit, the examining agent would likely propose "intermediate sanctions" on the insider, such as repaying the excessive amount. Depending upon the facts and circumstances, the agent might propose additional sanctions on the organization and/or revocation of its exemption.</p>

Slide #	Page Content	Audio Script
32	<p>Page Title: Knowledge Check</p> <p>Page Text: Paying dividends or unreasonable compensation to insiders and transferring property to insiders for less than fair market value are considered which 501(c)(3) prohibited activity?</p> <p>a) Annulment b) Annihilation c) Appropriate d) Inurement</p>	<p>Leagle – Here’s another test. Paying dividends or unreasonable compensation to insiders and transferring property to insiders for less than fair market value are considered which 501(c)(3) prohibited activity? Select the best answer. When you’re done, select the “submit” button to check your answer.</p> <p>Correct Feedback: That’s right! Paying dividends or unreasonable compensation to insiders and transferring property to insiders for less than fair market value are considered inurement.</p> <p>Incorrect Feedback: Sorry, that’s not right. Paying dividends or unreasonable compensation to insiders and transferring property to insiders for less than fair market value are considered inurement.</p>
33	<p style="text-align: center;"><i>Knowledge Check</i></p> <p>Page Text: Which activity is a public charity allowed to do that won’t jeopardize its tax-exempt status?</p> <p>a) Contribute to a political candidate b) Pay its executives excessive amounts of compensation c) Make public statements in favor of a particular candidate d) Paint its office walls orange with green polka dots</p>	<p>Script: Leagle – Let’s try one more. Which activity is a public charity allowed to do that won’t jeopardize its tax-exempt status?</p> <p>Select the best answer. When you’re done, select the “submit” button to check your answer.</p> <p>Correct Feedback: That’s right! Other than painting the office, each activity on the list will jeopardize an organization’s tax-exempt status.</p> <p>Incorrect Feedback: Sorry, that’s not quite right. Other than painting the office, each activity on the list will jeopardize an organization’s tax-exempt status.</p>
34	<p style="text-align: center;"><i>Progress Check</i></p> <p>Page Text: You have learned how to:</p> <ul style="list-style-type: none"> • Describe the responsibilities of a tax-exempt organization after achieving tax-exempt status. • List the activities that could jeopardize the tax-exempt status of an organization 	<p>Leagle – Nice job! You’ve learned about jeopardizing the tax-exempt status of an organization. Select the continue button to move forward.</p>

Slide #	Page Content	Audio Script
35	<p style="text-align: center;">Resources</p> <p>Page Text: Resources:</p> <ul style="list-style-type: none"> • IRS Lifecycle page - http://www.irs.gov/Charities-&-Non-Profits/Charitable-Organizations/Life-Cycle-of-a-Public-Charity • Publication 4221-PC, Compliance Guide for 501(c)(3) Public Charities http://www.irs.gov/pub/irs-pdf/p4221pc.pdf • Publication 557, Tax-Exempt Status for Your Organization http://www.irs.gov/file_source/pub/irs-pdf/p557.pdf 	<p>Leagle – As we near the end of this course, I know I've shared a lot of exempt organization resources with you. I've put them together here, so feel free to go review them.</p>
37	<p style="text-align: center;">Conclusion</p> <p>Page Layout: Leagle with IRS logo.</p> <p>Page Text:</p> <p>Thank you for taking the Maintaining 501(c)(3) Tax-Exempt Status course.</p> <p>Before you leave, please take a couple of minutes to complete this course's evaluation. It doesn't ask for any personal information. The information you provide will ensure that this and other courses at StayExempt provide a valuable learning experience for future participants. Also, if you have other feedback for the Exempt Organizations team, feel free to use this button to send us an email.</p> <p>After you complete the survey, print out your own Certificate of Completion as recognition for attending this course.</p>	<p>Leagle – On behalf of everyone in the IRS Exempt Organizations division, thank you for taking the Maintaining 501(c)(3) Tax-Exempt Status course.</p> <p>Before you leave, please take a couple of minutes to complete this course's evaluation. It doesn't ask for any personal information. The information you provide will ensure that this and other courses at StayExempt provide a valuable learning experience for future participants. Also, if you have other feedback for the Exempt Organizations team, feel free to use this button to send us an email.</p> <p>After you complete the survey, print out your own Certificate of Completion as recognition for attending this course.</p>

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IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE DISTRICT OF DELAWARE

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DELAWARE STRONG FAMILIES, : CIVIL ACTION
:
Plaintiff, :
:
vs. :
:
:
JOSEPH R. BIDEN, III, et :
al., :
:
Defendants. : NO. 13-1746 (SLR)

- - -

Wilmington, Delaware
Tuesday, April 1, 2014
10:00 o'clock, a.m.
***Telephone conference

- - -

BEFORE: HONORABLE SUE L. ROBINSON, U.S.D.C.J.

- - -

APPEARANCES:

WILKS, LUKOFF & BRACEGIRDLE, LLC
DAVID E. WILKS, ESQ.

-and-

Valerie J. Gunning
Official Court Reporter

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APPEARANCES (Continued) :

CENTER FOR COMPETITIVE POLITICS
BY: ALLEN DICKERSON, ESQ.
(Alexandria, Virginia)

Counsel for Plaintiff

DELAWARE DEPARTMENT OF JUSTICE
BY: JOSEPH C. HANDLON, ESQ. and
A. ANN WOOLFOLK, ESQ.

-and-

WILMER HALE CUTLER PICKERING HALE AND DORR
BY: RANDOLPH C. MOSS, ESQ. and
WEILI J. SHAW, ESQ.
(Washington, D.C.)

-and-

THE CAMPAIGN LEGAL CENTER
BY: MEGAN McALLEN, ESQ.
(Washington, D.C.)

Counsel for Defendants

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P R O C E E D I N G S

(REPORTER'S NOTE: The following telephone conference was held in chambers, beginning at 10:00 a.m.)

THE COURT: Good morning, counsel. This is Judge Robinson. Valerie is here as our court reporter, so it would be helpful if you all identified yourselves each time you spoke for purposes of the record.

And I guess I will let plaintiffs fill me in on what our next step should be and then I will certainly hear from defendants. And if you all have spoken with each other, that's even better.

MR. WILKS: Thank you, your Honor. This is David Wilks, Wilks, Lukoff & Bracegirdle for the plaintiffs. I'd like to reintroduce your Honor to Mr. Dickerson, who is on the line, and who will carry the laboring oar once again today.

THE COURT: All right. Thank you.

Mr. Dickerson?

MR. DICKERSON: Good morning, your Honor. We -- well, if we were to start with discovery, we continue to believe that the State has what it needs to proceed to summary judgment in this case and nothing from your Honor's opinion has changed our view on that.

1 My reading of your Honor's writing is that the
2 principal facts the Court relied upon are status of the Z3
3 and the communication itself. The remainder is a legal
4 analysis. Those things are already in front of the State,
5 are matters of public record. So on the discovery issue,
6 we, you know, aside from reasserting our objections to
7 earlier requests, we're pretty much ready to move forward.

8 On the summary judgment issue, our view
9 honestly is that the preliminary injunction papers read an
10 awful lot like a summary judgment motion. The State
11 attached a number of sworn declarations and put evidence in
12 front of the Court and took that opportunity. So we think
13 that, you know, the best thing to do is to issue the
14 injunction or at least quickly move on to summary judgment
15 so we can settle this.

16 THE COURT: All right. Let's hear from
17 defendants' counsel.

18 MR. HANDLON: Our Honor, thank you. Bill
19 Handlon. I'm just going to reintroduce your Honor, Randolph
20 Moss on behalf of the State.

21 THE COURT: All right. Thank you.

22 MR. MOSS: Good morning, your Honor. And thank
23 you. This is Randolph Moss.

24 With respect to discovery, we do have some
25 pending discovery requests still, and on reading the Court's

1 decision from yesterday, the things that we noted where it
2 appeared that there's some further discovery or factual
3 development could be helpful, or that the Court noted that
4 the voter guide was presumably neutral, a presumably neutral
5 communication, and that Delaware Strong Families is a
6 presumably neutral communicator, but then noted at the end
7 of its opinion that there was, the Court recognized that
8 there were factual underpinnings for its decision that had
9 not been specifically challenged or vetted through
10 discovery.

11 And the issues I think that are raised by the
12 Court's opinion that we would like some opportunity to
13 develop further through discovery and through fact,
14 additional factual submissions to the Court I think do go to
15 the question of whether the voter guide at issue is, you
16 know, truly sort of neutral, a truly neutral communication
17 in the way that a voter guide might be, for example, by the
18 League of Women Voters, that simply collects information as
19 a public service and provides it or whether it is not
20 neutral in that sense and is not neutral in the sense that
21 it actually does take at least implicit positions and is
22 something that is non-neutral with respect to the election.
23 We think there's some reason to believe that's the case from
24 the face of the voter guide itself, but we also think that
25 some additional discovery could be helpful in framing that

1 issue.

2 For example, discovery relating to who it is
3 that the voter guide is actually distributed to, how it is
4 distributed, what communications may accompany the
5 distribution. Is it distributed actually by the C4 or by
6 the C3 organization? Discovery of that nature we think
7 could be helpful in framing the context of whether the, the
8 voter guide here at issue really is a neutral communication
9 or whether it is a communication that at least implicitly
10 takes a position with respect to the election. And the same
11 with respect to the communicator.

12 And we realize, recognize that there are obvious
13 limits with respect to what a 501(c)(3) can do, but as cases
14 like the Shays (phonetic) case from the District Court in
15 D.C. have recognized that a C3 is not commensurate with, and
16 does not mean that it is an organization that doesn't take
17 positions and that is completely sort of agnostic with
18 respect to electoral results.

19 So we think that some discovery relating to
20 those issues would be helpful with respect to the Court's
21 order.

22 With respect to the case going forward, the
23 other issue that the plaintiff has raised is not, I think,
24 as I read the Court's opinion, something that is relied upon
25 by the Court in the decision with the earmarking point that

1 the plaintiff has raised in the past.

2 To the extent we're going forward with this case
3 and moving toward either summary judgment or a trial, we do
4 think that it would be helpful to be able to develop a
5 record with respect to the earmarking point as well. And to
6 the extent that it is the plaintiff's position that
7 earmarking is constitutionally mandated, we would like the
8 opportunity to be able to demonstrate that in the case of
9 Delaware Strong Families, that people who are contributing
10 to the organization are contributing with an understanding
11 that their contributions are going to be used for activity
12 of this type. The website for Delaware Strong Families
13 does, you know, state, for example, on it, donate, help us
14 reach voters. But we would feel that it would be helpful to
15 develop that point somewhat further.

16 So we're not talking about, I don't think, about
17 a terribly broad range of discovery, but we do think that
18 both with respect to some of the factual underpinnings of
19 the Court's order of yesterday or decision of yesterday, as
20 well as going forward, there is some discovery that would be
21 helpful.

22 THE COURT: All right. Let's hear from
23 plaintiff's counsel. Mr. Dickerson?

24 MR. DICKERSON: Thank you, your Honor.

25 Responding to that, I will start with the

1 discovery issues.

2 We -- well, we disagree on how narrow the scope
3 of discovery under these premises can be. Asking for --
4 actually, your Honor, I'm going to start with the premises
5 of these statements, which is that there's such a thing as
6 an implicit decision on the basis of a voter guide.

7 The Wisconsin Right to Life stands for the idea
8 that, you know, you judge the communication from the face of
9 the communication. You don't do it by, you know, these sort
10 of getting into the heads of the organization to try to
11 determine what their intents and the effects of the
12 communications are. And the reason for that is partially
13 the fact that it creates an enormous grant of power to the
14 State, which can be dangerous in certain circumstances.
15 Also just in litigation, it inevitably makes these
16 challenges more expensive and more difficult.

17 So to take the two examples that my colleague
18 mentioned, this idea of, you know, how was this distributed,
19 I'm not sure how relevant that is in the sense that the --
20 that once something is put on the website or once something
21 is mailed, that's what triggers the statute. If the statute
22 had tailored itself in that way, this would be a very
23 different case. Of course, it didn't.

24 And I think that it's the same with saying, you
25 know, we want to know what's in the heads, what the

1 intentions of donors are. That would be perhaps relevant in
2 the case of actual expenditures that expressly are asking
3 for a candidate. But, you know, this case has always been
4 about, the reason you look to communication itself is so
5 that you don't get into these highly burdensome, you know,
6 highly invasive looks where the State gets to pry into the
7 internal deliberations and such of people involving
8 themselves in civil society.

9 So I would disagree with counsel's statement
10 about what's relevant in the sense that the communication
11 and its process by which it's developed is already in front
12 of the Court. The means of distribution have already been
13 determined by the State. And those triggers aren't, as far
14 as I can tell, an issue. And, you know, this, what are the,
15 what are the donors thinking thing is far more invasive than
16 the State seems to realize. So that's where I would be on
17 discovery.

18 On the issue of how we proceed further, whether
19 the voter guide is truly neutral or not, I don't think
20 neutral is the right word. The distinction in the case law
21 is between advocating for candidates and advocating for
22 issues.

23 This idea that we have to have some sort of
24 neutral communication before the First Amendment attaches I
25 think is very wrong. I don't think the word "neutral" is

1 really what's driving the Supreme Court's concerns in this
2 area, and I honestly don't think that discovery is going to
3 lead to that.

4 Now, in terms of whether we're ready to go to
5 summary judgment on the issue of neutrality, I would think
6 the answer is yes. You know, it's interesting that the
7 State would want to take issue with the voter guide, which
8 it has done in the past, which the IRS doesn't seem to have
9 a problem with. And I'm not sure this is, you know,
10 properly pled, but there's certainly the federalism problem
11 in that attitude.

12 So, yes. I think that the issues that opposing
13 counsel raises are not relevant to the final determination
14 of this case. Again, they've had an opportunity to put
15 substantial evidence in front of the Court, that all is not
16 in front of the Court is the discovery plaintiffs requested
17 a protective order on, and we continue to ask for the
18 Court's protection.

19 THE COURT: Before you respond, Mr. Moss, I
20 certainly think, and I obviously found the whole area dense,
21 to say the least. But I thought the one thing I did take
22 away from the case law was that the intent of the party
23 sponsoring the publication really shouldn't be at issue and
24 shouldn't be the subject of expensive and complicated
25 discovery.

1 So I guess I am -- and I understand that
2 plaintiff's counsel doesn't think neutrality is really what
3 we're supposed to be looking at, but in my mind, in trying
4 to come to my decision, it is difficult.

5 I think the bottom line of my decision is, this
6 law is broad enough to reach completely neutral
7 communications, which I concluded was an overreaching and
8 beyond the scope of what any of the core decisions really
9 contemplated.

10 So I'm stuck someplace between what plaintiff is
11 thinking and what defendant is thinking in terms of what we
12 really are supposed to be looking at in this case given
13 where I came out. And I don't know whether it would be --
14 well, I don't know whether you all have had enough time to
15 really think about it, and it certainly doesn't seem as
16 though you've had the opportunity to talk to each other.
17 Well, I'm trying to figure out how I can help you kind of
18 get to the middle line.

19 So, Mr. Moss, I'm sorry.

20 MR. MOSS: No, no, no, your Honor. That is
21 actually -- that is helpful to us. And I guess I have a
22 couple of things I guess I would offer by way of response,
23 how to see our way through this.

24 You know, first of all, we are sensitive to what
25 the Supreme Court said in the Wisconsin Right to Life case.

1 We don't think that that actually applied in this context,
2 because that was a case dealing with strict scrutiny and
3 dealing with a ban on speech in a way in which the Court has
4 applied, you know, much more demanding standards.

5 There are cases where the courts have permitted
6 discovery post Wisconsin Right to Life. It's certainly not
7 a bar to discovery whatsoever. At the same time we've been
8 trying to be sensitive to those concerns.

9 The type of discovery that we're talking about
10 here, though, I think it's discovery that is not directed at
11 getting in the mind of those who are making the ultimate
12 decisions for Delaware Strong Families, but, rather, it goes
13 to the context of the speech. And when I framed the
14 questions that we're looking at, for example, who -- just
15 taking one example, who are these voter guides distributed
16 to and how are they distributed, that I think in a very
17 objective way goes to the question of whether it is neutral
18 speech or not.

19 And just to give an example, you know, one can
20 imagine it is a very different form of voter guide and
21 circumstance for someone, for example, to, among a list of
22 100 issues or 50 issues that candidates have voted on to
23 indicate what their position is with respect to gun control.

24 On the other hand, if somebody comes up with a
25 guns voter guide knowing that that, if that voter guide is

1 distributed to everyone in the community, that may say one
2 thing about its context. If it is only distributed at the
3 NRA meeting or to members of the NRA, that is a pretty good
4 objective indication of context that that is not neutral
5 speech and is not a neutral voter guide, but it is a voter
6 guide that takes sort of a distinct position with respect to
7 the election.

8 We think that what Delaware Strong Families is
9 doing here is much more, is much closer to that than to the,
10 you know, League of Women Voters model. But to the extent
11 that there is sort of a question about that, we would like
12 the opportunity to at least get some discovery. And I
13 think, you know, in a limited and I think, frankly, not
14 terribly burdensome way to try and get at, you know, to be
15 able to put it into context, who is this going to, how is it
16 being distributed, what is being said?

17 You know, if at the time these are being
18 distributed, someone is handing them out and also at the
19 same time saying, and, by the way, we really hope you vote
20 for the pro family candidates, or if there's an overlap
21 between folks who are getting those voter guides and people
22 who are getting the scorecard, that's all indicative of the
23 context in which it's being distributed.

24 And I would say that, you know, for present
25 purposes with respect to the current issue, this is really

1 an as applied challenge, because Delaware Strong Families,
2 in order to, to obtain a preliminary injunction, has to show
3 not that someone else's First Amendment rights are
4 potentially being infringed, but that it actually will
5 suffer an irreparable injury, an imminent irreparable injury
6 absent an injunction, which means that what applies with
7 respect to Delaware Strong Families is what is relevant for
8 present purposes, and that's what we're trying to put into
9 context.

10 And I guess the final thought, you know, my
11 friend referred to the fact that, I think he said the IRS
12 doesn't seem to have a problem with respect to their voter
13 guide. You know, the basis for that is it is not that the
14 IRS has actually reviewed the voter guide and given them,
15 you know, a clean bill of health and said this is consistent
16 with your 501(c)(3) status.

17 The basis for that is that the plaintiff points
18 to some guidance documents from the IRS, but those guidance
19 documents from the IRS has the types of issues that, you
20 know, where we would like the opportunity to take some
21 discovery, including sort of the scope of the distribution
22 and the nature of the communication itself.

23 And, you know, the IRS itself takes a very
24 fact-intensive approach to determining whether a voter guide
25 actually, you know, falls within the 501(c)(3) status, and

1 that's the sort of type of inquiry that we would like to
2 pursue.

3 THE COURT: Well, the way you've described it,
4 it does not strike me as being an unreasonable step forward.
5 Of course, the devil is always in the details and it depends
6 how your actual discovery requests are framed.

7 So perhaps the next step is for the State,
8 within, you know, a date certain, just to keep this case
9 moving on the schedule that we contemplated, to have the
10 State fashion its discovery and have the plaintiffs, you
11 know, give the plaintiff an opportunity to review that, and
12 if there are resulting concerns, then to have a discovery
13 conference, which is -- and to basically focus on the
14 practicalities and not kind of the esoteric discussion we're
15 having now.

16 Does that make some sense at this point,
17 Mr. Dickerson, from plaintiff?

18 MR. MOSS: This is Randolph Moss, your Honor.

19 I very much think that makes sense. And we
20 could undertake to serve discovery requests by this Friday,
21 to move that forward.

22 MR. DICKERSON: And this is Allen Dickerson.

23 I agree that it would be helpful to have a more
24 concrete discussion. There have been -- both sides have had
25 a chance to talk and there has been some indication that we

1 may be able to get to an agreement on some of the facts in
2 this case. My concerns, you know, are, again, about the
3 scope of this, about its relevance. But if your Honor
4 would prefer to handle those concerns in a more concrete
5 nature, in a discovery conference, that's acceptable to
6 plaintiffs.

7 THE COURT: All right. Well, I guess we can do
8 one of two things. We can set another status conference in
9 a week, which would only give the plaintiff -- well, it
10 might not give the plaintiff enough time, or I can just wait
11 to hear from you all that you're unable to work out a
12 satisfactory agreement in terms of the scope of discovery
13 and need my help. I don't know which you think is more
14 likely.

15 MR. DICKERSON: Well, your Honor, this is Allen
16 Dickerson again.

17 I think it turns on at least two points. One
18 is, if the Court is planning to issue its preliminary
19 injunction, obviously, the press of time becomes a little
20 less pressing. So that is the first point.

21 The second point is, you know, to the extent
22 that that is not the case, I think plaintiff is willing to
23 burn the midnight oil and have that conversation in a week
24 with the Court.

25 THE COURT: All right. And I guess that does

1 lead me to the next step, and that is, if I issue the
2 injunction now -- well, I don't know. The question is
3 whether it makes more sense to go ahead and issue the
4 injunction, understanding that nothing is actually going to
5 happen until June or July in any event, and we'll go forward
6 and have our hearing on the merits. I don't know.

7 Mr. Moss, your feeling about that?

8 MR. MOSS: You know, I think particularly to
9 the extent that there are, you know, any questions relating
10 to the factual underpinnings for the Court's decision, we
11 think that it would be helpful to wait. On the other hand,
12 if the Court were of the view that the issues that were
13 likely to develop would not affect the Court's decision,
14 there may be some benefit in entering an order sooner rather
15 than later that will simply allow the parties to get some
16 guidance from the Court of Appeals sooner rather than later,
17 which I think could help, you know, guide all of us, you
18 know, in the process.

19 So I think it depends in part whether the Court
20 thinks it would be helpful to have additional information
21 before it entered an order, or whether it would be more
22 helpful actually to get guidance more promptly from the
23 Court of Appeals on some of these, some of the issues that
24 are raised, and then to the extent that the Court I think
25 is contemplating entering an order sooner rather than

1 later, there are a couple of points I would like to speak
2 to sort of with respect to what the scope of that would
3 look like.

4 THE COURT: All right. Well, certainly, I
5 assume that the defendant, maybe the plaintiff, because
6 sometimes I issue orders and no one is happy with them,
7 would want to take it to the Third Circuit promptly. And
8 the question is whether that really is the most appropriate
9 step before anyone invests any more time in this.

10 Let's hear from Mr. Dickerson.

11 MR. DICKERSON: Well, our view, of course, is
12 that the reason we filed for this injunction in the first
13 instance is that we thought this case would proceed quite
14 faster than it did. We thought the scope of discovery that
15 was requested would be narrower than it was, and we thought
16 the issues that would be attacked would be narrower than
17 they turned out to be.

18 For instance, this idea that a C3 voter guide is
19 not somehow presumptively neutral, to borrow the State's
20 term, we need to get into these very difficult questions
21 about whether or not the context and, you know, the
22 demographics research and the people who are receiving this
23 are an appropriate cross-section of Delaware voters. I
24 mean, these are actually, I think, much more complicated
25 questions than perhaps the State understands and leads to

1 some fairly tricky constitutional territory if the right to
2 anonymity in giving to a nonprofit organization under
3 federal law in fact turns on whether you distribute your
4 information in a way that the State likes.

5 So I'm not quite as sanguine after these
6 conversations that this case will be, to the extent the
7 State wants to argue it this way, as easy as perhaps, as
8 perhaps Mr. Moss does. So that is the first point.

9 So that's why we asked for a written injunction.
10 We would still like to have that injunction as a protection
11 as we move forward in this election year, which leads to the
12 second point, which is that, you know, as the Supreme Court
13 has noted on several occasions, the problem with these sort
14 of cases is that, you know, people, people want to speak
15 during elections. They may not be sophisticated enough to
16 realize exactly how complicated and messy this area of law
17 is and how difficult and fact specific their rights can be.
18 They file as soon as they do realize that to bring these
19 constitutional challenges. And with depressing frequency,
20 these cases are not resolved until the speech is moot, and
21 there are exceptions to mootness precisely for that reason.

22 But in terms of the harm that's going to be
23 suffered, I think it is an unfortunate fact these cases tend
24 not to be resolved in time for plaintiffs to do what
25 plaintiffs have filed suit to do.

1 So in that sense, I mean, I expect that we will
2 need guidance from the Third Circuit. As I think everyone
3 on this call realizes, there are a lot of novel issues in
4 this case that have not been directly spoken to, but, again,
5 honestly, your Honor, it largely is -- my client would like
6 to be able to do this activity and not give its donors to
7 the State and not file with the State. It would also like
8 to do this activity without having its internal
9 communications torn apart or its member lists divulged even
10 in discovery.

11 So I guess the long and short of that is, yes,
12 we expect a trip to the Court of Appeals. If we did so on
13 an injunction, I think we would feel fairly comfortable.
14 And as to -- and that may provide some guidance as to the
15 sort of facts, if any, which would be relevant in a final
16 determination.

17 THE COURT: Well, here's a question. At this
18 point, I've based my -- you know, my preliminary injunction
19 would be based on the fact that the, you know, whether this
20 is the right word or not, the kind of neutrality of the
21 voter guide hasn't really been explored, and so the question
22 is, will there still be act physical questions after the
23 Third Circuit appeals -- I mean, I guess the Third Circuit
24 would say, that's fine. It doesn't matter what the
25 communication says or whether it's politically directed or

1 not. If it mentions a candidate within the target time
2 period, you know, whoever communicated that has to divulge
3 all this information to the State.

4 So I guess if it said that, then everything
5 would be over. But if it agreed with me, would we still be
6 left with the questions that we're talking about now, about
7 whether the voter guide at issue should be considered
8 neutral?

9 MR. MOSS: This is Randolph Moss, your Honor. I
10 think what you described is correct. I think that is
11 exactly right, if possible, that the Court of Appeals would
12 render a decision that, that the -- as long as the
13 requirements of the statute are satisfied, that the
14 contribution, the disclosure is permissible and that's
15 constitutional, in which case none of these facts are at
16 issue, it's possible that the Court could conclude that your
17 Honor's approach is correct and that it turns on this sort
18 of neutrality question, which there would be some factual
19 development. And it's also possible always that the Court
20 of Appeals will articulate some other test that may or may
21 not turn on the facts.

22 THE COURT: Yes. Yes. Certainly. Well --

23 MR. DICKERSON: If I can respond to that
24 briefly, your Honor?

25 THE COURT: Sure. Go ahead, Mr. Dickerson.

1 MR. DICKERSON: No, I apologize. I didn't mean
2 to cut you off.

3 I mean, it's also possible, of course, that the
4 Third Circuit will say that, no, you really are supposed to
5 look to the face of the communication and the communication
6 is in front of the Court. And the Court can reasonably have
7 reached the conclusion, having read the communication, that
8 it is -- again, I prefer not to use the word "neutral," but
9 in the sense that it is, in fact, issue speech and not
10 candidate advocacy. And that can be, that can be the record
11 on appeal. I mean, your Honor's understanding as a factual
12 matter of the communication and the communication itself are
13 both in the record.

14 So I think there's this third option, which is
15 that the Court may agree with plaintiff. These sort of --
16 that these sort of fact-intensive questions bleed awfully
17 quickly into intents and effects and that, you know, this
18 sort of test that Mr. Moss is articulating would essentially
19 define issue speech out of existence in any practical world,
20 where these sort of fact-intensive questions matter.

21 So in that sense, again, we think there are
22 questions of fact, but I think those questions of fact are
23 on the face of the communication your Honor has already
24 read.

25 THE COURT: Well, so that leads me back. I

1 mean, I assume that if I issue my injunction, the State will
2 want to appeal. And the question is --

3 MR. MOSS: Yes, your Honor.

4 THE COURT: Yes. And the question is whether it
5 makes any sense for the Third Circuit to look at this matter
6 without having kind of reached a final destination, which is
7 whether the as applied -- whether we've really reached the
8 as applied part of it, whether we've really explored the as
9 applied part of it, because the State -- I take it the State
10 isn't willing and has not conceded that the voter guide at
11 issue has the broadest implications that the Court has found
12 concerns with, if that makes any sense.

13 I guess I --

14 MR. MOSS: It does, your Honor.

15 THE COURT: Yes. I guess I just want to make
16 sure that whatever we send to the Third Circuit is the most
17 helpful, the best record, the best analysis we can send
18 them, because otherwise I feel as though we might be
19 spinning wheels and not really addressing what's in dispute
20 here.

21 So I would like the reaction of both
22 Mr. Dickerson and Mr. Moss on that point.

23 MR. DICKERSON: I will go first, your Honor.

24 This is Allen Dickerson.

25 Well, what is relevant to this issue in terms

1 of, I think Mr. Moss is exactly right in saying that the
2 question in some sense is whether your Honor will find this
3 information useful.

4 Plaintiff articulated a theory of the case where
5 this information would not be useful and that there's an
6 independent or, you know, that part of the constitutional
7 analysis is about, you know, getting away from these sort of
8 deeply fact-intensive questions and that the State does not
9 get to rescue a badly drafted statute that, you know, that
10 doesn't take advantage of any of the sort of respect for
11 free speech that other statutes that may be upheld in part
12 or denied in part or struck down facially. But they don't
13 get to rescue that statute by, you know -- there's the same
14 for Citizens United, that Citizens shouldn't have to hire
15 demographics experts and election law attorneys. Under the
16 State's theory, you need to add another group to the list,
17 which is tax lawyers.

18 You know, now we're in a situation where -- I
19 mean, plaintiff obviously agrees with the Court's analysis
20 in your Honor's opinion, which is that the problem is that
21 the statute isn't there. And I don't think the State really
22 understand at least plaintiff's view of that case. And it's
23 not, you know, that we think earmarking is constitutionally
24 required necessarily. We think that earmarking is one thing
25 that can be done to tailor a statute, just as exempting C3

1 can tailor a statute or exempting voter guides can tailor a
2 statute or, you know, getting any indication whatsoever the
3 that issue speech exists in the Delaware can tailor a
4 statute.

5 And so in some sense, I think this question of
6 how fact intensive, you know, the context, the quote
7 unquote, implicit message, whatever that means, of a
8 communication is relevant is itself an issue on which the
9 Third Circuit may wish to speak. And that in some ways,
10 there's a harm imposed honestly by getting into that, which
11 is why, you know, just to take it full circle, I mean, the
12 question really is, at least for plaintiff, you know,
13 whether the Court thinks this is relevant and helpful. And,
14 you know, if the answer is no, we would prefer to take that
15 theory to the Third Circuit as soon as practicable. If the
16 answer is yes, then, yes, we would need to have a
17 conversation about the burdens of getting into those sort of
18 questions and, you know, what precisely the State is looking
19 for, though again, you know, we would worry about the clock
20 running during that process.

21 THE COURT: Right. Well, Mr. Moss, I do want
22 you to respond.

23 It does strike me that the issue is whether a
24 statute with no tailoring at all is constitutionally
25 permissible and not -- well, so it might make sense, and we

1 would have to work on the actual language of the injunction
2 to make sure it's consistent with my analysis, but also to
3 make sure that we present the question to the Third Circuit
4 that everyone thinks needs to be presented.

5 So in that sense, Mr. Moss, do you think that it
6 would be in the State's best interest to simply get this
7 question up to the Third Circuit now and hopefully one or
8 both of the parties will ask for an expedited review process
9 so that at least no one is sitting on their hands and we'll
10 get an answer as soon as possible? I'm sorry. Mr. Moss,
11 long introduction to a question here.

12 MR. MOSS: Yes. Thank you, your Honor. And
13 I do think that it would make sense, and perhaps the
14 parties could mutually request expedited review in the
15 Court of Appeals, because I think everyone does share an
16 interest in getting guidance on these issues as promptly as
17 possible.

18 I did want to just clarify, you know, a couple
19 of points. One is that just to be clear, it is the State's
20 position that none of this factual inquiry is required. And
21 Mr. Dickerson has sort of indicated I think that, you know,
22 it's the State's view that one has to go out and hire a tax
23 lawyer and figure out whether 501(c)(3) status -- that is
24 responsive to arguments they've made about their 501(c)(3)
25 status.

1 Our point here is, is that we think that under,
2 and it is supposition that under Citizens United, the Court
3 has held that a statute of this nature is constitutional and
4 that none of that inquiry is necessary under those
5 circumstances and that it doesn't turn on the intent of the
6 speaker, the effect of the speech, or, for that matter,
7 whether the speech is expressed advocacy or some
8 equivalence.

9 The other thing is just to sort of clarify is
10 that, you know, all of these statutes are tailored in
11 different ways. And the Delaware statute is tailored. It's
12 just tailored in different ways than some of the other
13 statutes are.

14 So, for example, Delaware statute doesn't
15 include sort of the type of door-to-door pamphleting
16 that, you know, might otherwise be applied. It has Daubert
17 limitations. It has an exclusion with respect to
18 communications with members, of a membership organization.

19 So, you know, just to be clear, I mean, it's
20 really our position that it is, that the statute is actually
21 well tailored and sort of consistent with the law.

22 With respect to the Court's question about what
23 is most efficient see, you know, I do think that getting
24 guidance from the Court of Appeals is something that will be
25 helpful to everyone involved. I do, you know, come back to

1 where I was before, is that if the Court is of the view that
2 it would actually be helpful to the district court to
3 address this question of neutrality, I think it's something
4 that we could do in relatively short order and make sort of
5 perhaps a more complete record on that issue in a way that I
6 don't think invites the types of burdens that Mr. Dickerson
7 has raised. I think it could be done, you know, pretty
8 efficiently. But, you know, on the other hand, if the Court
9 is of the view that that type of evidence would not sort
10 have been helpful for the Court itself in thinking about
11 whether to go ahead and enter I think the order that its
12 decision contemplates, then, you know, we certainly would
13 not object to the notion of getting guidance sooner rather
14 than later from the Court of Appeals.

15 THE COURT: Well, I guess I'm trying to think
16 ahead to how this is going to be argued in front of the
17 Third Circuit, and, quite frankly, and it's very possible
18 I missed this, but I don't recall -- I don't recall the
19 State making the specific argument that was just made,
20 that, yes, we're tailored, we're just tailored in a
21 different way.

22 What I don't want to happen is for us to get to
23 the Third Circuit and the State's argument be, gee, this is
24 the functional equivalent of advocacy, so no matter what --
25 so, you know, your review isn't appropriate or your review

1 should swing on that because that hasn't been vetted, and so
2 I just want to make sure that whatever record we go up on,
3 that the arguments made are consistent with the way I feel
4 like they were presented to me. And certainly if I've
5 missed something important, then I would like the
6 opportunity to hear from you on those issues once again so
7 that, you know, the Third Circuit -- no Circuit Court likes
8 to be asked to make, especially an expedited decision when
9 the parties are arguing things that they have not argued
10 below or the record is incomplete or whatever. I mean, it's
11 a waste of their time.

12 So I guess I need to make sure that my decision
13 is a basis upon which you can make the arguments you want to
14 about this as applied challenge. And if there's something
15 that we need to delve into to make sure that you can both
16 present the best arguments you can based on the record
17 you've presented to me based on arguments you've actually
18 made to me, then we just, we need to make those adjustments
19 to make sure that whenever the Third Circuit gets it, it
20 gets the complete package.

21 MR. MOSS: Thank you, your Honor. This is
22 Randolph Moss.

23 And I think that's helpful. You know, I do
24 think that, you know, the goal is to have, you know, one
25 trip to the Court of Appeals and to be in a position in

1 which we all can sort of present, you know, both our
2 principal arguments, but also perhaps what may be secondary
3 arguments, you know, as well, that a more complete record
4 would be helpful in that regard. And I mean I know that the
5 plaintiff has sort of treated this as a case in which the
6 voter guide is sort of neutral, non-partisan speech. And,
7 you know, to the extent that that is something that the
8 Court of Appeals might think is relevant, I think it would
9 be helpful to have some record one way or the other on that
10 point.

11 With respect to tailoring, I think that we've
12 spoken about that, I think, in the form of sort of the
13 substantial relation prong of the test, and I think
14 tailoring and substantial relation are just, is two ways of
15 saying the same thing. But if there's more that would be
16 helpful for the Court to hear from us with respect to that,
17 we obviously would be, you know, very happy to offer that as
18 well.

19 And anything I think to make a complete record.
20 I mean, we are in a situation in which Delaware Strong
21 Families has indicated that, and we know the law doesn't
22 kick in, would not apply for some time given the 60-day
23 window, but that it doesn't plan to engage in expenditures
24 relating to the voter guide I think it said until July.

25 So I mean, we are in a position in which there

1 is some time to more fully develop a record in the case,
2 and, you know, it may be in everyone's interest if we can do
3 so in a way that is not, you know, unduly burdensome to
4 anybody, but to develop that record that tees the issue up
5 to the Court of Appeals in which ever way the Court of
6 Appeals thinks is helpful to present, you know,
7 understanding within limits. We're not talking about
8 developing any potential piece of evidence the Court of
9 Appeals might think was relevant, but rather doing so in a
10 way that is sensitive to the types of issues that
11 Mr. Dickerson has raised.

12 MR. DICKERSON: If I can respond briefly, your
13 Honor. This is Allen Dickerson.

14 I think part of the difficulty is that, you
15 know, defendants' theory is that there's no need for this
16 factual development because putatively, any communication
17 that happens within this window can be regulated within this
18 matter that requires this type of disclosure.

19 Plaintiff's theory of the case is that none
20 of this, none of this background evidence is required
21 because Courts can tell from the face of a document
22 whether it's genuine issue of speech, and if it is, it's
23 constitutionally protected from this type disclosure
24 registration. I think that is a fair statement of both
25 sides' positions, and obviously opposing counsel will

1 correct me if it is not.

2 The issue of this stuff in the middle, you know,
3 how things are distributed, you know, how money is raised,
4 what is in the minds of donors, et cetera, or any questions
5 on that spectrum are really about helping your Honor be
6 comfortable with the type of speech that is at issue in the
7 as applied challenge.

8 So I think that leads to two conclusions from
9 our point of view. One is, you know, honestly, it would be
10 helpful to have the Court's guidance on what sort of these
11 facts appear relevant since neither party sounds wedded to
12 making an appellate argument based upon them. And that's
13 the first point.

14 And the second point is, it's really just a
15 recitation of the first, which is, you know, we're concerned
16 about, we're concerned about the way the statute is written
17 and, you know, in some ways, that's why we view this as a
18 facial challenge.

19 As your Honor noted, the Buckley decision both
20 from the D.C. Circuit and the Court of Appeals are facial
21 challenges based on the fact that the statute could be read
22 to reach neutral speech. So I think that provides two
23 possible routes for the Court. One is to say, you know,
24 this is what I need to feel comfortable, or I need nothing
25 to feel comfortable on this particular communication.

1 And the second is to simply say, actually,
2 there's just reason to just consider this statute is
3 constitutional and is very tailored itself, in which case
4 none of this is relevant.

5 MR. MOSS: This is Randolph Moss.

6 With respect to that point, I do think, you
7 know, as we previously noted, that for purposes at least of
8 the preliminary injunction, the plaintiff has to demonstrate
9 that the plaintiff itself has suffered error or believes it
10 will suffer a First Amendment violation, so the facial
11 challenge, to the extent that it's implicating the
12 application of law to others really does not come into play
13 with respect to the preliminary injunction.

14 And more generally, to the extent that by the
15 facial challenge, you know, the notion that the law is
16 somehow overbroad and reaches other contexts or other
17 applications where it shouldn't reach, I just previously
18 noted, that is the plaintiff's burden of proof to
19 demonstrate substantial overbreadth, and the plaintiff has
20 not, you know, introduced any evidence, you know, on that
21 issue at all.

22 MR. DICKERSON: Your Honor, this is Allen
23 Dickerson again.

24 I think the response to that is that, one, it's
25 an overly narrow understanding of the as applied challenge

1 in the sense that we have donors. I think Lacey versus
2 Alabama was very clear on the fact that the organization was
3 standing in the shoes of its donors for the case.

4 So I think it's a little unfair to say that the
5 only interests implicated are those of the organization
6 itself because it does have these donors and allies and
7 such. So that would be the first response.

8 And the second is just that we fundamentally
9 disagree on this stuff, and the reason we're in court and
10 the reason, you know, that we're having this conversation
11 is that Delaware is an unusually difficult case in that it
12 does take this very absolutist view of what the State can
13 demand.

14 So I disagree on the scope of who DSF is
15 representing, I suppose, and I also take some issue with the
16 idea that, you know, you can't reach, you can't reach a
17 facial ruling because of these concerns that Mr. Moss has
18 raised.

19 MR. MOSS: Your Honor, this is Randolph Moss.

20 To come back, I think, to the question the Court
21 has posed about sort of what the most efficient way to
22 proceed here is, I mean, I have a proposal to make. Sort of
23 perhaps one thing we might do is, we can by Friday
24 articulate what additional discovery we think would be
25 helpful in the case and try and do so in a way that's

1 targeted at the issues that we've discussed. We can then
2 promptly confer with counsel for the plaintiff with respect
3 to that and get their views, and perhaps then we may be in a
4 position in which we then need to confer then with the
5 Court. And I think maybe that will give us all the
6 opportunity to sort of look at that in a concrete way and
7 say, is this something we think would be helpful in creating
8 a fuller record for the case when it goes up on appeal one
9 way or the other, anything that the Court would think that
10 would be helpful.

11 And maybe when we confer at that point in time
12 and the parties will have had an opportunity to confer with
13 their clients a little bit further about this and we can
14 then -- you know, the Court can then make sort of a
15 decision about, in light of what, whether it makes sense to
16 go forward with some period of relatively expedited
17 discovery.

18 I think we could even frankly propose a schedule
19 for reaching resolution on the case that would then tee it
20 up so it could then go up to the Court of Appeals, either
21 frankly on a final judgment or a preliminary injunction in a
22 way with a full record. And at the same time, we could also
23 propose to the Court -- you know, having a short brief or
24 whatever would be most helpful, sort of what, if the Court
25 is inclined to enter an injunction based on the order of

1 yesterday or the decision from yesterday, sort of what the
2 scope of that order should look like.

3 THE COURT: Well, I think it will be, it would
4 be helpful to have the parties explore this a little bit
5 more offline with their clients, thinking about the
6 inevitable ultimate appeal.

7 You just tell me when I should schedule the next
8 status conference with you to give you all the time you need
9 to give the matter your full consideration and hopefully,
10 some discussion between the two parties.

11 So is it a week?

12 MR. DICKERSON: Your Honor, this is Allen
13 Dickerson again.

14 That makes sense if your Honor does find these
15 sort of points relevant. In terms of timing, we would want
16 to do that as quickly as possible.

17 If the State is in a position to make those
18 requests by Friday, I believe your Honor mentioned having
19 some availability on Tuesday, the 8th, to have a follow-up
20 conversation. I mean, again, our concern is that -- I mean,
21 it's very important that the Court of Appeals gets the full
22 record, but it's also important that this doesn't turn into
23 a situation where the State briefs its case and then decides
24 it needs more information and decides that changes the
25 theory of the case and around and around we go for a bit.

1 You know, this speech never happens because the case takes
2 too long. But, you know, certainly, if your Honor thinks it
3 would be helpful, a week or something in that range is
4 reasonable investment.

5 THE COURT: Well, I do have time next Tuesday,
6 you know, a week from today at 10:00 o'clock.

7 And Mr. Moss, is that sufficient time, do you
8 believe, to consider the matter as you have suggested?

9 MR. MOSS: I think it is, your Honor.

10 THE COURT: All right. All right. Well,
11 let's -- I won't issue -- well, maybe I should issue an
12 order in this case given the interest in it rather than just
13 rely on the transcript.

14 We'll issue an order for another telephone
15 status conference Tuesday, April 8th, at 10:00 o'clock. I
16 don't know which party initiated this conference.

17 MR. DICKERSON: Plaintiffs did, your Honor.

18 THE COURT: Can I ask defendants to do next
19 week's conference?

20 MR. MOSS: Certainly, your Honor.

21 THE COURT: All right. We'll issue an order to
22 that effect. And hopefully by next week we'll have a clear
23 path to our next step.

24 As always, counsel, I appreciate your time and
25 your patience.

1 Is there anything else we should address yet
2 this morning, Mr. Dickerson?

3 MR. DICKERSON: Not from plaintiffs, your Honor.
4 Thank you.

5 THE COURT: And Mr. Moss?

6 MR. MOSS: Your Honor, the only question I have
7 is whether it would be helpful for the Court, for us to
8 submit something with respect to the scope of the proposed
9 order now or whether it would make sense to wait until after
10 we talk next week and figure out more what the direction of
11 the case is likely to be.

12 THE COURT: I would think it would be more
13 helpful to wait.

14 MR. MOSS: Okay. Thank you, your Honor.

15 THE COURT: All right. Thank you, counsel.
16 Have a good day.

17 MR. DICKERSON: Thank you, your Honor.

18 (Telephone conference concluded at 10:00 a.m.)

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IN THE UNITED STATES DISTRICT COURT

IN AND FOR THE DISTRICT OF DELAWARE

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DELAWARE STRONG FAMILIES,	:	CIVIL ACTION
	:	
Plaintiff,	:	
	:	
vs.	:	
	:	
JOSEPH R. BIDEN, III, et	:	
al.,	:	
	:	
Defendants.	:	NO. 13-1746 (SLR)

- - -

Wilmington, Delaware
Wednesday, April 8, 2014
10:00 o'clock, a.m.
***Telephone conference

- - -

BEFORE: HONORABLE SUE L. ROBINSON, U.S.D.C.J.

- - -

APPEARANCES:

WILKS, LUKOFF & BRACEGIRDLE, LLC
DAVID E. WILKS, ESQ.

-and-

Valerie J. Gunning
Official Court Reporter

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APPEARANCES (Continued) :

CENTER FOR COMPETITIVE POLITICS
BY: ALLEN DICKERSON, ESQ.
(Alexandria, Virginia)

Counsel for Plaintiff

DELAWARE DEPARTMENT OF JUSTICE
BY: JOSEPH C. HANDLON, ESQ. and
A. ANN WOOLFOLK, ESQ.

-and-

WILMER HALE CUTLER PICKERING HALE AND DORR
BY: RANDOLPH C. MOSS, ESQ. and
WEILI J. SHAW, ESQ.
(Washington, D.C.)

-and-

THE CAMPAIGN LEGAL CENTER
BY: MEGAN McALLEN, ESQ.
(Washington, D.C.)

Counsel for Defendants

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P R O C E E D I N G S

(REPORTER'S NOTE: The following telephone conference was held in chambers, beginning at 10:00 a.m.)

THE COURT: Good morning, counsel. This is Judge Robinson and Valerie is here as our court reporter.

I have reviewed the submission on the proposed discovery and the proposed order and I have determined that, you know, one of the problems with having a statute that in my mind is so overbroad is, that the discovery that you proposed I think tends to be overbroad. So I am of a mind to err on the side of, you know, the First Amendment versus the side of giving the electorate, the electorate intrusive irrelevant information, and I'm just going to sign off on the order and not go forward with discovery so that you all can get the issue up to the Third Circuit, and we'll deal with what they say when they say it.

So I guess the only question is, is the scope of the order, and I will hear some more comments on that before I sign off. I will start with plaintiff's counsel.

MR. WILKS: Your Honor, this is David Wilks. I want to reintroduce Allen Dickerson, who can speak substantively to that.

THE COURT: All right. Thank you.

1 MR. DICKERSON: Good morning, you.

2 THE COURT: Good morning.

3 MR. DICKERSON: So on the order, the difference
4 of opinion seems to come down to whether -- plaintiff's view
5 is that we brought this suit because the reporting
6 requirement itself is overbroad, that detail is
7 unconstitutional. And this turns on this question of --
8 just back up. I mean, one of the things I think that
9 influences the scope of the order is that last week, the
10 Supreme Court handed down McCutchen versus FEC, where the
11 Chief Justice clarified that even under exacting scrutiny,
12 the level of scrutiny that defendants had asked for -- and I
13 quote -- "Under exacting scrutiny, the government may
14 regulate protected speech only if such regulation promotes a
15 compelling interest in a least restricted means to further
16 the articulated interest."

17 That being the case, the order as plaintiffs
18 request it would, while leaving intact the disclaimer
19 requirements, the requirements that our client placed upon
20 the basis of communication who is paying for it, would
21 extend to preventing our client from having to have filed
22 the report which has the expenditure components, which has
23 other burdensome recordkeeping requirements.

24 As I understand defendants' request, and I will
25 obviously, I will let them speak to that, but my

1 understanding is that they basically want us to file all of
2 those reports even though it was triggered by neutral issue
3 speech only redacting our donor information.

4 Our view of the case has always been that the
5 donor information is a particularly important symptom of the
6 overbreadth of the statute, but is certainly not the only
7 overbroad component. I think our view is that we should get
8 what we ask for in our complaint, which is the ability to
9 not be regulated by the statute.

10 THE COURT: All right. Let's hear from
11 defendants' counsel.

12 MR. HANDLON: Your Honor, this is Joe Handlon.
13 I would like to reintroduce Jonathan Cedarbaum to address
14 those issues.

15 THE COURT: All right. Thank you.

16 MR. CEDARBAUM: Thank you, your Honor. This is
17 Jonathan Cedarbaum for the defendants.

18 I think our view, your Honor, is that, of
19 course, the general principle is that an injunction should
20 be crafted as narrowly as is necessary and no broader than
21 that, and that the Court's opinion focused on the
22 contributor disclosure provisions of the law.

23 The law has a, the Delaware, the Election
24 Disclosure Act has a severability clause that says that even
25 if particular pieces of it are found to be unconstitutional,

1 other portions should be saved.

2 And so the portions we have included in our
3 proposed order are those contributor disclosure provisions,
4 but as counsel for the other side indicated, the one
5 provision that we had left out that they would include is a
6 provision that does not require disclosure of contributors'
7 identities, but rather requires disclosure of aggregate
8 expenditures, and so we think that is quite different from
9 the contributor disclosure requirements and was not directly
10 addressed in the Court's opinion as we understand it.

11 THE COURT: All right. Final word from
12 plaintiff's counsel and then I will take a minute to think
13 about it and enter something today.

14 MR. DICKERSON: I have nothing further, your
15 Honor, unless you have a question.

16 THE COURT: Well, I guess the question is,
17 although your complaint certainly was, I think your
18 complaint was broader than the decision, and the reason I
19 came down with, and I guess the question is whether, in
20 fact, it is appropriate to enter a broader order than my
21 analysis really spoke to.

22 MR. DICKERSON: Certainly, your Honor. And I
23 think this does go to a fairer sort of, I guess, confusion
24 on behalf of counsel, I think, for both parties.

25 Certainly, we think that it's appropriate under

1 the reasoning of your Honor's order to maintain the privacy
2 of our donors. I think we would be willing to go up on
3 appeal with that order. Our request, I suppose, is that,
4 you know, the overbreadth of the statute is about the
5 trigger of the statute as much as about the conclusion of
6 the statute, both sides of the coin.

7 Your Honor obviously has a better understanding
8 of your own order, of your own opinion than I do, and I
9 think we would be satisfied with an order that protected our
10 donors as sort of the core of our privacy interests here.
11 But we do think that the remainder of the form, which
12 includes things like 48-hour reports on amounts of money
13 that are spent, you know, and all these other burdens that
14 we set out in our briefing does continue to be a problem.
15 But if your Honor disagrees with us on that, then obviously
16 that's a separate question.

17 THE COURT: All right. Counsel, thank you very
18 much for your help. As I said, I will enter a form of order
19 today and we'll see what the Third Circuit does.

20 Thank you. Have a good rest of your day.

21 (Counsel respond, "Thank you, your Honor.")

22 THE COURT: Bye-bye now.

23 (Telephone conference concluded at 10:10 a.m.)

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