IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

SUSAN B. ANTHONY LIST,

Plaintiff,

v.

REP. STEVE DRIEHAUS, et al.,

Defendants.

Case No. 10-CV-720
Judge Timothy S. Black

Declaration of Emily Buchanan,
Executive Vice President of
Susan B. Anthony List

I, EMILY BUCHANAN, declare as follows:

1. I am the Executive Vice President of Susan B. Anthony List ("SBA"), and in that capacity, I am responsible for coordinating, managing, and executing SBA’s programs.

2. The mission of SBA and its connected political action committee is to elect candidates and pursue policies to reduce and ultimately end abortion.

3. SBA believes that the Affordable Care Act ("ACA") authorizes and allows the use of federal funds to pay for abortion and abortion-inclusive health coverage. Among other things, the ACA provides new federal tax subsidies that help finance abortion coverage; expands state Medicaid programs that cover elective abortion; and omits language that would have prevented direct appropriations in the ACA from being used to fund abortion.

4. For those reasons, SBA has criticized Members of Congress who voted for the ACA, and particularly those Members of Congress who otherwise purport to hold pro-life values. In 2010, SBA criticized then-Rep. Steve Driehaus (D-Ohio), characterizing his vote for the ACA as support for taxpayer-funded abortion.

5. In response to that criticism, Rep. Driehaus filed a complaint against SBA before the Ohio Elections Commission ("OEC"), alleging violation of Ohio’s laws forbidding false statements about candidates for office. After a hearing, an OEC panel found probable cause to believe that SBA had violated those laws.

6. The OEC enforcement proceedings forced SBA to incur the costs of defending itself, and distracted it during a critical campaign period from disseminating its political message. It was also branded by a state agency as a liar, harming its credibility and reputation.
7. During the upcoming 2014 congressional elections, SBA wants to criticize another Member of Congress (and candidate for reelection), Rep. Marcy Kaptur (D-Ohio), for her 2010 vote in favor of the ACA. Specifically, SBA wants to arrange for the erection of a billboard in or near Kaptur’s electoral district reading: “Shame on Marcy Kaptur! Kaptur voted FOR taxpayer-funded abortion.”

8. In light of the OEC’s probable-cause finding in 2010, however, SBA fears that pursuing these plans will subject it to enforcement proceedings under Ohio’s false-statement laws, once again causing it to incur substantial financial, political, and reputational harms. SBA also fears potential criminal prosecution if the OEC concludes that its criticism of Rep. Kaptur’s vote violates the law. Accordingly, SBA will not pursue these plans unless and until it obtains judicial relief protecting it from Ohio’s false-statement laws.
I declare under penalty of perjury under the laws of the United States of America that the statements I have made in this declaration are true and correct.

Made this 19th day of June, 2014.

Emily Buchanan
Executive Vice President
Susan B. Anthony List
1707 L Street, NW, Suite 550
Washington, DC 20036
(202) 223-8073