

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION

<p>Christian Coalition of Florida, Inc., <i>Plaintiff,</i> v. United States of America, <i>Defendant.</i></p>	<p>Civil Action No. _____</p>
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Complaint for Tax Refund

1. This is an action by the **Christian Coalition of Florida, Inc.** (“**CC-FL**”) for a refund of corporate income taxes for tax years 1991, 1994, 1995, 1996, 1997, 1998, 1999, and 2000.

2. CC-FL is a Florida non-profit corporation that advocates and teaches concern for the sanctity of life, traditional family values, an economic system which fosters individual self-reliance, and faith in God.

3. As an advocacy organization, CC-FL engages in a substantial amount of lobbying activity. In an effort to advocate the values set forth above, CC-FL seeks to keep its members informed about proposed or pending legislation before the legislature, and when appropriate, asks its members to contact their respective representatives. This activity often occurs in the form of a monthly newsletter circulated to its members.

4. CC-FL also engages in a number of other activities designed to make its members more active and better informed citizens. For example, CC-FL regularly publishes voter guides and legislative scorecards. These voter guides and legislative scorecards are educational in that they provide members with information about candidates and legislators on a variety of issues. The voter guides and legislative scorecards do not advocate the election or defeat of any particular candidate or group of candidates for public office.

5. Because CC-FL engages in substantial lobbying activity it applied for exemption as a section 501(c)(4) social welfare organization, not as a section 501(c)(3) public charity.¹ This is critical because the rules regarding lobbying and political intervention are more permissive for section 501(c)(4) organizations than they are under section 501(c)(3).

6. For example, section 501(c)(4) social welfare organizations may engage in an unlimited amount of lobbying activity without jeopardizing their exempt status. Indeed, most organizations organized under section 501(c)(4) are simply referred to as “advocacy organizations” because they typically engage in a substantial amount of lobbying activity. Bruce R. Hopkins, *The Law of Tax-Exempt Organizations* 389 (9th Ed. 2007) (“[T]he principle type of organization that is tax-exempt by reason of this category of exemption is one that is advocacy-oriented—in the sense of focus on community, state, and/or national policymaking, including lobbying—rather than one that is generally functioning to promote some vague form of civic or social betterment.”).

¹ All statutory citations are to the Internal Revenue Code, Title 26 of the United States Code, unless otherwise noted.

7. By comparison, section 501(c)(3) organizations may engage in only an insubstantial amount of lobbying activity (5-15% of total activity). *See Seasongood v. Commissioner*, 227 F.2d 907 (6th Cir. 1955) (recognizing anything less than five percent as insubstantial); *Haswell v. U.S.*, 500 F.2d 1133 (Ct. Cl. 1974) (activities in the 16-20% range are substantial, and by inference, anything less is insubstantial). *See also* I.R.C. § 501(h) (creating a statutory safe harbor if an organization makes such an election).

8. Furthermore, section 501(c)(4) social welfare organizations are not prohibited from intervening in political campaigns on behalf of or in opposition to candidates for political office like their section 501(c)(3) counterparts. Thus, even if the IRS were to determine that CC-FL engaged in some activity that could arguably be considered political intervention, it must still grant CC-FL exemption under section 501(c)(4) if it is operated *primarily* for the promotion of social welfare.

9. Specifically at issue in this case is whether the IRS wrongfully denied CC-FL's application for exemption from federal income taxes and whether it is entitled to a refund for the tax years set forth above. Despite a finding that CC-FL does "engage in extensive lobbying activities," the IRS summarily concluded that under the "facts and circumstances," CC-FL is not engaged primarily in the promotion of social welfare. Letter from Robert C. Harper Jr., Manager, Exempt Organizations, to The Christian Coalition of Florida, Inc. 12 (July 25, 2000) ("**Proposed Determination Letter**").²

² The Proposed Determination Letter was incorporated into the IRS's Final Determination Letter issued July 31, 2008. *See infra* at ¶ 34.

10. Accordingly, CC-FL also challenges the underlying statutes and regulations relied upon by the IRS to make its determination. The IRS relies upon vague statutes and regulations that make it virtually impossible for organizations such as CC-FL to determine whether a particular activity constitutes acceptable lobbying activity or prohibited political intervention.³

11. Furthermore, the IRS's "facts and circumstances" approach to such cases creates a regulatory minefield virtually impossible for any organization to navigate without completely foregoing any activity that could arguably be considered political intervention. This self-censorship of speech otherwise permissible under the Internal Revenue Code is violative of CC-FL's First Amendment rights.

Jurisdiction and Venue

12. This is an action for the recovery of internal revenue taxes and this Court has jurisdiction by reason of 28 U.S.C. § 1346(a)(1) and 26 U.S.C. § 7422.⁴

13. Venue in this district is proper under 28 U.S.C. § 1402(a)(2) because the case is a civil action against the United States for the recovery of taxes and Plaintiff's principal place of business is located within the Middle District of Florida.

³ In actuality, section 501(c)(4) organizations such as CC-FL are not prohibited from intervening in political campaigns, they are limited only in the amount of such activity. By comparison, organizations exempt from tax pursuant to section 501(c)(3) are absolutely prohibited from engaging directly or indirectly in a political campaign on behalf of or in opposition to any candidate for public office. *Compare* Treas. Reg. 1.501(c)(3)-1 *with* Treas. Reg. 1.501(c)(4)-1.

⁴ All citations to Title 26 shall hereinafter be cited simply as I.R.C. § x.

Parties

14. Plaintiff is a non-stock, non-profit corporation organized and existing under the laws of Florida and authorized to do business in such State, with its principal office and place of business at 26 S.E. 9th Terrace, Ocala, Florida.

15. Pursuant to I.R.C. § 7422(f)(1), the United States is the designated Defendant in this cause of action.

Statement of Facts

CC-FL and its Activities

16. CC-FL was incorporated on or about June 12, 1990 in the State of Florida under the Florida Not-For-Profit Corporation Act, Fla. Stat. § 617.01011 *et seq.*, as a non-stock, non-profit corporation.

17. CC-FL's Articles of Incorporation state:

The general purpose of this Corporation shall be the transaction of any and all lawful business. The principal purposes [sic] of the corporation is to encourage active citizenship among people professing the Christian faith. Other purposes are to support and uphold values and moral principles that accord with the Holy Bible; to defend religious freedom; to enunciate an interpretation of the United States Constitution which is in accordance with the original intention of the framers of the United States Constitution; and to promulgate and teach concern for the sanctity of life, traditional family values, an economic system which fosters individual self-reliance, opposition to tyranny, and faith in God. The corporation is empowered to achieve its purposes by all lawful means, including but not limited to education, the publication and distribution of literature, citizenship mobilization, the advocacy of public policy, and representation before public bodies.

18. Pursuant to, or consistent with, its mission of informing members of important issues that affect the family, CC-FL engaged in extensive lobbying activities, both direct and grassroots, in attempts to influence legislation germane to its purposes in tax years 1991 and 1994 through 2000. CC-FL's lobbying efforts are consistent with its mission of encouraging an active citizenry and are also designed to keep its members informed about the values and moral principles it seeks to promote.

19. CC-FL also prepared and distributed voter guides during national and state elections based upon candidate questionnaires.

20. The voter guides provide members with information about candidates on a variety of issues generally important to the electorate as a whole, including but not limited to topics such as health care, education, and life issues.

21. The voter guides include all viable candidates for the offices sought, deal with a broad range of issues selected by CC-FL solely on the basis of their importance to the electorate as a whole, state issues in a neutral, nonpartisan fashion, and evidence no bias or preference with respect to the view of any candidate or group of candidates.

22. CC-FL also prepared and distributed legislative "scorecards" that indicate how members of the Florida Senate and House of Representatives voted on selected pieces of legislation.

23. Like its voter guides, CC-FL's legislative scorecards are educational materials designed to keep its members informed on a variety of topics and issues considered by the state legislature.

24. The Florida legislature meets during March and April. The legislative scorecards are prepared during May and June, and are circulated in July or August. CC-FL follows this same sequence of events in the preparation and distribution of its legislative scorecards regardless of whether an election is held in a given year.

CC-FL's Application for Exemption and Subsequent History

25. Pursuant to Treas. Reg. § 1.501(a)-1 (as amended in 1982), CC-FL filed for recognition of exemption on or about July 19, 1993 by filing Form 1024, Application for Recognition of Exemption under section 501(a) ("Form 1024").

26. On its Form 1024, CC-FL indicated that it was applying for recognition of exemption pursuant to section 501(c)(4).

27. The Form 1024 stated that CC-FL's activities include:

- a. Publish two newsletters educating members of various legislation and activities around the state that affect the family.
- b. Publish a voter's guide during election time stating where candidates stand on issues based upon survey the candidates fill out.
- c. Conduct leadership schools to train and involve citizens in the political process.
- d. Organize volunteer chapters.
- e. Publish voting records of elected officials.

28. On or about August 10, 1993, the IRS acknowledged receipt of CC-FL's Form 1024. Letter from EO Clerical Screener, to Christian Coalition of Florida, Inc. (Aug. 10, 1993).

29. On or about September 10, 1993, the IRS informed CC-FL that its application for exemption had been received and that it was being referred to its National Office for a ruling. Letter from Paul Williams, District Director, Internal Revenue Service, to Christian Coalition of Florida, Inc. (Sept. 10, 1993).

30. On or about July 25, 2000, the IRS finally issued a proposed adverse determination letter, concluding that CC-FL did not qualify for exemption under section 501(c)(4) because it was not primarily engaged in activities that promote social welfare. Proposed Determination Letter at 13.

31. On or about October 5, 2000, CC-FL exercised its statutory and regulatory right to protest and appeal the Proposed Determination Letter. In the letter, CC-FL set forth the reasons it believes the IRS's conclusion was incorrect, and requested a conference with the National Office. Letter from Charles M. Watkins, Webster, Chamberlain & Bean (Counsel for CC-FL), to Internal Revenue Service (Oct. 5, 2000) (sent via facsimile).

32. On or about May 30, 2002, a conference between the IRS and CC-FL was held to discuss the Proposed Determination Letter. Shortly after said meeting, the matter was tabled while the IRS and The Christian Coalition International (an affiliated, but separate and independent legal entity) sought to resolve their differences through litigation then pending in the U.S. District Court for the Eastern District of Virginia.⁵ Letter from Alan P. Dye, Webster, Chamberlain & Bean (Counsel for CC-FL), to Leonard M. Orcino, Internal Revenue Service (July 26, 2002).

⁵ *The Christian Coalition International v. United States*, 2:01 cv 377 (E.D. Va.).

33. By letter, dated January 10, 2008, the IRS informed CC-FL that it was finally prepared – some 15 years after CC-FL submitted its original application – to issue a final determination letter with respect to its application for recognition of exemption. Letter from Leonard M. Orcino, Internal Revenue Service, to Christian Coalition of Florida, Inc. (January 10, 2008).

34. By letter, dated July 31, 2008, the IRS issued its final determination that CC-FL did not qualify for exemption from Federal income taxes as a section 501(c)(4) organization. Letter from Robert Choi, Director, Exempt Organizations, Internal Revenue Service, to Christian Coalition of Florida, Inc. (Jul. 31, 2008) (incorporating by reference the July 25, 2000, Proposed Determination Letter) (“**Final Determination Letter**”). The IRS summarily concluded that CC-FL is engaged in activities that primarily constitute political intervention on behalf of or in opposition to candidates for public office. The letter fails to indicate how much political intervention is “too much” and even concedes that CC-FL engages in “extensive lobbying activities.” Proposed Determination Letter at 12 (as incorporated into Final Determination Letter).

35. The Proposed Determination Letter is based in part on the IRS’s unjustified conclusion that CC-FL’s organizational structure is virtually identical to that of a political party. Proposed Determination Letter at 9. As a result, the IRS determined that CC-FL’s organizational structure is implemented primarily to intervene in political campaigns. *Id.* Such a conclusion ignores the fact that CC-FL is a section 501(c)(4) social welfare organization that engages in

“extensive lobbying activities” and that its organizational structure is designed to further its goals as an advocacy organization. *Id.* at 12.

36. The Proposed Determination Letter also states that CC-FL’s legislative scorecards constitute political intervention. Proposed Determination Letter at 9-10. This determination is based on the IRS’s conclusion that the legislative scorecards are prepared and distributed to coincide with national and state elections. *Id.* at 10. As set forth above, CC-FL follows the same procedure each year in the preparation of its legislative scorecards regardless of whether an election is held: the state legislature meets in March and April; CC-FL compiles and prepares the legislative scorecards in May and June, and; they are distributed in July or August.

37. The Proposed Determination Letter also states that CC-FL’s voter guides constitute political intervention. Proposed Determination Letter at 10-11. This conclusion is based upon the frequency of “No Response” listed for Democratic candidates compared to those of their Republican counterparts. *Id.* at 11. CC-FL cannot control the extent to which Democratic candidates respond to its requests for statements regarding the candidates’ positions on the issues. The Proposed Determination Letter makes no allegation that CC-FL does not attempt to obtain responses from Democratic candidates. Voters are free to determine for themselves how to evaluate a candidate who refused to answer a questionnaire, and the fact that a candidate refused to answer could provide some insight about him or her as a candidate. Finally, the IRS’s conclusion effectively permits a candidate to prevent CC-FL from distributing important unbiased information about candidates by refusing to answer any questionnaires.

38. The Final Determination Letter instructed CC-FL to file Form 1120 for all tax years in question within 30 days of such letter.

39. CC-FL filed Form 1120, U.S. Corporation Income Tax Return, for tax years 1991, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2005, and 2006 on or about August 27, 2008.

The returns indicated taxable income and tax due in the following amounts:

- a.** For tax year 1991: Taxable income of \$261.00 and tax due on such income of \$40.00.
- b.** For tax year 1994: Taxable income of \$103.00 and tax due on such income of \$16.00.
- c.** For tax year 1995: Taxable income of \$188.00 and tax due on such income of \$29.00.
- d.** For tax year 1996: Taxable income of \$192.00 and tax due on such income of \$29.00.
- e.** For tax year 1997: Taxable income of \$317.00 and tax due on such income of \$48.00.
- f.** For tax year 1998: Taxable income of \$272.00 and tax due on such income of \$41.00.
- g.** For tax year 1999: Taxable income of \$236.00 and tax due on such income of \$36.00.
- h.** For tax year 2000: Taxable income of \$144.00 and tax due on such income of \$22.00.

- i.** For tax year 2005: Taxable income of \$294.00 and tax due on such income of \$45.00.
- j.** For tax year 2006: Taxable income of \$150.00 and tax due on such income of \$23.00.

40. On or about September 25, 2008, CC-FL filed Form 1120-X, Amended U.S. Corporation Income Tax Return, for tax years 1991, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2005, and 2006. Pursuant to Treas. Reg. § 301.6402-1, CC-FL included a statement setting forth the grounds for the claim and the facts supporting the grounds. The returns reported:

- a.** For 1991: A reduction in taxable income of \$261.00 and tax due of \$40.00, resulting in a refund of \$40.00.
- b.** For 1994: A reduction in taxable income of \$103.00 and tax due of \$16.00, resulting in a refund of \$16.00.
- c.** For 1995: A reduction in taxable income of \$188.00 and tax due of \$29.00, resulting in a refund of \$29.00.
- d.** For 1996: A reduction in taxable income of \$192.00 and tax due of \$29.00, resulting in a refund of \$29.00.
- e.** For 1997: A reduction in taxable income of \$317.00 and tax due of \$48.00, resulting in a refund of \$48.00.
- f.** For 1998: A reduction in taxable income of \$272.00 and tax due of \$41.00, resulting in a refund of \$41.00.

- g.** For 1999: A reduction in taxable income of \$236.00 and tax due of \$36.00, resulting in a refund of \$36.00.
- h.** For 2000: A reduction in taxable income of \$144.00 and tax due of \$22.00, resulting in a refund of \$22.00.
- i.** For 2005: A reduction in taxable income of \$294.00 and tax due of \$45.00, resulting in a refund of \$45.00.
- j.** For 2006: A reduction in taxable income of \$150.00 and tax due of \$23.00, resulting in a refund of \$23.00.

41. The claims for refund set forth above were based upon CC-FL's assertion that it qualified as an organization exempt from federal income tax under section 501(c)(4) and, therefore, was not liable to pay federal income tax pursuant to section 501(a).

42. The taxes paid for the years set forth above resulted in overpayments in the amounts indicated because CC-FL, as a tax-exempt organization, was not liable for payment of corporate income taxes and, therefore, the tax was erroneously and wrongfully collected by Defendant United States under the Internal Revenue Code.

43. On or about December 1, 2008, the IRS granted CC-FL's request for refund for tax year 2005 and issued a check in the amount of \$45.45. The amount represents the \$45.00 in corporate income tax wrongfully assessed against CC-FL as an exempt section 501(c)(4) organization and \$0.45 in statutory interest. The IRS also removed all penalties and interest from CC-FL's account for tax year 2005. The letter does not indicate the statutory grounds relied upon

to grant the refund. However, the only ground set forth by CC-FL in its claim for refund was that it is an exempt organization pursuant to section 501(c)(4).

44. On or about December 1, 2008, the IRS granted CC-FL's request for refund for tax year 2006 and issued a check in the amount of \$23.23. The amount represents the \$23.00 in corporate income taxes wrongfully assessed against CC-FL as an exempt section 501(c)(4) organization and \$0.23 in statutory interest. The IRS also removed all penalties and interest from CC-FL's account for tax year 2006. The letter does not indicate the statutory grounds relied upon to grant the refund. However, the only ground set forth by CC-FL in its claim for refund was that it is an exempt organization pursuant to section 501(c)(4).

45. The IRS has neither granted nor denied CC-FL's remaining claims for tax years 1991, 1994, 1995, 1996, 1997, 1998, 1999, and 2000.

46. Six months have elapsed since CC-FL filed its claims for refund. Thus, CC-FL may properly maintain this suit pursuant to section 6532(a)(1).

Legal Arguments Common to Plaintiff's Claims

47. Section 501(a) states that "An organization described in subsection (c) or (d) . . . shall be exempt from taxation under this subtitle unless such exemption is denied by section 502 or 503." I.R.C. § 501(a).

48. Section 501(c)(4) provides that an organization may qualify for exemption if it is "not organized for profit but operated exclusively for the promotion of social welfare." I.R.C. § 501(c)(4).

49. The IRS has stated that an organization is operated “exclusively” for the promotion of social welfare under section 501(c)(4) if it is “primarily engaged in promoting in some way the common good and general welfare of the people of the community.” Treas. Reg. § 1.501(c)(4)-1(a)(2)(i) (as amended in 1990). *See also* Rev. Rul. 81-95, 1981-1 C.B. 332 (stating that organization must be primarily engaged in activities that promote social welfare).

50. The IRS has stated that whether an organization is primarily engaged in the promotion of social welfare is a “facts and circumstances test.” Rev. Rul. 68-45, 1968-1 C.B. 259. *See also* I.R.S. Priv. Ltr. Rul. 08-36-033 (Sept. 5, 2008) (“Whether an organization is ‘primarily’ engaged in promoting social welfare is a facts and circumstances test.”); I.R.S. Priv. Ltr. Rul. 08-33-021 (Aug. 15, 2008) (same); I.R.S. Priv. Ltr. Rul. 07-32-030 (Aug. 10, 2007) (same); I.R.S. Priv. Ltr. Rul. 05-12-023 (Mar. 25, 2005) (same).⁶

51. An organization is engaged in the promotion of social welfare if it promotes in some way the common good and general welfare of the community. Treas. Reg. § 1.501(c)(4)-1(a)(2)(i).

52. An organization may also qualify under Section 501(c)(4) as a social welfare organization if its activities fall “within the definition of charitable set forth in paragraph (d)(2) of § 1.501(c)(3)-1.” Treas. Reg. § 1.501(c)(4)-1(a)(2).

⁶ Private letter rulings may not be used or cited as precedent. I.R.C. § 6110(k)(3). Nevertheless, they may be cited as persuasive authority. *Glass v. C.I.R.*, 471 F.3d 698, 709 (6th Cir. 2006).

53. Treasury Regulation § 1.501(c)(3)-1(d)(2) (as amended in 2008) defines “charitable” as:

relief of the poor and distressed or the under-privileged; advancement of religion; advancement of education or science; erection or maintenance of public buildings, monuments, or works; lessening of the burdens of Government; and promotion of social welfare by organizations designed to accomplish any of the above purposes, or (i) to lessen neighborhood tensions; (ii) to eliminate prejudice and discrimination; (iii) to defend human and civil rights secured by law; or (iv) to combat community deterioration and juvenile delinquency.

54. Under Section 501(c)(3), an organization is not operated exclusively for an exempt purpose if it is deemed to be an “action organization.” Accordingly, such organizations may engage only in an insubstantial amount of lobbying activity (direct or grassroots), and are absolutely prohibited from intervening directly or indirectly in a political campaign on behalf of or in opposition to any candidate for public office. Treas. Reg. § 1.501(c)(3)-1(c)(3).

55. An organization that is precluded from qualifying under Section 501(c)(3) because it is an “action organization” may nevertheless qualify for exemption under Section 501(c)(4). Treas. Reg. §§ 1.501(c)(3)-1(c)(3)(v) and 1.501(c)(4)-1(a)(2)(ii).

56. Under Section 501(c)(4) direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office does not constitute the promotion of social welfare. Treas. Reg. § 1.501(c)(4)-1(a)(2)(ii).

57. However, lobbying activities are an acceptable activity for an organization described in section 501(c)(4), and such activity constitutes the promotion of social welfare. *See*

Rev. Rul. 68-656, 1968-2 C.B. 216. Furthermore, Rev. Rul. 71-530, 1971-2 C.B. 237, states that lobbying may be the *only* activity of a section 501(c)(4) organization.

58. Furthermore, the IRS has stated that a section 501(c)(4) organization “primarily engaged in the promotion of social welfare may participate in lawful political campaign activities . . . without adversely affecting its exempt status.” Rev. Rul. 81-95, 1981-1 C.B. 332 (“[A]n organization may carry on lawful political activities and remain exempt under section 501(c)(4) as long as it is primarily engaged in activities that promote social welfare.”). *See also* Treas. Reg. 1.501(c)(4)-1(a)(2)(ii).

59. The IRS has stated that candidate surveys and resulting voter guides do not constitute political intervention if the voter guides are presented in a non-partisan manner, surveys are distributed to all viable candidates for each office included in the voter guide, and consist of either voting records of the candidates on a wide variety of issues or responses by candidates to a questionnaire covering a broad range of issues important to the electorate. Rev. Rul. 78-248, 1978-1 C.B. 154.

60. The IRS has stated that whether a voter guide constitutes political intervention “depends upon all of the facts and circumstances of each case,” Rev. Rul. 80-282, 1980-2 C.B. 178, a vague and overbroad standard that provides no guidance to exempt organizations because it is conducted *post hoc*, after the activity has occurred.

61. The IRS has also stated that legislative “scorecards,” which show incumbents’ votes on issues, do not constitute political intervention if the scorecards contain the voting records of all incumbents, are published shortly after the close of the legislative session, do not

mention an individual's overall qualification for public office, do not contain a comparison of candidates that might be competing with the incumbents, and do not contain any reference to or mention of any political campaigns, elections, candidates, or any statements expressly or impliedly endorsing or rejecting any incumbent as a candidate for public office. Rev. Rul. 80-282, 1980-2 C.B. 178.

62. Furthermore, the IRS has stated that the mere fact that the organization indicates which votes coincided with the organization's position does not automatically transform the publication into political intervention. *Id.*

63. Although the First Amendment does not require the government to subsidize activities such as those engaged in by CC-FL, *Regan v. Taxation With Representation*, 461 U.S. 540, 550 (1983), the discriminatory denial of tax exemption can impermissibly infringe free speech. *Big Mama Rag, Inc. v. United States*, 631 F.2d 1030, 1034 (D.C. Cir. 1980) (*citing Speiser v. Randall*, 357 U.S. 513, 518 (1958)).

64. The "void-for-vagueness" doctrine requires notice of proscribed conduct and explicit standards for Government officials, who might otherwise engage in arbitrary and discriminatory enforcement. *Grayned v. City of Rockford*, 408 U.S. 104, 108-109 (1972). A law must be struck down if "men of common intelligence must necessarily guess at its meaning." *Hynes v. Mayor of Oradell*, 425 U.S. 610, 620 (1976) (quoting *Connally v. General Constr. Co.*, 269 U.S. 385, 391 (1926)). The law must be objective and "eschew the open-ended rough-and-tumble of factors, which invites complex argument in a trial court and a virtually inevitable appeal." *F.E.C. v. Wisconsin Right to Life, Inc.*, 127 S. Ct. 2652, 2666 (2007) ("*WRTL II*")

(internal citations omitted)⁷. Laws “wholly lacking in ‘terms susceptible of objective measurement’” must be invalidated. *Keyishian v. Board of Regents*, 385 U.S. 589, 601 (1967) (quoting *Cramp v. Board of Public Instruction*, 368 U.S. 278, 286 (1961)). In an area as sensitive as the First Amendment, a law must not be so uncertain that it inevitably leads “citizens to steer far wider of the unlawful zone than if the boundaries of the forbidden areas were clearly marked.” *Buckley v. Valeo*, 424 U.S. 1, 41 (quoting *Grayned*, 408 U.S. at 109) (internal citations omitted).

65. Thus, regulations authorizing tax exemption must not be so unclear as to afford latitude for subjective and discriminatory application by the IRS. *Big Mama Rag*, 631 F.2d at 1040. (“In this area the First Amendment cannot countenance a subjective ‘I know it when I see it’ standard.”). *See also North Carolina Right to Life v. Leake*, 525 F.3d 274, 282 (4th Cir. 2008) (“*NCRL III*”) (noting that “when protected political speech is involved [,]” a “‘we’ll know it when we see it’ approach simply does not provide sufficient direction to either regulators or potentially regulated entities.”)

66. Section 501(c)(4), both facially and as-applied by the IRS with respect to CC-FL and its activities, is unconstitutionally vague and lacking of terminology susceptible to objective assessment.

⁷ The cited opinion is by Chief Justice Roberts, joined by Justice Alito. As the controlling *WRTL II* opinion, the principal opinion states the holding of the Court and will herein simply be referred to as *WRTL II*. *See Marks v. United States*, 430 U.S. 188, 193 (1977) (“When a fragmented Court decides a case and no single rationale explaining the result enjoys the assent of five Justices, ‘the holding of the Court may be viewed as that position taken by those Members who concurred in the judgments on the narrowest grounds’” (citation omitted)).

67. The IRS regulations pertaining to Internal Revenue Code section 501(c)(4) are also unconstitutionally vague and lacking of terminology susceptible to objective assessment.

68. Treasury Regulation section 1.501(c)(3)-1(c)(3), pertaining to “action organizations,” is unconstitutionally vague and lacking of terminology susceptible to objective assessment.

69. Treasury Regulation section 1.501(c)(4)-1(a)(2)(ii) is unconstitutionally vague because it fails to give proper notice as to the nature of the proscribed conduct or speech, and as a result thereof, is susceptible of application in an unreasonable, arbitrary, capricious, and discriminatory manner.

70. Furthermore, the portion of Treasury Regulation section 1.501(c)(4)-1(a)(2)(ii) that reads in pertinent part, “[t]he promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office,” is unconstitutionally vague because it fails to provide objective standards as to what speech is encompassed, thereby prohibiting people of ordinary intelligence from determining whether their organization is exempt from federal income tax under section 501(c)(4). The lack of objective standards enables discriminatory and arbitrary denial of tax exempt status by the IRS.

71. With respect to the definition of “political intervention,” the Congressional Research Service has said, “As to what types of activities are prohibited, the regulations add little besides specifying that they include ‘the publication or distribution of written or printed statements or the making of oral statements on behalf of or in opposition to such a candidate.’”

Thus, *the statute and regulations do not offer much insight as to what activities are prohibited.*”

U.S. Congressional Research Service, *Tax-Exempt Organizations: Political Activity Restrictions and Disclosure Requirements* (RL33377; Sept. 11, 2007), by Erika Lunder.

72. “Under the overbreadth doctrine in the context of the First Amendment, a court may find a law void on its face for sweeping too broadly and thereby restricting or punishing speech that is constitutionally protected.” *The Nationalist Movement v. C.I.R.*, 102 T.C. 558, 584-85 (1994) (citing *Airport Commissioners v. Jews for Jesus, Inc.*, 482 U.S. 569 (1987)).

73. The overbreadth doctrine “demands a greater degree of specificity” in its First Amendment applications because of the potential chilling effect on constitutionally protected expression. *Smith v. Goquen*, 415 U.S. 566, 573 (1974); *NAACP v. Button*, 371 U.S. 415, 432-33 (1963). There are two inherent risks in a case such as this when the overbreadth doctrine applies: (1) self-censorship by speakers in order to avoid being denied tax-exempt status, and (2) the “difficulty in detecting, reviewing, and correcting content-based censorship ‘as applied’ without standards by which to measure the [decision maker’s] action.” *City of Lakewood v. Plain Dealer Pub. Co.*, 486 U.S. 750, 759 (1988).

74. A law that grants overly broad discretion to the decision maker creates an “impermissible risk of suppression of ideas” in every situation. *Forsyth County v. Nationalist Movement*, 505 U.S. 123, 129 (1992). “A law subjecting the exercise of First Amendment freedoms” must contain “narrow, objective, and definite standards.” *Id.* at 130-31. “[W]here the defect in the statute is that the means chosen to accomplish the State’s objectives are too imprecise, so that in all its applications the statute creates an unnecessary risk of chilling of free

speech, the statute is properly subject to facial attack.” *Sec. of State of Md. v. J.H. Munson Co., Inc.*, 467 U.S. 947, 967-68 (1984).

75. Section 501(c)(4) of the Internal Revenue Code, and the regulations thereunder, are unconstitutionally overbroad under the First Amendment because portions of the statute and regulations lack the requisite specificity and appear, or are subject to interpretation by the IRS, to reach expressive activities and speech that are not political intervention that may be regulated or considered by the IRS in determining if an organization is operated “exclusively for the promotion of social welfare.”

76. Furthermore, the portion of Treasury Regulation section 1.501(c)(4)-1(a)(2)(ii) that reads in pertinent part, “[t]he promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office,” is overbroad under the First Amendment because it can be, and has been, interpreted by the IRS as encompassing speech that is not limited to such activities and communications, such as express advocacy of the election or defeat of clearly identified candidates or direct or in-kind contributions to candidates.

77. In the alternative, the Court is required to give a narrowing construction to Treasury Regulation section 1.501(c)(4)-1(a)(2)(ii) to remove the overbreadth and vagueness inherent in this statute. “Political activities” should be construed to be limited to “communications that include explicit words of advocacy of election or defeat of a candidate.” *See Buckley*, 424 U.S. at 43 (1976).

78. Such a bright-line “express advocacy” test is required to protect First Amendment Speech from the unconstitutional chill which results from the overbreadth and vagueness of this regulation. *See McConnell v. F.E.C.*, 540 U.S. 93, 126 (2003); *NCRL III*, 525 F.3d at 282.

79. In the alternative, Treasury Regulation section 1.501(c)(4)-1(a)(2)(ii), that provides that “social welfare does not include direct or indirect participation or intervention in political campaigns” is unreasonable, arbitrary, capricious, and beyond the scope of the statutory authority of the IRS because it is contrary to the intent of Congress in establishing tax exemption for organizations under section 501(c)(4) of the Internal Revenue Code. *Compare* I.R.C. § 501(c)(3) (containing express prohibition on political intervention) with I.R.C. § 501(c)(4) (lacking any such prohibition).

80. In the alternative, the Court is required to give a narrowing construction to Treasury Regulation section 1.501(c)(4)-1(a)(2)(i) to remove the overbreadth and vagueness inherent in the statute. “Primarily engaged . . .” should be construed to mean “*the* major purpose of which” *Buckley*, 424 U.S. at 79 (1976); *NCRTL III*, 525 F.3d at 287 (2008).

81. The policy of the IRS in enforcing this regulation under its “facts and circumstances” test violates the First Amendment because it is vague by failing to give proper notice as to the nature of the proscribed conduct or speech, and by being susceptible of application in an unreasonable, arbitrary, capricious, and discriminatory manner. This “we’ll know it when we see it approach simply does not provide sufficient direction to either regulators or potentially regulated entities.” *NCRTL III*, 525 F.3d at 290. In essence, the IRS is “handing out speeding tickets without telling anyone the speed limit.” *Id.*

82. Based upon the foregoing, CC-FL was denied tax-exemption under section 501(c)(4), and subject to Federal income tax as a result thereof, because of the unconstitutionality of section 501(c)(4) of the Internal Revenue Code, and the regulations thereunder, and the improper application of those statutes and regulations by the IRS in an arbitrary, capricious, and discriminatory manner.

83. Thus, CC-FL was, or should have been considered, an exempt social welfare organization under section 501(c)(4), and as such, not subject to the assessment and collection of taxes on its income for those years.

84. Defendant, United States, therefore, erroneously assessed and collected taxes from CC-FL as though it were a for-profit corporation and CC-FL is entitled to a refund of those taxes.

Count I

Christian Coalition of Florida, Inc. is Entitled to a Refund of Income Taxes Paid for 1991.

85. Plaintiff re-alleges and incorporates by reference all allegations contained in paragraphs one (1) through eighty-four (84) set forth above.

86. CC-FL's activities for tax year 1991 did not materially differ from those set forth in paragraphs one (1) through eighty-four (84) set forth above.

87. On the basis of the foregoing, CC-FL was, or should have been considered, an organization exempt from Federal income tax under section 501(a) by virtue of its status as a

section 501(c)(4) organization, and as such, was not subject to the assessment and collection of taxes on its income for 1991.

88. Defendant United States erroneously assessed and collected taxes from CC-FL as though it were a for-profit corporation and CC-FL is entitled to a refund of those taxes.

89. WHEREFORE, Christian Coalition of Florida, Inc. requests the following relief:

- a.** Judgment that Plaintiff CC-FL was exempt from Federal income tax under section 501(a) pursuant to section 501(c)(4) for 1991;
- b.** Judgment that Plaintiff CC-FL is entitled to a refund of \$40.00, plus such interest and costs that are allowed by law;
- c.** Judgment that section 501(c)(4) is unconstitutional, both facially and as-applied to CC-FL and its activities, because it is overbroad and vague;
- d.** Judgment that Treasury Regulation section 1.501(c)(4)-1 is unconstitutional, both facially and as-applied to CC-FL and its activities, because it is overbroad and vague;
- e.** Judgment that Treasury Regulation section 1.501(c)(3)-1 is unconstitutional, both facially and as-applied to CC-FL and its activities, because it is overbroad and vague;
- f.** An injunction to prevent the Defendants from denying CC-FL its tax exempt status for future tax years, provided that its operations do not conflict with the activities set forth in this complaint;

- g.** An order, instructing the IRS to issue a final determination letter that CC-FL is exempt from federal income tax under section 501(a) pursuant to section 501(c)(4), provided that its operations do not materially differ from those set forth in this complaint, and;
- h.** Such other relief as the Court may deem just and equitable.

Count II

Christian Coalition of Florida, Inc. is Entitled to a Refund of Income Taxes Paid for 1994.

90. Plaintiff re-alleges and incorporates by reference all allegations contained in paragraphs one (1) through eighty-four (84) set forth above.

91. CC-FL's activities for tax year 1994 did not materially differ from those set forth in paragraphs one (1) through eighty-four (84) set forth above.

92. On the basis of the foregoing, CC-FL was, or should have been considered, an organization exempt from Federal income tax under section 501(a) by virtue of its status as a section 501(c)(4) organization, and as such, was not subject to the assessment and collection of taxes on its income for 1994.

93. Defendant United States erroneously assessed and collected taxes from CC-FL as though it were a for-profit corporation and CC-FL is entitled to a refund of those taxes.

94. WHEREFORE, Christian Coalition of Florida, Inc. requests the following relief:

- a.** Judgment that Plaintiff CC-FL was exempt from Federal income tax under section 501(a) pursuant to section 501(c)(4) for 1994;

- b.** Judgment that Plaintiff CC-FL is entitled to a refund of \$16.00, plus such interest and costs that are allowed by law;
- c.** Judgment that section 501(c)(4) is unconstitutional, both facially and as-applied to CC-FL and its activities, because it is overbroad and vague;
- d.** Judgment that Treasury Regulation section 1.501(c)(4)-1 is unconstitutional, both facially and as-applied to CC-FL and its activities, because it is overbroad and vague;
- e.** Judgment that Treasury Regulation section 1.501(c)(3)-1 is unconstitutional, both facially and as-applied to CC-FL and its activities, because it is overbroad and vague;
- f.** An injunction to prevent the Defendants from denying CC-FL its tax exempt status for future tax years, provided that its operations do not conflict with the activities set forth in this complaint;
- g.** An order, instructing the IRS to issue a final determination letter that CC-FL is exempt from federal income tax under section 501(a) pursuant to section 501(c)(4), provided that its operations do not materially differ from those set forth in this complaint, and;
- h.** Such other relief as the Court may deem just and equitable.

Count III

Christian Coalition of Florida, Inc. is Entitled to a Refund of Income Taxes Paid for 1995.

95. Plaintiff re-alleges and incorporates by reference all allegations contained in paragraphs one (1) through eighty-four (84) set forth above.

96. CC-FL's activities for tax year 1995 did not materially differ from those set forth in paragraphs one (1) through eighty-four (84) set forth above.

97. On the basis of the foregoing, CC-FL was, or should have been considered, an organization exempt from Federal income tax under section 501(a) by virtue of its status as a section 501(c)(4) organization, and as such, was not subject to the assessment and collection of taxes on its income for 1995.

98. Defendant United States erroneously assessed and collected taxes from CC-FL as though it were a for-profit corporation and CC-FL is entitled to a refund of those taxes.

99. WHEREFORE, Christian Coalition of Florida, Inc. requests the following relief:

- a.** Judgment that Plaintiff CC-FL was exempt from Federal income tax under section 501(a) pursuant to section 501(c)(4) for 1995;
- b.** Judgment that Plaintiff CC-FL is entitled to a refund of \$29.00, plus such interest and costs that are allowed by law;
- c.** Judgment that section 501(c)(4) is unconstitutional, both facially and as-applied to CC-FL and its activities, because it is overbroad and vague;

- d. Judgment that Treasury Regulation section 1.501(c)(4)-1 is unconstitutional, both facially and as-applied to CC-FL and its activities, because it is overbroad and vague;
- e. Judgment that Treasury Regulation section 1.501(c)(3)-1 is unconstitutional, both facially and as-applied to CC-FL and its activities, because it is overbroad and vague;
- f. An injunction to prevent the Defendants from denying CC-FL its tax exempt status for future tax years, provided that its operations do not conflict with the activities set forth in this complaint;
- g. An order, instructing the IRS to issue a final determination letter that CC-FL is exempt from federal income tax under section 501(a) pursuant to section 501(c)(4), provided that its operations do not materially differ from those set forth in this complaint, and;
- h. Such other relief as the Court may deem just and equitable.

Count IV

Christian Coalition of Florida, Inc. is Entitled to a Refund of Income Taxes Paid for 1996.

100. Plaintiff re-alleges and incorporates by reference all allegations contained in paragraphs one (1) through eighty-four (84) set forth above.

101. CC-FL's activities for tax year 1996 did not materially differ from those set forth in paragraphs one (1) through eighty-four (84) set forth above.

102. On the basis of the foregoing, CC-FL was, or should have been considered, an organization exempt from Federal income tax under section 501(a) by virtue of its status as a section 501(c)(4) organization, and as such, was not subject to the assessment and collection of taxes on its income for 1996.

103. Defendant United States erroneously assessed and collected taxes from CC-FL as though it were a for-profit corporation and CC-FL is entitled to a refund of those taxes.

104. WHEREFORE, Christian Coalition of Florida, Inc. requests the following relief:

- a.** Judgment that Plaintiff CC-FL was exempt from Federal income tax under section 501(a) pursuant to section 501(c)(4) for 1996;
- b.** Judgment that Plaintiff CC-FL is entitled to a refund of \$29.00, plus such interest and costs that are allowed by law;
- c.** Judgment that section 501(c)(4) is unconstitutional, both facially and as-applied to CC-FL and its activities, because it is overbroad and vague;
- d.** Judgment that Treasury Regulation section 1.501(c)(4)-1 is unconstitutional, both facially and as-applied to CC-FL and its activities, because it is overbroad and vague;
- e.** Judgment that Treasury Regulation section 1.501(c)(3)-1 is unconstitutional, both facially and as-applied to CC-FL and its activities, because it is overbroad and vague;

- f. An injunction to prevent the Defendants from denying CC-FL its tax exempt status for future tax years, provided that its operations do not conflict with the activities set forth in this complaint;
- g. An order, instructing the IRS to issue a final determination letter that CC-FL is exempt from federal income tax under section 501(a) pursuant to section 501(c)(4), provided that its operations do not materially differ from those set forth in this complaint, and;
- h. Such other relief as the Court may deem just and equitable.

Count V

Christian Coalition of Florida, Inc. is Entitled to a Refund of Income Taxes Paid for 1997.

105. Plaintiff re-alleges and incorporates by reference all allegations contained in paragraphs one (1) through eighty-four (84) set forth above.

106. CC-FL's activities for tax year 1997 did not materially differ from those set forth in paragraphs one (1) through eighty-four (84) set forth above.

107. On the basis of the foregoing, CC-FL was, or should have been considered, an organization exempt from Federal income tax under section 501(a) by virtue of its status as a section 501(c)(4) organization, and as such, was not subject to the assessment and collection of taxes on its income for 1997.

108. Defendant United States erroneously assessed and collected taxes from CC-FL as though it were a for-profit corporation and CC-FL is entitled to a refund of those taxes.

- 109.** WHEREFORE, Christian Coalition of Florida, Inc. requests the following relief:
- a.** Judgment that Plaintiff CC-FL was exempt from Federal income tax under section 501(a) pursuant to section 501(c)(4) for 1997;
 - b.** Judgment that Plaintiff CC-FL is entitled to a refund of \$48.00, plus such interest and costs that are allowed by law;
 - c.** Judgment that section 501(c)(4) is unconstitutional, both facially and as-applied to CC-FL and its activities, because it is overbroad and vague;
 - d.** Judgment that Treasury Regulation section 1.501(c)(4)-1 is unconstitutional, both facially and as-applied to CC-FL and its activities, because it is overbroad and vague;
 - e.** Judgment that Treasury Regulation section 1.501(c)(3)-1 is unconstitutional, both facially and as-applied to CC-FL and its activities, because it is overbroad and vague;
 - f.** An injunction to prevent the Defendants from denying CC-FL its tax exempt status for future tax years, provided that its operations do not conflict with the activities set forth in this complaint;
 - g.** An order, instructing the IRS to issue a final determination letter that CC-FL is exempt from federal income tax under section 501(a) pursuant to section 501(c)(4), provided that its operations do not materially differ from those set forth in this complaint, and;

- h. Such other relief as the Court may deem just and equitable.

Count VI

Christian Coalition of Florida, Inc. is Entitled to a Refund of Income Taxes Paid for 1998.

110. Plaintiff re-alleges and incorporates by reference all allegations contained in paragraphs one (1) through eighty-four (84) set forth above.

111. CC-FL's activities for tax year 1998 did not materially differ from those set forth in paragraphs one (1) through eighty-four (84) set forth above.

112. On the basis of the foregoing, CC-FL was, or should have been considered, an organization exempt from Federal income tax under section 501(a) by virtue of its status as a section 501(c)(4) organization, and as such, was not subject to the assessment and collection of taxes on its income for 1998.

113. Defendant United States erroneously assessed and collected taxes from CC-FL as though it were a for-profit corporation and CC-FL is entitled to a refund of those taxes.

114. WHEREFORE, Christian Coalition of Florida, Inc. requests the following relief:

- a. Judgment that Plaintiff CC-FL was exempt from Federal income tax under section 501(a) pursuant to section 501(c)(4) for 1998;
- b. Judgment that Plaintiff CC-FL is entitled to a refund of \$41.00, plus such interest and costs that are allowed by law;
- c. Judgment that section 501(c)(4) is unconstitutional, both facially and as-applied to CC-FL and its activities, because it is overbroad and vague;

- d. Judgment that Treasury Regulation section 1.501(c)(4)-1 is unconstitutional, both facially and as-applied to CC-FL and its activities, because it is overbroad and vague;
- e. Judgment that Treasury Regulation section 1.501(c)(3)-1 is unconstitutional, both facially and as-applied to CC-FL, because it is overbroad and vague;
- f. An injunction to prevent the Defendants from denying CC-FL its tax exempt status for future tax years, provided that its operations do not conflict with the activities set forth in this complaint;
- g. An order, instructing the IRS to issue a final determination letter that CC-FL is exempt from federal income tax under section 501(a) pursuant to section 501(c)(4), provided that its operations do not materially differ from those set forth in this complaint, and;
- h. Such other relief as the Court may deem just and equitable.

Count VII

Christian Coalition of Florida, Inc. is Entitled to a Refund of Income Taxes Paid for 1999.

115. Plaintiff re-alleges and incorporates by reference all allegations contained in paragraphs one (1) through eighty-four (84) set forth above.

116. CC-FL's activities for tax year 1999 did not materially differ from those set forth in paragraphs one (1) through eighty-four (84) set forth above.

117. On the basis of the foregoing, CC-FL was, or should have been considered, an organization exempt from Federal income tax under section 501(a) by virtue of its status as a section 501(c)(4) organization, and as such, was not subject to the assessment and collection of taxes on its income for 1999.

118. Defendant United States erroneously assessed and collected taxes from CC-FL as though it were a for-profit corporation and CC-FL is entitled to a refund of those taxes.

119. WHEREFORE, Christian Coalition of Florida, Inc. requests the following relief:

- a.** Judgment that Plaintiff CC-FL was exempt from Federal income tax under section 501(a) pursuant to section 501(c)(4) for 1999;
- b.** Judgment that Plaintiff CC-FL is entitled to a refund of \$36.00, plus such interest and costs that are allowed by law;
- c.** Judgment that section 501(c)(4) is unconstitutional, both facially and as-applied to CC-FL and its activities, because it is overbroad and vague;
- d.** Judgment that Treasury Regulation section 1.501(c)(4)-1 is unconstitutional, both facially and as-applied to CC-FL and its activities, because it is overbroad and vague;
- e.** Judgment that Treasury Regulation section 1.501(c)(3)-1 is unconstitutional, both facially and as-applied to CC-FL and its activities, because it is overbroad and vague;

- f. An injunction to prevent the Defendants from denying CC-FL its tax exempt status for future tax years, provided that its operations do not conflict with the activities set forth in this complaint;
- g. An order, instructing the IRS to issue a final determination letter that CC-FL is exempt from federal income tax under section 501(a) pursuant to section 501(c)(4), provided that its operations do not materially differ from those set forth in this complaint, and;
- h. Such other relief as the Court may deem just and equitable.

Count VIII

Christian Coalition of Florida, Inc. is Entitled to a Refund of Income Taxes Paid for 2000.

120. Plaintiff re-alleges and incorporates by reference all allegations contained in paragraphs one (1) through eighty-four (84) set forth above.

121. CC-FL's activities for tax year 2000 did not materially differ from those set forth in paragraphs one (1) through eighty-four (84) set forth above.

122. On the basis of the foregoing, CC-FL was, or should have been considered, an organization exempt from Federal income tax under section 501(a) by virtue of its status as a section 501(c)(4) organization, and as such, was not subject to the assessment and collection of taxes on its income for 2000.

123. Defendant United States erroneously assessed and collected taxes from CC-FL as though it were a for-profit corporation and CC-FL is entitled to a refund of those taxes.

- 124.** WHEREFORE, Christian Coalition of Florida, Inc. requests the following relief:
- a.** Judgment that Plaintiff CC-FL was exempt from Federal income tax under section 501(a) pursuant to section 501(c)(4) for 2000;
 - b.** Judgment that Plaintiff CC-FL is entitled to a refund of \$22.00, plus such interest and costs that are allowed by law;
 - c.** Judgment that section 501(c)(4) is unconstitutional, both facially and as-applied to CC-FL and its activities, because it is overbroad and vague;
 - d.** Judgment that Treasury Regulation section 1.501(c)(4)-1 is unconstitutional, both facially and as-applied to CC-FL and its activities, because it is overbroad and vague;
 - e.** Judgment that Treasury Regulation section 1.501(c)(3)-1 is unconstitutional, both facially and as-applied to CC-FL and its activities, because it is overbroad and vague;
 - f.** An injunction to prevent the Defendants from denying CC-FL its tax exempt status for future tax years, provided that its operations do not conflict with the activities set forth in this complaint;
 - g.** An order, instructing the IRS to issue a final determination letter that CC-FL is exempt from federal income tax under section 501(a) pursuant to section 501(c)(4), provided that its operations do not materially differ from those set forth in this complaint, and;
 - h.** Such other relief as the Court may deem just and equitable.

Respectfully submitted,



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**** Application for Special Admission Pending***