

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF INDIANA  
FORT WAYNE DIVISION

---

---

TORREY BAUER, et al.

*Plaintiffs,*

v.

RANDALL T. SHEPARD, et al.

*Defendants.*

Civil Action No. 3:08-CV-196-TLS-CAN

---

---

**PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT**

Pursuant to F. R. Civ. P. 56(c), Plaintiffs Torrey Bauer, Judge David Certo, and Indiana Right to Life, Inc. respectfully move this Court to grant their *Motion for Summary Judgment*. In support of their motion, Plaintiffs state as follows:

1. No issues of material fact are in dispute; thus, Plaintiffs' legal claims can be resolved as a matter of law.
2. The commits clauses, both on their face and as applied to the Questionnaire, are unconstitutional as a matter of law. Specifically, they do not survive strict scrutiny analysis, and are unconstitutionally vague and overbroad.
3. The issue recusal requirement is unconstitutional on its face, and the entire recusal clause is unconstitutional as applied to the Questionnaire as a matter of law. Specifically, they do not survive strict scrutiny analysis, and the issue recusal requirement is unconstitutionally vague and overbroad.
4. The solicitation clauses, both on their face and as applied to Judge Certo, are unconstitutional as a matter of law. Specifically, they do not survive strict scrutiny analysis, and

are unconstitutionally overbroad.

5. The partisan activities clause, both on its face and as applied to Judge Certo, is unconstitutional as a matter of law. Specifically, it does not survive strict scrutiny analysis, and is unconstitutionally vague and overbroad.

**WHEREFORE**, Plaintiffs respectfully request this Court grant their *Motion for Summary Judgment*.

Dated: May 1, 2009

Respectfully Submitted,

/s/ Anita Y. Woudenberg

James Bopp, Jr.

Anita Y. Woudenberg

Josiah Neeley

BOPP, COLESON & BOSTROM

1 South Sixth Street

Terre Haute, IN 47807-3510

812/232-2434 telephone

812/234-3685 facsimile

*Counsel for Plaintiffs*

**CERTIFICATE OF SERVICE**

I hereby certify that on May 1, 2009, I electronically filed the foregoing with the Clerk of the court using the CM/ECF system which sent notification of such filing to the following:

Thomas M. Fisher  
Heather Hagan  
OFFICE OF THE ATTORNEY GENERAL  
302 West Washington Street  
Indianapolis, IN 46204  
Ph.: 317-232-6315  
Fax: 317-232-7979  
tom.fisher@atg.in.gov  
thomas.quigley@atg.in.gov

George T. Patton, Jr.  
Marisol Sanchez  
Suzanna Hartzell-Baird  
BOSE MCKINNEY & EVANS LLP  
2700 First Indiana Plaza  
135 North Pennsylvania Street  
Indianapolis, IN 46204  
Ph.: 317-684-5421  
Fax: 317-223-0421  
gpatton@boselaw.com  
msanchez@boselaw.com

/s/Anita Y. Woudenberg  
Anita Y. Woudenberg