

**United States District Court
District of Columbia**

The Christian Civic League of Maine, Inc.

70 Sewall Street
Augusta, ME 04330,

Plaintiff,

v.

Federal Election Commission,

999 E Street, NW
Washington, DC 20463,

Defendant.

Cause No. 1:06CV00614 (JWR, LFO, CKK)

THREE-JUDGE COURT

DECLARATION OF MICHAEL HEATH

I, Michael Heath, make the following declaration pursuant to 28 U.S.C. Section 1746:

1. I am over 18 years of age and a citizen of the State of Maine.
2. I have served as the Executive Director of the Christian Civic League of Maine, Inc. (“Christian Civic League”) since 1994. As such I have personal knowledge of the assertions made in this declaration.
3. The Christian Civic League has been associated with Focus on the Family for approximately 15 years.
4. The defense of traditional marriage as the union of one man and one woman is a high priority for both organizations, which believe that traditional marriage is the foundation of society and the best environment in which to raise children.

**Declaration of
Michael Heath**

5. Court cases like those in Vermont and Massachusetts which forced civil unions and homosexual marriage on their citizens without benefit of the democratic process have highlighted for the Christian Civic League the need for a Federal Marriage Amendment.
6. The importance of this issue to the Christian Civic League has been demonstrated through its involvement, via its two state political action committees, with state referenda regarding homosexual rights and its own previous efforts with regard to the 2004 Federal Marriage Amendment.
7. Focus on the Family often corresponds with the Christian Civic League regarding policy issues of mutual interest, including the Federal Marriage Amendment.
8. In the past, as described in my deposition, the Christian Civic League has engaged in grass roots lobbying for the Federal Marriage Amendment through phone calls, e-mail, the internet, and our printed newsletter the Record. The Christian Civic League also ran a grass roots lobbying radio campaign in July 2004 encouraging people to contact Senators Snowe and Collins and ask them to support traditional marriage. Although I did not remember this ad at the time of my deposition, a copy of the text of the ad had been provided to opposing counsel in response to their discovery requests numbers 2, 3 and 4.
9. So far this year, Tim Russell, the lobbyist for the Christian Civic League, has participated in multiple conference calls, e-mail exchanges and discussions with legislators, grass roots activists, media, and national level pro family groups regarding the Federal Marriage Amendment. However, during the first part of the year grass roots lobbying efforts were tepid because the Senate had chosen not to debate the issue.
10. In March 2006, Focus on the Family sent an e-mail to its affiliated organizations that

included a message from Jim Bopp, counsel for both Focus on the Family and the Christian Civic League, which explained how the 2002 McCain-Feingold law could effect grass roots lobbying via broadcast advertising and offered to represent “any group whose *planned* broadcast falls within the blackout period.” (Emphasis added). Mr. Bopp’s straight-forward legal advice about McCain-Feingold’s limits on grass roots lobbying was eye-opening for the Christian Civic League and came at about the same time as information that the Senate was planning to hold a vote in early June on the Federal Marriage Amendment..

11. After ascertaining that the blackout period in Maine would begin on May 14, 2006, I told Mr. Bopp that I would run an ad in that period mentioning Olympia Snowe because such an ad would be a natural outgrowth of our continuing campaign to support the passage of the Federal Marriage Amendment which sources say will be voted on in early June of 2006.
12. The decision regarding when to run ads like the “Crossroads” ad is necessarily tied to legislative decisions about debate and votes on the Federal Marriage Amendment. Whether the Christian Civic League will need to run such ads during the blackout period prior to the November election depends on whether the Federal Marriage Amendment (or other important legislative issues) is pending before the legislature and where it is in the process. In other words, the Christian Civic League will run such ads when there is an imminent vote or other deadline that requires immediate action by citizens voicing their opinion to their legislator so that the legislator can adequately represent the desires of his or her constituents. Because the timing of grass roots lobbying campaigns is inherently

dependent on legislative whims, it is difficult to plan specific campaigns in advance and they are often created and executed within very short time frames. Such is the case with the “Crossroads” ad, which was developed because the Senate had finally decided to hold a vote on the Federal Marriage Amendment in early June.

13. The scarcity of resources at the Christian Civic League this year has necessitated that we work even more closely with groups such as Focus on the Family to coordinate efforts to pass the Federal Marriage Amendment. We are currently working with Focus on the Family to encourage people to send post cards to their Senators asking them to vote for the Federal Marriage Amendment.
14. Focus on the Family has assisted us with the “Crossroads” campaign by drafting the text and recording the “Crossroads” ad.
15. At the time my deposition was taken, the “Crossroads” campaign had been planned, but was still in the process of being executed. Since my deposition, the ad has been recorded and is ready to air. I have also confirmed a plan to run the “Crossroads” ad 22 times per week at a cost of \$998 per week. The ads will run on WGAN-AM, Portland & Lewiston; WVOM-FM, Bangor; WLOB-FM, Lewiston & Augusta; and WLOB-AM, Portland & Lewiston. As long as the Court permits, the ads will begin running on May 10, 2006, and continue weekly through the date of the vote at the beginning of June or for approximately four weeks for a total cost of \$3,992. A true and accurate copy of that schedule and its costs are attached hereto as Exhibit A.
16. Further, although the Christian Civic League’s resources are scarce this year and have caused the cut-backs described during my deposition, the passage of the Federal

Marriage Amendment is of such import to the Christian Civic League and its members that I am raising funds specifically for the "Crossroads" project. One donor has committed to paying the entire \$3,992 cost of the radio buy so that the ads may be run as scheduled.

17. While I believe that non-broadcast communication is effective with regard to those who receive it, such communication is necessarily limited by the number of subscribers we have to those communications and broadcast ads, particularly radio ads, are more effective because they consistently reach more persons per dollar spent.
18. Moreover, the Christian Civic League has found that renting phone lists and hiring a phone bank for a telephone campaign is costly and, in my opinion, not as effective as broadcast ads. In my limited experience, people are more receptive to ads which are invited into their homes because they are listening to a certain radio station or watching a program they like on television than to ads which are brought to them by the intrusive ring of unsolicited telephone calls which seem to come at inopportune moments.
19. Therefore, when Focus on the Family brought up the idea of broadcast ads urging the passage of the Federal Marriage Amendment, which are similar not only to the ones run by our political action committees in support of state homosexual rights referenda but also to the one that we ran in July 2004, it seemed like a good fit, a good way to petition our senators to vote for the amendment and encourage other like-minded individuals to do the same even if they do not subscribe to Christian Civic League publications and do not even agree with it on other issues.
20. Further, creating a federal political action committee would be more burdensome for the

Christian Civic League than the state PACs that are currently affiliated with it because the State PACs were formed to support/oppose referenda there were no limits on contributions to those entities. In contrast, it is my understanding that because federal PACs are presumed to be formed for the purpose of supporting/opposing candidates that contribution limits apply. Since it is also my understanding that a federal corporate PAC is limited to fundraising from its members, the pool of contributors is necessarily limited to the Christian Civic League's approximately 300 members and would not encompass its nearly 2,500 donors. The limited pool of donors would make it much more difficult to raise the funds needed to engage in a broadcast advertising campaign such as the one we are currently endeavoring to undertake in support of the Federal Marriage Amendment.

21. In addition, some of our members have theological objections to contributing to political action committees. Some Christians are reluctant to link the church and the state too closely. This reluctance, often related to Paul the Apostle's teaching in the book of Romans regarding church and state, leads them to tread carefully when involving the institution of the church in the selection of candidates. The idea of giving money to candidate campaigns, which political action committees do, is especially onerous to some Christians, carrying with it, as it does, the risk of becoming involved inappropriately in the process of governing, or wielding the sword. Because some of our members subscribe to this belief, it would increase our difficulties in raising money for a federal political action committee.
22. Finally, employing alternative text for our ads would not be as effective because the point of the grass roots lobbying effort is to ask the citizens of Maine to call their Senators and

tell them how they would like them to vote on the Federal Marriage Amendment. Giving the names of the Senators helps the potential callers to be more comfortable making the requested call because they can simply ask for him or her by name rather than dealing with the awkwardness of saying “I’m from Maine, I don’t know the name of my senator but can you connect me to him.” Regardless, it is my understanding that simply saying “call your Senator,” as the FEC suggests, would still violate the electioneering communication prohibition because the FEC’s rule specifically says that an electioneering communication refers to a clearly identified candidate when it uses an “unambiguous reference” to the identity of the candidate and lists “your Congressman” as an example.

I affirm under penalty of perjury that the foregoing is true and correct. Executed on this 21st day of April, 2006.

/s Michael Heath
Michael Heath
Executive Director
Christian Civic League of Maine, Inc.