

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

WISCONSIN RIGHT TO LIFE, INC.,	)	
	)	
Plaintiff,	)	No. 1:04cv01260 (DBS, RWR, RJL)
	)	(Three-Judge Court)
v.	)	
	)	
FEDERAL ELECTION COMMISSION,	)	JOINT MOTION
	)	
Defendant,	)	
	)	
and	)	
	)	
SEN. JOHN MCCAIN, <i>et al.</i> ,	)	
	)	
Intervening-Defendants.	)	

**JOINT MOTION**

On September 13, 2006, this Court denied plaintiff’s Motion for a Temporary Restraining Order and Preliminary Injunction enjoining the defendant Federal Election Commission from enforcing provisions of the Act regulating electioneering communications against plaintiff’s 2006 “Child Custody Protection Act” (“CCPA”) advertisement. Subsequently, this Court held that “any further proceedings concerning the 2006 ad will be held in abeyance” pending further direction from the Court. Tr. of Mot. Hr’g, Sep. 18, 2006 at 3. The parties hereby move that this Court grant plaintiff’s request for declaratory relief as to the “CCPA” advertisement, attached to plaintiff’s August 25, 2006 motion, and deny plaintiff’s request for injunctive relief as to the “CCPA” advertisement. The parties attach a proposed order consistent with this motion.

In light of *FEC v. Wisconsin Right to Life, Inc.*, 551 U.S. \_\_\_\_, 127 S.Ct. 2652 (2007), the parties suggest that this Court should find that Section 203 of the Bipartisan Campaign Reform

Act of 2002, 116 Stat. 91, 2 U.S.C. § 441b(b)(2), is unconstitutional as applied to plaintiff's 2006 "CCPA" advertisement, since it is susceptible of a reasonable interpretation other than as an appeal to vote for or against a specific candidate. *See WRTL*, 127 S.Ct. at 2667. Accordingly, the Court should deny injunctive relief as to the "CCPA" advertisement, because (1) there is no evidence that plaintiff plans to air the advertisement in the future, (2) plaintiff did not air the "CCPA" advertisement during an "electioneering communication" period and so there is no possible Commission enforcement action to enjoin, and (3) there is no reason to doubt that the Commission will comply with the declaratory relief for plaintiff that the Commission accepts in the accompanying proposed order. Furthermore, the Court should deny as moot plaintiff's Motion to Set Summary Judgment Briefing Schedule as well as its Motion to Reconsider and Deny Motion to Intervene.

Respectfully submitted,

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