



Written by [Raven Clabough](#) on August 3, 2011

Judge Allows Ex-Rep to Sue Group Over Campaign Ads

According to former Rep. Steve Driehaus, the Susan B. Anthony List contributed to his election loss because they “disseminated lies” about him regarding his record on abortion issues. He claims they caused him “reputational” and “economic” harm.

Driehaus’ complaint focuses on statements and advertisements that argued Driehaus was not a pro-life lawmaker, since he voted for taxpayer-funded abortion as part of the healthcare overhaul.

Fox News notes, however, that the case addresses larger issues than Driehaus’ complaint:



But the case raises apparent free-speech concerns, considering politicians frequently endure fierce and sustained criticism from multiple groups in the heat of a campaign and, from time to time, lose because of that criticism. Even the American Civil Liberties Union of Ohio filed a brief on a related, but separate, case last fall arguing that “the people have an absolute right to criticize their public officials.”

According to Emily Buchanan, director of the Susan B. Anthony List, the case is certain to impact free speech. “The claim of defamation is outrageous. Driehaus is a public official, and we should be able to criticize him,” she said. “And all of this debate should be taking place in the public square. A court or a judge should not be determining a dispute over abortion policy.”

However, Driehaus contends that the group crossed the line by providing false claims about his record. “The First Amendment is not and never has been an invitation to concoct falsehoods aimed at depriving a person of his livelihood,” reads Driehaus’ complaint.

Fox News explains:

While libel and defamation law protects most speech when it comes to public officials, it does not necessarily protect false speech.

As a former public official, Driehaus would likely be required to meet rigorous tests showing the group made false statements and was reckless in doing so. His lawyer said he's prepared to meet those tests.

Paul De Marco, attorney for Rep. Driehaus, indicates, “I don’t know what other public officials decide to put up with, but Steve Driehaus decided he wasn’t going to put up with lies that went to the heart of his core beliefs and damaged his reputation.”

At issue is whether Susan B. Anthony List misrepresented Driehaus’ voting record by asserting that he has supported taxpayer-funded abortions because he voted in favor of the healthcare overhaul. But Driehaus contends that the law, and a related executive order, indicates that abortions would not be funded with taxpayer dollars. However, Susan B. Anthony List points to a government study that



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discovered the healthcare law does not explicitly prohibit high-risk insurance pools from covering abortions with federal money. High-risk insurance pools are designated for those who have been denied coverage until the law goes into effect in 2014. Some contend abortions may be covered through those pools.

Judge Timothy Black, who ruled that the Congressman may move ahead with his defamation suit, [believes](#) that Driehaus has produced enough significant evidence that claims made by the Susan B. Anthony List are false.

According to Black, a potential loophole allowing for abortion coverage “is entirely different from providing for ‘taxpayer funded abortion.’” He wrote in his opinion, “The express language of the healthcare law does not provide for taxpayer funded abortion. That is a fact, and it is clear on its face.”

The Susan B. Anthony List asserts otherwise, and contends that if nothing else, their statements should be treated as “protected opinion.”

Photo of Steve Driehaus: AP Images



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