

SAPF, and one person who wishes to attend meetings and purchase SAPF publications.

2. Counsel for Appellants consent to the filing of this brief. Counsel for Appellee, Carol A. Barthel, contacted on October 18, 2007, declined to consent.

3. Appellants were served with a complaint on May 13, 2005 alleging that Appellants promoted an abusive tax shelter under 26 U.S.C. §6700, aided in the understatement of tax liability of others under 26 U.S.C. §6701, and interfered with the administration of the tax laws.

4. The District Court granted summary judgment and issued a permanent injunction order against Appellants on November 29, 2006. On appeal, Appellants raised the issue of whether the District Court exceeded its subject matter jurisdiction by enjoining a political membership organization from speech and activities protected under the First Amendment, and whether its order to turn over the membership list impermissibly chills members' rights to free speech and association. This Court affirmed the injunctive judgment on July 26, 2007 without specifically addressing these issues.

6. The injunction order appears on its face to enjoin SAPF from First-Amendment protected speech and activities. These include distributing or selling publications discussing the income tax laws to amici and assisting amici with writing correspondence to the IRS, filing court papers, discoursing with third

parties regarding income tax withholding, and making charitable contributions to individuals through the member assistance program. In addition, the permanent injunction order demands the disclosure of amici's names to the IRS solely on the basis of their having purchased materials or associated with SAPF.

7. The rights of freedom of speech and association embraced by the First Amendment absolutely encompass the reciprocal right of the people to hear the protected speech, to receive and possess publications, to associate for the purpose of political debate and action, to petition for redress of grievances, and to form beliefs regarding important social and political questions without being classified as a suspect class and living in fear of punishment.²

8. Amici have received no notice or opportunity for a hearing with respect to the deprivation of these reciprocal, individual rights under the permanent injunction order issued by the District Court in this case. They are just now fully apprised that a prior restraint upon their own protected speech and actions is imminent, and that their right to privacy in their associations may soon be irrevocably violated.

9. If this Court denies Appellant's motion of October 5, 2007 to stay the mandate, amici will be effectively denied the right to due process with respect to the deprivations of their liberty to freely speak and associate.

² See brief amici curiae.

10. There are good grounds to grant amici leave to file a brief, to stay the mandate, and even to reverse the injunctive order of the lower court:

A. Amici will be irreparably harmed by the injunctive judgment requiring the disclosure of confidential, First Amendment-protected personal information of SAPF members and purchasers of materials.

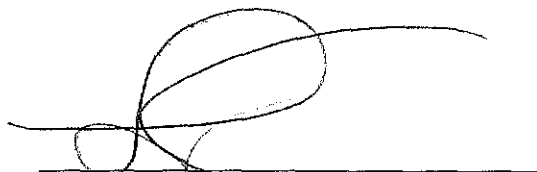
B. Because of the overbroad commands of the injunction order, amici will be deprived of their reciprocal First Amendment rights to receive information and hear political speech, to request, give and receive contributions, and to associate and collaborate with others in activities they are free to do themselves, including petitioning the IRS and the courts for redress of grievances.

C. Amici have been deprived of their rights without due process. They have not been made parties to this action, were never notified of the complaint, and never received the opportunity for a hearing before the injunctive judgment of the Court denied them their First Amendment rights.

WHEREFORE, amici respectfully, but urgently, move the Court to grant leave to file the attached brief amici curiae in support of Appellants, so that this Court may consider the imminent deprivation of amici's fundamental rights to political speech and association, as well as their right to due process, which would occur simultaneously with the enforcement of the judgment.

Considering the adverse and irreversible effect upon amici's rights, amici respectfully support the issuance of a stay of the mandate at least until their brief can be read and considered.

Dated November 2nd, 2007.

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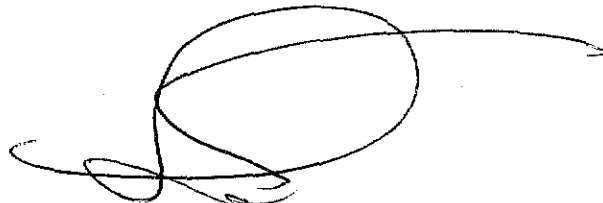
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a printed copy of this MOTION FOR STAY OF MANDATE PENDING APPLICATION FOR CERTIORARI was sent to following counsel by postage-paid U.S. mail on November 2, 2007:

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A handwritten signature in black ink, appearing to read 'LEE A. STIVALE', is written over a horizontal line. The signature is stylized with a large loop and a long horizontal stroke extending to the right.

LEE A. STIVALE