United States District Court
District of Columbia

Wisconsin Right to Life, Inc., *Plaintiff*, *v.* **Federal Election Commission,** *Defendant*, *and* **Sen. John McCain** et al., *Intervenor-Defendants.*	**Civil Action No. 04-1260 (DBS, RWR, RJL)** THREE-JUDGE COURT

Plaintiff's Motion for Leave to File a Reply Supporting Its Motion For Temporary Restraining Order and Preliminary Injunction

Wisconsin Right to Life, Inc. ("WRTL") moves for leave to serve and file a reply supporting its Motion For Temporary Restraining Order and Preliminary Injunction filed in the above-captioned matter with a memorandum in support thereof on August 25, 2006. In support of this motion, WRTL files contemporaneously its *Memorandum in Support of Its Motion for Leave to File a Reply*. A draft order is provided. LCvR 7(c).

Pursuant to LCvR 7(m), counsel for WRTL has also conferred by phone with opposing counsel of record on August 29th as to whether they object to this motion, which they do. As to scheduling, Plaintiff proposes that its reply memorandum will be served and filed on or before Tuesday, September 4, 2006.

Respectfully submitted,

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Plaintiff WRTL's Memorandum in Support of Its Motion for Leave to File a Reply Supporting Its Motion For Temporary Restraining Order and Preliminary Injunction

On August 26, 2006, this Court held a telephonic scheduling conference addressing the Motion for Temporary Restraining Order and Preliminary Injunction of Wisconsin Right to Life, Inc. ("Plaintiff") filed August 25, 2006 in the above-captioned action. At that conference, Defendants argued that WRTL is not permitted a reply to the Defendants' opposition to the motion. WRTL can find no Federal Rule of Civil of Procedure or Local Civil Rule forbidding or even deterring a reply in such circumstances. Nor is it the normal procedure of the District Court for the District of Columbia to prohibit or deter replies supporting a motion for temporary restraining order and preliminary injunction.

Local Civil Rule 7(d) allows a moving party to serve and file a reply supporting a motion. Federal Rules of Civil Procedure 65 and Local Civil Rule 65.1, which govern temporary restraining orders and preliminary injunctions, do not provide differently for motions for those

forms of relief.[1] Moreover, this Court has, as a matter of course, accepted replies in support of motions for temporary restraining orders and preliminary injunctions and relied on information and arguments supplied therein. *See*, *e.g. The Fund for Animals v. Mainella*, 294 F. Supp. 2d 46, 52 (D. D.C. 2003) (addressing argument made in reply in support of a motion for a temporary restraining order); *United States v. Gillette Company*, No. 90-0053, 1990 U.S. Dist. LEXIS 350, at *2 (D. D.C. Jan. 16, 1990) (noting that the Court had instructed plaintiff Government to file a reply brief supporting its motion for temporary restraining order); *Florida Coalition for Peace and Justice v. Bush*, No. 89-2682, 1989 U.S. Dist. LEXIS 12003, at *2 n1 (considering plaintiff's argument supporting its motion for temporary restraining order "argued for the first time in their reply brief"); *Yuasa Battery Co., Ltd. v. Quigg*, No. 87-0945, 1987 U.S. Dist. LEXIS 2898 at *1 (noting consideration of plaintiff's reply brief in consideration of motion for temporary restraining order).

Moreover, the Court raised questions at the scheduling conference that, in the interest of expedition, were not addressed in Plaintiff's Motion and Memorandum. Now alerted to the Court's concerns, Defendants will undoubtedly frame their Opposition to exploit the Court's questions, while, without reply, Plaintiffs will not be allowed to present opposing arguments. Accordingly, because the applicable Rules and the normal practice of this Court allow it, and in order to provide the Court with adequate argument for disposing of its motion, WRTL moves that it be allowed to file a reply in support of its Motion for Temporary Restraining Order and Preliminary Injunction filed on August 25, 2006, to be served and filed on or before Tuesday,

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[1]The only limit LCvR 65 could be said to place on the parties' support and opposition to the motions for a temporary restraining order and preliminary injunction is that the application for preliminary injunction and the opposition shall, respectively, be "accompanied by all affidavits on which the [parties] intend[] to rely." LCvR 65(c).

September 4, 2006.

Respectfully submitted,

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