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**UNITED STATES DISTRICT COURT
DISTRICT OF MONTANA
MISSOULA DIVISION**

DOCTORS FOR A HEALTHY MONTANA,
a Montana Independent Committee,

Plaintiff,

v.

TIMOTHY FOX, in his official capacity as
Attorney General of Montana, JEFFREY
MANGAN, in his official capacity as Montana
Commissioner of Political Practices,

Defendants.

)
) Case No. _____
)
) **VERIFIED COMPLAINT FOR**
) **DECLARATORY AND**
) **INJUNCTIVE RELIEF**

PRELIMINARY STATEMENT

1. This action arises from a campaign complaint filed by a legislator who is part of what many Republicans consider to be the “abortion caucus” of the Montana Republican Party (MTGOP).

2. The MTGOP’s abortion caucus is comprised of politicians such as Rep. Joel Krautter and Defendant Timothy Fox who seek to increase the availability of taxpayer-financed abortions by supporting Medicaid Expansion in Montana.

3. Plaintiff Doctors For A Healthy Montana was formed two months ago for purposes of educating voters about the inconsistencies between the pro-life claims of legislators such as Rep. Krautter and their actual voting records supporting the expansion of taxpayer-funded abortions in Montana.

4. This effort included leasing a large billboard in Rep. Krautter's district calling attention to his support for taxpayer-funded abortions. **Exhibit 1.**

5. Rather than attempt to defend his voting record, Rep. Krautter responded by filing a complaint with Montana's Commissioner of Political Practices (COPP), Defendant Jeffrey Mangan, seeking to bar Doctors For A Healthy Montana from using the name it has chosen for itself and publishing any campaign speech that includes its name.

6. The statute invoked by Rep. Krautter, Mont. Code Ann. § 13-37-210, is one that he voted to repeal during the 2019 session of the Montana Legislature.

7. Defendant Mangan has admitted to the Legislature that Mont. Code Ann. § 13-37-210 serves no useful purpose and should be repealed.

8. The Legislature, however, has not repealed this absurd statute and Defendant Mangan has vigorously enforced it and penalized groups he has deemed to be in violation of the statute.

9. Section 13-37-210 requires that the names of political committees contain words or phrases identifying any economic or “special” interests held by a majority of the committee’s contributors.

10. Doctors For A Healthy Montana has two contributors who are physicians and three contributors who are current Montana legislators.

11. Rep. Krautter’s complaint alleges that Doctors For A Healthy Montana has violated Mont. Code Ann. § 13-37-210.

12. Defendant Mangan is now threatening to investigate and penalize Doctors For A Healthy Montana simply for using its chosen name.

13. This harassment and threat of enforcement of a patently unconstitutional statute has, barely six weeks before Montana’s primary election, chilled efforts by Doctors For A Healthy Montana to continue educating voters about Rep. Krautter’s support for taxpayer-funded abortion.

14. As a result, Doctors For A Healthy Montana is suffering irreparable harm to its First Amendment right to engage in political speech regarding Rep. Krautter at a time when voter interest in his campaign for re-election will soon be at its peak.

15. Doctors For A Healthy Montana is therefore requesting injunctive relief from this Court no later than **May 15, 2020**, so that it can continue communicating with voters regarding Rep. Krautter’s record of support for taxpayer-funded abortions.

JURISDICTION AND VENUE

16. This Court has jurisdiction under 28 U.S.C. §§1331, 1343, 42 U.S.C. §1983, and the First and Fourteenth Amendments to the United States Constitution.

17. Under Local Rule 3.2(b), “venue is proper in any division of the court containing a county of proper venue under the laws of the State of Montana.”

18. The proper place of trial for an action against a public officer or person is the county where the cause or some part of the cause of action arose. Mont. Code Ann. § 25-2-125.

19. The constitutional injuries Defendants are inflicting upon Doctors for a Healthy Montana are occurring in Flathead County because that is the location where Plaintiff is located and where Plaintiff’s constitutional rights of Free Speech and Association are being violated.

20. Flathead County is located in the Missoula Division of the Court and, therefore, venue for this action properly lies in the Missoula Division.

PARTIES

21. Plaintiff Doctors For A Healthy Montana is an independent political committee formed in accordance with Mont. Code Ann. § 13-1-101(24) & (31)(a) and has its principal place of business in Flathead County, Montana.

22. Defendant Timothy Fox resides in Lewis and Clark County, Montana.

23. Defendant Fox and the county attorneys under his supervision have authority to prosecute violations of § 13-37-210. See Mont. Code Ann. § 13-37-128.
24. Defendant Jeffrey Mangan resides in Lewis and Clark County, Montana.
25. As Commissioner of Political Practices, Defendant Mangan has authority to prosecute violations of § 13-37-210. See Mont. Code Ann. § 13-37-128.
26. The Defendants are sued in their official capacity only.

STATEMENT OF FACTS

A. History of Montana's Political Committee Labeling Statute

27. The Montana Legislature enacted the Political Committee Naming & Labeling Act in 1985, which requires the name of a political committee to include a word or phrase identifying the economic interest, special interest, or employer of a majority of the committee's contributors.

28. The Political Committee Naming and Labeling Act states as follows:

Naming and labeling of political committees. (1) Any political committee filing a certification and organizational statement pursuant to **13-37-201** shall:

(a) name and identify itself in its organizational statement using a name or phrase:

(i) that clearly identifies the economic or other special interest, if identifiable, of a majority of its contributors; and

(ii) if a majority of its contributors share a common employer, that identifies the employer; and

(b) label any media advertisement or other paid public statement it makes or causes to be made in support of or opposition to any candidate or ballot issue by printing or broadcasting its name, as provided under subsection (1)(a), and position in support of or opposition to the candidate or ballot issue as a part of the media advertisement or other paid public statement.

(2) The naming and labeling requirements in subsection (1) are reporting requirements for purposes of enforcement under **13-37-128**.

Mont. Code Ann. § 13-37-210.

29. Montana’s Commissioner of Political Practices has enforced the Political Committee Naming & Labeling Act throughout the Act’s history.

30. Recent enforcement includes penalizing a political committee labeled “Montanans for Effective Wildlife Management” for failing to include the word “Trapper” in its title in a 2014 case, fining “Montanans For Effective Judges” in 2016 for failing to include the word “lawyer” in its title after determining that 4 of its 6 contributors were lawyers or organizations including lawyers, and fining “Build Montana” for failing to add “organized labor” to its name in 2017 after the Commissioner found that its contributors included 14 committees, organization and individuals associated with organized labor and 7 business, individuals, organizations and committees not associated with organized labor.

31. Rep. Jacob Bachmeier introduced a bill (HB 308) during the 2019 session of the Montana Legislature that would have repealed the Political Committee Naming and Labeling Act.

32. Defendant Mangan testified in favor of repealing the Political Committee Naming and Labeling Act during a hearing held on February 5, 2019, by the House State Administration Committee. (The Legislature's archived recording of this hearing can be found at <http://sg001-harmony.sliq.net/00309/Harmony/en/PowerBrowser/PowerBrowserV2/20170221/-1/35762?agendaId=132795>)

33. At that hearing, Defendant Mangan described the Political Committee Naming and Labeling Act as obsolete and unworkable.

34. Defendant Mangan also admitted at the hearing that the Political Committee Naming and Labeling Act is unnecessary because the public can obtain from COPP's website pertinent information about a committee's contributors, including their identities, employers, occupations, and amounts of their contributions.

35. Despite this testimony, the Legislature failed to approve HB 308.

36. Rep. Krautter voted in favor of HB 308, *i.e.*, he voted in February 2019 to repeal the same Political Committee Naming and Labeling Act that he is now invoking in April 2020 against Doctors For A Healthy Montana.

37. Defendants are still enforcing the Political Committee Naming and Labeling Act.

B. Defendant Fox, Rep. Krautter, and Other Advocates of Taxpayer-Funded Abortions Swing Into Action in 2019

38. One of the core principles of the MTGOP has been its uncompromising defense of the unborn.

39. In recent years, however, the MTGOP has been infiltrated by those claiming to champion the Party's pro-life stand but, in reality, support taxpayer-funded abortions.

40. This hypocrisy came to a head during the debates leading up to a vote by the Montana Legislature in 2019 concerning Obamacare-Medicaid expansion.

41. As explained in detail in memoranda drafted by the Milanovich Law Office in Butte, Montana, in 2019 and 2020, Montana's Medicaid Expansion increases the availability of taxpayer-funded abortions. See **Exhibits 2 & 3**.

42. Defendant Fox supported the Obamacare-Medicaid Expansion in Montana.

43. Fox and his chief deputy, Jon Bennion, went so far as to file an amicus brief in April 2019 defending Obamacare-Medicaid Expansion. See *Texas v. United States*, 5th Cir. Case No. 19-10011 (Fox amicus brief filed April 1, 2019).

44. The Montana Legislature voted in April 2019 to approve the Obamacare-Medicaid Expansion.

45. Those voting in favor of Obamacare-Medicaid Expansion included several supposed Republican legislators such as Rep. Krautter.

C. Dr. Bukacek and Other Advocates For Life Form *Doctors For A Healthy Montana* In Order To Expose the Abortion Wing of the MTGOP

46. On February 24, 2020, Dr. Annie Bukacek and other pro-life Montanans founded Doctors For A Healthy Montana by filing a Statement of Organization as an independent committee with COPP.

47. Dr. Bukacek and other contributors to Doctors For A Healthy Montana are dedicated to educating voters about supposed Republican legislators, such as Rep. Krautter, who have proven themselves to be reliable members of the MTGOP's abortion caucus.

48. Dr. Bukacek resides in Kalispell, Montana, and is a licensed physician who has practiced medicine for over 20 years.

49. Dr. Bukacek has been active in the pro-life movement in Montana for decades and has a stellar reputation among the state's pro-life voters.

50. Dr. Bukacek is the director of Montana Pro-Life Coalition, an organization that believes "the capacity to eradicate abortion lies in the mobilizing grassroots activism" and works with other pro-life Montanans on "aggressive legislative, political, educational, and prayerful advocacy on behalf of the unborn."

51. She has been the sponsor of a ballot initiative to add a provision to the Montana Constitution declaring the unborn to have all of the rights of persons under Montana law.

52. Dr. Bukacek is the largest contributor to Doctors For a Healthy Montana, having contributed \$2,100.00 to the group.

53. Other contributors to Doctors For a Healthy Montana are State Rep. Dan Bartel (R-Lewistown), State Sen. Keith Regier (R-Kalispell), and State Rep. Matt Regier (R-Columbia Falls).

54. Along with the contributors listed in the prior paragraphs, Doctors For A Healthy Montana has one other contributor – another physician residing in Montana who contributed \$30 to the group.

55. Doctors For a Healthy Montana included this contribution in the campaign finance report it filed with COPP, but COPP has not identified the contributor because Montana law does not require identification of persons whose contributions are under \$35.

56. Doctors For a Healthy Montana has focused particularly upon Rep. Krautter, a Democrat who won election as a Republican in one of the most conservative legislative districts in Montana by concealing his pro-abortion views from voters.

57. Krautter was the founder of the College Democrats at Liberty University.

58. He actively campaigned for the election of Barack Obama.

59. He also wrote letters to the editor in support of then-U.S. Sen. Max Baucus.

See **Exhibit 4**.

60. After being elected as a Republican in 2018, Rep. Krautter voted with Democrats in the Legislature on almost every important issue, including support for Medicaid Expansion and, with it, an increase in taxpayer-funded abortions.

61. Doctors For A Healthy Montana has leased a large billboard in Rep. Krautter's district (see **Exhibit 1**) as well as purchased Facebook advertising targeted to voters in his district.

D. Rep. Krautter Files a Complaint With COPP Demanding that *Doctors For A Healthy Montana* Be Ordered to Change Its Name and Cease Publishing Election Materials

62. Krautter filed a COPP complaint against Doctors For A Healthy Montana on April 7, 2020. **Exhibit 5.**

63. Rep. Krautter alleges in his complaint that Doctors For a Healthy Montana violated Montana's Political Committee Naming and Labeling Act because a majority of its contributors are politicians.

64. Defendant Mangan responded to Rep. Krautter's complaint by issuing a letter to Doctors For A Healthy Montana threatening to open an investigation into the group. **Exhibit 6.**

65. The letter states that COPP accepted Krautter's complaint as "conforming to the requirements of 44.11.106 ARM, the administrative rule regarding campaign complaints."

66. Doctors For A Healthy Montana intends to publish additional political speech to educate voters in Rep. Krautter's district regarding his support for taxpayer-funded abortions.

67. It intends to publish this new round of political advertising in the last two weeks of May 2020, when voter attention on the primary election scheduled for June 2, 2020, is at its apex.

68. Doctors For A Healthy Montana also intends to use its name in these advertisements.

69. Doctors For A Healthy Montana will not publish this additional round of political advertising, however, while there remains a threat of additional exposure to civil penalties from Defendants' enforcement of Montana's unconstitutional Political Committee Naming & Labeling Statute.

70. Doctors For A Healthy Montana desires to continue its efforts in subsequent election cycles to publicize the voting records of other Montana legislators who have supported taxpayer funding for abortions, but will not participate in subsequent election cycles while there remains a threat of civil penalties from Defendant's enforcement of Montana's unconstitutional Political Committee Naming and Labeling Act.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

Violation of the First Amendment to the United States Constitution (42 U.S.C. 1983)

71. Plaintiff Doctors For A Healthy Montana realleges and incorporates by reference each allegation set forth above.

72. Statutes dictating to political committees what names or labels they may or may not use for themselves are content-based regulations under the First Amendment and are therefore subject to strict scrutiny. *Pursuing America's Greatness v. Federal Election Comm.*, 831 F.3d 500, 510 (D.C. Cir. 2016).

73. Defendants have no compelling state interest in requiring that the name of a political committee contain a word or phrase identifying the economic interest, special interest, or employer of a majority of the committee's contributors.

74. Montana's Political Committee Naming and Labeling Act is not narrowly tailored to achieve any compelling or even legitimate state interest.

75. Defendants are violating the First Amendment rights of Doctors For A Healthy Montana by threatening it with investigation and civil penalties for using the name of its choice to identify itself to Montana voters.

76. Montana's Political Committee Naming and Labeling Act (Mont. Code Ann. § 13-37-210) violates the First Amendment to the United States Constitution both on its face and as applied to Doctors For A Healthy Montana.

PRAAYER FOR RELIEF

WHEREFORE, Doctors For A Healthy Montana respectfully requests the following relief from this Court:

a) A declaration that Montana's Political Committee Naming and Labeling Act (Mont. Code Ann. § 13-37-210) is unconstitutional on its face and as applied to Doctors For A Healthy Montana;

b) An injunction prohibiting Defendants from enforcing Montana's Political Committee Naming and Labeling Act (Mont. Code Ann. § 13-37-210);

c) An award to Doctors For A Healthy Montana of costs of litigation, including attorneys' fees and expenses pursuant to 42 U.S.C. § 1988; and

d) Any other relief to which Doctors For A Healthy Montana may be entitled, or as this Court deems necessary and proper.

DATED: April 14, 2020

Respectfully submitted,

/s/ Matthew G. Monforton
Matthew G. Monforton
Attorney for Plaintiff

VERIFICATION BY MATTHEW REGIER

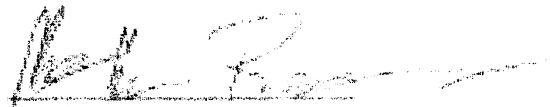
I, Matthew Regier, declare as follows:

1. I am the Treasurer for Plaintiff Doctors For A Healthy Montana.

2. I have reviewed the attached Complaint and declare that the facts and allegations contained therein are true, except so far as they are stated to be on information, and that, so far as they are stated to be on information, I believe them to be true.

I declare under penalty of perjury under the laws of the United States of America that the statements contained in this Verification are true and correct.

Executed on April 14, 2020, in Columbia Falls, Montana



Matthew Regier
Declarant