UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NORTH CAROLINA RIGHT TO LIFE POLITICAL ACTION COMMITTEE and NORTH CAROLINA RIGHT TO LIFE COMMITTEE FUND FOR INDEPENDENT POLITICAL EXPENDITURES, ***Plaintiffs,*** ***v.*** **LARRY LEAKE, in his official capacity as a member of the North Carolina State Board of Elections, CHARLES WINFREE, in his official capacity as a member of the North Carolina State Board of Elections, ANITA S. EARLS, in her official capacity as a member of the North Carolina State Board of Elections, BILL W. PEASLEE, in his official capacity as a member of the North Carolina State Board of Elections, ROBERT CORDLE, in his official capacity as a member of the North Carolina State Board of Elections, J. DOUGLAS HENDERSON, in his official capacity as the Guilford County District Attorney, and ROY COOPER, in his official capacity as the Attorney General of North Carolina.** ***Defendants*.**	**Civil Action No._____** **COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF**

VERIFIED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiffs North Carolina Right to Life Political Action Committee and North Carolina Right to Life Committee Fund for Independent Political Expenditures (hereinafter collectively "NCRTL-IE Committees"), for their Complaint against Defendants, state the following:

Introduction

1. This is a civil action for declaratory and injunctive relief arising under the Constitution of the United States. NCRTL-IE Committees claim that North Carolina General

Statutes §§ 163-278.66 and 163-278.67, which regulate judicial elections and election campaigns in the State of North Carolina through a matching funds scheme, violate the First and Fourteenth Amendments to the United States Constitution by unduly impinging upon protected political speech and association as set forth in *Arizona Free Enterprise Club's Freedom Club PAC v. Bennett*, 131 S. Ct. 2806 (2011). Plaintiffs challenge these provisions for burdening free expression and association without any compelling justification for doing so and without being narrowly tailored in doing so.

Specifically, NCRTL-IE Committees claim that G.S. §§ 163-278.66 and 163-278.67 reduce its ability and that of other private citizens and organizations to participate in judicial elections by mandating that the receipt of contributions and independent expenditures, above a specified amount, to a non-participating candidate's judicial campaign or in support of a nonparticipating judicial candidate, triggers "matching funds" to all publicly financed candidates. This matching funds scheme imposes a substantial burden on the speech of privately financed candidates and independent expenditure groups while releasing all publicly financed candidates from their agreed-to expenditure limits.

2. North Carolina Right to Life Committee Fund for Independent Political Expenditures ("NCRTL Fund") sought to have these provisions of North Carolina's Judicial Campaign Reform Act, N.C. Sess. Laws 2002-158 (the Act), declared unconstitutional in 2006. The District Court denied NCRTL Fund's request for a preliminary injunction prior to the 2006 general election and ultimately dismissed the complaint. On appeal, the Fourth Circuit affirmed the dismissal, holding that the Act's reporting requirements (G.S. § 163-278.66) and matching funds provision (G.S. § 163-278.67) did not substantially burden political speech and was sufficiently justified by North Carolina's interest in ensuring the equal and meaningful participation of all

citizens in the democratic process.[1] However, this past term, the United States Supreme Court, in *Arizona Free Enterprise Club's Freedom Club PAC v. Bennett*, 131 S.Ct. 2806 (2011), struck down Arizona's matching funds scheme because it substantially burdened political speech and lacked any compelling state interest, either in equalizing electoral funding or in anti-corruption.

3. NCRTL-IE Committees again now seek to have G.S. §§ 163-278.66 and 163-278.67 declared unconstitutional under the First and Fourteenth Amendments because they continue to be chilled from exercising their First Amendment rights. They also seek to have enforcement of G.S. §§ 163-278.66 and 163-278.67 permanently enjoined. This issue should be resolved promptly so that Plaintiffs and those similarly situated will not be chilled in their free expression and association or risk being unlawfully enjoined or found in violation of North Carolina election laws as a result of having engaged in constitutionally-protected political expression in the upcoming election.

Jurisdiction and Venue

4. This action arises under Section 1 of the Civil Rights Act of 1871, 17 Stat. 13, 42 U.S.C. § 1983, and the First and Fourteenth Amendments to the Constitution of the United States.

5. The jurisdiction of this Court over the claims arising under 42 U.S.C. § 1983 is founded upon 28 U.S.C. § 1343(a). The jurisdiction over the claims arising under the First and Fourteenth Amendments is founded upon 28 U.S.C. §§ 1331 and 1343(a).

6. Venue in this district is proper under 28 U.S.C. § 1391(b) because Larry Leake, Charles Winfree, Anita S. Earls, Bill W. Peaslee, and Robert Cordle have been named

[1] The court also held that G.S. § 163-278.13(e2)(3) was constitutional, upholding North Carolina's ban on contributions from third parties during the 21 days prior to an election. That law was repealed by the legislature in 2008.

Defendants in this case in their official capacity as members of the North Carolina State Board of Elections. "Where a public official is a party to an action in his official capacity, he resides in the judicial district where he maintains his official residence, that is, where he performs his official duties." *Republican Party of N.C. v. Martin*, 682 F. Supp. 834, 836 (M.D.N.C. 1988) (citation omitted). The Board of Elections maintains its official offices in Raleigh, North Carolina, and meets in Raleigh when making determinations regarding the Fund. *See* G.S. § 163-20(b) ("The State Board of Elections shall meet in its offices in the City of Raleigh."). Therefore, the official residence of the members of the Board is Raleigh, North Carolina, in the Eastern District of North Carolina.

Parties

7. Plaintiffs NCRTL-IE Committees are committees organized in the State of North Carolina. North Carolina Right to Life Political Action Committee is a state political action committee. *See* Statement of Organization, attached as Ex. 1. NCRTL-IE Fund is an independent expenditure fund. *See* Statement of Organization, attached as Ex. 2. Both organizations' headquarters are located in the City of Greensboro, in the County of Guilford. Barbara Holt is the President of both organizations. Plaintiffs would like to make independent expenditures to judicial candidate races in 2012, but because they would trigger the matching funds scheme, they will not do so.

8. The Defendants are North Carolina State Board of Elections Chairperson Larry Leake and Board members Charles Winfree, Anita S. Earls, Bill W. Peaslee, and Robert Cordle (collectively the "Board"). Pursuant to G.S. § 163-22(a) and (d), the North Carolina State Board of Elections has both rulemaking and enforcement authority of election laws and regulations,

including the provisions challenged here. G.S. § 163-278. The Board also is the repository of all campaign finance reports, G.S. § 163-278.66, and the dispensing agency of all funds from the matching funds scheme. G.S. § 163-278.65. The Board calculates any civil penalties for violation of Article 22D, G.S. §163-278.70, in addition to any criminal penalty that is imposed by statute, G.S. § 163-272.1. Further, the Board has the authority "to assist any county or municipal board of elections in any matter in which litigation is contemplated or has been initiated" under Chapter 163 if such assistance is solicited by a county or municipal board of elections and the Board believes such assistance is appropriate. G.S. § 163-25.

9. Also sued as a Defendant is J. Douglas Henderson, the district attorney for Guilford County. Violations of §§ 163-278.66 and 163-278.67 by political committees are reported to the district attorney in the prosecutorial district where such committees' members reside. G.S. § 163-278.27(b)(3). Upon receipt of such a report, the district attorney will prosecute that person or group. G.S. § 163-278.27(c). The district attorney also assists in determining the appropriate civil penalty or civil remedy for violations of G.S. § 163-278.34. G.S. § 163-278.34(f).

10. Also sued as a Defendant is Roy Cooper, the Attorney General of North Carolina. The Attorney General provides legal assistance to the State Board of Elections, which is authorized to enter into any litigation in assistance to counties "where the uniform administration of Chapter 163 of the General Statutes of North Carolina has been, or would be threatened." G.S. § 163-25. The attorney general is further authorized to "provide the State Board of Elections with legal assistance in execution of its authority under this section or, in his discretion, recommend that private counsel be employed." *Id.* As such, he has power to enforce North Carolina's public financing scheme.

Facts

11. The North Carolina Legislature created Article 22D of the "Elections and Election Laws," G.S. §§ 163-278.62 through 163-278.70, which regulates election campaigns in the State of North Carolina. The provisions at issue became effective in 2002.

12. The purpose of Article 22D is to "ensure the fairness of democratic elections in North Carolina and to protect the constitutional rights of voters and candidates." G.S. § 163-278.61. It is designed to stimulate campaigns on a fair and equal basis and to protect the integrity of the election process, precluding the "detrimental effects of increasingly large amounts of money being raised and spent to influence the outcome of elections, those effects being especially problematic in elections of the judiciary, since impartiality is uniquely important to the integrity and credibility of the courts." G.S. § 163-278.61.

13. Two provisions of Article 22D establish a matching funds scheme: a reporting requirements provision and the matching funds provision itself, articulating the trigger and process of matching funds to qualified candidates.

14. Under G.S. § 163-278.66(a), the reporting requirements provision, "[a]ny non-certified candidate with a certified opponent shall report total contributions[2] received to the Board . . . within 24 hours after the total amount of contributions received exceeds eighty percent (80%) of the trigger for matching funds."[3] G.S. § 163-278.66. Similarly, any entity making

[2] A contribution is defined as "any advance, conveyance, deposit, distribution, transfer of funds, loan, payment, gift, pledge or subscription of money or anything of value whatsoever, to a candidate to support or oppose the nomination or election of one or more clearly identified candidates, to a political committee, to a political party, or to a referendum committee, whether or not made in an election year, and any contract, agreement, promise or other obligation, whether or not legally enforceable, to make a contribution." G.S. § 153-278.6(6).

[3] As defined in G.S. § 163-278.62(18), the "matching funds" trigger is the dollar amount at which matching funds are released for certified candidates. In the case of a primary, the trigger equals

independent expenditures "in support of or in opposition to a certified candidate or in support of a candidate opposing a certified candidate, or paying for electioneering communications, referring to one of those candidates, shall report the total expenditures or payments made to the Board...within 24 hours after the total amount of expenditures or payments made for the purpose of making the independent expenditures or electioneering communications exceeds five thousand dollars." G.S. § 163-278.66.

15. Then, G.S. § 163-278.67(a) explains that "[w]hen any report or group of reports shows that 'funds in opposition to a certified candidate or in support of an opponent to that candidate'...exceed the trigger for matching funds...the Board shall issue immediately to that certified candidate an additional amount equal to the reported excess within the limits set forth." G.S. § 163-278.67(a) then dictates that:

> Funds in opposition to a certified candidate or in support of an opponent to that candidate shall be equal to the sum of subdivisions (1) and (2) as follows:
>
> (1) The greater of the following:
>
> a. Campaign expenditures or obligations made, or funds raised or borrowed, whichever is greater, reported by any one nonparticipating candidate who is an opponent of a certified candidate. Where a certified candidate has more than one nonparticipating candidate as an opponent, the measure shall be taken from the nonparticipating candidate showing the highest relevant dollar amount; or,
>
> b. The funds distributed in accordance with G.S. 163-278.65(b) to a certified opponent of the certified candidate.
>
> (2) The aggregate total of all expenditures and payments reported . . . of entities making independent expenditures or electioneering communications in opposition to the certified candidate or in support of any opponent of that certified candidate.

16. A knowing violation of any provision of Article 22D is a Class 2 misdemeanor,

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the maximum qualifying contributions for participating candidates. In the case of a contested general election, the trigger equals the base level of funding available under G.S. § 163-278.65(b)(4).

G.S. § 163-278.27(a); specifically, "[a]ny individual, candidate, political committee, referendum committee, or other entity that violates the provisions of . . . [G.S. § 163-278.13(f)] is guilty of a Class 2 misdemeanor." G.S. § 163-278.13(f). Furthermore, "[t]he superior courts of this State shall have jurisdiction to issue injunctions or grant any other equitable relief appropriate to enforce the provisions of . . . [Article 22D] upon application by any registered voter of the State." G.S. § 163-278.28(a).

17. Since the initial lawsuit in 2006, NCRTL-IE Committees have not made any such expenditures supporting any nonparticipating judicial candidates or opposing any participating judicial candidate for fear that the $240,100[4] trigger for matching funds for candidates running for Justice of the Supreme Court would be pulled and cause funding to go to a candidate they did not support. As such, NCRTL-IE Committees have been unconstitutionally burdened by the direct and automatic release of public money to publicly financed opponents by their actions; as a result of North Carolina's matching funds provision, their willingness to engage in protected political speech has been chilled.

18. NCRTL-IE Committees continue to struggle with the choice between chilling their speech, significantly altering the content of their speech to avoid financing its opponents, or possibly triggering matching funds by contributing to a campaign during 2012. To avoid triggering contributing funds for its opponents, NCRTL-IE Committees must either abandon

[4] G.S. § 163-278.62(18) holds that in the case of a contested general election, the matching funds trigger equals the base level of funding available under G.S. § 163-278.65(b)(4). G.S. § 163-278.65(4) holds that a certified candidate for a position on the Supreme Court should be distributed in an amount equal to 175 times the candidate's filing fee as set forth in G.S. § 163-107, which states that at the time of filing a notice of candidacy, each candidate shall pay to the board of elections with which they file under the provisions of G.S. § 163-106 a filing fee equal to 1% of the annual salary of the office for which he or she is running. The 2010 filing fees available online at the North Carolina State Board of Elections website state that 1% of an

their autonomy to choose the content of their own message (i.e., engage in issue advocacy instead) or chill its speech altogether as a result of North Carolina's matching funds scheme. In the 2012 election and in future elections, although it would like to make independent expenditures, NCRTL-IE Committees will in fact not exercise their First Amendment rights because of the speech-chilling effects of North Carolina's matching funds law.

19. The reporting requirements stipulated by G.S. § 163-278.66(a) are also unconstitutional by nature of their purpose. The reporting requirements facilitate the assessment and distribution of North Carolina's matching funds scheme, an unconstitutional statutory scheme. Because the only purpose of the reporting requirements is to facilitate the unlawful matching funds distribution, they are also therefore unconstitutional. *Davis v. Federal Election Comm'n,* 554 U.S. 724, 743-44 (2008).

20. Plaintiffs have no adequate remedy at law.

COUNT I

NORTH CAROLINA'S MATCHING FUND SCHEME SUBSTANTIALLY BURDENS POLITICAL SPEECH AND IS NOT NARROWLY TAILORED TO SERVE A COMPELLING INTEREST.

21. NCRTL-IE Committees reallege the preceding paragraphs.

22. G.S. § 163-278.67(a) states:

> When any report or group of reports shows that "funds in opposition to a certified candidate or in support of an opponent to that candidate" as described in this section, exceed the trigger for matching funds as defined in G.S. 163-278.62(18), the Board shall issue immediately to that candidate an additional amount equal to the reported excess within the limits set forth in this section. "Funds in opposition to a certified candidate or in support of an opponent to that candidate" shall be equal to the sum of subdivisions (1) and (2) as follows:
>
> (1) The greater of the following:

Association Justice of the Supreme Court of North Carolina's annual salary is $1,372. This fee, multiplied by 175, amounts to $240,100.

> a. Campaign expenditures or obligations made, or funds raised or borrowed, whichever is greater, reported by any one nonparticipating candidate who is an opponent of a certified candidate. Where a certified candidate has more than one nonparticipating candidate as an opponent, the measure shall be taken from the nonparticipating candidate showing the highest relevant dollar amount.
>
> b. Funds distributed in accordance with G.S. 163-278.65(b) to the candidate's opponent.
>
> (2) The aggregate total of all expenditures and payments reported in accordance with G.S. 163-278.66(a) of entities making independent expenditures or electioneering communications in opposition to the certified candidate or in support of any opponent of that certified candidate.

23. This matching funds scheme provides a direct, dollar-for-dollar public subsidy to participating candidates whenever an independent expenditure is made that either opposes a participating candidate with a nonparticipating opponent, or supports a nonparticipating candidate with a participating opponent. As a result, the privately financed candidate must "shoulder a special and potentially significant burden" when choosing to exercise his First Amendment right to spend funds on his own candidacy. *Bennett*, 131 S.Ct. at 2818 (*quoting Davis*, 554 U.S. at 739). Moreover, "[t]he burdens that matching funds impose on independent expenditure groups are akin to those imposed on the privately financed candidates themselves." *Bennett*, 131 S.Ct. at 2819.

24. Under the First Amendment to the U.S. Constitution and *Buckley*, *Davis*, and *Bennett*, a state public campaign financing scheme violates the right to free political speech where it goes beyond mere promotion of the voluntary use of public funding, and improperly injects the state into the political process by attempting to equalize the relative financial resources of candidates. As the United States Supreme Court held in striking down Arizona's matching funds scheme, the "constitutionally problematic" aspect of such a scheme is the

manner in which that funding is provided—that it is triggered to deliver funds to publicly financed candidates in direct response to the political speech of privately financed opponents and independent expenditure groups. *Bennett*, 131 S.Ct. at 2824.

25. NCRTL-IE Committees faces imminent injury to their First Amendment rights to free political speech and free association as a direct result of this statutory scheme. The state's payment of matching funds neutralizes the independent expender's attempt to exercise its voice through making an independent expenditure. The knowledge that making an independent expenditure that opposes a government-funded candidate will directly result in that candidate receiving a dollar-for-dollar matching public subsidy (with no effect on that candidate's spending limit) creates a chilling effect on NCRTL-IE Committees' free exercise of protected speech, and imposes a climate of self-censorship that is inimical to our American heritage of unfettered political discourse. In so doing, the statute also encroaches upon the ability of like-minded persons to pool their resources in furtherance of common political goals in violation of NCRTL-IE Committees' right to freedom of association. As the Supreme Court stated in *Bennett*, the First Amendment has its fullest and most urgent application to speech uttered during a campaign for political office; thus, the Court will invalidate both limits on uncoordinated political party expenditures and regulations barring unions, nonprofits, and corporations from making independent expenditures for electioneering communication. 131 S.Ct. at 2817. *See also Day v. Holahan*, 34 F.3d 1356, 1360 (8th Cir. 1994).

26. North Carolina's "beggar thy neighbor" approach to free speech--burdening the speech of privately financed candidates and independent expenditure groups to increase the speech of others—is a concept "wholly foreign to the First Amendment." *Bennett*, 131 S.Ct. at 2821 (*quoting Buckley*, 424 at 48-49). The burden is inherent in the choice that confronts

privately financed candidates and independent expenditure groups. Indeed, every court to have considered the question after *Davis* has concluded that "a candidate or independent group might not spend money if the direct result of that spending is additional funding to political adversaries." *Bennett,* 131 S.Ct. at 2823. Even candidates who sign up for public funding recognize the burden matching funds impose on private speech, stating that they participate in the program because "matching funds . . . discourage opponents, special interest groups, and lobbyists from campaigning against them." *Id.* (*quoting* GAO, Campaign Finance Reform: Experiences of Two States that Offered Full Public Funding for Political Candidates 27 (GAAO-10-390, 2010)).

27. Because North Carolina's matching funds scheme imposes a substantial burden on the speech of privately funded candidates and independent expenditure groups, the provision "'cannot stand unless it is 'justified by a compelling state interest,'" *Bennett,* 131 S.Ct. at 2824 (*quoting Davis*, 554 U.S. at 740).

28. G.S. § 163-278.61 states that the matching funds scheme was created to prohibit the "detrimental effects of increasingly large amounts of money being raised and spent to influence the outcome of elections, those effects being especially problematic in elections of the judiciary, since impartiality is uniquely important to the integrity and credibility of the courts."

29. The clearest interpretation of the matching funds provision is that its objective is to combat corruption. G.S. § 163-278.61. If this is the case, the burdens that the matching funds provision imposes on protected political speech are not justified. Burdening a group's expenditure of its own funds in a campaign does not further the State's anti-corruption interest. Indeed, the courts have held instead that "[r]eliance on personal funds *reduces* the threat of corruption." *Davis*, 554 U.S. at 740-741; *Buckley*, 424 U.S. at 53.

30. The Supreme Court held that "independent expenditures . . . do not give rise to corruption or the appearance of corruption. " *Citizens United v. FEC,* 130 S.Ct. 876, 909 (2010). By definition, an independent expenditure is political speech presented to the electorate that is not coordinated with a candidate. *Bennett*, 131 S.Ct. at 2826 (*quoting Citizens United*, 130 S.Ct. at 909). The separation between candidates and independent expenditure groups renders it impossible that independent expenditures will result in any *quid pro quo* corruption. *Id* at 2826-27.

31. The first provision, however, of the North Carolina law suggests its primary purpose may instead be to ensure that campaign funding is equal across candidates, ensuring the "vitality and fairness of democratic elections in North Carolina to the end that any eligible citizen... can run for office." G.S. § 163-278.61. Even if this is so, the Supreme Court has repeatedly rejected the argument that the government has a compelling state interest in "leveling the playing field" that can justify undue burdens on political speech, *see, e.g., Citizens United,* 130 S.Ct. at 904, and the burdens imposed by matching funds cannot be justified by the pursuit of such an interest. In *Bennett,* the Supreme Court held that discriminatory contribution limits meant to "level electoral opportunities for candidates of different personal wealth" did not serve a legitimate government interest, let alone a compelling one. *Bennett,* 131 S.Ct. at 2825 (*quoting Davis,* 554 U.S. at 741). After all, "[l]eveling electoral opportunities means making and implementing judgments about which strengths should be permitted to contribute to the outcome of an election." *Id.* (quoting *Davis*, 554 U.S. at 742). The First Amendment embodies our choice as a nation that, when it comes to speech, the "guiding principle is freedom . . . not what the State may view as fair." *Bennett,* 131 S.Ct. at 2826 (internal citation omitted).

32. How the State chooses to encourage participation in its public funding system is a

matter of public concern, and courts have never held that a state may burden political speech to the extent North Carolina's matching funds provision does to ensure a "level playing field" or to advance anti-corruption interests. Therefore, the State's chosen method is unduly burdensome and not sufficiently justified to survive First Amendment scrutiny. *Bennett*, 131 S.Ct. at 2828.

COUNT II

NORTH CAROLINA'S REPORTING REQUIREMENTS ARE DESIGNED TO IMPLEMENT THE UNCONSTIUTIONAL MATCHING FUNDS SCHEME, RENDERING THEM UNCONSTITUTIONAL.

33. NCRTL-IE Committees reallege the preceding paragraphs.

34. G.S. § 163-278.66(a) states that an entity making independent expenditures in support of or opposition to a certified candidate or in support of a candidate opposing a certified candidate, or paying for electioneering communications, referring to one of those candidates, "*shall report* the total expenditures or payments made to the Board by facsimile machine or electronically *within 24 hours* after the total amount of expenditures or payments made for the purpose of making the independent expenditures or electioneering communications exceeds five thousand dollars ($5,000)." G.S. § 163-278.66(a) (emphasis added). An independent expenditure is defined as "an expenditure to support or oppose the nomination or election of one or more clearly identified candidates that is made without consultation or coordination with a candidate or agent of a candidate whose nomination or election the expenditure supports or whose opponent's nomination or election the expenditure opposes." G.S. § 163-278.6 (9a).

39. G.S. § 163-278.66(a) further states that "[a]ny noncertified candidate with a certified opponent *shall report* total income, expenses, and obligations to the Board by facsimile machine or electronically *within 24 hours* after the total amount of campaign expenditures or obligations made, or funds raised or borrowed, exceeds eighty percent (80%) of the trigger for

rescue funds as defined in G.S. 163-278.62(18).” (emphasis added).

40. The apparent purpose of the reporting requirements of G.S. § 163-278.66(a) is to assist the Board in implementing the matching funds scheme. However, the Supreme Court has found that compelled disclosure, in itself, can seriously infringe on privacy of association and belief guaranteed by the First Amendment.” *Davis v. FEC*, 554 U.S. at 744; *see also Buckley*, 424 U.S., at 64. As a result, the Court has “closely scrutinized disclosure requirements, including requirements governing independent expenditures made to further individuals' political speech.” *Davis v. FEC,* 554 U.S. at 744. To survive this scrutiny, there must be “a ‘relevant correlation’ or ‘substantial relation’ between the governmental interest and the information required to be disclosed,” and the governmental interest “must survive exacting scrutiny.” *Id.* (*citing Buckley,* 424 U.S. at 64) (footnotes omitted). That is, the reporting requirement must be legitimatized by a strong government interest, reflecting the seriousness of the actual burden on First Amendment rights. *Id.*

41. In *Davis,* the Court held that disclosure requirements that were designed to facilitate the implementation of unconstitutional contribution limits could not be justified. They did not relate to a legitimate government interest—because they worked to implement an unconstitutional scheme, the disclosure requirements were per se unconstitutional as well. *Davis v. FEC*, 554 U.S. at 744.

42. Similarly, the reporting requirements stipulated by G.S. § 163-278.66(a) are necessarily unconstitutional by nature of their purpose. The reporting requirements facilitate the assessment and distribution of North Carolina’s matching funds scheme, an unconstitutional statutory scheme, and therefore are also unconstitutional. *Davis v. FEC*, 554 U.S. at 743-44.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays the Court to:

(1) Declare § 163-278.66 unconstitutional;

(2) Declare § 163-278.67 unconstitutional;

(3) Enjoin Defendants, their agents, and successors, from acting pursuant to §§ 163-278.66 and 163-278.67;

(4) Grant NCRTL-IE Committees costs for their continued constitutional challenge to §§ 163-278.66 and 163-278.67, including reasonable attorney's fees, pursuant to 42 U.S.C. § 1988 and any other applicable authority; and

(5) Grant them such other relief as may be just and equitable.

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Dated: September 9, 2011

Respectfully submitted,

/s/Thomas J. Ashcraft

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VERIFICATION

I SWEAR (OR AFFIRM) UNDER THE PENALTIES FOR PERJURY UNDER THE LAWS OF THE UNITED STATES THAT THE FOREGOING STATEMENTS MADE IN THE FOREGOING VERIFIED COMPLAINT CONCERNING ME AND MY ORGANIZATION ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND UNDERSTANDING.

Dated: 8/23/2011

Barbara Holt

Barbara Holt, President

North Carolina Right to Life PAC

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