

FILED

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

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STEPHEN R. LUDWIG, CLERK
U.S. DISTRICT COURT
FOR THE NORTHERN DISTRICT
OF INDIANA

TORREY BAUER, et al.

Plaintiffs,

v.

RANDALL T. SHEPARD, et al.

Defendants.

Civil Action No. **3:08CV 196 RM**

**PLAINTIFFS' MOTION FOR
TEMPORARY RESTRAINING ORDER**

Plaintiffs Torrey Bauer, David Certo, and Indiana Right to Life, Inc. ("IRL"), move for a temporary restraining order pursuant to Federal Rule of Civil Procedure 65 and in support thereof state as follows:

1. Plaintiffs file concurrently their *Verified Complaint for Declaratory and Injunctive Relief* and *Plaintiffs' Memorandum in Support of Motion for Temporary Restraining Order*.
2. As set out fully in its *Complaint* and *Memorandum*, the Indiana Canons of Judicial Conduct 5A(3)(d)(i) and (ii) violate Plaintiffs' rights under the First and Fourteenth Amendments of the United States Constitution. Specifically, judicial candidates cannot be constitutionally subjected to these provisions – comprised of a pledges and promises clause and a commits clause – without depriving Plaintiffs Torrey Bauer, David Certo, and IRL of their rights of free speech and association.
3. Plaintiffs have established probability of success on the merits, that they will be

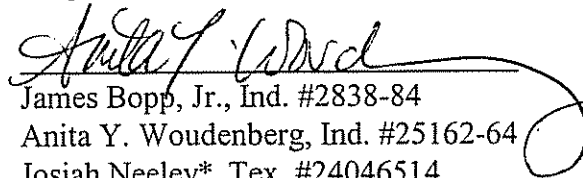
irreparably harmed, that a preliminary injunction will not substantially harm Defendants the Commission on Judicial Qualifications and the Indiana Disciplinary Commission, that a preliminary injunction is in the public interest, and that there is no adequate remedy at law.

4. Because a preliminary injunction presents no monetary risks to the Commission on Judicial Qualifications or the Indiana Disciplinary Commission, Plaintiffs request that bond be set at \$1. Fed. R. Civ. P. 65(c).

WHEREFORE, Plaintiffs pray this Court grant *Plaintiffs' Motion For Temporary Restraining Order* and enjoin the Commission on Judicial Qualifications and Indiana Disciplinary Commission from initiating disciplinary proceedings under Canon 5A(3)(d)(i) and (ii) against judicial candidates who respond to IRL's Questionnaire until a final decision on the merits.

Dated: April 18, 2008

Respectfully submitted,



James Bopp, Jr., Ind. #2838-84

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Lead Counsel for Plaintiff

**Pro Hac Vice Application to be filed*

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing *Plaintiffs' Motion for Temporary Restraining Order* served via First Class U.S. Mail on the 18th day of April, 2008, upon:

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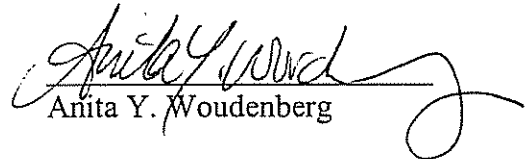
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