

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

INDEPENDENCE INSTITUTE,
a Colorado nonprofit corporation,

Plaintiff,

v.

FEDERAL ELECTION COMMISSION,

Defendant.

Case No. 1:14-cv-1500-CKK-PAM-APM

INDEPENDENCE INSTITUTE'S EXHIBIT A

ORAL ARGUMENT SCHEDULED OCTOBER 22, 2015, 9:30 AM

No. 14-5249

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

INDEPENDENCE INSTITUTE,

Plaintiff-Appellant,

v.

FEDERAL ELECTION COMMISSION,

Defendant-Appellee.

On appeal from the United States District Court
for the District of Columbia, No. 1:14-cv-1500 (CKK)

DECLARATION OF JON CALDARA

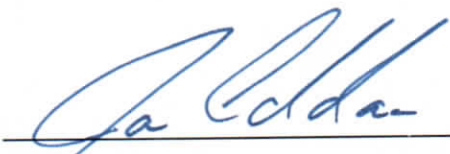
Jon Caldara states as follows:

1. I am President of the Independence Institute.
2. As President, I oversee strategic planning and operations for the Independence Institute, including all broadcast advertisements.
3. The District Court issued its Memorandum Opinion and Order in this case on October 6, 2014. The Independence Institute filed its Notice of Appeal on

October 8, 2014. Election Day followed a few weeks later, on November 4, 2014.

4. On November 3, 2014, the Institute issued a press release to its Colorado media contacts list. This is a normal method the Independence Institute uses to circulate information to the public and press.
5. To the best of my knowledge, the Independence Institute's press release was not referenced by any media outlet in Colorado or elsewhere.
6. A true and accurate copy of the press release is appended to this declaration as Attachment A.
7. The press release stated the Independence Institute's intent to appeal the ruling of the District Court below. In so doing, the release noted that the briefing schedule before this Court would not conclude before Election Day. The Independence Institute stated its desire to continue its present challenge to run the specific ad at issue as well as future ads "very much like [this one] in the future."

Pursuant to 28 U.S.C. § 1746, I hereby declare under penalty of perjury that the foregoing is true and correct. Executed on September 24, 2015.



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Jon Caldara, President
Independence Institute

ATTACHMENT A

FOR IMMEDIATE RELEASE

November 3, 2014

Contact: Jon Caldara 303-279-6536 X102 or Jon@i2i.org

Independence Institute Announces Intent to Continue Free Speech Fight

DENVER -- Earlier this year, the Independence Institute challenged federal and state laws, which would force the Institute to disclose its donors to the government in exchange for exercising its First Amendment speech rights. But two federal judges--one in the District of Columbia and one here in Colorado--denied the Institute the unfettered right to speak about critical issues facing our state and our country.

The Institute sought to run a television ad in Colorado urging Gov. John Hickenlooper to audit Colorado's Obamacare exchange, as well as a radio ad urging Coloradans to tell U.S. Senators Mark Udall and Mark Bennet to support a proposed criminal justice reform, the Justice Safety Valve Act. But running these advertisements would come at a steep price--sacrificing the privacy of the Independence Institute's donors.

Because Governor Hickenlooper and Senator Udall happen to be up for re-election, the Institute's proposed ads were covered by both federal and Colorado election law--even though the proposed ads neither support nor oppose either official. These laws, unless overturned, would mandate that the Institute turn over the names and addresses of many of its donors to the federal and state governments, which in turn would publicize those names and addresses on easily-accessed websites.

Although the U.S. Supreme Court has never allowed such invasive disclosure to be triggered by speech such as the Institute's, both federal judges upheld the disclosure regimes. The Independence Institute is a 501(c)(3) organization, whose donors are kept secret, even by the Internal Revenue Service.

"It's outrageous," said Independence Institute president Jon Caldara. "The Independence Institute wants the Obamacare exchange audited for waste and fraud. And because the Institute would like both Colorado senators to stand for better sentencing laws, all of a sudden the federal government gets to publicize donor information that even the IRS doesn't get to disclose?"

The Institute will appeal both rulings. But the federal appeals court in D.C. has already issued a filing schedule for the Institute's challenge to the federal law. This schedule ensures that the Institute's case will not be resolved for months--well after the 2014 election. Nevertheless, the Institute will continue to fight for its First Amendment freedoms--all the way to the Supreme Court, if necessary.

"No matter what, we're going to keep fighting," Caldara said. "We want to run these ads--and want to run other ads very much like them in the future. If the appeals courts rule for us, we will do so. We ought to be free to run issue ads right before an election--right before an election is when people actually pay attention. What the voters and elected officials do with our ads is their business--but we'd just like the right to have them hear our message."

"All these two judges have really done," Caldara added, "is ensure that Coloradans will be less informed about the Obamacare exchange and how federal sentencing laws actually work."

The Independence Institute is a non-partisan, non-profit public policy research organization based in Denver.