Case No. SC88476

IN THE
SUPREME COURT OF MISSOURI

James Trout,
Appellant/Cross-Respondent,

v.

State of Missouri, the Missouri Ethics Commission, and its Commissioners, Warren Nieburg, Michael Dunard, Robert Simpson, Brad Mitchell, John King, and Michael Kilgore,

Respondents/Cross-Appellants.

Appeal from the Circuit Court of Cole County, Missouri
The Honorable Richard Callahan, Judge

Cross-Appellants' Reply Brief

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Argument

Mr. Trout's arguments run contrary to this Court's well-established and familiar precepts concerning the use of the Missouri Constitution's procedural limitations found in Article III, § 21 and § 23, to attack the validity of statutes: The Court's rule is that such attacks are not favored. *E.g. SSM Cardinal Glennon Children's Hosp. v. State,* 68 S.W.3d 412, 416 (Mo. 2002)(en banc), *citing C.C. Dillon Co. v. City of Eureka,* 12 S.W.3d 322, 327 (Mo. 2000)(en banc). Because such attacks are not favored, "'[p]rocedural limitations' are interpreted liberally, and the constitutionality of a statute will be upheld unless it 'clearly and undoubtedly' violates the constitutional limitation." *Cardinal Glennon,* 68 S.W.2d at 416, *quoting Hammerschmidt v. Boone County,* 877 S.W.2d 98, 102 (Mo. 1994)(en banc). Thus, Mr. Trout's arguments are askew to begin with, because he assumes such attacks are favored; reads the procedural limitations narrowly; and grasps any slender reed in favor of striking the bill.

The new arguments advanced, for the first time in this case, in the brief filed on Friday, June 15, 2007 by the Missouri Republican State Committee as amicus promote nothing but delay. The new arguments are altogether lacking in merit.

I. The trial court erred in severing §115.342 (disqualifying persons who are delinquent on certain taxes from running for office) and §115.350 (disqualifying felons from running for office) from HB1900 for a multiple-subject violation of MO. CONST. art. III, §23, because the sections fall within or are fairly related to its general, core purpose. All sections of HB1900 fall within or are fairly related to regulating and promoting the ethical conduct of lobbyists, officials, and candidates.[1]

Mr. Trout begins his single-subject response by arguing that the bill lacks a clear title. Appellant's Reply, p. 24. As discussed in the State's first brief, the bill has an abundantly clear title, and the trial court properly rejected Mr. Trout's

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[1] Mr. Trout suggests, incorrectly, that the cross-appellants' Point Relied On II does not comply with Rule 84.04 because the trial court's "interpretation" is not recited in the identification-of-error portion of the point. Appellant's Reply Brief, p. 25 n.4. Rule 84.04(d)(a)(A) requires that a point identify the challenged ruling or action – which Point II does ("The trial court erred in severing §115.342…and §115.350…from HB1900 for a multiple-subject violation of MO. CONST. art III, §23….").

challenge in that regard.[2] Respondents/Cross-Appellants' Brief, Point I, pp. 16-34; LF 491-494.

But to be sure, whether single-subject and clear-title analyses overlap, they are separate analyses. The single-subject test asks whether provisions of a bill "relate[] to the subject described in the title of the bill, [have] a natural connection to the subject, or [are] a means to accomplish the law's purpose." *Fust v. Attorney General,* 947 S.W.2d 424, 428 (Mo. 1997) (en banc). Thus, a bill's subject, within the meaning of Article III, § 23, "includes all matters that fall within or reasonably relate to the general core purpose of the…legislation." *Hammerschmidt,* 877 S.W.2d at 102. The test is not whether "provisions of a bill relate to each other." *Fust,* 947 S.W.2d at 428.

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[2] The title of HB1900, as enacted, was:

> An Act to repeal sections 105.470, 105.473, 105.485, 105.957, 105.959, 105.963, 130.011, 130.016, 130.032, 130.046, 130.050, and 130.054, RSMo, and to enact in lieu thereof sixteen new sections relating to ethics, with an effective date.

LF 384.

As discussed in the State's first brief, Respondents/Cross-Appellants' Brief, pp. 35-46, the general, core purpose of HB1900 is regulating and promoting the ethical conduct of lobbyists, officials, and candidates. All of its provisions are fairly related to and, in fact, are necessary components of the subject. As such, the instant challenge is no different from others that this Court has in the past rejected. For example, in *Fust*, the Court held that all sections of a bill related to its single subject of promoting compensation for certain tort victims, an object that could "[u]nquestionably…be accomplished by multiple means." 947 S.W.2d at 428. The bill permissibly included means such as regulation of the insurance industry; statutory changes to common law tort-liability rules; and the creation of a fund for compensation of tort victims. *Id.* Likewise, whether HB1900 accomplishes its general core purpose of regulating and promoting the ethical conduct of lobbyists, candidates, and officials by multiple means as Mr. Trout argues, *e.g.*, Appellant's Response and Reply Brief, p. 28, it is no single subject violation. The means are entirely permissible.

Mr. Trout argues, without citation to authority, that the disagreement between the trial court and the State concerning the subject of the bill "is significant." Appellant's Reply Brief, pp. 25-26. Its significance, as discussed in the

State's opening brief, is that the trial court erred in severing §115.342 and §115.350 from HB1900 for a multiple-subject violation, and should be reversed. Apart from that point, the "significance" that should be attributed to the disagreement is difficult to glean. Courts do not, for example, generally draw "significance" from disagreement between opposing *parties*. *E.g., J.B. Vending, Inc. v. Director of Revenue,* 54 S.W.3d 183, 188 (Mo. 2001)(en banc)(mere disagreement between litigants over meaning of statutory term does not render term ambiguous); *State v. Johns,* 34 S.W.3d 93, 105 (Mo. 2000)(en banc)(mere disagreement among experts does not necessarily indicate that trial court erred); and *Bd. of Educ. of City of St. Louis v. State,* 134 S.W.3d 689, 695 (Mo. App. E.D. 2004)(ambiguity does not arise from mere disagreement as to construction of contract).

Mr. Trout also argues at some length that HB1900 has multiple subjects because it affects "different people and different activities." *E.g.* Appellant's Response and Reply, pp. 27-30. But he is advancing the wrong test. That is, he is asking whether the provisions relate to each other, instead of whether they relate to the core purpose of the legislation, expressed in the title; are naturally connected to it; or are a means to accomplish the law's purpose. *Fust*, 947 S.W.2d at 428.

Nor does Mr. Trout's authority advance his argument. For example, he cites *St. Louis Health Care Network v. State,* 968 S.W.2d 145, 149 (Mo. 1998) (en banc), for the proposition that a bill "not related to a single subject of entities" violates the single-subject mandate. Appellant's Response and Reply Brief, p. 27. That case, of course, involved the infamous title, "relating to certain incorporated and non-incorporated entitles." 968 S.W.2d at 147. Where the title purported to describe the subject by reference to the "entities" affected, the title failed because, among other reasons, it did not describe – and could not have described, considering the vast breadth of the bill – a single entity, that is, a single subject. *Id.* This Court has never established a "one entity only" bright line for the single-subject analysis.

Mr. Trout also essentially does what he complains the State and trial court did – he rewrites HB1900's title by suggesting that its subject is "regulation of public officials," or perhaps, "public service." Appellant's Response and Reply Brief, pp. 28-29, *citing Missourians to Protect the Initiative Process v. Blunt,* 799 S.W.2d 824 (Mo. 1990) (en banc). A reading of the plain language of HB1900's title, *see* n. 2, *supra,* and notation of the fact that the bill regulates lobbyists, demonstrate quickly enough that Mr. Trout's suggested subjects are off.

Moreover, his authority better supports the State's appeal. In *Missourians to Protect the Initiative Process*, which involved the single-subject requirement of Mo. Const. art. III, §50, the Court looked at a constitutional amendment that would have reorganized the legislative department and, "at the same time impose[d] constitutional ethical restrictions on officers, officials, and employees of the legislature and executive departments." 799 S.W.2d at 831.[3] The Court could not find "a readily identifiable and reasonably narrow single purpose to which …both related." *Id.* at 832. Therefore the amendment failed the single-subject requirement of Article III, §50. *Id.*

The relevant point here is, had the Court believed that the second subject – ethical restrictions on officers, officials and employees of the legislative and executive departments – itself been composed of multiple subjects, the Court could

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[3] The latter provisions, as the Court described them, would have created an ethics commission with authority to regulate lobbyists, to require public officials to file financial disclosures, and to enforce certain ethical restrictions against legislators and members of the executive branch; and authorized sanctions against legislators, members of the executive branch, and other public officials for ethical conduct violations. *Id.* at 831.

easily have said so, but did not. Rather, the Court viewed the ethical restrictions as a single subject, albeit a single subject improperly paired with another single subject (reorganization of the legislative branch) in one constitutional amendment. Thus, Mr. Trout's argument that this Court has already found a title like HB1900's to be defective in *Missourians to Protect the Initiative Process,* Appellant's Response and Reply, p. 28, is simply wrong.

Mr. Trout also urges the Court to ignore common understandings of the words used in the title, if evidenced by sources such as other bills and federal law. Appellant's Response and Reply, p. 29 (arguing that other bills and federal law are irrelevant). The Court must be and is mindful of how the words in a title are commonly and ordinarily understood. Addressing a clear-title challenge in *Home Builders Assoc. v. State,* for example, the Court noted that "[b]ecause the purpose of the 'clear title' provision is to apprise legislators and the public of the subject matter of pending laws, …[the] Court must interpret" a phrase used in a title "according to its common and ordinary meaning." 75 S.W.3d 267, 271 (Mo. 2002)(en banc), *quoting St. Louis Health Care Network v. State,* 968 S.W.2d 145, 147 (Mo. 1998)(en banc). *See also Mo. State Medical Ass'n v. Mo. Dep't of Health,* 39 S.W.3d 837, 841 (Mo. 2001) (en banc) (bill title is construed in its "plain and ordinary sense," not in a "strained and

unnatural" way). The Court in *Home Builders* then proceeded to note the definitions of the words used in the phrase at issue there, gleaned from Webster's 3rd New International Dictionary and Black's Law Dictionary, as well as case law. 75 S.W.3d at 271 and n.2.

Mr. Trout simply advances no reason why a court should ignore the legislature's history of treating Chapters 105, 115, and 130 together in prior sessions, when it is logical to assume that the practice informs the legislature's understanding of the terms it chose to use in the title of a bill dealing with the same chapters. *See* Respondents/Cross-Appellants' Brief, p. 39. And he does not address at all *C.C. Dillon,* a recent case in which the Court noted that the decisions of the United States Congress and the Missouri General Assembly to treat subjects together in related contexts, supported the conclusion that the subjects in a challenged bill were germane to one another, for purpose of a change-in-purpose challenge, and fairly related, for purposes of a multiple-subject challenge. 12 S.W.3d at 328-329 (an act "relating to transportation" permissibly included billboard regulation).

With regard to severability, Mr. Trout's faulty view that laws are presumed unconstitutional, at least where procedural challenges are concerned, persists. He argues that "severability analysis does not uphold validity, but confers it."

Appellant's Response and Reply, p. 32.[4] But again, the Court starts from the presumption that so much of a bill as can be preserved must be preserved. *Missouri Assoc. of Club Executives, Inc. v. State,* 208 S.W.3d 885, 888-889 (Mo. 2006)(en banc)(change-in-original purpose challenge; court has obligation to sever unconstitutional provisions of statute unless they cannot be preserved under MO. REV. STAT. §1.140 analysis); *Rizzo v. State,* 189 S.W.3d 576, 581 (Mo. 2006) (en banc)(where bill has a single core subject, only portions of bill containing additional subjects should be struck for single-subject violation).

The trial court's finding, that HB1900 contained multiple subjects, requiring §11.342 and §115.350 to be severed, should be reversed.

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[4] He also includes a discussion of the bill's original title and contents, Appellant's Response and Reply, pp. 32-33, which are irrelevant to single-subject analysis and severability under any formulation. "[T]he single-subject requirement is a determination made as to the bill as finally passed." *Stroh Brewery Co. v. State,* 954 S.W.2d 323, 327 (Mo. 1997)(en banc).

II. The trial court erred in severing §115.342 (disqualifying persons who are delinquent on certain taxes from running for office) and §115.350 (disqualifying felons from running for office) from HB1900 for a MO. CONST. art. III, §21 change-in-purpose violation, because the sections are germane to its original, general purpose. In its passage, the bill maintained its original, general purpose of regulating and promoting the ethical conduct of lobbyists, officials, and candidates.[5]

The State has little reply to make here, because Mr. Trout offers almost no response.

He does suggest that the changes in HB1900's title, from introduction to enactment, demonstrate a change in original purpose. Appellant's Response and Reply, p. 34. But he is wrong. A "title is not a part of the bill and so can be changed without violating" Article III, §21. *Lincoln Credit Co. v. Peach,* 636 S.W.2d 31, 38 (Mo. 1982)(en banc). *Compare McEuen v. Mo. State Bd. of Educ,* 120 S.W.3d 207, 210 (Mo.

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[5] Mr. Trout makes the same incorrect argument concerning the form of the cross-appellants' Point III as he did with respect to Point II. Appellant's Brief, p. 35, n. 6. Point III is sufficient for the same reason. *See* n. 2, above.

2003)(en banc)(original purpose not limited by title of bill as introduced); *Westin Crown Plaza Hotel Co. v. King,* 664 S.W.2d 2, 6 (Mo. 1984) (en banc) (same).

From the time that it was introduced, HB1900 related to ethics. At most, its changed title, as enacted, more accurately reflected its contents, and such a change is consistent with Article III, §21. *Lincoln Credit,* 636 S.W.2d at 38 (title of "original bill was rightly changed to reflect the real scope of subject matter in the bill"; rejecting Article III, §21, change-in-original purpose challenge).

As discussed in the State's brief, the trial court took too narrow a view of HB1900's original, general purpose. In short, Article III, §21 merely prohibits amendments that are clearly and undoubtedly not "germane," *i.e.,* pertinent or relevant, to a bill's original purpose. *C.C. Dillon Co. v. City of Eureka,* 12 S.W.3d 322, 327 (Mo. 2000) (en banc). Here, as introduced, HB1900 sought to regulate and promote the ethical conduct of lobbyists, officials, and candidates. Amendments to the bill in its legislative course at most expanded upon that purpose. Provisions prohibiting tax delinquents and felons from running for office, §§115.342 and 115.350, are germane to that original, general purpose.

The trial court's decision to strike and sever the two sections, based on a change-in-purpose violation, must be reversed.

III. The Attorney General, attorney for the Respondents/Cross-Appellants, has no conflict here. The Court should not delay resolution of this case. [Responds to amicus brief of the Missouri Republican State Committee, filed June 15, 2007.]

The MRSC weighed in one week before scheduled oral argument of this appeal, asserting that a *Planned Parenthood*-style conflict exists in this case,[6] requiring reversal and remand to the trial court "to address the conflict issues." MRSC Brief, p. 18. There is no such conflict, and no reason to delay resolution of this case.

Planned Parenthood, of course, was a case in which the Attorney General was giving instructions to assistants appearing on both sides in the litigation, whose positions were contrary and adverse to each other. 66 S.W.3d at 19-20. The Court acknowledged that the Attorney General need not "always agree with interpretations of the law made by other members of the executive branch or that the attorney general, having once rendered an opinion may not, upon reflection, later reach a contrary opinion on the interpretation of a law or state contract." *Id.* at 20. The Court further acknowledged that "[w]hen speaking for the state as a

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[6] *State v. Planned Parenthood of Kansas and Mid-Missouri*, 66 S.W.3d 16 (Mo. 2002)(en banc).

whole," the Attorney General had "substantial discretion." *Id.* But, the Court held, the Attorney General could not take both sides in same litigation. *Id.*

Obviously, *Trout* is not postured like *Planned Parenthood*. The Attorney General is not representing both sides in the case here.

Indeed, given the MRSC's reliance on the case, it is ironic to note that *Planned Parenthood* actually supports the Attorney General's representation here. The Attorney General vigorously defended against the plaintiff's motion for a temporary restraining order regarding the blackout during session[7]; soundly lost, largely

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[7] The statute provided: "Any candidate for the office of state representative, the office of state senator, or a statewide elected office shall not accept contributions from the first Wednesday after the first Monday in January through the first Friday after the second Monday of May of each year at 6:00 p.m." MO. REV. STAT. §130.032.2 (Supp. 2006). Prohibited contributions included "a payment, gift, loan, advance, deposit, or donation" of "[a] candidates' own money or property used in support of the person's candidacy[.]" MO. REV. STAT. §130.011(12)(a) (Supp. 2006).

The trial court entered a temporary restraining order on January 8, 2007, and as of that date, the "State of Missouri, its agents and anyone acting on its behalf, was

owing to the fact that an essentially identical Missouri law had been enjoined ten years ago on the same grounds Mr. Trout asserted[8]; and ultimately chose not to pursue an appeal of that aspect of the judgment. That is precisely the exercise of discretion that *Planned Parenthood* affirmed rests in the Attorney General.

In addition to *Planned Parenthood,* the MRSC relies on two rules of professional conduct, Rule 4-1.7(b) and Rule 4-1.11(d)(1). MRSC Brief, pp. 9-10. In relevant part, Rule 4-1.7(b)provides: "A lawyer shall not represent a client if the representation of the client may be materially limited by … the lawyer's own interests." And in relevant part, Rule 4-1.11(d)(1) provides: "A lawyer who also holds public office, whether full or part-time, shall not engage in activities in which his or her personal or professional interests are or foreseeably could be in conflict with his or her official duties or responsibilities."

The MRSC misapplies these rules in at least a couple of ways. One, it argues that they are violated because "the Attorney General's personal interest and the

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prohibited from executing, implementing or enforcing Section 130.032.2, as amended by House Bill 1900." Joint LF 4. The trial court permanently enjoined enforcement of the section on March 28, 2007. Joint LF 496-498.

[8] *Shrink Missouri Gov't PAC v. Maupin,* 922 F. Supp. 1413 (E.D. Mo. 1996).

interest of his clients conflict." MRSC Brief, p. 10. By law, of course, the Attorney General has no personal interest in the contributions received by his campaign committee. MO. REV. STAT. §130.034.1 (2000)("Contributions … received by any committee shall not be converted to any personal use."). While candidates for public office are presumably personally interested in the offices they seek, they are not, by law, personally interested in the money that their campaign committees collect to finance those campaigns.

Two, the plain language of Rule 4-1.7(b) prohibits representation of a client that may be "materially limited" by the lawyer's own interests. But the MRSC cannot demonstrate any such limitation, let alone a material one. Insofar as limitations go, the Attorney General, as a candidate, is equally likely to be advantaged *or* disadvantaged by the blackout provision, whether it survives *or* falls. The MRSC certainly cites no reason why it should be assumed that the Attorney General's representation must be limited here, nor could it. That has certainly never been the rule.

And there is no way to forecast *how* a challenge to the provision would affect any candidate for any office, let alone make an objective assessment of that candidate's comparative, *i.e.*, "material," advantage or disadvantage by the

provision being sustained or struck. The MRSC would have the Court infer as much, but the inference is insupportable.

Specifically, the MRSC argues, outside the record on appeal, that the Attorney General's committee received a certain amount of contributions during session, while the blackout was enjoined. MRSC Brief, p. 6. The MRSC does not disclose the amount of contributions that any presumptive political opponent received in the same period. But let us assume for purposes of argument that there is such an opponent, that the opponent's committee also received contributions during the same period, and that the contributions were relatively substantial.

While the consequence of not pursuing an appeal concerning the constitutionality of §130.032.2 is that the committees of both the presumptive political opponent and of the Attorney General may retain campaign contributions made during the blackout period, the MRSC does not even suggest that the Attorney General is comparatively, let alone materially, advantaged by his committee's retention of campaign contributions during the time that such contributions were permitted by the injunction in place in this matter.

And on the other hand, if the Attorney General had pursued an appeal of the blackout provisions as MRSC also suggests was required, MRSC Brief, pp. 13-14, the

MRSC might have been heard to assert a different conflict, *i.e.*, that the Attorney General was seeking to secure the disgorgement of a presumed political opponent's substantial contributions, to the Attorney General's comparative advantage.[9]

In short, the MRSC's argument does not work either way. The test for whether such a conflict exists is whether the lawyer's representation was materially limited by his own interests. Even if we assume that the Attorney General, as a candidate, receives some benefit, it is a benefit that he would receive whether the blackout provision is sustained or struck. But his representation of the defendants is not materially limited under any scenario. As such, Rule 4-1.7 does not establish any conflict here.

For much the same reason, Rule 4-1.11(d) does not establish any conflict, either. Under that rule, a lawyer who also holds public office may not engage in activities in which his "personal or professional interests are or foreseeably could be in conflict with his or her official duties or responsibilities." As discussed above, the Attorney General could be advantaged or disadvantaged, whether the law is sustained or not. But following the MRSC's suggested logic, the Attorney General

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[9] The MRSC argues that if the blackout period were sustained on appeal, restitution and penalties must be paid. MRSC Brief, pp. 6, 11.

could not represent the state when the validity of a state tax law is challenged, or a state employee benefits law, or a law concerning the qualifications of statewide elected officials. We are not aware case law decided under Rule 4-1.11(d) that limits the Attorney General's representation in such cases, though there have been many such cases. Indeed, when the wave of campaign finance litigation struck in the 1990's, no court ever ruled that he had a conflict that prevented him from representing any, or all, entities in that litigation. He had no such conflict. And no personal or professional interests conflict with the Attorney General's official duties with respect to this lawsuit, either.

The MRSC's second line of argument is an attempt to demonstrate why an appeal of the injunction would have worked. MRSC Brief, pp. 13-15. Whatever attractiveness its argument might have at first blush should quickly fade, considering that the MRSC neither discusses, nor even cites, the case that is directly on point and remains good law, *Shrink Missouri Government PAC v Maupin,* 922 F. Supp. 1413 (E.D. Mo. 1996), in which the essentially identical blackout provision was struck for several First Amendment problems. For example, the *Maupin* court held that the law's prohibition on contributions by candidates to their own campaigns during the general assembly's regular session was "undeniably unconstitutional"

under *Buckley v. Valeo*, 424 U.S. 1, 52-53 (1975), because the "problem of improper influence by outside interests is not implicated when the monies come from the candidate him or herself." 922 F. Supp. at 1422. The *Maupin* court also held that curtailing corruption or the appearance of corruption by eliminating financial *quid pro quo* contributions during session could not justify prohibiting non-incumbents from raising money during session. *Id.* The *Maupin* court even faulted the time frame for the ban, during the legislative session, because it did not take into account the fact that corrupt practices "can just as easily take place other times during the year." *Id.*

Had the legislature in HB1900 written a blackout provision that was in any respect narrower or materially different than the statute at issue in *Shrink,* this litigation might have been very different. But the legislature did not.

MRSC cites inapposite cases, *Institute of Governmental Advocates v. Fair Political Practices Comm'n*, 164 F.Supp.2d 1183 (E.D. Cal. 2001), and *Kimbell v. Hooper*, 665 A.2d 44 (Vt. 1995), which add little, as they at most demonstrate that not all contribution bans are *per se* unconstitutional. The statutes in both are narrower than Missouri's. In *Institute of Governmental Advocates,* the court held that a prohibition on contributions by lobbyists to office holders or candidates for an office of an

agency that the lobbyist was registered to lobby was sufficiently narrow to withstand constitutional scrutiny, as distinguished from a ban on contributions by all lobbyists. 164 F.Supp.2d at 1189-90. In *Kimbell*, the court upheld an even narrower statute, one that prohibited lobbyist contributions to current office holders. 665 A.2d at 83 n.2.[10]

Of course, §130.032.2 (Supp. 2006) is – like the version struck in 1996 in *Maupin* – very broad, and wholly unlike the limited statutes at issue in *Institute of Governmental Advocates* and *Kimbell*. Section130.032.2 prohibits all contributions during the legislative session, regardless of their source, including contributions to one's own campaign. Obviously such contributions pose no risk of corruption or the appearance of corruption, and yet they are banned by the Missouri statute here challenged. In short, while the MRSC castigates the Attorney General for failing to make an argument in this Court, the MRSC does not itself even suggest a viable one. A lawyer is not required to run afoul of Rule 4-3.1 to demonstrate an absence of a conflict of interest prohibited by Rules 4-1.7 and 4-1.11.

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[10] Albeit for a different reason, the Respondents/Cross-Appellant's Brief, pp. 65-66 n.7, discusses the few cases of which we were aware in which prohibitions analogous to §130.032.2 were challenged.

Moreover, pursuing such an appeal further exposes taxpayers to paying a challenger's attorney fees, Joint LF 496-499, a reality of which the Attorney General is mindful when considering whether to continue the defense of a twice-stricken statute.

The MRSC's new argument is altogether lacking in merit and presents no reason for delay of the resolution of this case.

Conclusion

The portions of the trial court's judgment severing MO. REV. STAT. §115.342 and §115.350 from HB1900 and enjoining their enforcement should be reversed, such that those provisions immediately become effective.

The new arguments, advanced by the Missouri Republican State Committee, as amicus, should be rejected.

Respectfully submitted,

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Certification of Service and of Compliance with Rule 84.06(b) and (c)

The undersigned hereby certifies that on this 19th day of June, 2007, one true and correct copy of the foregoing brief, and one disk containing the foregoing brief, were sent by U.S. mail, first class and postage paid, to:

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The undersigned further certifies that the foregoing brief complies with the limitations contained in Rule 84.06(b), and that the brief contains 4,614 words.

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