

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

**JACK and RENEE BEAM,**

**Plaintiffs,**

**Civil Action No. 07-cv-1227**

**Honorable Rebecca R. Pallmeyer**

**vs.**

**MICHAEL B. MUKASEY, UNITED  
STATES ATTORNEY GENERAL, in his official capacity;  
FEDERAL ELECTION COMMISSION CHAIRMAN  
DAVID M. MASON, in his official capacity;  
UNKNOWN AGENTS OF THE FEDERAL  
BUREAU OF INVESTIGATION, in their  
individual and official capacities,**

**Defendants.**

\_\_\_\_\_ /

**SECOND AMENDED COMPLAINT AND JURY DEMAND**

Plaintiffs, Jack and Renee Beam, bring this Complaint against the above named Defendants seeking monetary damages, declaratory relief, and any equitable relief provided for by law. In support of their complaint, Plaintiffs state the following:

1. Plaintiffs Jack and Renee Beam are residents of Cook County, Illinois, located in the Northern District of Illinois, Eastern Division.

2. Plaintiffs are the target of a politically motivated investigation initiated by Defendants because of Plaintiffs' political activities and support of former presidential and vice presidential candidate John Edwards.

3. Defendant Michael Mukasey is the current United States Attorney General. At the time of the facts giving rise to Plaintiffs' complaint, Alberto R. Gonzales was the United States Attorney General who served at the pleasure of President George W. Bush. Prior to his appointment

as United States Attorney General, Mr. Gonzales served as White House Counsel to President George W. Bush, and prior to that, he was appointed by then Governor George W. Bush to serve as a Justice of the Texas Supreme Court.

3. Defendant David M. Mason is the current Chairman of the Federal Election Commission. At the time of facts giving rise to Plaintiffs' complaint, the FEC was chaired by Michael E. Toner who was appointed by President George W. Bush. Prior to his appointment by President Bush, Toner served as Chief Counsel to the Republican National Committee, and prior to that Mr. Toner served as General Counsel of the Bush-Cheney Transition Team and General Counsel of the Bush-Cheney 2000 Presidential Campaign.

4. Jurisdiction is conferred upon this Honorable Court by 28 U.S.C. § 1331, this being a civil action arising under the Constitution and the laws of the United States.

5. Plaintiffs bring this action pursuant to 28 U.S.C. § 2201 & 2202, this being an action for declaratory judgment and equitable relief authorized by law to redress deprivations under color of law of rights, privileges, and immunities secured by the United States Constitution.

6. At all times relevant to this Complaint, and in taking all of the actions described herein, Defendants have acted and threaten to act under color of law and were effecting, and will effect, the custom, policies, rules, and laws of the United States of America.

#### **FACTS GIVING RISE TO PLAINTIFFS' COMPLAINT**

7. In February 2003, Jack Beam and his wife, Renee Beam, contributed to the 2004 presidential campaign of John Edwards. Jack Beam serves *of counsel* to the Michigan law firm of Fieger, Fieger, Kenney & Johnson.

8. On November 30, 2005, Attorney General Gonzales *personally* authorized an unprecedented nighttime raid upon the Michigan law offices of Fieger, Fieger, Kenney & Johnson.

9. On the same evening of November 30, 2005, Gonzales authorized approximately 100 federal agents to simultaneously raid the homes of the associates and employees of the Fieger law firm.

10. The ostensible reason for this unprecedented massive raid was that the employees, associates, and family members of the Fieger law firm made contributions to Democratic presidential candidate John Edwards.

11. While appearing at the homes of the Fieger firm employees, federal agents harassed American citizens about who they voted for in the 2004 presidential election and about their financial support of John Edwards. Federal agents also revealed that they had previously obtained the Fieger firm employees' and associates' financial records.

### **COUNT I**

#### **VIOLATION OF RIGHT TO FINANCIAL PRIVACY ACT**

12. Plaintiffs incorporate by reference paragraphs 1 through 11 above as though fully set forth herein.

13. Following this unprecedented raid, Plaintiffs Jack and Renee Beam sought to ascertain whether, and by what means, federal agents had raided their bank accounts and obtained their private financial records.

14. Pursuant to federal law, a financial institution must inform, upon request of its customer, whether federal agents have accessed its customer's account. The Right to Financial

Privacy Act, 12 U.S.C. §3401 *et. seq.*, is intended to protect the privacy and security of account holders such as Jack and Renee Beam.

15. Initially, Merrill Lynch refused to disclose to Plaintiffs whether federal agents had accessed their financial records.

16. Subsequently, Plaintiffs Jack and Renee Beam obtained documentary proof that federal agents of the Justice Department and/or FBI had, in fact, obtained their financial records by engaging in acts and/or omissions that violate the Right to Financial Privacy Act.

17. After secretly obtaining Plaintiffs Jack and Renee Beam's private financial records, federal agents sought to conceal their misconduct in violation of federal law.

18. Upon information and belief, sometime after Gonzales and his agents secretly obtained Plaintiffs' private banking records, Gonzales and his agent(s) transmitted such illegally gathered documents to the Federal Election Commission.

19. The acts or omissions of the Defendants, and each of them, have resulted in the deprivation of the rights, privileges, and immunities guaranteed to Plaintiffs by the Constitution, statutes, and regulations of the United States including acts that violate the Right to Financial Privacy Act.

20. As a result of their deprivation of rights, privileges, and immunities secured by federal law, Plaintiffs have been injured pursuant to § 3417 of the Right to Financial Privacy Act which provides Plaintiffs with a statutory cause of action for civil penalties including actual and punitive damages for their injuries arising from Defendants' acts or omissions and/or failure to comply with the provisions of the Right to Financial Privacy Act.

**COUNT II**

**RETALIATION AND DEPRIVATION OF FIRST  
AMENDMENT RIGHTS TO FREE SPEECH**

21. Plaintiffs incorporate by reference paragraphs 1 through 20 above as though fully set forth herein.

22. Since June 2005, Mr. Gonzales, by and through the Justice Department, FBI, and United States Attorneys, has undertaken the largest and most extensive politically motivated campaign finance investigation in the history of America targeting Democratic contributors including Plaintiffs Jack and Renee Beam.

23. In the course of Defendants' politically motivated investigation, federal agents, under the direction of Mr. Gonzales, have compelled numerous individuals to reveal for whom they voted in the 2004 presidential election. Such strong arm tactics on the part of federal agents reek of totalitarianism and serves no legitimate governmental purpose.

24. Defendants acts or omissions of illegally obtaining Plaintiffs' private banking records was carried out to instill fear and retaliation for Plaintiffs' exercise of their political activities and support for Democratic candidates and without serving any legitimate law enforcement purpose.

25. Defendants have engaged in a systematic pattern, custom, practice, and official policy of retaliating against Plaintiffs for no legitimate or valid reason but instead based on their political support of past and present Democratic candidates for political office.

26. Defendants acts are not made with any expectation of securing valid convictions, but rather are part of a plan to employ arrests, seizures, and threats of prosecution under color of law to

harass and discourage Plaintiffs from asserting and attempting to assert their constitutional rights to freely engage in the political process.

27. Defendants, and each of them, have violated the free speech rights of the Plaintiffs guaranteed to them by the First Amendment by their attempts to silence them and/or to exert such a chilling effect upon Plaintiffs' free speech rights that their expression(s) of opinion will be substantially diluted by the fear of further and future retaliation. As the Supreme Court has emphasized, "[t]he loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury." *Elrod v. Burns*, 427 U.S. 347, 353 (1976).

28. Defendants, and each of them, have engaged in acts of bad faith by invoking and/or threatening to invoke criminal process without any ultimate success, but only to discourage Plaintiffs' civil rights activities.

### COUNT III

#### DEPRIVATION OF FIFTH AMENDMENT RIGHT TO BE FREE FROM SELECTIVE AND VINDICTIVE PROSECUTION

29. Plaintiffs incorporate by reference paragraphs 1 through 28 above as though fully set forth herein.

30. At all times during the facts underlying this Complaint, Defendants were charged with administering fairly and impartially the Federal Election Campaign Act.

31. However, with respect to Plaintiffs Jack and Renee Beam, Defendants, for reasons of personal and political animosity, acted with discriminatory purpose and intent by selectively and vindictively targeting Jack and Renee Beam with frivolous and demonstrably false claims of campaign finance violations.

32. Specifically, in September 2006, Defendant Toner accused Jack and Renee Beam of making a contribution “in the name of another” in violation of 2 U.S.C. § 441f. Defendant Toner also claimed, without any basis in fact, that Jack and/or Renee Beam have never before contributed to a political campaign, when, in fact, both Jack and Renee Beam have been politically active and have contributed to many federal candidates over the years.

33. The purpose of Defendant Toner’s letter was not to serve any legitimate governmental purpose but rather was designed to threaten, intimidate, and chill the exercise of Plaintiffs’ First Amendment rights.

34. Defendants have conspired to target individuals including Plaintiffs for frivolous and demonstrably false claims of campaign finance violations in order to instill fear of further and future retaliation and to chill Plaintiffs’ rights of free speech and expression.

35. The discriminatory acts or omissions of Defendants, and each of them, have resulted in the deprivation of the rights, privileges, and immunities guaranteed to the Plaintiffs by the Constitution of the United States.

36. Defendants acts of vindictively targeting Plaintiffs for demonstrably false campaign finance violations was calculated solely to deter and/or punish Plaintiffs for the exercise of their Constitutional rights. Defendants acts or omissions have caused, and continue to cause, substantial injury and chilling effect to Plaintiffs’ rights secured by the Constitution and federal law.

**RELIEF REQUESTED**

\_\_\_\_\_ For the reasons stated herein, Plaintiffs are entitled:

(a) a declaration that Defendants’ conduct is unlawful, unconstitutional, and contrary to the provisions of the Federal Election Campaign Act;

(b) monetary damages as authorized by law;

(c) any other relief, injunctive or otherwise, as the Court deems just and equitable including costs and attorney fees;

Respectfully submitted,

FIEGER, FIEGER, KENNEY & JOHNSON, P.C.

/s/ Michael R. Dezsi

MICHAEL R. DEZSI (P64530)

Attorney for Plaintiffs

19390 W. Ten Mile Road

Southfield, MI 48075

(248) 355-5555

[m.dezsi@fiegerlaw.com](mailto:m.dezsi@fiegerlaw.com)

Dated: March 24, 2008

**REAFFIRMATION OF JURY DEMAND**

Plaintiffs hereby reaffirms their demand for trial by jury in the above-captioned matter.

Respectfully submitted,

FIEGER, FIEGER, KENNEY & JOHNSON, P.C.

/s/ Michael R. Dezsi

MICHAEL R. DEZSI (P64530)

Attorney for Plaintiffs

19390 W. Ten Mile Road

Southfield, MI 48075

(248) 355-5555

[m.dezsi@fiegerlaw.com](mailto:m.dezsi@fiegerlaw.com)

Dated: March 24, 2008

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on March 24, 2008 she electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

Eric J. Beane at [eric.bean@usdoj.gov](mailto:eric.bean@usdoj.gov)

Linda A. Wawzenski at [linda.wawzenski@usdoj.gov](mailto:linda.wawzenski@usdoj.gov)

Tamra L. Ulrich at [tamara.ulrich@usdoj.gov](mailto:tamara.ulrich@usdoj.gov)

*Attorneys for United States Attorney General Alberto Gonzales*

Benjamin A. Streeter, III at [bstreeter@fec.gov](mailto:bstreeter@fec.gov)

Colleen T. Sealander at [csealander@fec.gov](mailto:csealander@fec.gov)

*Attorneys for Robert Lenhard/Federal Election Commission*

s/ Julie A. Nardone

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JULIE A. NARDONE