

FILED

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

MAR 13 2006

**U. S. DISTRICT COURT
EASTERN DISTRICT OF MO**

GORDON LEE BAUM and COUNCIL)
OF CONSERVATIVE CITIZENS, a)
not-for-profit corporation,)
)
Plaintiffs,)

4 06CV00453CDP
Cause No. _____

vs.)
)
MAPLEWOOD CITY LIBRARY, a)
municipal corporation, CITY OF)
UNIVERSITY CITY PUBLIC LIBRARY,)
a municipal corporation, VALLEY PARK)
COMMUNITY LIBRARY, a municipal)
corporation, and FESTUS CITY)
LIBRARY, a municipal corporation,)
)
Defendants.)
_____)

**COMPLAINT – DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF
PURSUANT TO 42 U.S.C. § 1983 AND THE FIRST AND FOURTEENTH
AMENDMENTS TO THE UNITED STATES CONSTITUTION**

COME NOW Plaintiffs, Gordon Lee Baum and Council of Conservative Citizens,
and for their cause of action, state to the Court as follows:

JURISDICTION, VENUE AND FACTS COMMON TO ALL COUNTS

1. This Court has federal question jurisdiction over the instant matter pursuant to 28 U.S.C., § 1331, 42 U.S.C., § 1983, and the First and Fourteenth Amendments to the United States Constitution.

2. The Council of Conservative Citizens is a Missouri not-for-profit corporation, with its principal place of business located in the County of St. Charles,

State of Missouri, within the jurisdictional territory of the United States District Court for the Eastern District of Missouri, Eastern Division. The Council of Conservative Citizens is a social and political advocacy organization.

3. Gordon Lee Baum is the Chief Executive Officer of the Council of Conservative Citizens.

4. Maplewood City Library is a municipal corporation located within the jurisdictional territory of the United States District Court for the Eastern District of Missouri, Eastern Division.

5. City of University City Public Library is a municipal corporation operating within the jurisdictional territory of the United States District Court for the Eastern District of Missouri, Eastern Division.

6. Valley Park Community Library is a municipal corporation operating within the jurisdictional territory of the United States District Court for the Eastern District of Missouri, Eastern Division.

7. Festus City Library is a municipal corporation operating within the jurisdictional territory of the United States District Court for the Eastern District of Missouri, Eastern Division.

8. Maplewood City Library, City of University City Public Library, Valley Park Community Library and Festus City Library offer the availability of internet terminals to their patrons. These terminals are designed to be used directly by the patron and without the intermediary of a library official.

9. Maplewood City Library, City of University City Public Library, Valley Park Community Library and Festus City Library have installed specialized software on the internet terminals, which purpose is to block patrons' access to certain classes of internet sites specified by the library through the activation of various options offered by the software.

10. Maplewood City Library, City of University City Public Library, Valley Park Community Library, and Festus City Library have activated the software filter option which blocks a patron's access to sites that the library and/or the software publisher have designated as "hate speech".

11. The Council of Conservative Citizens maintains an internet site and/or webpage at the address designated as www.cofcc.org.

12. The internet website of the Council of Conservative Citizens contains social and political advocacy speech protected by the First Amendment to the United States Constitution.

13. The internet website of the Council of Conservative Citizens does not contain any pornography or sexually oriented images.

14. The "hate speech" software filter, as it is employed in Maplewood City Library, City of University City Public Library, Valley Park Community Library and Festus City Library, blocks a patron's access to the webpage site of the Council of Conservative Citizens.

15. The “hate speech” software filter, as it is employed in Maplewood City Library, City of University City Public Library, Valley Park Community Library and Festus City Library, does not block internet sites which are critical of the policies and advocacy of the Council of Conservative Citizens.

16. On or about May 26, 2005, Gordon Lee Baum, on behalf of the Council of Conservative Citizens, wrote to Maplewood City Library demanding that the library remove its webpage from the list of blocked “hate speech” internet sites and allow free and unfettered access to its webpage and/or internet site. *See, Exhibit 1*, attached hereto and incorporated by reference herein.

17. Thereafter, Terrence Donnelly, Director of Maplewood City Library, acknowledged that the Council of Conservative Citizens’ website was blocked because it came within the category of “hate and discrimination,” and refused to unblock the internet site and make it available to all citizens without the necessity of asking that the internet site be unblocked. *See, Exhibit 2*, attached hereto and incorporated by reference herein.

18. On or about November 13, 2005, Gordon Lee Baum, acting on behalf of the Council of Conservative Citizens, wrote the City of University City Public Library demanding that access to the website of Council of Conservative Citizens be unblocked. *See, Exhibit 3*, attached hereto and incorporated by reference herein.

19. On or about November 13, 2005, Gordon Lee Baum, acting on behalf of the Council of Conservative Citizens, wrote the Valley Park Community Library demanding

that access to the website of Council of Conservative Citizens be unblocked. *See*, **Exhibit 4**, attached hereto and incorporated by reference herein.

20. On or about July 13, 2005, Gordon Lee Baum, acting on behalf of the Council of Conservative Citizens, wrote the Festus City Library demanding that access to the website of Council of Conservative Citizens be unblocked. *See*, **Exhibit 5**, attached hereto and incorporated by reference herein.

COUNT I – DECLARATORY JUDGMENT

COME NOW Plaintiffs, Gordon Lee Baum and Council of Conservative Citizens, and for Count I of their cause of action, state to the Court as follows:

1. The “hate speech” software filter, as it is employed in Maplewood City Library, City of University City Public Library, Valley Park Community Library and Festus City Library, discriminates against speech of the Council of Conservative Citizens on the basis of the content and viewpoint of the speech contained in its website.

2. Such viewpoint discrimination is inconsistent with the protections of the First and Fourteenth Amendments to the United States Constitution and violates the First and Fourteenth Amendments of both the Council of Conservative Citizens, as the speaker, and Gordon Lee Baum, as the receiver of such information.

WHEREFORE, Plaintiffs, Gordon Lee Baum and Council of Conservative Citizens, pray this Court for a Declaratory Judgment that the actions of Maplewood City Library, City of University City Public Library, Valley Park Community Library and Festus City Library in the utilization of software filters to block patrons’ access to the

website of the Council of Conservative Citizens on the alleged basis that it constitutes “hate speech,” violates the First and Fourteenth Amendments to the United States Constitution, for their costs in this matter, and for attorneys’ fees pursuant to 42 U.S.C., § 1988.

COUNT II – PRELIMINARY INJUNCTION

COME NOW Plaintiffs, Gordon Lee Baum and Council of Conservative Citizens, and for Count II of their cause of action, state to the Court as follows:

1. Both Gordon Lee Baum and the Council of Conservative Citizens have suffered and will continue to suffer immediate, and irreparable harm by the continued denial of their rights under the First and Fourteenth Amendments to the United States Constitution.

2. Governmental censorship of the Council of Conservative Citizens’ speech on the basis of its content and viewpoint is well-established as a violation of the First and Fourteenth Amendments to the United States Constitution, and therefore Plaintiffs are likely to prevail on the merits of this matter.

3. Plaintiff’s have no adequate remedy at law with which to correct the deprivation of their Constitutional rights pursuant to the First and Fourteenth Amendments to the United States Constitution.

WHEREFORE, Plaintiffs, Gordon Lee Baum and Council of Conservative Citizens, pray this Court issue a preliminary injunction immediately enjoining Maplewood City Library, City of University City Public Library, Valley Park

Community Library and Festus City Library from further blocking of the website of the Council of Conservative Citizens, for its costs in this matter, and for attorneys' fees pursuant to 42 U.S.C., § 1988.

COUNT III – PERMANENT INJUNCTION

COME NOW Plaintiffs, Gordon Lee Baum and Council of Conservative Citizens, and for Count III of their cause of action, state to the Court as follows:

1. Both Gordon Lee Baum and the Council of Conservative Citizens have suffered and will continue to suffer immediate, and irreparable harm by the continued denial of their rights under the First and Fourteenth Amendments to the United States Constitution.

2. Governmental censorship of the Council of Conservative Citizens' speech on the basis of its content and viewpoint is well-established as a violation of the First and Fourteenth Amendments to the United States Constitution, and therefore Plaintiffs are likely to prevail on the merits of this matter.


3. Plaintiff's have no adequate remedy at law with which to correct the deprivation of their Constitutional rights pursuant to the First and Fourteenth Amendments to the United States Constitution.

WHEREFORE, Plaintiffs, Gordon Lee Baum and Council of Conservative Citizens, pray this Court issue a permanent injunction immediately enjoining Maplewood City Library, City of University City Public Library, Valley Park Community Library and

Festus City Library from further blocking of the website of the Council of Conservative Citizens, for its costs in this matter, and for attorneys' fees pursuant to 42 U.S.C., § 1988.

Respectfully submitted,

SCHWARTZ, HERMAN & DAVIDSON

By: 
Robert Herman, #3382
621 North Skinker Boulevard
St. Louis, Missouri 63130
Ph: 314/862-0200
Fx: 314/862-3050
bherman@621skinker.com

*Attorney for Plaintiffs, Gordon Lee Baum
and Council of Conservative Citizens*