

IN THE CIRCUIT COURT FOR THE SIXTEENTH JUDICIAL CIRCUIT
KANE COUNTY, ILLINOIS

ELIZABETH and ROBERT EARL, MIKE)
FRALIC, MARY LU and GREG GUEST, CAROL)
HAYES, CAROLYN and PETER KRYSZAK,)
CYNTHIA LINN, MARY ELLEN and)
RICHARD O’ROURKE, DIANE PICCIUOLO,)
MAUREEN and WILLARD POTT, APRIL and)
ERIC SCHEIDLER, MARY and RICHARD)
VILIM, and JOHN WIESNER, and PRO-LIFE)
ACTION LEAGUE, INC., an Illinois non-profit)
corporation)

Plaintiffs,)

vs.)

STEVEN TROMBLEY, PLANNED)
PARENTHOOD OF ILLINOIS, as successor to)
PLANNED PARENTHOOD CHICAGO AREA,)
and GEMINI OFFICE DEVELOPMENT LLC)

Defendants.)

No. 07 LK 513

Hon. Judith M. Brawka

**DEFENDANTS’ MOTION TO DISMISS THE AMENDED AMENDED COMPLAINT
PURSUANT TO SECTION 2-619.1 AND FOR FURTHER RELIEF UNDER THE
CITIZEN PARTICIPATION ACT**

Defendants Steven Trombley, Planned Parenthood of Illinois, and Gemini Office
Development LLC (the “Defendants”), by their attorneys, respectfully move this Honorable
Court to Dismiss plaintiffs’ Amended Complaint with prejudice pursuant to Section 2-619.1¹.

¹ A Section 2-619.1 motion “is a combined motion may be brought for motions made under sections 2-615, 2-619,” so long as the movant specifies what each section is applicable. *Downey v. Wood Dale Park Dist.*, 286 Ill. App. 3d 194, 199 (2d Dist. 1997).

Bases for Dismissal under Section 2-615

1. Plaintiffs' claims are barred by the Illinois Citizen Participation Act, which grants Defendants absolute immunity to engage in the very type of speech complained of by plaintiffs. 735 ILCS 110/1 *et seq.* Specifically, the alleged defamatory statements were made with the purpose of procuring favorable governmental action. Moreover, the Citizen Participation Act provides for specific procedural requirements for cases such as this—namely an expedited hearing on the matter, a stay of discovery pending decision on the motion and attorneys fees and costs for Defendants—in order to prevent the chilling of free speech rights by lawsuits such as this.

2. The Amended Complaint's allegations do not support a cause of action for defamation *per se* because the alleged defamatory statements were not "of and concerning" individual plaintiffs and they are subject to an innocent construction.

3. Further, plaintiffs cannot support a claim for defamation *per quod* because they have neither pled the existence of special damages, nor have they pled any extrinsic facts which would imply a defamatory meaning to the alleged statements.

4. Plaintiffs' claims against Gemini must be dismissed because there is no asserted basis for liability other than Gemini's status as a subsidiary of Planned Parenthood, which is insufficient to support such a finding.

Bases for Dismissal under Section 2-619

5. The allegations with respect to the Pro-Life Action League must be dismissed because the allegedly defamatory statements about it are true.

6. The allegations with respect to the Pro-Life Action League also fail because the allegedly defamatory statements are protected by qualified privilege because they involve recognized interests of the public.

7. The individual plaintiffs, including Eric Scheidler, do not have a claim for group defamation because the Pro-Life Action league is too large for any statements made about the League to be specifically imputed to any of them.


8. Defendants have also filed a memorandum in support of this motion contemporaneously herewith.

WHEREFORE, Defendants respectfully request the following relief:

- A. Dismiss the case with prejudice pursuant to Section 2-619.1.
- B. Award Defendants all reasonable attorney's fees and costs incurred in connection with this motion pursuant to 735 ILCS 110/25.
- C. Conduct and expedited hearing on this matter within 90 days pursuant to 735 ILCS ILCS 110/20(a).
- D. Stay all discovery, except that which is specifically permitted under the Act, pending a decision under the motion pursuant to 735 ILCS 110/20(b).
- E. Such other and further relief that this Court deems equitable and just under the circumstances.

Respectfully submitted,

By:


Attorneys for Steven Trombley, Planned
Parenthood Illinois and Gemini Office
Development LLC

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Certificate of Service

I, Leah Bruno, hereby certify that she served copies of the foregoing **Defendants' Motion To Dismiss the Amended Complaint Pursuant To Section 2-619.1 and for Further Relief Under the Citizen Participation Act** on the parties named below via electronic mail and in the manners indicated on May 14, 2008:

<p><u>By Messenger Delivery</u></p> <p>Thomas Brejcha Thomas More Society 29 South LaSalle Street Suite 440 Chicago, IL 60603</p>	<p><u>By U.S. Mail</u></p> <p>Jason R. Craddock Box 1514 Sauk Village, IL 60411</p>
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