

DR. DAVID GILL, ET AL. V. U.S. DEPARTMENT OF THE TREASURY

- *Who are the parties to the suit?* The plaintiffs are Dr. David Gill, a Democratic candidate for the 13th Congressional District of Illinois in 2012, his campaign committee Friends of David Gill, and Citizens for Responsibility and Ethics in Washington. The defendant is the U.S. Department of the Treasury and its component, the Internal Revenue Service.
- *Why sue?* The number of 501(c)(4) organizations that run political ads and hide their donors has grown dramatically since the Supreme Court's *Citizens United* case. Despite repeated calls for action, the IRS has done nothing other than say it is "aware" of public concern. The suit is an effort to force the IRS to address the problem of 501(c)(4)s abusing their tax status.
- *What is basis for the suit?* An IRS regulation that grants 501(c)(4) tax-exempt status to organizations "primarily engaged" in promoting social welfare conflicts directly with the Tax Code, which requires such organizations to be "operated exclusively" for social welfare purposes. 501(c)(4) organizations, like American Action Network, have taken advantage of the tax loophole the IRS created to devote substantial time and money to political activities without having to disclose the source of their donors.
- *What is the impact of the IRS regulation?* In 2012 election, AAN poured nearly \$1.5 million into Dr. Gill's congressional race, funding political ads that falsely claimed Dr. Gill would eliminate Medicare and depicting him as a "mad scientist." The huge expenditures by AAN, especially in the last few weeks, required Dr. Gill's campaign to divert money to respond to the false ads and injured his reputation. As a direct result of the ads, Dr. Gill lost the race by 1002 votes, or 3/10th of one percent of the votes cast.
- *Where did AAN get its money?* As a 501(c)(4) organization – a status the IRS approved in April 2010 – AAN does not have to disclose its donors. An inadvertent filing by insurance giant Aetna revealed Aetna contributed over \$3.3 million to AAN in 2011. The Pharmaceutical Research and Manufacturers of America also gave AAN \$4,500,000 according to its 2010 tax return.
- *Why did AAN target Dr. Gill?* Dr. Gill is a respected emergency room physician in Bloomington, Illinois. He likely was targeted by Aetna and PhRMA – through AAN – because he supports a single-payer national health care plan, which both Aetna and PhRMA oppose.
- *What relief does the complaint seek?* The complaint asks the court to strike down the IRS regulation as contrary to law, specifically the Tax Code provision requiring 501(c)(4) organizations to operate exclusively for the promotion of social welfare.
- *What happens if this lawsuit does not succeed?* Wealthy individuals and corporations will continue contributing to 501(c)(4) organizations to conduct stealth campaigns against political candidates without having their roles revealed publicly. Candidates like Dr. Gill will continue to suffer harm and the public will remain unaware of the identities of those funding political ads and, therefore, unable to put them into context.