

GERHARDSTEIN & BRANCH

A LEGAL PROFESSIONAL ASSOCIATION

432 WALNUT STREET, SUITE 400

CINCINNATI, OHIO 45202

TELEPHONE: (513) 621-9100

FACSIMILE: (513) 345-5543

* ALPHONSE A. GERHARDSTEIN
JENNIFER L. BRANCH

**Also admitted in
Minnesota*

Of counsel

ROBERT F. LAUFMAN

PRESS RELEASE * OCTOBER 24, 2008

CITY EMPLOYEES WIN RIGHT TO MAKE FINANCIAL CONTRIBUTIONS TO CANDIDATES FOR COUNTY, STATE AND FEDERAL OFFICE

BIPARTISAN VICTORY FOR OBAMA AND MCCAIN SUPPORTERS

CONTACT: Al Gerhardstein cell 659-4765

Cincinnati, Ohio. City of Cincinnati employees won the right to make financial contributions to the candidates of their choice today after the U.S. District Court in Cincinnati declared part of the City Charter unconstitutional. The Honorable Michael R. Barrett, U.S. District Court for the Southern District of Ohio, issued a temporary and preliminary restraining order barring the City from enforcing its policies and procedures in any manner that restricts city employees in their private individual capacity from making financial contributions to federal, state and county candidates.

City police officers Keith Fangman, a John McCain supporter and Paul Graves, an Obama supporter, filed a class action lawsuit on October 8, 2008 seeking the right to donate funds to and distribute campaign literature for federal, state and county candidates for political office. The First Amendment protects the right to make financial contributions to political campaigns and causes.

The judge found that the City's policies were unconstitutionally overbroad and that the City was defying a prior court ruling that the Charter's blanket prohibition on financial contributions was unconstitutional. Although prior to the lawsuit the City eased its restrictions to allow financial contributions to non-Ohio federal candidates, the Court was not persuaded that there was a logical distinction between Ohio and non-Ohio candidates:

“Section 4 was unconstitutional in 1994 and remains unconstitutional today. As for Policy No. 2.2, it makes no sense to permit donations to candidates for non-Ohio federal elections and to exclude donations to candidates for Ohio federal elections and out-of-state elections since none of those candidates “supervise the daily work of city employees.”

Order at p. 10.

The judge rejected the City's argument that the rules were necessary to prevent the return of a corrupt spoils system to City government. The Court said that striking down [Article V, Section 4 of the City Charter](#) would not cause other City employees to suffer substantial harm. Ohio law already prohibits employees from soliciting for campaign

contributions from their coworkers, on the job, or on behalf of their superiors. Prohibiting “certain donations does not “directly relate to the city’s goal of insuring the integrity of the civil service system and preventing a return of corrupt spoils-systems politics.” Order at 10.

The Court agreed with plaintiffs that allowing financial contributions would serve the public interest. Plaintiffs’ attorney Gerhardstein said,

“We are pleased that city workers can now put their money where their conscience lies and give money to the federal and state candidates that they support. [City](#) employees now enjoy the same right to contribute to candidates as their county, state and federal counterparts”