

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, COUNTY DIVISION

BOARD OF ELECTION COMMISSIONERS OF THE
CITY OF CHICAGO, LANGDON D. NEAL,
RICHARD A. COWEN, and THERESA M. PETRONE,

Plaintiffs,

v.

HANS BERNHARD, LUZIUS A. BERNHARD,
OSKAR OBEREDER, CHRISTOPH JOHANNES
MUTTER, JAMES BAUMGARTNER and DOMAIN
BANK, INC.,

Defendants.

No. 00 CE 31
Judge Michael

FILED
04 APR -2 AM 9:01
CIRCUIT COURT OF COOK
COUNTY, ILLINOIS
COUNTY DIVISION
DOROTHY BROWN
CLERK

**MOTION FOR LEAVE TO FILE MEMORANDUM
IN EXCESS OF FIFTEEN PAGES**

Defendant James Baumgartner, by his attorneys, moves this Court to enter an order permitting him to file the attached Memorandum in Support of Combined Motions for, Alternatively, Dismissal, Judgment on the Pleadings, or Summary Judgment that is in excess of 15 pages. In support of this motion, defendant states as follows:

1. This case concerns the Internet web site Voteauction.com, which purportedly solicited and allowed individuals to "sell" and individuals and groups to "bid" on votes to be cast in the November, 2000 presidential election. Plaintiffs, the Board of Election Commissioners of the City of Chicago and three individual Commissioners, sought and obtained from the Court a preliminary injunction that prohibits defendants from operating Voteauction.com on the grounds that such operation violated numerous federal and state criminal and election laws.

Baumgartner now has filed his Combined Motions for, Alternatively, Dismissal, Judgment on the Pleadings, or Summary Judgment pursuant to Sections 2-615, 2-619, 2-1005, and 2-619.1 of the Code of Civil Procedure. In that motion, Baumgartner seeks dismissal of the Complaint,

judgment on the pleadings, or summary judgment in his favor, on the grounds that Voteauction.com was a lawfully operated work of political and social satire and parody, protected by the First Amendment to the Constitution of the United States. In another motion, separately filed and briefed, Baumgartner asks this Court to vacate the preliminary injunction.

2. Foremost, the Memorandum is in support of three different motions, argued in the alternative, for dismissal, judgment on the pleadings, and summary judgment. While these motions could have been advanced in three separate, 15-page memorandums, an economy of words has been achieved by integrating the motions into a single document.


3. Furthermore, Plaintiffs' Complaint is a lengthy document that charges Baumgartner, his co-defendants, and unnamed Illinois voters who purportedly acted in concert with them, with the violation of at least eleven different statutes and the Illinois Constitution. In addition, attached as an exhibit to and incorporated into the Complaint, and quoted at great length therein, is a 109 page print-out of Voteauction.com. The question of whether plaintiffs reasonably interpreted this exhibit lies at the heart of the case and this motion. To explain why he is entitled to dismissal or judgment as a matter of law, Baumgartner's memorandum seeks to show that the only reasonable interpretation of Voteauction.com was that it was a work of satire and parody. This, in turn, requires analysis of the vast contents of that site, in context, as well as a statement of the applicable First Amendment precedent governing political and artistic expression, in general, and satire and parody, in particular. The memorandum also addresses each statutory and constitutional violation alleged by plaintiffs.

4. While defendant has attempted to keep his memorandum as short as possible, he was not able to confine the above referenced arguments to 15 pages. Instead, the proposed

memorandum consists of 36 pages, in which counsel for Baumgartner have made every effort to be concise, yet thorough, given the nature of these potentially dispositive motions.

WHEREFORE, defendant Baumgartner, by his attorneys, moves this Court to enter an order granting him leave to file his Memorandum in Support of Combined Motions in excess of 15 pages.

Respectfully submitted,

By: 
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Attorneys for Defendant
James Baumgartner

Dated: March 30, 2001

CERTIFICATE OF SERVICE

David L. Ter Molen, an attorney, hereby certifies that he caused a true and correct copy of the foregoing document to be served upon all counsel of record by messenger delivery, as follows:

James M. Scanlon
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Phillip J. Robertson
Assistant Attorney General
Nursing Home Bureau
State of Illinois
Office of the Attorney General
100 West Randolph Street
Chicago, IL 60601

on this 30th day of March 2001.



David L. Ter Molen