

October 21, 2014

**VIA E-MAIL**

Ms. Angela Myers  
Clerk and Recorder  
Larimer County  
200 W. Oak St., 5th floor  
Ft. Collins, CO 80521  
[myersag@co.larimer.co.us](mailto:myersag@co.larimer.co.us)

Dear Ms. Myers:

This law firm represents the Rocky Mountain Student Media Corporation, publisher of *The Rocky Mountain Collegian* newspaper (“*The Collegian*”). We have been informed that earlier today, your office threatened to confiscate copies of the October 21, 2014 edition of *The Collegian* newspaper if the vending racks displaying such newspaper were not moved more than 100 feet away from the polling location inside the Lory Student Center building. As has been reported in the online edition of *The Collegian*, the newspaper was informed that because the its October 21, 2014 print edition displayed a photo of United States Senator Mark Udall, as part of the news coverage of his appearance at a campaign stop on the CSU campus yesterday, the newspaper was deemed to be “electioneering,” under § 1-13-714, C.R.S.

We write to respectfully draw your attention to the language of the applicable statute, which defines “electioneering” as “*campaigning for or against any candidate who is on the ballot or any ballot issue or ballot question that is on the ballot.*” (emphasis added). When a newspaper – whether it be *The Collegian*, *The New York Times*, or *The Denver Post*, all of whom have newsracks within 100 feet of the Lory Student Center polling location – cover a news story, including the appearance of any candidate running for office, or any measure that is on the ballot (e.g., personhood, a proposed casino in Arvada, or, in past elections, legalizing recreational marijuana), such *news coverage* plainly is *not* “campaigning for or against any candidate” or ballot initiative. To apply a construction of § 1-13-714, C.R.S. that would encompass such routine news coverage within the term “electioneering” would unquestionably render the statute unconstitutional, in violation of the First Amendment’s protection for The Freedom of Speech and Of the Press, and the even more speech-protective Article 2, Section 10 of the Colorado Constitution. *See, e.g., Citizens United v. Gessler*, No. 14-1387, Order at 2 (10th Cir. Oct. 14, 2014) (enjoining Colorado’s Secretary of State from treating a documentary film about

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candidates for office as an “electioneering communication” in order to avoid an unconstitutionally overbroad construction of that statutory term) (courtesy copy attached).

Indeed, your construction of the applicable statute would also bar *The Collegian* from distributing its newspaper within 100 feet of the “polling location” were it to put on the front page tomorrow the news report about your office’s action, including a photograph of its October 21, 2014 edition that prompted your action. Clearly, such a new report, documenting the violation of my clients’ constitutional rights, is not an act of “electioneering.” Nor was this morning’s news report documenting Senator Udall’s visit to CSU on Monday.

The unconstitutionally overbroad reading of the applicable statute is even more self-evident when the “polling location” in question is merely a drop-off point for ballots that have *already been filled in and voted* by the citizens who are visiting that location merely to deposit their already-voted ballots.

Moreover, a construction of § 1-13-714, C.R.S., that would prohibit the display and sale of newspapers within 100 feet of the Lory Student Center would also be facially overbroad in that it would deny both the newspaper publishers (and their readers) the right to reach an audience at a location where, presumably, the vast bulk of the students and others present are *not* engaged in any voting activity.

Accordingly, we respectfully ask that you refrain from applying a blatantly unconstitutional interpretation of § 1-13-714, C.R.S., by restricting the display of *The Collegian* newspaper within 100 feet of the Lory Student Center’s “polling location,” unless and until *The Collegian* carries a front-page headline that would, arguably, constitute “campaigning for or against any candidate” (*e.g.*, “Cast Your Vote Today for Cory Gardner!”).

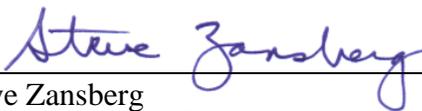
We trust and hope that you will honor this request, and that no further action, including resort to judicial remedies, will be necessary.

Please do not hesitate to contact me at (303) 376-2409 if you wish to discuss this further.

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Sincerely,

LEVINE SULLIVAN KOCH & SCHULZ, LLP

By:   
Steve Zansberg

SDZ/cdh

cc: Michael D. Nosler, General Counsel, Colorado State University  
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Neill Woelk, Colorado State University  
Kate Winkle, Editor-in-Chief, *The Rocky Mountain Collegian*