



## Defending Donor Privacy: Your Rights at Stake

by

Kimberly Hermann

*Hermann is deputy counsel for Southeastern Legal Foundation, a constitutional public interest law firm founded in 1976.*

After the IRS scandal in which conservative organizations were allegedly targeted because of their ideological bent (applications for tax-exempt status slow-boated by testimony of dozens of groups), Americans were reminded in big, bold headlines that your viewpoint – expressed in the form of financial contributions – is part of your protected free speech.

Protected against backlash by viewpoint-opposed individuals and groups, and protected against abuse of information by government.

Let's start by agreeing that disclosure laws are important for political accountability. We should know who is giving to candidates, and how much. We should have some good idea about who is giving to political support groups, and how much.

But when an organization is non-profit and tax-exempt, it has agreed to submit to stringent requirements against overt politicking and a host of other requirements and prohibitions. In return, its donors are protected from public disclosure, other than to the IRS in the group's annual tax return.

Here's how that got started. In the heat of the 1950s segregation era, there were repeated instances in which individuals who worked for civil rights organizations like the NAACP – and those who contributed money to them – were targeted for violence and intimidation. In 1958, the U.S. Supreme Court declared that privacy in group association is vital for preserving our First Amendment freedom of association.

Now, ignoring the Supreme Court's long-standing precedent and the First Amendment, California's Attorney General is requiring certain non-profit organizations to disclose their donor lists or risk not being permitted to solicit charitable contributions in California. Such disclosure would chill the speech and free association of the organizations and their donors. New York is following suit.

Confidentiality has long been the lifeblood of many non-profit organizations. That's why a group of organizations, including Pacific Legal Foundation, Southeastern Legal Foundation, Goldwater Institute, Mountain States Legal Foundation, Atlantic Legal Foundation, and Missouri Forward Foundation, have joined together as friends of the court in a Supreme Court challenge against California's actions led by Center for Competitive Politics. We've done this to help defend one of the constitutional freedoms we are pledged to protect.