

NAM Challenging Disclosure Provision in New Lobbying Law

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On February 6, attorneys from Wiley Rein filed suit on behalf of the National Association of Manufacturers (NAM), challenging the constitutionality of the new coalition/association disclosure provision in the Honest Leadership and Open Government Act of 2007. The challenged provision requires coalitions and associations to disclose the name, address, and principal place of business of any organization that (1) contributes more than \$5,000 to an association or coalition in a quarterly period for lobbying activities and (2) "actively participates" in the planning, supervision, or control of the coalition's or association's lobbying activities.

The lawsuit argues that the new law impermissibly burdens the ability of long-standing and well-known organizations like NAM to speak, associate, and petition the government on behalf on its members. The complaint also alleges that the law is unconstitutionally vague and that it is not tailored to its claimed purpose of revealing the backers of "stealth coalitions." As noted in the suit, these "stealth coalitions" can avoid disclosure by not hiring their own lobbyists and instead relying on the lobbying effort of their individual members. Moreover, individuals who actively contribute to lobbying coalitions are not disclosed, no matter how wealthy or powerful they may be.

The case, which is pending before the federal district court in Washington, D.C., is the first lawsuit to challenge the Lobbying Disclosure Act since it was passed in 1995. The court has indicated that it will issue a decision by April 14 since the first quarterly reports under the new law are due on April 21.