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[Federal Appeals Court Decides Against Mid-Missouri Man, Ruling Unpaid Activists Are Lobbyists](#)

Today, an Eighth Circuit Court of Appeals panel ruled, 2-1, that unpaid citizen activists can be forced to comply with the same registration, reporting, and disclosure requirements as professional lobbyists working for large corporations. This decision is unprecedented and represents a significant strike against Americans' First Amendment right "to petition the Government for a redress of grievances."

Ron Calzone is a citizen activist from Dixon, Missouri, who has for years traveled to the State Capitol to share his ideas on public policy with legislators. No one gives him any money to share his ideas, and other than his opinions and information, he does not give legislators anything of value. Nonetheless, Missouri's law requires Calzone to register as a lobbyist and to file fourteen reports with the state each year, twelve of which must be filed under penalty of perjury.

In *Calzone v. Summers*, the majority concluded that the First Amendment does not shield citizen activists from these requirements or the penalties for noncompliance. This represents the first time that any federal appellate court has held that a general governmental interest "in knowing who is pressuring and attempting to influence legislators" - even where no one is giving or receiving anything of value - can justify burdening citizens' political speech.

"Citizens have a responsibility to engage with their elected officials, sharing ideas about how the people should be governed and urging lawmakers to use their power in a responsible, constitutional manner," **Calzone said**. "This decision empowers faceless, unaccountable bureaucrats to discourage or prevent citizens like me from fulfilling our crucial civic duty."

In his fight, Calzone is represented by lawyers from the Institute for Free Speech and the Freedom Center of Missouri.

"Today's ruling is deeply troubling," **said Allen Dickerson, Legal Director of the Institute for Free Speech**. "The Court's decision threatens to treat every Boy Scout troop, union, or trade association member who schedules a day with legislators as a registered lobbyist. Where no money is involved, there is no basis for treating a private citizen like a professional influence peddler. The Court's opinion sadly takes us further down the path of regulating even small-scale, volunteer political activity. This path can only lead to the professionalization of our politics and a retreat from citizen engagement."

"The freedom of speech and the freedom to petition those in power regarding the laws that will govern society are two of the most basic rights in our constitutional system," **said David Roland, Director of Litigation for the Freedom Center of Missouri**. "The Eighth Circuit decided today that those rights may be set aside even where there is no conceivable risk

of corruption or the appearance of corruption. This was a tremendous error, and we will seek further review in order to correct it."

In a separate interview, Roland told LakeExpo.com, "We think there is a decent chance the Eighth Circuit will agree to review this *en banc*. We haven't yet made a final decision, but we're strongly considering asking for *en banc* review before moving on to the U.S. Supreme Court. One way or another, if the majority's opinion is not reversed we will be asking the Supreme Court to take the case."

Dissenting from the majority opinion, Judge David Stras wrote that the challenged law regulates political speech at the core of the First Amendment, and appears to apply to all sorts of citizens who might attempt to influence lawmakers, such as by attending "Lobby Days" at the Missouri Capitol. In the context of unpaid citizen activists such as Calzone, Stras wrote that neither the government nor the majority explained "why compiling a list of people who are engaging in core political speech is 'important'" to the state.

The Supreme Court has not reviewed a lobbyist registration case since 1954's *United States v. Harriss*, in which the Court limited the reach of a federal statute to only cover "those who for hire attempt to influence legislation or who collect or spend funds for that purpose." Since then, no federal law has dared to go as far as the Missouri law the panel majority upheld today.

[Janet Mills will have to disclose transition donors in a first for Maine governors-elect](#)

Gov.-elect Janet Mills, center, acknowledges applause from customers as she arrives at Becky's Diner, Wednesday, Nov. 7, 2018, in Portland, Maine.

By [Michael Shepherd](#), BDN Staff • November 28, 2018 9:00 am

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Good morning from Augusta. A never-before-used provision in Maine law will make Attorney General **Janet Mills'** transition to the governor's office the most transparent one in state history, but we won't see the donors until Jan. 2 — the day she takes office.

The change is rooted in an overlooked portion of a [2015 campaign finance referendum](#) that was chiefly aimed at expanding the state's public campaign financing system. It also established financial reporting requirements for the transition teams that have always fallen in limbo between campaigns and state government.

This is important, since governors-elect are allowed to take unlimited contributions to guide governors-elect to the Blaine House and fund their inaugural activities. Here's what will change with the 2018 transition.

We used to rely on governors-elect to disclose donors voluntarily and they could roll contributions into outside political operations. Not anymore. During his 2010 transition to the governor's office, then Gov.-elect **Paul LePage** voluntarily [disclosed his group of largely corporate transition donors](#), but he didn't disclose the amounts they gave to his effort.

After that, LePage's transition team — [officially a nonprofit corporation](#) — was turned into an outside political group called Maine People Before Politics run at different times by **Jason Savage**, now the executive director of the Maine Republican Party, and **Lauren LePage**, the governor's daughter and a Republican operative.

These things can't happen after [the new law](#). While transition teams can take unlimited contributions until Jan. 31, they have to disclose contributions and expenditures in reports to the Maine Ethics Commission on Jan. 1 and Feb. 15. They also must close their funds before that last filing and remaining money must be given back to donors, to a charity or to the state.

Mills' team says it will soon begin raising money for the transition with a key deadline coming up after which they can't take contributions from lobbyists. Except for all of those new disclosure laws, there isn't much in Maine law governing gubernatorial transitions. While 13 states give governors-elect budgets in the tens of thousands of dollars, Maine only gives them \$5,000, according to [the National Governors Association](#).

Also, most transition activities are coordinated informally by incoming and outgoing administrations. For example, Mills' team — led by **Jeremy Kennedy**, her incoming chief of staff, and former Maine Democratic Party Chairman **Ben Grant** — has office space in the basement of the Cross Office Building next to the State House, but there is no requirement to provide it.

Mills spokesman **Scott Ogden** said because of the “limited” public funding for the transition, the team will raise private funds for the transition, but it hasn't begun to yet. It has to register with the ethics commission within 10 days of appointing a treasurer to oversee that effort.

Ogden didn't answer a question on whether Mills, a Democrat, would take money from lobbyists. If she does, it would have to come within a week. The new legislative session begins on Dec. 5. During that time, lobbyists can't give to the transition, Mills' next campaign or to legislators.

[Outgoing Md. lawmaker launching pro bono lobbying shop](#)

There's a sizable roster of former Annapolis lawmakers now working as State House lobbyists — and making a comfortable living, thank you very much.

Outgoing state Del. Jimmy Tarlau (D-Prince George's) is taking steps to join their ranks — but in a very different way. Tarlau is planning to become a pro bono lobbyist for progressive organizations and causes.

“I'm not going to compensate myself,” he said in a recent interview.

The People's Lobbying Group, as Tarlau is calling it, is lining up clients that work on tax issues, economic justice, labor, consumer rights and local Prince George's County matters. He sees it as an attempt to “level the playing field” in Annapolis.

“Only people with lots of money have the ties and the means to hire lobbyists,” Tarlau said.

“There's no one speaking for common people.”

For Tarlau, after losing a bid for a second term in this year's Democratic primary to Cheverly Town Councilman and political scion Julian Ivey, this feels like a natural progression.

“I was an advocate before I was a legislator and I'll be an advocate after I was a legislator,” he said.

Tarlau, age 70, a former Mt. Rainier city councilman, was one of the most progressive members of the House during his four years in Annapolis, focusing on tax policy, workplace issues, health care and education. A longtime labor organizer, mainly with the Communication Workers of America, he said he's able to contemplate a post-Annapolis life of pro bono service thanks to his “good union job with a good pension, along with Social Security.”

State legislators who want to become paid lobbyists must wait out a one-year “cooling off” period before starting their lobbying activity, but that requirement doesn’t apply in this instance. Tarlau said he’s looking forward to monitoring the activities of his former colleagues and measuring the progress of legislation he cares about. And he hopes to build a team of pro bono lobbyists.

“As a legislator, you can do some good,” he observed. “But it’s really the advocates who can make things work.”

[Parson alters lobbyist gift ban rules imposed by Greitens](#)

Gov. Mike Parson tweaked an order issued by his predecessor that could bring an end to a federal lawsuit over a ban on gifts from lobbyists.

In a rewrite of an executive order issued by former Gov. Eric Greitens on the day he took office in 2017, Parson Tuesday altered a section that prohibited executive branch employees from accepting gifts.

The new wording, which adopts descriptions found in existing law, could allow groups like a Virginia-based law firm to distribute informational books to employees of the governor’s office.

In October, [the libertarian-leaning Institute for Justice](#) said the Greitens-era ban on gift-giving violates the organization’s First Amendment rights to free speech because it prohibits them from giving workers in Parson’s office two books.

Administration officials said Parson wanted to keep the ban in place, but also to bring it in line with existing statutes that allow for the distribution of “informational materials.”

“During my tenure in public service, I’ve seen the good and bad in how our government works,” Parson said. “There are always areas of improvement, ways to do better and hard lessons learned. This administration will always strive to uphold the highest ethical standards.”

For years, [state lawmakers have been unable to agree on regulations](#) that could end or put limits on freebies handed out by lobbyists.

In response, Greitens issued his original executive order on his first day in office in 2017.

On Nov. 6, Missouri voters voted to impose limits on lawmakers receiving gifts. The \$5 threshold for expenditures made by lobbyists, however, only applies to members of the House and Senate, not to members of the executive branch.

In addition to altering the gift ban language, Parson renewed a provision that bars his employees from going to work as lobbyists while he is in office.

“Missourians expect and deserve that elected officials, like myself, and all public servants conduct themselves with integrity, provide transparency and uphold the rule of law,” Parson added.

Attempts to reach a representative of the institute were not successful Tuesday. Court records show attorneys issued a summons for Parson on Nov. 1. The governor must respond to the summons by early December.