

Bond Case Briefs

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Yes On 24-367 Committee v. Deaton

Court of Appeals of Oregon - February 3, 2016 - P.3d - 2016 WL 430878

Political committee organized to support a local ballot measure that would have authorized a fire protection district to issue general obligation bonds to pay for capital projects brought action against distributors of a pamphlet opposing the measure for publication of false statement of material fact relating to candidate or measure. The Circuit Court struck the complaint pursuant to the anti-Strategic Lawsuits Against Public Participation (SLAPP) statute. Committee appealed.

The Court of Appeals reversed, holding that:

- Statement in pamphlet that tax assessments would double was a factual assertion, rather than opinion;
- Committee made a prima facie showing that distributors made a false statement of material fact; and
- Failure by committee to submit direct evidence of mental state of distributors was not fatal to its claim.

Statement in pamphlet opposing local ballot measure, which would have authorized a fire protection district to issue general obligation bonds to pay for capital projects, that proposed bond levy would have doubled the fire district tax assessment for the next 20 years was a factual assertion, rather than an opinion that would be protected by anti-Strategic Lawsuits Against Public Participation (SLAPP) statute from action for publication of false statement of material fact relating to candidate or measure. Statement expressed an assertion of objective, mathematical fact.

Political committee organized to support a local ballot measure that would have authorized a fire protection district to issue bonds to pay for capital projects made a prima facie showing in action by committee against distributors of a pamphlet opposing the measure for publication of false statement of material fact relating to candidate or measure that distributors made a false statement of material fact that proposed bond levy would have doubled the fire district tax assessment, where the bonds would have resulted in a property tax assessment of \$0.49 per \$1,000 in assessed value, the existing assessments were for \$0.8443 and \$0.49 per \$1,000, and, thus, the assessments would have increased 37%, rather than doubled, and statement expressly referred to assessments in the plural.

Failure by political committee organized to support a local ballot measure that would have authorized a fire protection district to issue bonds to pay for capital projects to submit direct evidence of mental state of distributors of pamphlet opposing the measure was not fatal to committee's action against distributors for publication of false statement of material fact relating to candidate or measure at stage of proceedings at which distributors moved under anti-Strategic Lawsuits Against Public Participation (SLAPP) statute to strike committee's complaint. Direct proof of a defendant's subjective state of mind was typically hard to come by, and intent, knowledge, and recklessness were often inferred from surrounding circumstances.

