

1 UNITED STATES DISTRICT COURT  
2 FOR THE DISTRICT OF MARYLAND  
NORTHERN DIVISION

3 CONTRACT MATERIALS  
4 PROCESSING, INC.,

Civil No. AMD-98-0147

5 Plaintiff,

Baltimore, Maryland

6 v.

June 14, 2007

7 KATALEUNA GmbH  
8 CATALYSTS, et al.,

3:30 p.m.

9 Defendants.  
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10 TRANSCRIPT OF MOTIONS HEARING  
11 BEFORE THE HONORABLE ANDRE M. DAVIS  
12 UNITED STATES DISTRICT JUDGE

12 APPEARANCES:

13 For the Plaintiff:

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25 Proceedings recorded by mechanical stenography,  
transcript produced by notereading.

1 engage in the very lively, very erudite discussions and readings  
2 that are part of that program and not serve on the board? So I  
3 did not seek in advance an opinion from our ethics committee, the  
4 Code of Conduct Committee. I was aware, of course, of Advisory  
5 Opinion 67. So I became a member of the board with the idea,  
6 frankly, of working to create even greater balance in some of the  
7 programs if that was what the media and the environmentalists  
8 believed were necessary. Of course, what the environmentalists  
9 really wanted was for judges not to attend and be exposed to the  
10 ideas. But that's their right to want that. And so it wasn't  
11 long before there was an article in the ABA Journal, online  
12 journal that pointed out the fact that although I was a member of  
13 the board, Community Rights Council had not filed an ethics  
14 complaint against me. Well, it was not long after that that  
15 Community Rights Council did indeed file with the Fourth Circuit  
16 judicial council an ethics complaint against me for my service on  
17 the F.R.E.E. board. Chief Judge Wilkins and I discussed how best  
18 to handle it. My own preference would have been for the circuit  
19 council to resolve it and if the circuit council thought that it  
20 was inappropriate, so be it. I would certainly get off the  
21 board. I wasn't looking to behave unethically. But I did not  
22 believe I was behaving unethically. Ultimately, what happened  
23 was Judge Wilkins, then Chief Judge Wilkins, I guess he'll be  
24 chief judge for another two weeks, suggested and I agreed to seek  
25 a formal opinion from the Code of Conduct Committee and that's

1 exactly what I did. I didn't submit an advocacy piece. I wasn't  
2 represented by counsel. I just frankly sent them a short letter  
3 explaining my view about why I wasn't behaving unethically.  
4 Promptly as they always do and frankly to my surprise, the Code  
5 of Conduct Committee -- the opinion, by the way, is not in the  
6 public domain to my knowledge. But a very carefully drafted  
7 opinion. They obviously worked on it very conscientiously. But  
8 what the Code of Conduct Committee concluded was that owing  
9 primarily to F.R.E.E.'s website, primarily owing to F.R.E.E.'s  
10 website, there was shall we say tension between one or more of  
11 the canons that applied to federal judges and the appearance of a  
12 judge, federal judge as a member of the board of directors of  
13 F.R.E.E. And again there was lots of talk about the website and  
14 what a reasonable person might infer who went to the website, saw  
15 the judges' names there and so forth. So as soon as I got that  
16 opinion, I advised Judge Wilkins that I was resigning from  
17 F.R.E.E.'s board and I think you all have that order that the  
18 Fourth Circuit judicial council issued saying essentially Judge  
19 Davis has resigned from the board and therefore, the ethics  
20 complaint is moot. And I mean I never paid any more attention to  
21 it, but I believe that Community Rights Council was satisfied  
22 that I had withdrawn from a director. Of course, Community  
23 Rights Council still doesn't want us to attend the seminars.  
24 That's clear.

25                   Interestingly enough, just to complete this picture