

MEMORANDUM

TO: Ed Martin, Phyllis Schlafly, et al.

ATTORNEY WORK PRODUCT

FROM: R Emmett McAuliffe

DATE: June 17, 2016

IN RE: Inventory and assessment of Phyllis Schlafly's Intellectual Property,
1965-2016

1. Main Questions Presented: Can Intellectual Property Law be used as a leverage point to force Eagle Forum (the "C4") to cede control of the organization to Mrs. Phyllis Schlafly¹ (or in the alternative can the C4 be forced to choose another name)? What right does Eagle Forum Education and Legal Defense Fund have to use the name Eagle Forum?

2. EXECUTIVE SUMMARY: Intellectual Property Law offers us a substantial number of "swords" under these facts. It is believed that these swords, used together, would cause business interruption of the C4 that would threaten its survival. Meanwhile, client's road to survival is much less fraught with intellectual property problems. The name EAGLE FORUM has a "shield" though, called incontestability. Client has sufficient grounds to test the shield in court, thus tying the C4 up considerably. However, the client should be advised that the chances of piercing through incontestability are about 2:1.

Intellectual property law, with its focus on consumer protection, is probably a much more fertile area for client than the corporate control issues it is concurrently fighting.

3. "Eagle Forum is perhaps the best-known conservative grassroots membership organization in America. Eagle Forum is associated, 'one for one' with best-selling author, journalist, speaker and #1 activist Phyllis S. Schlafly. Despite the existence of an independent board of directors for the two "wings" of Eagle Forum,² the right to decide membership in the organization, and therefore orthodoxy to conservative principles, has been held in a Trust, of which Schlafly is co-trustee with her son John, the organization's attorney. The Eagle Forum board itself approved this arrangement."

¹ Hereinafter sometimes "P" or "PS".

² a 501(c)(4) not-for-profit organization called Eagle Forum and a 501(c)(3) not-for-profit organization called Eagle Form Educational and Legal Defense Fund.