IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

SENATOR MITCH MCCONNELL, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	CIVIL ACTION NO. 02-CV-582 (CKK, KLH, RJL) Consolidated with: CIVIL ACTION NOS. 02-CV-581 (CKK, KLH, RJL) 02-CV-633 (CKK, KLH, RJL) 02-CV-751 (CKK, KLH, RJL) 02-CV-753 (CKK, KLH, RJL) 02-CV-754 (CKK, KLH, RJL) 02-CV-874 (CKK, KLH, RJL) 02-CV-875 (CKK, KLH, RJL) 02-CV-877 (CKK, KLH, RJL) 02-CV-881 (CKK, KLH, RJL)
CONGRESSMAN RON PAUL, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	and CIVIL ACTION NO. 02-CV-781 (CKK, KLH, RJL)

INITIAL BRIEF OF PLAINTIFFS IN CIVIL ACTION NO. 02-CV-781, CONGRESSMAN RON PAUL, GUN OWNERS OF AMERICA, INC., GUN OWNERS OF AMERICA POLITICAL VICTORY FUND, REALCAMPAIGNREFORM.ORG, CITIZENS UNITED, CITIZENS UNITED POLITICAL VICTORY FUND, MICHAEL CLOUD, AND CARLA HOWELL, IN SUPPORT OF THEIR CASE-IN-CHIEF

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November 6, 2002

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

Page

Page

Miscellaneous

* Authorities chiefly relied upon are marked with an asterisk.

STATEMENT OF THE CASE

On March 27, 2002, the President of the United States signed into law the Bipartisan Campaign Reform Act of 2002 ("BCRA"), Public Law 107-155, amending the Federal Election Campaign Act of 1971, as amended ("FECA").[1]

On April 23, 2002, Plaintiffs Congressman Ron Paul, Gun Owners of America, Inc., Gun Owners of America Political Victory Fund, RealCampaignReform.org, Citizens United, Citizens United Political Victory Fund, Michael Cloud, and Carla Howell ("the Paul Plaintiffs") filed their complaint herein, alleging that the BCRA and the FECA violate their Freedom of the Press rights under the First Amendment to the U.S. Constitution. On May 7, 2002, the Paul Plaintiffs amended their complaint. This Court, *sua sponte*, consolidated the Paul Plaintiffs' case with the cases of ten other groups of plaintiffs challenging the constitutionality of the BCRA, as reflected in the above caption. Jurisdiction is premised upon Section 403 of the BCRA and 28 U.S.C. Sections 1331, 2201, and 2202.

Ron Paul is a Member of the United States House of Representatives from the 14th Congressional District of Texas, and is currently the 2002 Republican candidate for that office; Carla Howell is the 2002 Libertarian Party candidate for Governor of Massachusetts, and was the 2000 Libertarian Party candidate for the U.S. Senate from Massachusetts; and Michael Cloud is the 2002 Libertarian Party candidate for the United States Senate from Massachusetts, and also serves as a fundraiser for Libertarian candidates and the Libertarian Party.

Gun Owners of America, Inc. ("GOA") is a nonpartisan, not-for-profit, non-stock corporation organized under the laws of California, exempt from federal income tax under 26

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[1] The FECA/BCRA provisions challenged by the Paul Plaintiffs are set out in the statutory Appendix hereto.

U.S.C. Section 501(c)(4) (a "Section 501(c)(4) exempt organization"), dedicated primarily to defending, by public education and advocacy, the rights guaranteed under the Second Amendment of the U. S. Constitution; Gun Owners of America Political Victory Fund ("GOAPVF") is a political action committee, and is the separate segregated fund ("SSF") of GOA. Citizens United ("CU") is a nonpartisan, not-for-profit, non-stock corporation organized under the laws of Virginia, and a Section 501(c)(4) exempt organization, dedicated primarily to public education and advocacy regarding limited government, national sovereignty, and constitutional rights; Citizens United Political Victory Fund ("CUPVF") is a political action committee, and is the SSF of CU. RealCampaignReform.org ("RCR") is a nonpartisan, not-for-profit, non-stock corporation organized under the laws of Virginia, and a Section 501(c)(4) exempt organization, dedicated primarily to public education and advocacy regarding First Amendment campaign and election-related rights.

Defendants are the Federal Election Commission ("FEC") and the United States, along with the intervenor-defendants, Senators John McCain, Russell Feingold, Olympia Snowe, and James Jeffords, and Representatives Christopher Shays and Martin Meehan.

On November 5, 2002, the Paul Plaintiffs submitted their case-in-chief, consisting of the declarations and exhibits of the following fact witnesses, and the reports, appendices, and declarations of the following expert witnesses (whose testimony will be summarized more extensively in these plaintiffs' proposed findings of fact):

Fact Witnesses:

1. Congressman Ron Paul. Congressman Paul testified, *inter alia*, how FECA/BCRA operated as a prior restraint upon him and his authorized campaign committee, requiring them,

prior to entering into the marketplace of ideas related to his campaigns for election to federal office, to secure a license from, and submit to the editorial supervision and control of, the FEC. Paul Decl. ¶¶ 14-18. Congressman Paul also testified that the continuing and increased discriminatory burdens of such laws — including contribution limitations, soft money limits, campaign coordination rules and "electioneering communications" — would substantially and adversely impact his ability to engage in a variety of First Amendment activities related to his campaigns for federal office. *E.g.*, Paul Decl. ¶¶ 16-18.

2. Mark Elam. Mr. Elam, past and current campaign manager of Congressman Paul's election campaigns, testified, *inter alia*, about the effect of federal contribution limits under the FECA/BCRA, as well as the adverse and discriminatory burdens imposed upon candidates for federal office, Elam Decl. ¶¶ 5-8, and the adverse impacts of the FECA recordkeeping and reporting requirements on citizen participation in campaign activities. Elam Decl. ¶¶ 9-12.

3. Thomas Lizardo. Mr. Lizardo, who has served as a campaign consultant to the Ron Paul campaigns for federal office, testified, *inter alia*, regarding the adverse impact of federal regulations on a campaign's fundraising efforts and overall image, Lizardo Decl. ¶ 3, the adverse impact, on contributors as well as campaigns, of the federal rules requiring public disclosure of campaign contributions, Lizardo Decl. ¶¶ 3-4, and the FECA-enhanced competitive disadvantage suffered by political contestants, such as Ron Paul, who do not enjoy the support of the major institutional media. Lizardo Decl. ¶ 5.

4. Anonymous Witness No. 1.[2] Anonymous Witness No. 1, a Republican with a

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[2] The "highly confidential" identity of Anonymous Witness No. 1 was disclosed to requesting counsel during the cross-examination process, and has been submitted to this Court,

libertarian outlook and a contributor to candidates for federal office, testified regarding the chilling effect that FECA/BCRA has on an ordinary citizen's entry into the marketplace of ideas related to campaigns for election to federal office, including the adverse effects that the FECA/BCRA contribution limits and requirements of public disclosure of contributor identity have on such citizens' rights to engage in First Amendment activities. Prior to his preparing his testimony in this case, he did not know that his federal political contributions — which he considers as confidential as his voting history — were a matter of public record, readily accessible on the Internet. Anon. Wit. No. 1 Decl. ¶¶ 2-6. In the past, he has contributed the FECA maximums of $1,000 per election to federal candidates and $5,000 per year to a multi-candidate political committee. In the future, he would like to contribute more than the FECA/BCRA limits, but is concerned about public exposure. Anon. Wit. No. 1 Decl. ¶¶ 6-9.

5. Anonymous Witness No. 2. Anonymous Witness No. 2, a member of the Libertarian Party and a contributor to political campaigns, also testified regarding the chilling effect that FECA/BCRA has on an ordinary citizen's entry into the marketplace of ideas related to campaigns for election to federal office. Aware that the identities of donors of more than $200 to a candidate or political committee must be disclosed, and also aware of the potential for government abuse and adverse business consequences when such political choices are revealed, Anonymous Witness No. 2 has elected to keep his federal contributions just below the $200 threshold. If his name were not made public, he would contribute substantially more. Anon. Wit. No. 2 Decl. ¶¶ 3-8.

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along with the "highly confidential" identity of Anonymous Witness No. 2, under seal.

6.-9. Representatives of organizational plaintiffs. CU president, David N. Bossie, and vice president and general counsel, Michael Boos, testified concerning the status and activities of CU, and GOA executive director, Lawrence D. Pratt, and RCR president, James H. Babka, Jr., testified concerning the status and activities of GOA and RCR, respectively. In addition to their testimony about the discriminatory impact that FECA/BCRA has upon their organizations' participation in the marketplace of political ideas, they testified to the adverse effect that BCRA would have on their working relationships with federal officeholders, as well as their ability to communicate with the public on public policy issues during key periods of time leading up to primary and general elections. Bossie Decl. ¶ 5; Pratt Decl. ¶ 10; Babka Decl. ¶ 9. Mr. Pratt and Mr. Boos also testified concerning the activities of GOAPVF and CUPVF, respectively, which, as political committees, are severely burdened and restricted by the FECA/BCRA. Such restrictions and burdens include the discriminatory, intrusive and unduly burdensome registration, reporting, and disclosure requirements mandated by those laws, as well as the discriminatory contribution limits upon political committees and donors to political committees. Pratt Decl. ¶¶ 13, 16-19; Boos Decl. ¶¶ 8, 11-14.

10. Carla Howell. Ms. Howell testified about the barriers imposed by federal campaign regulations which adversely affected her as a candidate for the U.S. Senate in 2000, and would adversely affect her as a future candidate for federal office, and as a Libertarian Party candidate for state office. She testified how minor party candidates for federal and state office often work in concert, and how provisions of the BCRA would restrict those operations in the future, as well as how the adverse effects of the BCRA's provisions relating to national parties and soft money will operate in a particularly negative manner with respect to minor

parties. Howell Decl. ¶¶ 7, 20. Ms. Howell testified how minor party candidates must develop an alternative press because minor party candidates are often "blacked-out" by major establishment media which operate outside of federal regulations in a discriminatory manner. Howell Decl. ¶¶ 8-14. She also described the adverse impact of FECA/BCRA experienced by minor party candidates because of the federal regulations: (1) limiting the types of expenditures that she may make as a candidate for office; (2) limiting the per-election and aggregate amounts that individuals and political committees may contribute to candidates for federal office; and (3) forcing public disclosure of the identities of individual contributors, all of which put minor party candidates at a severe competitive disadvantage vis-a-vis major party candidates and incumbents. Howell Decl. ¶¶ 15-20. Finally, Ms. Howell decried the BCRA permitted/prohibited and personal use provisions, both as written and as applied, as unreasonable limitations on her communicative activity. Howell Decl. ¶¶ 21-23.

11. Michael Cloud. Mr. Cloud identified the barriers imposed by federal campaign finance regulation which adversely affect him as a candidate for the U.S. Senate from Massachusetts in 2002, and potentially as a future candidate for state and federal office, and he explained how FECA/BCRA dictates his messages to the public. Cloud Decl. ¶¶ 1-2. Mr. Cloud testified that FECA/BCRA is part of a legislative licensing scheme that imposes barriers to entry on new candidates for federal office, such as himself, and he described at length the prejudice such candidates suffer because of the contribution disclosure and reporting requirements of those laws. Cloud Decl. ¶¶ 7-17. Mr. Cloud testified regarding the adverse effects of the BCRA prohibition of soft money contributions to political parties, and how provisions of BCRA would restrict minor party candidates for federal and state office from

working together. Cloud Decl. ¶¶ 19-20. He detailed the government-provided financial resources to incumbents affecting federal elections. Cloud Decl. ¶¶ 12-13. Finally, Mr. Cloud described at length the power and partisanship of the institutional media — including the media's power to make or break a candidate for public office — and the unfair effects of the privileges and immunities granted to such media by the FECA/BCRA. Cloud Decl. ¶¶ 23-28.

Expert Witnesses:

1. James C. Miller, III, Ph.D. Dr. Miller, former FTC chairman and author of the book, *Monopoly Politics* (a copy of which is appended to his report), submitted a report testifying to the actual operation and effect of the federal election laws, as well as the rules promulgated and enforced by the FEC, including the requirement that candidates for office secure a license from the government in order to compete for election to federal office and to take their public policy message to the people. His report documents how FECA/BCRA operates to the disadvantage of challengers, and to the advantage of incumbents, and how campaign finance regulations generally impair the quantity and quality of public debate by candidates on the issues. His report also attests that voters would be better served by the exchange of ideas according to the principles of the competitive marketplace, rather than under the regulatory regime of FECA/BCRA.

2. Walter J. Olson, CPA. Mr. Olson, a management consultant, certified public accountant, and expert in FEC compliance matters, submitted a report containing detailed testimony about the burdensome, intricate, labor-intensive, time-consuming, and costly recordkeeping and reporting requirements imposed by FECA, and further increased by BCRA. Mr. Olson's report demonstrates that FECA/BCRA exposes individuals and organizations

engaged in federal election activities to serious penalties for violation of an extensive and intricate set of operating, reporting, filing, and recordkeeping requirements so complex that the FEC's own information and software specialists are sometimes unable to provide answers.

3. Perry Willis. Mr. Willis, an experienced federal campaign manager and consultant, submitted a report in which he testified at great length as to how FECA/BCRA serves to protect the Democratic and Republican parties' domination of American politics by artificial enhancement of media influence on elections through a special privilege exemption, and imposition of draconian contribution limits and reporting requirements on minor parties and their candidates, who are oftentimes ignored by the exempt institutional media. Mr. Willis further described how FECA/BCRA will continue to deter qualified individuals from becoming candidates for federal office and, by means of reporting requirements, will chill public participation in campaign activity, particularly on behalf of candidates for federal office who challenge either incumbents or candidates of the two major parties.

ARGUMENT

I. THE FECA/BCRA VIOLATES PLAINTIFFS' FREEDOM OF THE PRESS.

A. Plaintiffs' Freedom of the Press is at Issue in this Case.

The Paul Plaintiffs have grounded their five-count complaint in the First Amendment guarantee of the freedom of the press. They could also have asserted the freedom of speech and association, equal protection, due process, and federalism claims made by other plaintiffs, but have intentionally targeted their challenges narrowly so as to focus this Court's attention on

the freedom of the press.[3]

In the context of election campaigns, candidates and their authorized political committees, public policy organizations, and multicandidate political action committees ("PACs"), including all of the Paul Plaintiffs, function as independent and effective "presses" — developing and implementing editorial policy and researching, drafting, editing, and publishing (and even withholding) news stories, editorials, and commentaries on both public policy issues and candidates for election to federal office. The Paul Plaintiffs extensively publish through press releases, unpaid appearances on radio and television news, talk, and other shows, through paid political advertisements in newspapers and on radio and television, and through their own outlets — faxes, e-mail, web sites, direct mail, newsletters, bumper stickers, video and audio tapes, telephone calls, door-to-door campaigning, speeches, debates, and even a syndicated radio show. Paul Decl. ¶¶ 13-15; Lizardo Decl. ¶ 5; Bossie Decl. ¶¶ 3, 5; Howell Decl. ¶ 2; Pratt Decl. ¶¶ 3, 5, 9; Babka Decl. ¶¶ 4, 7, 9; Willis Decl. ¶¶ 7, 8,

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[3] The freedom of the press provides guarantees that are distinct from, and significantly greater than, the guarantees of free speech and association, and of equal protection, that have heretofore been applied to campaign finance regulations. Applying the free speech and association guarantees, the U.S. Supreme Court has sustained certain campaign finance rules upon the grounds that they are necessary to serve a compelling government interest in preventing corruption and the appearance of corruption. *See, e.g.,* Buckley v. Valeo, 424 U.S. 1 (1976); Nixon v. Shrink Missouri Gov't. PAC, 528 U.S. 377 (2000); FEC v. Colorado Repub. Fed. Campaign Comm., 533 U.S. 431 (2001). Applying the same compelling government interest test, the Supreme Court has also sustained discriminatory campaign finance regulations under the equal protection clause. *See, e.g.,* Austin v. Chamber of Commerce, 494 U.S. 652, 666-68 (1990). While the compelling government interest test has been applied to free speech, association and equal protection claims, it is not applicable to the freedom of the press. Rather, in numerous cases the Supreme Court has utilized four independent and distinct principles protecting the people from governmental infringements on the freedom of the press, none of which can be overridden by invoking the compelling government interest test, as demonstrated in Section I.B., *infra*.

10. Thus, the Paul Plaintiffs publish news, editorials, and commentaries, by which they communicate to the public, often in competition with the institutional media such as newspapers, magazines, radio, and television. The press activities of the Paul Plaintiffs, however, are burdened by the registration, reporting, recordkeeping requirements, prohibitions, limitations, and other rules and regulations of the FEC, while the ordinary publishing activities of the institutional media are exempted. 2 U.S.C. Section 431(9)(B)(i). *See* Hasen, *Campaign Finance Laws and the Rupert Murdoch Problem*, 77 TEX. L. REV. 1627, 1632-34 (1999).

If Congress were to repeal the FECA's institutional media exemption, and place the news reporting, editorial writing, and commentaries of such media under the supervisory jurisdiction of the FEC — requiring such institutions as the *New York Times* and the *Washington Post* to register, keep records, report, and abide by specified limits on the amounts that individuals may invest in their business, or amounts that individuals may pay for advertising or subscriptions, to prevent corruption and the appearance of corruption, before they can publish anything that might influence the outcome of a federal election — there is no doubt that the *New York Times* and the *Washington Post,* along with, for example, ABC, NBC, CBS, and Fox, would immediately institute a lawsuit challenging the constitutionality of that regulation as a violation of the freedom of the press. Citing such precedents as New York Times v. United States, 403 U.S. 713 (1971), and Miami Herald Publishing Co., Inc. v. Tornillo, 418 U.S. 241 (1974), they would no doubt argue that no FEC registration permit could be required, nor any injunction be secured, nor any penalties be imposed for the

operation of their "presses."[4]

Indeed, the legislative history of FECA indicates that the institutional media exception was designed to "assure … the unfettered right of newspapers, TV networks, and other media to cover and comment on political campaigns" in order not "to limit or burden in any way the first amendment freedoms of the press and of association." H.R. Rep. No. 1239, 93d Cong., 2d Sess. at 4 (1974). As one campaign finance scholar has observed, the "current media exception appears aimed at preserving freedom of the press." Hasen, *Campaign Finance and Murdoch*, *supra*, 77 TEX. L. REV. at 1650 and n. 120. To date, however, candidates and their committees, political parties, public policy issue organizations, PACs, and corporations that are engaged in non-exempt press activities have not invoked the freedom of the press in their numerous challenges to the constitutionality of federal campaign finance regulations, and an impression may exist that the freedom of the press belongs exclusively to the institutional media. *See* Austin v. Chamber of Commerce, *supra,* 494 U.S. at 666-68.

But the freedom of the press was never designed as a special privilege of the institutional media, nor has the Supreme Court ever so limited that freedom. Indeed, as Chief Justice Burger put it in his concurring opinion in First National Bank of Boston v. Bellotti, 435

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[4] Under FECA, the FEC may seek a court injunction to prevent violations of FECA, including violation of the registration requirements. 2 U.S.C. Section 437g(6)(A) and (B). Knowing and willful violations of a provision relating to making, receiving, or reporting contributions or expenditures has been punishable by a fine equal to the greater of $25,000 or 300 percent of the amount involved and/or up to one year in prison. 2 U.S.C. Section 437g(12)(d)(1)(A). Under BCRA, **violations** involving up to $25,000 justify a fine under Title 18 and/or up to **five years in prison,** and the U.S. Sentencing Commission has been asked to issue **guidelines for jail sentences** for persons who violate the ever more confusing morass of FEC law and regulations. BCRA Sections 312, 314.

U.S. 765, 801 (1978): "The very task of including some entities within the 'institutional press' while excluding others [is] reminiscent of the abhorred licensing system [that] the First Amendment was intended to ban…."

Beginning with Sir William Blackstone's description of the liberty of the press in 1769, and continuing through the October 2001 term of the Supreme Court, freedom of the press has been expressly recognized as a right equally available to all. Blackstone's *Commentaries on the Laws of England* could not be more clear:

> Every freeman has an undoubted right to lay what sentiments he pleases before the public: to forbid this, is to destroy the freedom of the press…. [IV W. Blackstone, *Commentaries on the Laws of England* 151 (Univ. of Chi. Facsimile of the First Edition: 1769).]

In 1931, the Supreme Court, quoting Blackstone *verbatim*, emphasized that the freedom of the press belonged to "every freeman." Near v. Minnesota, 283 U.S. 697, 713-14 (1931). Seven years later the High Court applied the freedom of the press to a Jehovah's Witness and, from that time until the present, the Court has consistently ruled that the freedom of the press is a "fundamental personal right" equally available to all, not just to the institutional media that publish such things as "newspapers and periodicals." Lovell v. Griffin, 303 U.S. 444, 450, 452 (1938). *See* Schneider v. Town of Irvington, 308 U.S. 147, 161 (1939); Thornhill v. Alabama, 310 U.S. 88, 95 (1940); Murdock v. Pennsylvania, 319 U.S. 105, 111 (1943); Pennekamp v. Florida, 328 U.S. 331, 364 (1946) (Frankfurter J., concurring); First National Bank of Boston v. Bellotti, *supra*, 435 U.S. 765, 796-801 (1978) (Burger, C.J., concurring); Hurley v. Irish-American Gay, Lesbian and Bisexual Group of Boston, 515 U.S. 557, 569-70 (1995); Watchtower v. Stratton, 536 U.S. ___, 153 L.Ed.2d 205, 216-17 (2002).

B. FECA/BCRA Violates the Paul Plaintiffs' Freedom of the Press.

Prior to the enactment of BCRA, Congress imposed, through FECA, as amended, a burdensome and complex **licensing** system which required that before any "political committee" (as defined in 2 U.S.C. Section 431(4)) "may engage in any activity that expressly advocates the election or defeat of any candidate for election to federal office," it must file a "statement of organization" with the FEC, signed by a treasurer who assumes unlimited personal liability for legal compliance of the committee. Olson Exp. Rep. ¶¶ 22, 73. Congress imposed **economically burdensome** regulations upon the candidates and their committees, requiring the committees to file periodic reports with the FEC containing the names, addresses, occupations, and employers of any contributor of more than $200 in the aggregate in a calendar year. A federal candidate's authorized committee may not receive from any individual a contribution in excess of $1,000 per election, nor may any multicandidate PAC receive in excess of $5,000 per year. PACs are also required to register with the FEC, and file reports on their financial activities. *See* Olson Exp. Rep. ¶¶ 7-16, 116; Pratt Decl. ¶¶ 12-16; Boos Decl. ¶¶ 7-11.

With the enactment of Title I of BCRA, Congress has extended the FECA licensing system to sweep into the FEC's supervisory domain several heretofore unregulated players in the political arena. For example, state, district, and local political parties are regulated if they engage in "federal election activity" as defined by federal law. BCRA Section 101(a), creating FECA Section 323(b)(1). Congress has enlarged the FEC's licensing power over federal candidates and officeholders, limiting their activities in fundraising events of their own political parties, in the campaigns of other persons to federal office, and in their relations with issue-

oriented organizations. BCRA Section 101(a), creating FECA Section 323(e)(1). Even state candidates and officeholders are swept under the licensing jurisdiction of the FEC if they engage in campaign activities that identify them with candidates for election to federal office. BCRA Section 101(a), creating FECA Section 323(f). And Congress has extended the FEC's licensing power to impose significant economic burdens and reporting requirements upon issue-oriented organizations that engage in "electioneering communications" at critical times leading up to primary and general elections. BCRA Section 201(a).

Failure to meet these new BCRA **licensure** requirements subjects national, state, district, and local political parties; federal, state, and local candidates; and issue-oriented organizations to significant civil and criminal penalties and to the injunctive powers of the courts. *See* footnote 4, *supra*. Hence, they are subject to **prior restraints**, not only with respect to their activities expressly advocating the election of or defeat of a candidate for election to federal office, but also to a wide range of "public communications," including educating the people on the issues and cooperative efforts between federal and state candidates and political parties to encourage voter registration, voter identification, voting, and other generic campaign activity. Additionally, these persons and organizations are subject to government-imposed economic burdens that, in effect, are akin to the hated "taxes on knowledge" that the freedom of the press was designed to ban. *See* Grosjean v. American Press Co., Inc., 297 U.S. 233, 246-47 (1936).

By imposing a **licensing** requirement upon those who expressly advocate the election of a person to federal office, backed up by the **prior restraints** of civil and criminal penalties and the injunctive power of courts, and by establishing **editorial control** of federal election

campaigns in the FEC, coupled with the imposition of **discriminatory economic burdens** upon persons and entities under FEC jurisdiction, FECA/BCRA violates each of the four principles that undergird the freedom of the press.

Licensing. At the heart of the freedom of the press, is the principle that the government has no right, in the words of Blackstone, "[t]o subject the press to the restrictive power of a licenser." IV W. Blackstone's *Commentaries, supra,* at 152. As the Supreme Court has observed, to require a person to obtain a permit from the government **before** being allowed to communicate ideas "strikes at the very foundation of the freedom of the press by subjecting it to **license** and censorship":

> The struggle for the freedom of the press was primarily directed at the power of the licensor. It was against that power that John Milton directed his assault by his "Appeal for the Liberty of Unlicensed Printing." And the liberty of the press became initially a right to publish "without a license what formerly could be published with one." [Lovell v. Griffin, *supra*, 303 U.S. at 451.]

This right to publish without a license, Blackstone wrote, "is indeed essential to the nature of a free state." IV W. Blackstone's *Commentaries, supra*, at 151. Just last term, the Supreme Court affirmed this free press principle:

> It is offensive — … to the very notion of a free society — that in the context of everyday public discourse a citizen must first inform the government of her desire to speak to her neighbors and then obtain a permit to do so. Even if the issuance of permits … is a ministerial task that is performed promptly and at no cost to the applicant, a law requiring a permit to engage in such speech constitutes a dramatic departure from our national heritage and constitutional tradition. [Watchtower v. Stratton, *supra,* 536 U.S. at ___, 153 L.Ed.2d at 219.]

Prior Restraint. As the Supreme Court observed in Lovell v. Griffin, *supra,* 303 U.S. at 451-52, freedom from government licensure "cannot be regarded as exhausting the guranty

[sic] of liberty" of the press, even though the prevention of such licensing "was a leading purpose in the adoption of the constitutional provision." Rather, the Court has consistently held that the freedom of the press is violated by any **prior restraint**, unless the government is able to show that the prior restraint is necessary to prevent an imminent danger of the highest order, such as "incitements to acts of violence and the overthrow by force of orderly government." Near v. Minnesota, *supra*, 283 U.S. at 713, 716. *Accord,* New York Times v. United States, *supra*, 403 U.S. at 725-26 ("Our cases … have indicated that there is a single, extremely narrow class of cases in which the First Amendment's ban on prior judicial restraint may be overridden. Our cases have thus far indicated that such cases may arise only when the Nation 'is at war.'") (Brennan, J., concurring). Indeed, when a statute obligates the government to issue a permit to communicate ideas, religious or political, it is an unconstitutional prior restraint upon the freedom of the press, making it "unnecessary" to even resolve the question of the standard of review to be applied to the law in question. Watchtower v. Stratton, *supra,* 536 U.S. at ___, 153 L.Ed.2d at 216-17, 218.

Editorial Control. The High Court has insisted that the freedom of the press protects the "editorial function" of the publisher or disseminator from government **censorship**, whether the power to censor be exercised to **edit out** (*see* Near v. Minnesota, *supra*, 283 U.S. at 712-14; New York Times v. United States, *supra,* 403 U.S. at 717-19, 723-25, 733), or to **edit in**. Miami Herald v. Tornillo, *supra*, 418 U.S. at 247-54, 256, 258 ("[T]he court has expressed sensitivity as to whether a restriction or requirement constituted the compulsion exerted by government on a newspaper to print. The clear implication has been that any such compulsion to publish that which "'reason tells them should not be published' is unconstitutional.");

Watchtower v. Stratton, *supra,* 536 U.S. at ___, 153 L.Ed.2d at 217 ("'On this method of communication [door-to-door] the ordinance imposes censorship, abuse of which engendered the struggle in England which eventuated in the establishment of the doctrine of the freedom of the press embodied in our Constitution.'"). Additionally, the autonomy of editorial control is also violated by a regulation which impairs the financial ability of a person to exercise **editorial control**. Thus, in Miami Herald, the Supreme Court found a Florida statute — requiring a newspaper to provide space to a candidate for election to office who had been attacked previously in the newspaper — unconstitutional because it would exact a penalty in the form of increased costs in the printing of the newspaper. *Id.*, 418 U.S. at 255-58. As the Court pointed out in Miami Herald, the "economic reality" of operating a newspaper does not allow for the assumption that "a newspaper can proceed to infinite expansion of its column space to accommodate the replies that a government agency determines or a statute commands the readers should have available." *Id.*, 418 U.S. at 257. Because the right of a publisher to edit his own publications is held inviolate, the Court has found laws requiring the disclosure of the author, publisher or disseminator of a communication to be unconstitutional. *See, e.g.,* Talley v. California, 362 U.S. 60, 64-65 (1960); McIntyre v. Ohio Elections Comm'n, 514 U.S. 334 (1995); Watchtower v. Stratton, *supra,* 536 U.S. at ___, 153 L.Ed.2d at 219-20.

Discriminatory Economic Burdens. Finding that a law which imposes a tax burden on some persons engaged in press activities, but not others, was designed to curtail "the acquisition of knowledge by the people in respect to their governmental affairs" (Grosjean, *supra*, 297 U.S. at 247), the Supreme Court held that such discriminatory tax burdens an unconstitutional infringement upon the freedom of the press even where "there is no evidence

of an improper censorial motive." Arkansas Writers' Project Inc. v. Ragland, 481 U.S. 221, 228 (1987). Moreover, the Court has recognized that government **discrimination** may come in the form of regulations that impose economic burdens other than taxes, if those regulations discriminate on the basis of the "'message … ideas … subject matter, or … content" of any particular expression. *Id.,* 481 U.S. at 229-30. Thus, a statute that compels a newspaper to print a reply to views previously published "exacts a[n] [unconstitutional] penalty on the basis of the content of a newspaper … in terms of the cost in printing and composing time and materials and in taking up space that could be devoted to other material the newspaper may have preferred to print." Miami Herald v. Tornillo, *supra,* 418 U.S. at 256.

As a comprehensive licensing system, FECA has established the FEC as editor-in-chief of the Paul Plaintiffs' press activities in the marketplace of ideas related to campaigns for elective office, imposing upon them licensure requirements, prior restraints, editorial controls, and discriminatory economic burdens that place them at a competitive disadvantage with the institutional media that are virtually exempt from such licensure, restraint, control, and burden. With the enactment of BCRA, Congress has impermissibly extended these unconstitutional licensing powers of the FEC, imposing additional prior restraints, editorial controls, and discriminatory economic burdens into new arenas to the further abridgment of the press activities of the Paul Plaintiffs.

II. BCRA TITLE I ABRIDGES PLAINTIFFS' FREEDOM OF THE PRESS BY EXERCISING EDITORIAL CONTROL OF THEIR PRESS ACTIVITIES.

Congressional Signers. BCRA Section 101(a) creating FECA section 323(e)(1), prohibits federal office holders from signing solicitation letters on behalf of GOA, CU, or

RCR. It would severely restrict the rights of Congressman Paul and these organizations to get their message out to the public, in that the rule prevents the Congressman and the organizations from working closely to raise funds to support their efforts to educate the public on the issues. *See* 67 Fed. Reg. 49108-09 (July 29, 2002). Both CU and GOA have worked closely with members of Congress in the past. Bossie Decl. ¶ 9; Pratt Decl. ¶ 10. RCR would like to develop a similar working relationship with federal officeholders in pursuit of its educational goals. Babka Decl. ¶ 9. The BCRA prohibition against congressional signers severely restricts the Paul Plaintiffs' press activities, by impairing their fundraising efforts. 67 Fed. Reg., *supra,* at 49131.

Federal Election Activities. Title I of the BCRA also authorizes the FEC to exercise significantly more editorial control over the actions of national, state, and local political parties, and federal, state, and local candidates and officeholders than ever before. *See* 67 Fed. Reg., *supra,* at 49064-132. Under BCRA, state, district, and local political parties may not raise any funds to pay for "federal election activities," candidates for federal office and federal officeholders may not engage in any fundraising activity, and candidates for state office and state officeholders may not "spend funds," outside the watchful eye of the FEC. 67 Fed. Reg., *supra*, at 49064-65, 49106-110. With respect to BCRA's new limits upon state, district, and local party support of a "Federal election activity," BCRA authorized the FEC to determine the meaning of "voter registration activity," "get-out-the-vote activity," and "voter identification." 67 Fed. Reg., *supra*, at 49066-70. To carry out the BCRA mandates, the FEC has clearly made a number of editorial judgments and, by its regulations, has imposed them upon plaintiffs Paul, Cloud, and Howell by limiting the communication activities of the

state, district, and local arms of the political parties with which they are affiliated. Such definitions violate not only the freedom of press principle prohibiting the government from exercising editorial control of political party communications, but also the freedom of press principle prohibiting discriminatory treatment of the press on the basis of the content of the communication.

Internet and E-mail Exemption. Even when BCRA contains definitions of key terms, the FEC has discretion to clarify such definitions, as it did with the term "public communication" with respect to federal election activities. 67 Fed. Reg., *supra,* at 49071-72. The FEC decided that "a communication by means of any broadcast, cable or satellite communication, newspaper, magazine, outdoor advertising facility, mass mailing or telephone bank to the general public, or any other form of general political advertising" did not include "communications provided through the use of the World Wide Web sites available to the public, widely distributed electronic mail, or other uses of the Internet …." *Id.* at 49071. By choosing to exclude the Internet from BCRA coverage, the FEC rejected the position of the principal congressional sponsors of BCRA, in part, because "the Internet is by definition a bastion of free political speech, where any individual has access to almost limitless political expression with minimal cost." *Id.* at 49072. While the current FEC has seen fit to leave the Internet and e-mail free from certain licensing, prior restraint, editorial control and discriminatory burdens imposed by the FECA/BCRA, in the areas of federal election activities (and electioneering communications, *see* 67 Fed. Reg. at 65197) there is no guarantee that a reconstituted FEC will do likewise, or that Congress, in a further attempt to "reform" the campaign finance system, will see fit to bring the Internet under the licensing power of the

government.[5]

Cooperation of Federal and State Candidates. BCRA impairs plaintiffs Paul, Cloud, and Howell from exercising editorial control over their own campaigns. For example, Title I would not only prevent Michael Cloud from receiving funds from the Libertarian Party (Cloud Decl. ¶ 19), but would also prevent him from working jointly with a state candidate, such as gubernatorial candidate Carla Howell. *Id.* at ¶ 20. Likewise, Congressman Paul is limited in his choices with respect to working jointly with state and local Republican candidates. Paul Decl. ¶ 16.

III. BCRA TITLE II ABRIDGES THE FREEDOM OF THE PRESS BY IMPOSING DISCRIMINATORY EDITORIAL CONTROL UPON THE PRESS ACTIVITIES OF PLAINTIFFS CU, GOA, AND RCR.

Section 201(a) of Title II of BCRA singles out plaintiffs CU, GOA, and RCR, and other Section 501(c)(4) educational/advocacy organizations that accept any donations from corporations, for discriminatory licensure by the FEC. It bans such organizations from making any "electioneering communication," *i.e.*, any "targeted" broadcast, cable, or satellite communication that refers to a clearly identified candidate for federal office, within 60 days before a general, special, or runoff election or within 30 days before a primary, caucus, or convention.

Plaintiffs GOA, CU, and RCR communicate with the public and promote ideas relevant

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[5] Despite the FEC's indulgence toward the Internet in this area, the use of the Internet is anything but unregulated by the FEC. Since 1995, the FEC has issued over 20 advisory opinions regarding the Internet, and last year published a Notice of Proposed Rulemaking on "The Internet and Federal Elections; Candidate-Related Materials on Web Sites of Individuals, Corporations and Labor Organizations" (66 Fed. Reg. 50358-66 (Oct. 3, 2001)).

to important public policy issues and legislative proposals. For example, matters involving firearms registration, public safety, gun bans, and arming aircraft pilots (GOA); legislation to terminate the inheritance tax, attacks on American sovereignty, and proposals for statehood for the District of Columbia (CU); and campaign finance reform (RCR) are non-electoral issues that have been addressed in plaintiffs' communications distributed to the public in the past, including advertisements broadcast by radio and television — and often containing the names of candidates for federal office — and these plaintiffs intend to continue to distribute such messages to the public. Pratt Decl. ¶¶ 5-9; Bossie Decl. ¶¶ 5-8; Babka Decl. ¶¶ 4, 7-8.

The Paul Plaintiffs' evidence demonstrates clearly that the BCRA's new prohibitions on "electioneering communications" would have prevented many of their past communications to the public. Publishing such communications is important at all times, and particularly those times within 60 days of federal, state, and local elections, when candidates for office are taking (or refusing to take) their own positions on such issues, and American citizens are paying particular attention to what is being said. In fact, it is also within the two months prior to federal general elections when Congress frequently debates and acts on legislation of interest to plaintiffs and the public. *See* Pratt Decl. ¶¶ 3, 5-7; Bossie Decl. ¶¶ 3-5; Babka Decl. ¶¶ 3-4.

Additionally, BCRA Title II requires that each such organization that disburses more than $10,000 in any calendar year for the direct costs of producing and airing electioneering communications must report to the FEC disclosing, *inter alia,* the names and addresses of all persons who contributed an aggregate amount of $1,000 or more to a segregated account from the first day of the preceding calendar year to the disclosure date, or if not made from a segregated account, the names and addresses of all contributors who contributed an aggregate

amount of $1,000 or more to the person making the disbursement from the first day of the preceding calendar year to the disclosure date.[6]

Therefore, not only do the BCRA Title II rules governing "electioneering communications" discriminate in favor of incumbent federal officeholders, they discriminate in favor of broadcast facilities, and other organizations singled out by BCRA and the FEC for exemption from the onerous financial burdens and reporting requirements governing such communications. Most significantly, however, by extending the public disclosure requirements of the current FECA to forced disclosure of the identities of contributors to "electioneering communications," BCRA violates the anonymity principle that the Supreme Court recently identified as the **first** concern arising from a law that requires a person to obtain a permit before that person engage in press activities, because "a permit application filed [with a government official] and available for public inspection necessarily results in a surrender of … anonymity." Watchtower v. Stratton, *supra,* 536 U.S. at ___, 153 L.Ed.2d at 219-20.

Except for two instances, once in relation to forced disclosure of the identities of persons allegedly involved in Communist Party activities (Communist Party of the United States v. Subversive Activities Control Board, 367 U.S. 1 (1961)), and a second time in relation to forced disclosure of the identities of persons contributing over a specified amount to

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[6] "Disclosure date" means the first date during any calendar year by which a person has made disbursements for the direct costs of producing or airing "electioneering communications" aggregating in excess of $10,000, and any other date during such calendar year by which a person has made disbursements for the direct costs of producing or airing "electioneering communications" aggregating in excess of $10,000 since the most recent disclosure date for such calendar year. This means that reporting may be required after the "electioneering communication" is purchased, but before it airs, giving the type of advance notice that the licensing requirement is improperly designed to provide.

a campaign for election to federal office (Buckley v. Valeo, *supra,* 424 U.S. at 68), the Supreme Court appears to have held fast to the anonymity principle without exception. *See* Talley v. California, *supra*; McIntyre v. Ohio Elections Comm'n., *supra*; Buckley v. American Constitutional Law Foundation, 525 U.S. 182 (1999); Watchtower v. Stratton, *supra*. Indeed, even with respect to forced disclosure of contributors to election campaigns, the Supreme Court has guarded the anonymity principle when a political party demonstrated that it had historically "been the object of harassment by government officials and private parties." Brown v. Socialist Workers '74 Campaign Comm., 459 U.S. 87, 88 (1982).

The anonymity principle, like the freedom of the press that undergirds it, does not exist simply to benefit an oppressed group, or an especially vulnerable individual, but is available to all equally, Democrat and Republican, Libertarian and Green, Independent and Partisan. The Court should find that any requirement of public disclosure of the identities of persons, whether they be door-to-door canvassers, petition gatherers, campaigners or their contributors, is within the constitutionally-guaranteed right of the people to exercise editorial control of their own communications, as established by the freedom of the press.[7]

IV. BCRA TITLE III'S EXPENDITURE AND CONTRIBUTION LIMITS CONSTITUTE UNCONSTITUTIONAL EDITORIAL CONTROL OF THE PRESS ACTIVITIES OF PLAINTIFFS.

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[7] *See* discussion, *supra,* at 15-19. The reporting requirements associated with "electioneering communications" newly imposed by BCRA are not dissimilar from the types of requirements that have existed in FECA for some time. *See* Olson Exp. Rep. ¶¶17-115. The same reasons that the Paul Plaintiffs advance to urge the Court to strike the reporting requirements applicable to "electioneering communications" also apply to all FECA reporting requirements imposed on federal candidates (such as Ron Paul, Michael Cloud, and Carla Howell), and on political committees (such as GOAPVF and CUPVF).

Limiting Campaign Expenditures.

Section 301 of Title III of BCRA authorizes the FEC to determine whether a contribution to a campaign has been "used by the candidate … for otherwise authorized expenditures in connection with the campaign for Federal office of the candidate…." Whether an expenditure is "otherwise authorized" is defined nowhere in BCRA. Thus, BCRA has now empowered the FEC to dictate how a campaign spends its own funds, thereby limiting the editorial discretion of the candidate and his authorized committee. It is chilling that a government agency would act as a financial control board, reviewing each campaign expenditure to determine if the purpose for which the money was expended was permissible under BCRA.

Also, it is profoundly discriminatory that incumbent federal office holders are expressly authorized to use contributions made to their campaigns "for ordinary and necessary expenses incurred in connection with [their] duties … as … holder[s] of Federal office[s]," but challengers may not use their campaign funds for the ordinary and necessary expenses incurred in connection with their duties as a candidate, or even in connection with their ongoing duties as state office holders. *Id.*

Prohibiting Expenditures for "Personal Use."

Additionally, Section 301 of BCRA usurps editorial control, and places a discriminatory economic burden upon candidates, with its codification of the FEC's rules prohibiting a candidate from using campaign contributions "converted to personal use," *i.e.*, "used to fulfill any commitment, obligation, or expense of a person that would exist irrespective of the candidate's election campaign or individual's duties as a holder of Federal

office." The net effect of these so-called "personal use" restrictions is strongly pro-incumbent, and anti-challenger. Although not expressly stated in BCRA, it appears that payment of a salary or stipend to a candidate would constitute a conversion of those funds to personal use.[8] Neither BCRA nor the proposed regulations take into consideration that challengers run campaigns against incumbents, who, while campaigning, are paid a substantial salary[9] which may be drawn upon to pay personal expenses. Indeed, an incumbent may spend months in his district or state campaigning while drawing his or her salary, but a challenger is barred from accepting a salary or a stipend from campaign contributions to compensate him or her while campaigning full time.[10]

Clearly, BCRA's specification that certain types of prohibited expenses are *per se* "for personal use" are discriminatory. For example, Section 301 states that "a clothing purchase" can never be justified as a campaign-related expense because it is, by statutory definition, a

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[8] Indeed, the FEC's Notice of Proposed Rulemaking on "Disclaimers, Fraudulent Solicitation, Civil Penalties, and Personal Use of Campaign Funds," published at 67 Fed. Reg. 55348-55357 (August 29, 2002), has proposed that the *per se* rules be modified to "prohibit candidates from using campaign funds to pay themselves salaries or otherwise compensate themselves in any way for income lost as a result of campaigning for Federal office."

[9] Members of the House of Representatives and Senators are paid $150,000 annually, and Members in leadership positions are paid more. Cloud Decl. ¶ 12.

[10] FEC regulations also prohibit an employee of a corporation from receiving his salary and receiving benefits while campaigning full time for office, unless he is taking "bona fide … vacation time or other earned leave time." FEC Advisory Opinion 2000-1. *See* 2 U.S.C. Section 441b(a) and 11 CFR 113.1(g)(6). Yet, there is no rule that a Member of Congress may receive his or her salary and benefits while campaigning only if he or she is taking vacation or other earned leave time. Apparently, acceptance of publicly-funded salaries by incumbents while campaigning is permitted, while acceptance of privately-funded salaries by challengers is not.

"personal" one. This discriminates against candidates campaigning for federal office who may need clothing of a different nature and quantity than they would need if they were not candidates, in disregard of the importance of non-verbal communications, such as clothing. Plaintiff Howell explained it this way:

> I am not personally wealthy, having taken sabbaticals from work to campaign, and using up much of my savings in the process. When I work it is from home as a consultant; therefore, my personal wardrobe is limited and nowhere near what is expected of a person who is a candidate for federal office, especially a woman. I view my clothes for personal appearances as the equivalent of a uniform I must wear. It is outrageous that it would be a federal crime or violate[] federal law to "knowingly and willfully" buy a suit and matching accessories from campaign funds." [Howell Decl. ¶ 22.]

Campaign Contribution Limits.

FECA established limitations on personal contributions at $1,000 per election with respect to candidates for federal office, and a total maximum of all contributions to candidates, political committees and party committees of $25,000 per year. 2 U.S.C. Section 441a(a)(1) and (3). BCRA has increased those limitations to $2,000 per election with respect to candidates for federal office. The aggregate limits now cover a two-year federal election cycle, with a $37,500 limit to all candidates and a $57,500 limit to political committees and political parties (with no more than $37,500 of this amount going to an entity other than a national party or one of their committees). BCRA also indexes these limitations so that they are automatically increased in the future to keep up with inflation.[11] *But see* Miller Exp. Rep.

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[11] Furthermore, although certain limits were slightly increased for individuals, the limits for contributions to — and by — political action committees were neither increased nor indexed for inflation. There is no justifiable basis for such disparate treatment, which clearly prejudices GOAPVF and CUPVF. *See* Pratt Decl. ¶¶ 16, 18-19; Boos Decl. ¶¶ 11-14.

at 22.

The Paul Plaintiffs submit that the freedom of the press does not permit any limitation on individual contributions to candidates for federal office and political committees. The Supreme Court has upheld individual contributions limits to candidates for federal office, but not against a freedom of the press challenge. Thus, insofar as the Court ruled such limitations constitutionally permissible in Buckley v. Valeo, the Paul Plaintiffs urge this Court not to follow Buckley v. Valeo here, because the press guarantee lays down a different and more stringent standard, namely, that explained in Miami Herald v. Tornillo, wherein it was determined that a newspaper could not be deprived of its right as an editor to spend funds in the way that it sees fit, as opposed to the way that the government sees fit.

> Plaintiff Ron Paul has explained that limits on contributions by individuals: have substantially interfered and adversely affect … the communicative activities of myself, and my authorized campaign committee and my supports … by reducing the quality and quantity of campaign communications designed (a) to promote my election and re-election, and (b) to inform and persuade the people of the 14th Congressional District regarding my positions on the public policy issues relevant to my campaign." [Paul Decl. ¶ 14.]

In these campaigns plaintiff Paul has been opposed by "most of the major newspapers, magazines, broadcast facilities, and other communications media [which] promote government policies directly contrary to those that [he held]" particularly with respect to the press in his district. Paul Decl. ¶ 13. Nevertheless, these are exempted by both FECA and BCRA from any limitations on the source or amount of their contributions, whether by way of investment, advertising, or subscriptions.[12]

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[12] Anonymous Witness No.1 testified that he has contributed the maximum of $1,000 per election to Ron Paul and other candidates, and would contribute more than BCRA's $2,000

Libertarian candidates Cloud and Howell both explained the particular difficulties created by contributions limits for minor party challengers, as contrasted to incumbent office holders. Cloud Decl. ¶¶ 10-18; Howell Decl. ¶¶ 4-7 and 15-20. Plaintiff Cloud estimates that the contribution limits in his current campaign for U.S. Senate alone has deprived his campaign of hundreds of thousands of dollars. Cloud Decl. ¶¶ 15-16. Former National Director of the Libertarian National Committee Perry Willis explained in his expert witness report the real effect of the contribution limits that the Buckley court had assumed were relatively benign and concluded that:

> under the contribution limits, most challengers cannot raise enough money to win, or to be heard, or to be remembered, or to have any kind of lasting impact. Thus many donors who agree with a challenger's message refuse to make contributions that they believe will achieve nothing, whole others give reduced amounts merely out of sympathy for the quixotic quest. [Willis Exp. Rep. ¶ 12.]

Additionally, Willis stated that "the elimination of contribution limits would do little to increase meaningfully incumbents' communications with the electorate. Most of them are already able to saturate their districts with campaign communications…." *Id*. *See also* Miller Exp. Rep. at 16-18.

In Buckley v. Valeo, the Court anticipated that identical contributions may have the appearance of fairness, but may not reflect political reality. 424 U.S. at n. 33. Now, the Paul Plaintiffs have documented what was only suspected before. This new evidence on the record provides the basis for this Court to strike down the contribution limits and to reintroduce

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limit if he were permitted to do so. Anon. Wit. No. 1 Decl. ¶¶ 3, 7-8. This witness also objected to being identified out of a concern that his support for libertarian principles could be a source of friction with his current business customers having different political leanings.

competition into political markets, for all the same reasons that competition is valued in economic markets. *See* Miller Exp. Rep. at 3-8.

CONCLUSION

For the foregoing reasons, the Paul Plaintiffs hereby request the Court to strike, as violative of their right to freedom of the press, the sections of FECA, as amended by BCRA, set out in the Appendix hereto.

Respectfully submitted,

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