

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

SENATOR MITCH McCONNELL, *et al.*,

Plaintiffs,

v.

FEDERAL ELECTION COMMISSION, *et al.*,

Defendants.

Civ. No. 02-582 (CKK, KLH, RJJ)

FILED ✓

MAY 13 2002

NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

NATIONAL RIFLE ASSOCIATION OF
AMERICA, *et al.*,

Plaintiffs,

v.

FEDERAL ELECTION COMMISSION, *et al.*,

Defendants.

Civ. No. 02-581 (CKK, KLH, RJJ)

EMILY ECHOLS, a minor child, by and through
her next friends, TIM AND WINDY ECHOLS, *et*
al.,

Plaintiffs,

v.

FEDERAL ELECTION COMMISSION, *et al.*,

Defendants.

Civ. No. 02-633 (CKK, KLH, RJJ)

(N)

CHAMBER OF COMMERCE OF THE UNITED STATES, *et al.*,

Plaintiffs,

v.

FEDERAL ELECTION COMMISSION, *et al.*,

Defendants.

Civ. No. 02-751 (CKK, KLH, RJL)

NATIONAL ASSOCIATION OF BROADCASTERS,

Plaintiff,

v.

FEDERAL ELECTION COMMISSION, *et al.*,

Defendants.

Civ. No. 02-753 (CKK, KLH, RJL)

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS, *et al.*,

Plaintiffs,

v.

FEDERAL ELECTION COMMISSION, *et al.*,

Defendants.

Civ. No. 02-754 (CKK, KLH, RJL)

CONGRESSMAN RON PAUL, *et al.*,

Plaintiffs,

v.

FEDERAL ELECTION COMMISSION, *et al.*,

Defendants.

Civ. No. 02-781 (CKK, KLH, RJL)

REPUBLICAN NATIONAL COMMITTEE,
et al.,

Plaintiffs,

v.

FEDERAL ELECTION COMMISSION,

Defendant.

Civ. No. 02-874 (CKK, KLH, RJL)

CALIFORNIA DEMOCRATIC PARTY, *et al.*,

Plaintiffs,

v.

FEDERAL ELECTION COMMISSION, *et al.*,

Defendants.

Civ. No. 02-875 (CKK, KLH, RJL)

VICTORIA JACKSON GRAY ADAMS, *et al.*,

Plaintiffs,

v.

Civ. No. 02-877 (CKK, KLH, RJL)

FEDERAL ELECTION COMMISSION,

Defendant.

REPRESENTATIVE BENNIE G. THOMPSON,
et al.,

Plaintiffs,

v.

Civ. No. 02-881 (CKK, KLH, RJL)

FEDERAL ELECTION COMMISSION, *et al.*,

Defendants.

ORDER CONSOLIDATING CASES

(May 13, 2002)

Four cases have recently been filed with the Court challenging the Bipartisan Campaign Reform Act of 2002 (“BCRA”). All of these cases, *RNC v. FEC*, *CDP v. FEC*, *Adams v. FEC*, and *Thompson v. FEC* have requested that the Court consolidate their actions around *McConnell v. FEC*, the lead case in a seven action challenge to the BCRA. *See McConnell v. FEC*, No. 02-582 (D.D.C. April 24, 2002) (order consolidating seven cases challenging the BCRA). After reviewing the various filings in these matters, the Court has concluded, in its discretion, that *RNC v. FEC*, *CDP v. FEC*, *Adams v. FEC*, and *Thompson v. FEC* shall be consolidated with *McConnell v. FEC* for all purposes pending further order of the Court.

Rule 42(a) provides, in pertinent part, that “[w]hen actions involving a common question of law or fact are pending before the court . . . it may order all the actions consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay.” Fed. R. Civ. P. 42(a). As is apparent from the text of Rule 42(a), the decision to consolidate is discretionary. *See* 9 Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 2383 (2d ed. 1995) (“The district court is given broad discretion to decide whether consolidation would be desirable and the decision inevitably is contextual.”).

The Court finds persuasive reasons to consolidate these four cases with the seven cases already consolidated around *McConnell v. FEC*. All four of the actions present constitutional challenges to the recently enacted BCRA. As such, the challenges all involve common issues of law and fact. Moreover, the Act requires this Court to “advance on the docket and to expedite to the greatest possible extent the disposition of the action.” Bipartisan Campaign Reform Act of 2002 § 403(a)(4), Pub. L. No. 107-155 (2002). Thus, consolidation makes sense to the extent that unnecessary costs and delays in the administration of these various actions will be avoided, thereby vindicating the political branches’ desire to see this litigation advanced as quickly as justice permits.

While consolidation of cases is “permitted as a matter of convenience and economy in administration,” *Johnson v. Manhattan Ry. Co.*, 289 U.S. 479, 496-97 (1933) (discussing 28 U.S.C. § 734, the predecessor statute to Fed. R. Civ. P. 42(a)), consolidation “does not merge the suits into a single cause, or change the rights of the parties, or make those who are parties in one suit parties in another.” *Id.*; *see also Cablevision Systems Development Co. v. Motion Picture Ass’n of America, Inc.*, 808 F.2d 133, 135-36 (D.C. Cir. 1987) (recognizing the holding in *Johnson*, but distinguishing on the facts). As such, the Court has the discretion to deconsolidate

these cases at any time and also can issue orders that pertain only to one of the consolidated matters. The discretion provided by Rule 42 also permits the Court to allow the parties to raise issues that might be relevant only to one case. Of course, where it is feasible, the Court expects that the parties will avoid overlapping and duplicative arguments. The advantage of consolidation from the Court's perspective is that when Plaintiffs need to raise an issue with the Court, they need only file one document with the Court and that document will be deemed filed in all matters. Thus, to the extent possible, the Court expects the parties to work together to ensure joint filings.

Accordingly, it is, this 10 of May, 2002, hereby

ORDERED that the Motion for Consolidation [#4] filed in *RNC v. FEC*, Civil Action No. 02cv874, is GRANTED; it is further

✓ **ORDERED** that *RNC v. FEC*, Civil Action No. 02cv874, is consolidated with *McConnell v. FEC*, Civil Action No. 02cv582, for all purposes; it is further

✓ **ORDERED** that the Consent Motion for Consolidation [#6] filed in *CDP v. FEC*, Civil Action No. 02cv875, is GRANTED; it is further

✓ **ORDERED** that *CDP v. FEC*, Civil Action No. 02cv875, is consolidated with *McConnell v. FEC*, Civil Action No. 02cv582, for all purposes; it is further

ORDERED that the Motion for Consolidation [#3] filed in *Adams v. FEC*, Civil Action No. 02cv877, is GRANTED; it is further

✓ **ORDERED** that *Adams v. FEC*, Civil Action No. 02cv877, is consolidated with *McConnell v. FEC*, Civil Action No. 02cv582, for all purposes; it is further


✓ **ORDERED** that the Motion for Consolidation of Cases [#4] filed in *Thompson v. FEC*, Civil Action No. 02cv881, is GRANTED; it is further

ORDERED that *Thompson v. FEC*, Civil Action No. 02cv881, is consolidated with *McConnell v. FEC*, Civil Action No. 02cv582, for all purposes; it is further

ORDERED that all filings for *RNC v. FEC*, Civil Action No. 02cv874, *CDP v. FEC*, Civil Action No. 02-875, *Adams v. FEC*, Civil Action No. 02cv877, and *Thompson v. FEC*, Civil Action No. 02-881 be filed in *McConnell v. FEC*, 02cv582; it is further

ORDERED that Plaintiffs in *RNC v. FEC*, Civil Action No. 02cv874, *CDP v. FEC*, Civil Action No. 02-875, *Adams v. FEC*, Civil Action No. 02cv877, and *Thompson v. FEC*, Civil Action No. 02-881, are to promptly familiarize themselves and comply with the Scheduling and Procedures Order issued April 24, 2002, by this Court in the previously consolidated matters; attached as an exhibit hereto.

SO ORDERED.


COLLEEN KOLLAR-KOTELLY
United States District Judge

Attachment