No. 02-

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 2002

REPUBLICAN NATIONAL COMMITTEE, ET AL.,

Appellees/Cross-Appellants,

v.

FEDERAL ELECTION COMMISSION, ET AL.,

Appellants/Cross-Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

MOTION OF REPUBLICAN NATIONAL COMMITTEE, ET AL., FOR EXPEDITED BRIEFING SCHEDULE

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The Republican National Committee, Robert Michael Duncan, Republican Parties of Colorado, New Mexico, and Ohio, and Dallas County (Iowa) Republican County Central Committee ("RNC Appellees/Cross-Appellants") respectfully move that the Court establish an expedited schedule for briefing of the various appeals filed in connection with the decision of the three-judge district court striking down major parts of the Bipartisan Campaign Reform Act of 2002 ("BCRA"). In support of this motion, the RNC Appellees/Cross-Appellants come before the Court and state as follows:

1. On May 23, 2003, the Solicitor General of the United States, on behalf of the various defendants (the "Government Appellants"), filed a motion with this Court seeking an expedited briefing schedule.[1] The RNC Appellees/Cross-Appellants oppose the Government Appellants' proposed "four-brief" format, but concur with the alternative proposal that the Court apply its traditional three-round briefing format under an expedited timetable that would complete briefing by late August. In particular, the proposed expedited briefing schedule would be as follows:

(1) Opening briefs by appellants/cross-appellants: July 8, 2003.

(2) Opposition briefs by appellees/cross-appellees: August 4, 2003.

(3) Reply briefs: August 22, 2003.

2. RNC Appellants oppose the Government Appellants' proposed "four-brief" schedule for several reasons. First, the Government Appellants seek to require the

[1] Concurrent with the filing of this motion, the RNC Appellees/Cross-Appellants are filing their jurisdictional statement requesting that the Court note probable jurisdiction. As a result, the Government Appellants' motion for expedited briefing schedule filed last Friday does not apply directly to this appeal. Nevertheless, the Government Appellants clearly intend their requested schedule ultimately to apply to all appeals from the District Court decision. Thus, while this paper is submitted as a motion rather than a response, the same issues are addressed herein.

plaintiffs to file the first brief with the defendants filing a response. The proposal further envisions a reply by the plaintiffs with the Government Appellants having the final word on all issues by filing a second response. With all due respect, the Government Appellants' proposal seeks to ignore the district court decision in which the RNC Appellees/Cross-Appellants (and the other plaintiffs) largely prevailed before the three-judge district court. For example, the district court struck down most of Title I of the BCRA, which contains the bulk of the restrictions on political parties. Having lost before the district court below on these core issues, the Government Appellants should file the opening briefs to argue why the district court decision should be overturned. More generally, as is typical, each party that lost before the district court should present the first arguments as to why this Court should reach a different conclusion, the parties that prevailed below can respond to these arguments, and the appellants can then reply. This format is traditional precisely because it helps ensure that the parties engage directly on the same arguments, and the Government Appellants offer no compelling justification to deviate in this context..

3. Second, the Government Appellants' four-brief proposal creates an unnecessary burden on the plaintiffs. Under the proposal, all plaintiffs would be required to file their opening briefs on June 27, 2003, only about three weeks away, while the Government Appellants would have six weeks to prepare their opening briefs. The three-round proposal permits a more reasonable time for parties to prepare their opening briefs and will enhance the ability of parties to agree to consolidate or incorporate by reference arguments to avoid undue repetition in the briefs.[2]

[2] If, notwithstanding the arguments presented herein, the Court were to adopt a two-round briefing format, it should require all parties to submit their opening briefs simultaneously on a date sometime in mid-July with a simultaneous reply in mid-August.

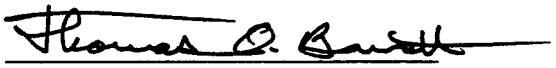
4. Third, because BCRA restricts fundamental rights under the First Amendment and other constitutional provisions, the Government Appellants bear the burden of justifying those restrictions in the first instance. It therefore would not make sense for the RNC Appellees/Cross-Appellants to file their brief first.

5. In view of the massive record below, and the number and complexity of the issues to be briefed, the RNC Appellees/Cross-Appellants further request that the Court specify page limits as follows:

Opening Brief:	100 pages for each set of defendant/appellants 75 pages for each set of plaintiff/appellants
Opposition Brief:	100 pages for each set of defendant/appellees 75 pages for each set of plaintiff/appellees
Reply Brief:	40 pages for each set of defendant/appellants 25 pages for each set of plaintiff/appellants.

6. Finally, the RNC Appellees/Cross-Appellants concur that an oral argument date on September 5 or 8 would be appropriate. This case addresses the constitutionality of more than twenty provisions of BCRA, and raises important issues concerning the First Amendment rights of free speech and association, the scope of the Federal Elections Clause, U.S. Const. Art. I, , sec. 4, concepts of federalism, and the equal protection component of the Fifth Amendment due process clause. The RNC Appellees/Cross-Appellants further observe that, while it may be premature to allot time for oral argument, argument before the three-judge district court consumed fully one and one-half days. The complexity of the case likely calls for at least the four hours of argument before this Court that was provided in *Buckley* v. *Valeo*, 424 U.S. 1 (1976).

Respectfully submitted,



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