

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

SENATOR MITCH McCONNELL, et al.,
Plaintiffs,

v.

FEDERAL ELECTION COMMISSION, et al.,
Defendants.

REDACTED VERSION

Civ. No. 02-0582
(CKK, KLH, RKL)

**CONSOLIDATED BRIEF FOR PLAINTIFFS
IN SUPPORT OF MOTION FOR JUDGMENT**

**Consolidated Brief For Plaintiffs
In Support of Motion for Judgment**

Master Table Of Contents

I. TITLE I

A.	McConnell Omnibus	McConnell	1-43
B.	Republican National Committee	RNC	1-71
C.	California Political Parties	CDP/CRP	1-46
D.	Thompson	Thompson	1-12

II. TITLE II

A.	McConnell Omnibus	McConnell	44-88
B.	National Rifle Association	NRA	1-50
C.	ACLU	ACLU	1-20
D.	Chamber of Commerce	Chamber/NAM	1-20
E.	AFL-CIO	AFL-CIO	1-17
F.	Republican National Committee	RNC	72
G.	California Political Parties	CDP/CRP	47-49

III. TITLE III

A.	McConnell Omnibus	McConnell	89-97
B.	Republican National Committee	RNC	73-75
C.	California Political Parties	CDP/CRP	50
D.	Thompson	Thompson	13-18

IV. TITLE V

A.	McConnell Omnibus	McConnell	98-100
B.	AFL-CIO	AFL-CIO	18-20

TOTAL PAGES: 353 (The Court has allotted 355 pages to this consolidated brief: 335 to the McConnell Group by order of October 15, 2002, plus 20 to the Thompson plaintiffs by order of October 29, 2002).

McCONNELL OMNIBUS BRIEF TABLE OF CONTENTS

	Page
INTRODUCTION.....	1
SUMMARY OF ARGUMENT	4
I. TITLE I OF BCRA IS UNCONSTITUTIONAL.....	9
A. Title I Violates Article I, Section 4, And The Tenth Amendment Of The Constitution By Usurping The Right Of States To Regulate Their Own Elections.....	9
B. Title I Violates The First Amendment Rights Of Free Speech And Free Association And The Fifth Amendment Right Of Equal Protection.	25
1. Title I Burdens Significant Speech And Associational Rights.	25
2. Title I Should Be Subject To Strict Scrutiny.	31
3. Title I Is Not Sufficiently Tailored To Prevent Actual Corruption Or The Appearance Of Corruption.	34
4. Title I Violates Core First And Fifth Amendment Rights By Discriminating Against Political Parties.	40
II. TITLE II OF BCRA IS UNCONSTITUTIONAL.....	44
A. BCRA’s Electioneering Communications Provisions Are Unconstitutional.....	44
1. BCRA’s “Electioneering Communications” Provisions Cannot Be Reconciled With <i>Buckley v. Valeo</i>	44
(a) <i>Buckley</i> Forbids Governmental Regulation Of Any Political Speech That Does Not Qualify As “Express Advocacy.”	47
(b) The Lower Courts Have Remained Faithful to <i>Buckley</i> ’s Distinction Between Express Advocacy and Other Expression.....	51
(c) BCRA’s “Electioneering Communications” Provisions And Attendant Disclosure Requirements Cannot Be Reconciled With This Mountain Of Precedent.	54
2. Wholly Apart From <i>Buckley</i> , BCRA’s Electioneering Communications Provisions Must Be Invalidated.....	56

(a)	BCRA’s Ban On Electioneering Communications Is Unconstitutionally Overbroad And Vague.....	57
(i)	The Definition Of Electioneering Communications Is Unconstitutionally Overbroad.....	57
A)	Examples Of Newly Prohibited Speech From Storyboards And Videotapes.....	60
B)	Examples Of Newly Prohibited Speech From Plaintiff And Non-Party Testimony.....	62
C)	Defendants’ Own Data Demonstrates That BCRA Prohibits Protected Issue Advocacy.....	65
(ii)	BCRA’s Fallback Definition Of “Electioneering Communications” Is Unconstitutionally Vague.....	70
(b)	BCRA’s Ban On Electioneering Communications Is So Woefully Underinclusive That It Fails To Serve A Compelling State Interest.....	75
(c)	BCRA Violates The First Amendment And The Equal Protection Component Of The Due Process Clause Of The Fifth Amendment By Discriminating Against Broadcast, Cable, and Satellite Media.....	77
(i)	BCRA’s Discrimination Against Broadcast, Cable, And Satellite Communications Should Be Subject To Strict Scrutiny.....	78
(ii)	BCRA’s Regulation Of Broadcast Communications Is Not Narrowly Tailored To Serve A Compelling State Interest.....	81
B.	BCRA’s Coordination Provisions Are Unconstitutional.....	82
C.	By Requiring Political Parties To Choose Between Independent And Coordinated Expenditures, Section 213 Of BCRA Violates The First Amendment.....	85
III.	TITLE III OF BCRA IS UNCONSTITUTIONAL.....	89
A.	By Conditioning The Cost Of Advertisements On Their Viewpoint, Section 305 Of BCRA Violates The First Amendment.....	89
B.	By Barring All Minors From Making Any Contributions To Candidates Or Political Party Committees, Section 318 Of BCRA Violates The First Amendment Right Of Free Speech And The Fifth Amendment Right Of Equal Protection.....	91
1.	Minors Enjoy First Amendment Protection.....	91

- 2. Section 318 Is Not Sufficiently Tailored To Serve Any Governmental Interest.93
- 3. Section 318 Violates Core First And Fifth Amendment Rights By
Discriminating Against Minors.95
- C. The “Millionaire Provisions” Of Title III Serve Only To Protect Incumbents.95
- D. By Imposing Onerous Recordkeeping And Disclosure Obligations On
Broadcasters, Section 504 Of BCRA Is Unconstitutional.98
 - 1. Section 504 Is Unconstitutionally Vague.....98
 - 2. The Burdensome Requirements Of Section 504 Lack Any Rational
Relationship To A Legitimate Governmental Objective.....99

RNC TABLE OF CONTENTS

	<u>RNC Page</u>
INTRODUCTION AND SUMMARY OF ARGUMENT	1
FACTUAL BACKGROUND.....	2
<u>“Soft Money” and the Pre-BCRA Regulatory Landscape.</u>	2
<u>The Importance of Political Parties in American Democracy.</u>	3
Functions performed by parties.	4
The RNC and its activities.	6
RNC fundraising activities.....	7
Activities of state Republican parties.	8
Victory Plans.....	9
RNC financial assistance to state parties.	9
<u>The Rise of Special Interest Groups.</u>	10
<u>BCRA’s Financial Impact on Political Parties.</u>	13
<u>“Corruption” and the “Appearance of Corruption.”</u>	16
Public perception.	17
Access.	18
The Thompson Committee hearings.....	19
“Corruption” as a justification for BCRA.....	20
“Corruption” in historical context.....	20
EXPLANATION OF RELEVANT TITLE I PROVISIONS	21
TITLE I ARGUMENT	25
I. TITLE I EXCEEDS CONGRESS’ DELEGATED LAWMAKING POWER AND VIOLATES FUNDAMENTAL PRINCIPLES OF FEDERALISM.....	25
A. The Factual Record Confirms the Sweep of §323.....	25

B. Title I Is Not Valid Federal Elections Clause Legislation..... 29

C. No Other Grant Of Congressional Authority Supports Title I..... 32

 1. The Commerce Clause Cannot Justify Title I’s Restrictions..... 33

 2. The Reconstruction Amendments Cannot Justify Title I’s Restrictions. 35

D. Title I Contravenes the Principles of Federalism Embodied in the Constitution..... 35

II. TITLE I SPLINTERS THE VARIOUS ELEMENTS OF THE POLITICAL PARTY APPARATUS AND THEREBY INFRINGES THE FIRST AMENDMENT RIGHT OF ASSOCIATION. 37

 A. Title I Is Subject to Strict Scrutiny Because It Severely Burdens Political Parties’ Associational Rights. 37

 B. Title I’s Infringement of Political Parties’ Associational Rights Cannot Satisfy Any Form of Heightened Scrutiny..... 44

III. TITLE I BROADLY PROHIBITS POLITICAL PARTIES, THEIR AGENTS, AND FEDERAL CANDIDATES AND OFFICEHOLDERS FROM “SOLICIT[ING]” FUNDS FOR POLITICAL CAUSES AND THEREBY INFRINGES THE FIRST AMENDMENT RIGHT OF FREE SPEECH. 46

 A. Title I’s Solicitation Restrictions Are Subject to Strict Scrutiny Because They Constitute Direct and Substantial Limitations on Pure Speech. 48

 B. Title I’s Solicitation Restrictions Cannot Satisfy Any Form of Heightened Scrutiny..... 50

IV. TITLE I LIMITS PARTY SPENDING AND UNDERMINES EFFECTIVE POLITICAL ADVOCACY AND THEREBY INFRINGES THE FIRST AMENDMENT RIGHT OF FREE SPEECH. 51

 A. Title I Is Subject to Strict Scrutiny Both Because It Purports To Limit Pure Issue Speech and Because It Operates, in Part, as an Expenditure Cap. 51

 B. Even If Title I Were Treated as a Typical Contribution Limit Subject To Less Than Strict Scrutiny, It Would Be Invalid Because It Cannot Satisfy Any Form of Heightened Scrutiny..... 53

V. TITLE I SUBJECTS POLITICAL PARTIES TO UNIQUE DISABILITIES NOT IMPOSED ON SPECIAL INTEREST GROUPS AND THEREBY VIOLATES THE EQUAL PROTECTION COMPONENTS OF THE FIRST AND FIFTH AMENDMENTS. 57

A. Title I Is Subject to Strict Scrutiny Because It Discriminates Against Political Parties With Respect to the Fundamental Right of Political Expression..... 57

B. Title I’s Differential Treatment of Political Parties and Special Interest Groups Cannot Satisfy Any Form of Heightened Scrutiny. 61

1. The Government Cannot Justify Subjecting Political Parties to Unique Speech Disabilities..... 62

2. Title I’s Differential Treatment of Parties and Special Interest Groups Will Make Matters Worse, Not Better. 67

TITLE I CONCLUSION AND PRAYER FOR RELIEF..... 70

TITLE II ARGUMENT 72

TITLE III ARGUMENT..... 73

BCRA'S SO-CALLED “MILLIONAIRE'S PROVISIONS” DISCRIMINATE AMONG SIMILARLY SITUATED FEDERAL CANDIDATES AND THEREBY VIOLATE THE EQUAL PROTECTION COMPONENT OF THE FIFTH AMENDMENT. 73

TABLE OF CONTENTS

TABLE OF AUTHORITIES

I. INTRODUCTION	CDP/CRP 1
II. FACTUAL BACKGROUND	CDP/CRP 3
A. The Role of the State Parties Generally	CDP/CRP 3
B. State Campaign Finance Laws	CDP/CRP 7
C. Federal Regulation of State Parties	CDP/CRP 9
III. TITLE I ARGUMENT	CDP/CRP 15
A. The Definition of "Federal Election Activity" and the Levin Limits on State-Regulated Money Are Unconstitutional	CDP/CRP 16
1. The Extensive Regulation of State Election Activity Imposed by Title I Violates the Tenth Amendment and Principles of Federalism	CDP/CRP 20
2. The Limits on Use of State-Regulated Funds Violates The Parties' Rights of Free Speech and Association Protected By The First Amendment	CDP/CRP 27
B. Restrictions on The Parties' Ability To Raise and Spend State- Regulated Funds Violate the First Amendment	CDP/CRP 34
1. Prohibitions on Transfers and Joint Fundraising of State- Regulated Funds Impose Substantial Burdens That Are Not Narrowly Tailored To Meet a Compelling Government Interest	CDP/CRP 36
2. The Prohibitions on Fundraising of State-Regulated Funds By Party Leaders Imposes a Substantial Burden That Is Not Narrowly Tailored To Achieve a Compelling Governmental Interest	CDP/CRP 39
3. The Prohibition on Contributions to, and Solicitations For, Certain Non-Profit Organizations by State and Local Parties Imposes a Substantial Burden that Is Not Narrowly Tailored To Achieve a Compelling Governmental Interest	CDP/CRP 43
IV. TITLE II ARGUMENT	CDP/CRP 47
V. TITLE III ARGUMENT	CDP/CRP 50
VI. CONCLUSION	CDP/CRP 46

**THOMPSON PLAINTIFFS'
TABLE OF CONTENTS**

TABLE OF CONTENTSi

CERTIFICATE AS TO PARTIES, RULINGS, AND RELATED CASES i.i

TABLE OF AUTHORITIESiii

GLOSSARY vi

STATEMENT OF ISSUESvii

STATEMENT OF THE CASE

 A. Introduction 1

 B. Course Of Proceedings 3

 C. Statement of Facts 5

SUMMARY OF ARGUMENT 5

ARGUMENT: TITLE I 5

CONCLUSION: TITLE I 12

ARGUMENT: TITLE III..... 13

CONCLUSION: TITLE III18

**THOMPSON PLAINTIFFS'
STATEMENT AS TO STATUTES AND REGULATIONS**

Pertinent statutes and regulations have been filed separately with the Court, as Addendum A to the Thompson Plaintiffs' Brief. Except for the items in Addendum A, all applicable statutes, etc., are contained in the Brief for Plaintiffs.

TABLE OF CONTENTS

	<u>Page</u>
TABLE OF AUTHORITIES	iii
STATEMENT	1
ARGUMENT	3
I. THE “ELECTIONEERING COMMUNICATIONS” BANNED BY BCRA ARE ABSOLUTELY PROTECTED BY THE FIRST AMENDMENT.....	3
II. THE NRA’S “ELECTIONEERING COMMUNICATIONS” POSE NO DANGER OF ACTUAL OR PERCEIVED CORRUPTION OF FEDERAL OFFICEHOLDERS	9
III. BCRA IS AN ARBITRARY PENAL CODE FOR POLITICAL SPEECH THAT IS BOTH OVERBROAD AND UNDERINCLUSIVE ..	14
A. BCRA’s Purpose Is Incumbency Protection, Not Corruption Prevention	15
B. BCRA Is Fatally Overbroad.....	17
1. BCRA Criminalizes the Speech of Organizations That Pose No Threat of Corrupting The Political Process	17
2. BCRA Criminalizes Speech That Is Not Intended To Influence Elections.....	24
(a) Educating the Public on Second Amendment Issues	25
(b)(i) Defending The NRA Against Political Attacks.....	28
(b)(ii) Defending The NRA Against Media Attacks.....	29
(c) Membership Drives	31
C. BCRA Is Fatally Underinclusive	33
1. Alternate Modes of Communication: BCRA Incoherently Permits In Print Media And On The Internet What It Criminalizes In Broadcast Media.....	34

	<u>Page</u>
(a) Print Advertisements	34
(b) Direct Mail	35
(c) The Internet	36
2. Alternate Time Of Communication: BCRA Incoherently Excludes Most of the Election Cycle From “Electioneering Communications.”	37
3. Alternate Speakers: BCRA Incoherently Prohibits Only Nonmedia Corporations and Labor Unions From Engaging In “Electioneering Communications.”	38
4. BCRA Unjustifiably Leaves Media Corporations Free To Broadcast “Electioneering Communications.”	39
IV. BCRA UNCONSTITUTIONALLY EXEMPTS MEDIA CORPORATIONS FROM ITS BAN ON ELECTIONEERING COMMUNICATIONS	39
A. Congress Does Not Have A Compelling Interest For Providing Special Speech Rights To The Media.....	42
(a) The Internet Has Changed The Way In Which The Public Is Informed.....	42
(b) The Absorption OF The Broadcast Media By Other Businesses Has Eroded Its Unique Role.....	44
B. The Media Exception Demonstrates The Unconstitutionality Of BCRA’s Ban On Electioneering Communications.....	46
V. TITLE II OF BCRA IMPOSES DISCLOSURE REQUIREMENTS THAT VIOLATE THE FIRST AMENDMENT	48
CONCLUSION.....	50

**SUPPLEMENTAL BRIEF OF THE
AMERICAN CIVIL LIBERTIES UNION**

TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION.....	1
II. BACKGROUND AND FACTUAL STATEMENT.....	2
A. The Impact of the Ban on Electioneering Communications.....	4
B. The Impact of the Coordination Rules.....	7
III. SUMMARY ARGUMENT.....	9
IV. ARGUMENT.....	10
A. The Broadcast Ban and Disclosure Requirements.....	11
B. The “MCFL” Defect.....	16
C. The Breach of Associational Privacy Triggered by the Disclosure Requirement for Electioneering Communications.....	17
D. The Coordination Provisions.....	19
V. CONCLUSION.....	20

**OPENING BRIEF OF PLAINTIFFS
CHAMBER OF COMMERCE OF THE UNITED STATES,
NATIONAL ASSOCIATION OF MANUFACTURERS.**

TABLE OF CONTENTS

	Page
I. THE CHAMBER AND NAM.....	1
II. CORPORATE SPEECH, ASSOCIATION, AND PETITIONING ARE PROTECTED BY THE FIRST AMENDMENT	2
III. BCRA VIOLATES THE FIRST AMENDMENT BY ATTEMPTING TO OVERRULE THE “EXPRESS ADVOCACY” STANDARD (§§ 201 & 203).....	4
IV. THE BROADCAST BLACKOUT PROVISION DOES NOT FURTHER THE ASSERTED GOVERNMENT INTEREST (§ 203).....	6
V. BY FAILING TO GIVE “COORDINATION” A NARROW, OBJECTIVE, AND PRECISE MEANING, BCRA VIOLATES THE FIRST AMENDMENT (§§ 202, 211, 214).....	6
A. Before BCRA The Vague Concept Of Coordination Was Becoming Clearer.....	7
B. BCRA Repealed The FEC's Definition, Provided No Definition Of Its Own, But Expanded The Scope Of The Coordination Concept	9
C. Because It Regulates Core First Amendment Activity, The Coordination Provision Must Be Narrow, Objective, And Precise	10
D. BCRA’s Coordination Provisions Are Both Overly Broad and Unconstitutionally Vague.	11
E. Coordination Allegations Seriously Burden And Chill Speech.....	14
VI. COMPELLED DISCLOSURE OF ELECTIONEERING COMMUNICATIONS IS UNCONSTITUTIONAL (§ 201).....	18

**AFL-CIO PLAINTIFFS’
TABLE OF AUTHORITIES**

<u>Cases</u>	<u>Page</u>
<i>AFL-CIO v. Federal Election Commission</i> , 177 F. Supp. 2d 48 (D.D.C. 2001), <u>appeal pending</u> , No. 02-5069 (D.C.Cir.)	12, 13
<i>Austin v. Michigan State Chamber of Commerce</i> , 494 U.S. 652 (1990)	3
<i>Buckley v. Valeo</i> , 424 U.S. 1 (1976)	6, 8, 15, 16, 19, 20
<i>Citizens for Responsible Government State Political Action Committee v. Davidson</i> , 236 F. 3d 1174 (10th Cir. 2000)	15, 16, 17
<i>Eastex, Inc. v. NLRB</i> , 437 U.S. 556 (1978)	2
<i>Ellis v. Brotherhood of Railway and Airline Clerks</i> , 466 U.S. 435 (1984)	1
<i>Federal Election Commission v. Christian Coalition</i> , 52 F. Supp. 2d 45 (D.D.C. 1999)	13
<i>Florida Right to Life, Inc. v. Mortham</i> , 1998 U.S. Dist. LEXIS 16694 (M.D. Fla. 1998) ...	15, 16
<i>Grayned v. City of Rockford</i> , 408 U.S. 104 (1972)	19
<i>International Ass'n. of Machinists v. Street</i> , 367 U.S. 740 (1961)	1
<i>Kidwell v. Transportation Communications International Union</i> , 946 F. 2d 283 (4th Cir. 1991), <u>cert. denied</u> , 503 U.S. 1005 (1992)	2
<i>Pipefitters Local 502 v. U.S.</i> , 407 U.S. 385 (1972)	2
<i>Rosen v. Port of Portland</i> , 641 F.2d 1243 (9th Cir. 1981)	16
<i>U.S. v. C.I.O.</i> , 335 U.S. 106 (1948)	2
<i>Watchtower Bible and Tract Society v. Village of Stratton</i> , 122 S. Ct. 2080 (2002)	16
 <u>Statutes</u>	
2 U.S.C. § 441b	2

	<u>Page</u>
29 U.S.C. § 151 <u>et seq</u>	1-2
47 U.S.C. § 315	18
 <u>Regulation</u>	
47 C.F.R. § 73.1943(a)	19
 <u>FEC Rulemakings</u>	
Interim Final Rules with Requests for Comments, “FCC Database on Electioneering Communications,” 67 Fed. Reg. 65212 (Oct. 23, 2002)	9
NPRM, “Bipartisan Campaign Reform Act of 2002; Reporting,” 67 Fed. Reg. 64555 (Oct. 21, 2002)	17
NPRM, “Coordinated and Independent Expenditures,” 67 Fed. Reg. 60042 (Sept. 24, 2002)	17
NPRM, “Electioneering Communications,” 67 Fed. Reg. 51131 (Aug. 7, 2002)	17

**AFL-CIO PLAINTIFFS’
TABLE OF CONTENTS**

Table of Authorities -ii-

I. THE ELECTORAL AND ADVOCACY ROLE AND RIGHTS OF
LABOR ORGANIZATIONS 1

II. BCRA’S BROADCAST BAN WILL SUBSTANTIALLY IMPAIR THE
AFL-CIO’S EFFORTS TO INFLUENCE LEGISLATION AND POLICY
AND TO ENGAGE THE PUBLIC ON WORKING FAMILY ISSUES 3

 A. Overview of the AFL-CIO’s Policy, Legislative and Political Programs 3

 B. The Impact of BCRA on the AFL-CIO’s Broadcast Advertising Program 8

III. BCRA’S EXPANSIVE AND VAGUE COORDINATION PROVISIONS
WILL SUBJECT UNIONS AND OTHER GROUPS TO EXTENSIVE AND
INTRUSIVE INVESTIGATIONS 12

IV. BCRA’S ADVANCE DISCLOSURE REQUIREMENTS FOR
ELECTIONEERING COMMUNICATIONS AND INDEPENDENT
EXPENDITURES VIOLATE THE FIRST AMENDMENT 14

V. SECTION 504 IS UNCONSTITUTIONALLY VAGUE AND
OVERBROAD, AND, BY REQUIRING ADVANCE DISCLOSURE
OF PROSPECTIVE SPEECH, FURTHER VIOLATES THE FIRST
AMENDMENT 18

**McCONNELL OMNIBUS BRIEF
TABLE OF AUTHORITIES**

Cases

<i>Alaska Airlines, Inc. v. Brock</i> , 480 U.S. 678 (1987).....	42
<i>Alden v. Maine</i> , 527 U.S. 706 (1999).....	15
<i>Ashcroft v. Free Speech Coalition</i> , 122 S. Ct. 1389 (2002).....	58
<i>B.J.F. v. Florida Star</i> , 491 U.S. 524 (1989).....	81
<i>Bethel Sch. Dist. No. 403 v. Fraser</i> , 478 U.S. 675 (1986).....	92
<i>BFP v. Resolution Trust Corp.</i> , 511 U.S. 531 (1994).....	15
<i>Broadrick v. Oklahoma</i> , 413 U.S. 601 (1973).....	58
<i>Brown v. Hartlage</i> , 456 U.S. 45 (1982).....	89, 90
<i>Brownsburg Area Patrons Affecting Change v. Baldwin</i> , 1999 U.S. App. LEXIS 23325 (7th Cir. 1999)	54
* <i>Buckley v. Valeo</i> , 424 U.S. 1 (1976).....	<i>passim</i>
* <i>California Democratic Party v. Jones</i> , 530 U.S. 567 (2000).....	<i>passim</i>
<i>Carey v. Brown</i> , 447 U.S. 455 (1980).....	41
<i>Chamber of Commerce v. Moore</i> , 288 F.3d 187 (5th Cir. 2002)	53

<i>Citizens Against Rent Control/Coalition for Fair Housing v. Berkeley</i> , 454 U.S. 290 (1981).....	33
<i>Citizens for Responsible Gov't State Political Action Comm. v. Davidson</i> , 236 F.3d 1174 (10th Cir. 2000)	54
<i>City of Edmonds v. Oxford House, Inc.</i> , 514 U.S. 725 (1995).....	15
<i>City of Ladue v. Gilleo</i> , 512 U.S. 43 (1994).....	41, 76
<i>Clifton v. FEC</i> , 114 F.3d 1309 (1st Cir. 1997).....	52, 84
<i>Cohen v. California</i> , 403 U.S. 15 (1971).....	89
<i>*Colorado Republican Fed. Campaign Comm. v. FEC</i> , 518 U.S. 604 (1996).....	<i>passim</i>
<i>Columbia Broad. Sys. v. FCC</i> , 453 U.S. 367 (1981).....	80
<i>Columbia Broadcasting System, Inc. v. Democratic Nat'l Comm.</i> , 412 U.S. 94 (1973).....	79
<i>Connally v. General Constr. Co.</i> , 269 U.S. 385 (1926).....	70, 99
<i>Cousins v. Wigoda</i> , 419 U.S. 477 (1975).....	27
<i>Davis v. Bandemer</i> , 478 U.S. 109 (1986).....	43
<i>*Eu v. San Francisco County Democratic Cent. Comm.</i> , 489 U.S. 214 (1989).....	<i>passim</i>
<i>Ex parte Siebold</i> , 100 U.S. 371, 393 (1879).....	11
<i>Faucher v. FEC</i> , 928 F.2d 468 (1st Cir. 1991).....	52
<i>FCC v. League of Women Voters</i> , 468 U.S. 364 (1984).....	79, 80

<i>FCC v. Pacifica Foundation</i> , 438 U.S. 726 (1978).....	80
<i>FEC v. American Fed'n of State, County & Mun. Employees</i> , 471 F. Supp. 315 (D.D.C. 1979).....	52
<i>FEC v. Central Long Island Tax Reform Immediately Comm.</i> , 616 F.2d 45 (2d Cir. 1980) (<i>en banc</i>)	52
<i>FEC v. Christian Action Network</i> , 110 F.3d 1049 (4th Cir. 1997)	51, 52
<i>FEC v. Christian Coalition</i> , 52 F. Supp. 2d 45 (D.D.C. 1999).....	53, 84, 85
* <i>FEC v. Colorado Republican Fed. Campaign Comm.</i> , 533 U.S. 431 (2001).....	37, 41, 87
<i>FEC v. Furgatch</i> , 807 F.2d 857 (9th Cir. 1987)	52, 53
* <i>FEC v. Massachusetts Citizens for Life, Inc.</i> , 479 U.S. 238 (1986).....	32, 50, 51
<i>FEC v. National Conservative Political Action Comm.</i> , 470 U.S. 480 (1985).....	34, 85, 93
<i>FEC v. Survival Educ. Fund</i> , No. 89 Civ. 0347, 1994 WL 9658 (S.D.N.Y. Jan. 12, 1994), <i>aff'd in relevant part</i> , 65 F.3d 285 (2d Cir. 1995).....	52
<i>First Nat'l Bank of Boston v. Bellotti</i> , 435 U.S. 765 (1978).....	40, 92, 95
<i>Ginsberg v. New York</i> , 390 U.S. 629 (1968).....	92
<i>Governor Gray Davis Comm. v. American Taxpayers Alliance</i> , 125 Cal. Rptr. 2d 534 (Cal. Ct. App. 2002).....	53
<i>Grayned v. City of Rockford</i> , 408 U.S. 104 (1972).....	71
<i>Gregory v. Ashcroft</i> , 501 U.S. 452 (1991).....	14, 15

<i>In re Syracuse Peace Council,</i> 2 F.C.C.R. 5043 (1987), <i>reconsideration denied,</i> 3 F.C.C.R. 2035 (1988).....	79
<i>Iowa Right to Life Comm., Inc. v. Williams,</i> 187 F.3d 963 (8th Cir. 1999)	54
<i>Kusper v. Pontikes,</i> 414 U.S. 51 (1973).....	27
<i>Maine Right to Life Comm., Inc. v. FEC,</i> 98 F.3d 1 (1st Cir. 1996).....	52
<i>McIntyre v. Ohio Elections Comm'n,</i> 514 U.S. 334 (1995).....	56
<i>Miami Herald Publ'g Co. v. Tornillo,</i> 418 U.S. 241 (1974).....	79
<i>Mills v. Alabama,</i> 384 U.S. 214 (1966).....	44
<i>Monitor Patriot Co. v. Roy,</i> 401 U.S. 265 (1971).....	32
<i>NAACP v. Alabama,</i> 357 U.S. 449 (1958).....	26
<i>New York Times Co. v. Sullivan,</i> 376 U.S. 254 (1964).....	44
<i>New York Times Co. v. United States,</i> 403 U.S. 713 (1971).....	90
<i>New York v. United States,</i> 505 U.S. 144 (1992).....	10
<i>Nixon v. Shrink Missouri Gov't PAC,</i> 528 U.S. 377 (2000).....	32
<i>North Carolina Right to Life, Inc. v. Bartlett,</i> 168 F.3d 705 (4th Cir. 1999)	53
<i>*Oregon v. Mitchell,</i> 400 U.S. 112 (1970).....	11, 12

<i>Pennsylvania Dep't of Corrections v. Yeskey</i> , 524 U.S. 206 (1998).....	15
<i>Perry v. Sindermann</i> , 408 U.S. 593 (1972).....	87, 90
<i>Police Dep't of Chicago v. Mosley</i> , 408 U.S. 92 (1972).....	41, 95
<i>Pope v. Williams</i> , 193 U.S. 621 (1904).....	11
<i>Printz v. United States</i> , 521 U.S. 898, 923 (1997).....	14
<i>R.A.V. v. St. Paul</i> , 505 U. S. 377 (1992).....	90
<i>Red Lion Broad., Co. v. FCC</i> , 395 U.S. 367 (1969).....	79, 80
<i>*Republican Party of Minn. v. White</i> , 122 S. Ct. 2528 (2002).....	41, 57, 76, 77
<i>Right to Life of Dutchess County, Inc. v. FEC</i> , 6 F. Supp. 2d 248 (S.D.N.Y. 1998)	52
<i>Rosenberger v. Rector & Visitors of Univ. of Va.</i> , 515 U.S. 819 (1995).....	90
<i>Schaumburg v. Citizens for a Better Env't</i> , 444 U.S. 620 (1980).....	26
<i>Smith v. Daily Mail Publ'g Co.</i> , 443 U.S. 97 (1979).....	81
<i>Sugarman v. Dougall</i> , 413 U.S. 634, 647 (1973).....	11, 12
<i>Sweezy v. New Hampshire</i> , 354 U.S. 234 (1957).....	27
<i>Tashjian v. Republican Party of Conn.</i> , 479 U.S. 208, 217 (1986).....	11
<i>Telecommunications Research & Action Center v. FCC</i> , 801 F.2d 501 (D.C. Cir. 1986).....	79

<i>Thornhill v. Alabama</i> , 310 U.S. 88 (1940).....	57, 91
<i>Timmons v. Twin Cities Area New Party</i> , 520 U.S. 351 (1997).....	31
<i>Tinker v. Des Moines Indep. Community Sch. Dist.</i> , 393 U.S. 503 (1969).....	92
<i>Trinity Broad. of Fla., Inc. v. FCC</i> , 211 F.3d 618 (D.C. Cir. 2000).....	99
<i>Turner Broad. Sys., Inc. v. FCC</i> , 512 U.S. 622 (1994).....	78
<i>U.S. Term Limits, Inc. v. Thornton</i> , 514 U.S. 779, 808-09 (1995)	13
<i>United States v. Bowman</i> , 636 F.2d 1003 (5th Cir. 1981)	14
<i>United States v. Kokinda</i> , 497 U.S. 720 (1990).....	26
<i>Virginia Society for Human Life, Inc. v. FEC</i> , 263 F.3d 379 (4th Cir. 2001)	52
<i>West Virginia State Bd. of Educ. v. Barnette</i> , 319 U.S. 624 (1943).....	92

Constitutional Provisions

*U.S. Const. art. I, § 4, cl. 1.....	10
--------------------------------------	----

Statutes

*The Bipartisan Campaign Reform Act of 2002, Pub. L. No. 107-155, 116 Stat. 81 (2002).....	<i>passim</i>
2 U.S.C. § 441b.....	51
2 U.S.C. § 441f.....	91, 94
42 U.S.C. § 1973i.....	14

47 U.S.C. § 312.....	100
47 U.S.C. § 315.....	89, 100
11 C.F.R. § 100.22(b).....	51
47 C.F.R. §§ 73.1940-73.1944.....	99
67 Fed. Reg. 60,042 (Sept. 24, 2002).....	87
67 Fed. Reg. 65,190 (Oct. 23, 2002).....	59
67 Fed. Reg. 65,200-65,201 (Oct. 23, 2002).....	58, 59
Ky. Rev. Stat. Ann. § 121.035(1).....	23

Other Authorities

147 Cong. Rec. S2908 (daily ed. March 26, 2001).....	38
147 Cong. Rec. S3045 (daily ed. March 28, 2001).....	65
148 Cong. Rec. S2117-18 (daily ed. March 20, 2002).....	65
148 Cong. Rec. S2141 (daily ed. March 20, 2002).....	65
148 Cong. Rec. S2145-48 (daily ed. March 20, 2002).....	91, 93
2 J. Story, <i>Commentaries on the Constitution of the United States</i> (1st ed. 1833).....	12
Akhil Reed Amar, <i>Conspiracy of Silence</i> , <i>The American Lawyer</i> , October 2002.....	78
<i>Buying Time 1998: Television Advertising in the 1998 Congressional Elections</i> (Jonathan S. Krasno & Daniel E. Seltz, Brennan Center 2000).....	65
<i>Buying Time 2000: Television Advertisements in the 2000 Federal Elections</i> (Craig B. Holman & Luke P. McLoughlin, Brennan Center 2001).....	65
Elizabeth Garrett, <i>The Future of Campaign Finance Reform Laws in the Courts and in Congress</i> , Chi. Pub. L. & Legal Theory Working Paper No. 19 (2002).....	36

James Bopp, Jr. & Heidi K. Abegg, <i>The Developing Constitutional Standards for “Coordinated Expenditures”: Has the Federal Election Commission Finally Found A Way To Regulate Issue Advocacy?</i> , 1 Election L.J. No. 2, at 209 (2002).....	84
Joel M. Gora, <i>Buckley v. Valeo, A Landmark of Political Freedom</i> , 33 Akron L. Rev. 7 (1999).....	49
Kathleen M. Sullivan, <i>Against Campaign Finance Reform</i> , 1998 Utah L. Rev. 311 (1998)	53
Lillian R. BeVier, <i>The Issue of Issue Advocacy: An Economic, Political, and Constitutional Analysis</i> , 85 Va. L. Rev. 1761 (1999)	49
Peter H. Stone, <i>New Channels for Soft Money</i> , Nat’l Journal, Sept. 7, 2002	43
The Federalist No. 59 (C. Rossiter ed. 1961)	13, 14
Thomas B. Edsall & Juliet Eilperin, <i>PAC Attack II</i> , Wash. Post, Aug. 18, 2002	43
Thomas B. Edsall, <i>New Ways to Harness Soft Money in Works</i> , Wash. Post, Aug. 25, 2002	43

GLOSSARY

- PCS Consolidated evidentiary submission of plaintiffs in No. 02-582, *McConnell v. FEC*; No. 02-581, *National Rifle Ass'n v. FEC*; No. 02-751, *Chamber of Commerce v. FEC*; No. 02-753, *National Ass'n of Broadcasters v. FEC*; No. 02-754, *AFL-CIO v. FEC*; No. 02-875, *California Democratic Party v. FEC*; and No. 02-881, *Thompson v. FEC* (filed November 6, 2002)
- RNC ES Evidentiary submission of plaintiffs in No. 02-874, *Republican Nat'l Committee v. FEC* (filed October 28, 2002)
- Echols ES Evidentiary submission of plaintiffs in No. 02-633, *Echols v. FEC* (filed October November 6, 2002)
- Dep. Deposition transcript (filed November 6, 2002)
- Cross Cross-examination transcript (filed November 6, 2002)

RNC TABLE OF AUTHORITIES

CASES

<i>ACORN v. Edgar</i> , 56 F.3d 791 (7th Cir. 1995).....	32
<i>ACORN v. Miller</i> , 129 F.3d 833 (6th Cir. 1997).....	32
<i>Alden v. Maine</i> , 527 U.S. 706 (1999)	35, 36
<i>Ashcroft v. Free Speech Coalition</i> , 122 S. Ct. 1399 (2002).....	45
<i>Austin v. Michigan Chamber of Commerce</i> , 494 U.S. 652 (1990).....	58
<i>Bates v. State Bar of Arizona</i> , 433 U.S. 350 (1977)	47
<i>Blitz v. United States</i> , 153 U.S. 308 (1894)	31
<i>Buckley v. Valeo</i> , 424 U.S. 1 (1976).....	<i>passim</i>
<i>Califano v. Westcott</i> , 443 U.S. 76 (1989)	75
* <i>California Democratic Party v. Jones</i> , 530 U.S. 567 (2000).....	3, 4, 37, 42, 44, 60, 61
<i>California Prolife Council PAC v. Scully</i> , 989 F. Supp. 1282 (E.D. Cal. 1998).....	55
<i>Carter v. Carter Coal Co.</i> , 298 U.S. 238 (1936)	71
<i>Chamber of Commerce v. FEC</i> , 69 F.3d 600 (D.C. Cir. 1995)	43
<i>Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah</i> , 508 U.S. 520 (1993).....	65, 74
<i>Citizens Against Rent Control/Coalition for Fair Housing v. Berkeley</i> , 454 U.S. 290 (1981).....	52, 53, 61
<i>City of Boerne v. Flores</i> , 521 U.S. 507 (1997)	35
<i>City of Ladue v. Gilleo</i> , 512 U.S. 43 (1994)	65, 74
<i>Clark v. Jeter</i> , 486 U.S. 456 (1988).....	58
* <i>Colorado Republican Federal Campaign Comm. v. FEC</i> , 518 U.S. 604 (1996).....	3, 37, 45, 52, 61, 62, 66, 67, 72
<i>Davis v. Bandemer</i> , 478 U.S. 109 (1986)	61

* Authorities on which the RNC Plaintiffs chiefly rely are marked with asterisks.

* <i>Eu v. San Francisco County Democratic Central Comm.</i> , 489 U.S. 214 (1989).....	<i>passim</i>
<i>FEC v. Christian Coalition</i> , 52 F. Supp. 2d 45 (D.D.C. 1999)	72
<i>FEC v. Colorado Republican Federal Campaign Comm.</i> , 533 U.S. 431 (2001)	<i>passim</i>
<i>FEC v. NCPAC</i> , 470 U.S. 480 (1985).....	45, 53
<i>First National Bank of Boston v. Bellotti</i> , 435 U.S. 765 (1978)	61
<i>Florida Prepaid Postsecondary Educ. Expense Bd. v. College Sav. Bank</i> , 527 U.S. 627 (1999).....	35
<i>Florida Star v. B.J.F.</i> , 491 U.S. 524 (1989)	58, 65
* <i>Healy v. James</i> , 408 U.S. 169 (1972)	33, 42
<i>Hill v. Wallace</i> , 259 U.S. 44 (1922).....	71
<i>Leathers v. Medlock</i> , 499 U.S. 439 (1991)	57
<i>Marbury v. Madison</i> , 5 U.S. (1 Cranch) 137 (1803).....	33
<i>Mills v. Alabama</i> , 384 U.S. 214 (1966)	49
<i>Morse v. Republican Party of Virginia</i> , 517 U.S. 186 (1996)	35
<i>National Black Police Ass'n v. D.C. Bd. of Elections and Ethics</i> , 924 F. Supp. 270 (D.D.C. 1996)	55
<i>New York v. United States</i> , 505 U.S. 144 (1992).....	35
<i>News America Publ'g v. FCC</i> , 844 F.2d 800 (D.C. Cir. 1988)	58
<i>Nixon v. Shrink Missouri Government PAC</i> , 528 U.S. 377 (2000)	55
<i>Ohio Democratic Party v. FEC</i> , No. 98-CV-991 (D.D.C.)	19
* <i>Oregon v. Mitchell</i> , 400 U.S. 112 (1970).....	29, 31, 33, 34, 36
<i>Police Dep't of the City of Chicago v. Mosley</i> , 408 U.S. 92 (1972).....	58
<i>Printz v. United States</i> , 521 U.S. 898 (1997).....	36
<i>Railway Labor Executives' Ass'n v. Gibbons</i> , 455 U.S. 457 (1982)	34

* Authorities on which the RNC Plaintiffs chiefly rely are marked with asterisks.

<i>Republican Party of Minnesota v. White</i> , 122 S. Ct. 2528 (2002).....	65
<i>Riley v. National Federation of the Blind of North Carolina, Inc.</i> , 487 U.S. 781 (1988)	49
<i>Rosenberger v. Rector & Visitors of Univ. of Virginia</i> , 515 U.S. 819 (1995).....	57
* <i>Schaumburg v. Citizens for a Better Environment</i> , 444 U.S. 620 (1980)	48, 49
<i>Secretary of State v. Joseph H. Munson Co.</i> , 467 U.S. 947 (1984).....	49
* <i>Tashjian v. Republican Party of Connecticut</i> , 479 U.S. 208 (1986).....	31, 37, 60
<i>Timmons v. Twin Cities Area New Party</i> , 520 U.S. 351 (1997)	37, 44, 61
<i>Turner Broad. System, Inc. v. FCC</i> , 512 U.S. 622 (1994).....	57
<i>United States v. CIO</i> , 335 U.S. 106 (1948).....	43
<i>United States v. Kokinda</i> , 497 U.S. 720 (1990).....	47
<i>United States v. Lopez</i> , 514 U.S. 549 (1995)	32, 33
<i>United States v. Morrison</i> , 529 U.S. 598 (2000)	33, 35
<i>United States v. Reese</i> , 92 U.S. 214 (1875)	30
<i>United States v. Virginia</i> , 518 U.S. 515 (1996)	32
<i>Voting Rights Coalition v. Wilson</i> , 60 F.3d 1411 (9th Cir. 1995)	33

CONSTITUTIONAL PROVISIONS AND STATUTES

*U.S. Const. Art. I, § 4 (Federal Elections Clause).....	29, 31, 32, 33, 34
U.S. Const. Art. I, § 8 (Commerce Clause)	32, 33, 34
*U.S. Const. Amend. I.....	<i>passim</i>
U.S. Const. Amend. V	57, 58, 73
U.S. Const. Amend. X	35, 36
U.S. Const. Amend. XIV	32, 33, 35, 37
U.S. Const. Amend. XV.....	33, 35

* Authorities on which the RNC Plaintiffs chiefly rely are marked with asterisks.

*Bipartisan Campaign Reform Act of 2002 (“BCRA”), Pub L. No. 107-55, 116 Stat. 81 (codified in relevant part in scattered sections of 2 U.S.C.)	<i>passim</i>
Federal Election Campaign Act (“FECA”), 2 U.S.C. §431 <i>et seq.</i>	<i>passim</i>
2 U.S.C. §441a(d)	73, 74
2 U.S.C. §441b(b)(2)(A).....	43, 59

OTHER AUTHORITIES

S. Rep. No. 92-229, at 257 (June 21, 1971).....	29, 33, 36
S. Rep. No. 93-689, 1974 U.S.C.C.A.N. 5587, 5593	61
67 Fed. Reg. 49064, 49064-65.....	2
11 C.F.R. §106.5	3, 22
11 C.F.R. §114.3	43
<i>The Federalist Papers</i>	5, 29, 30
Joseph Story, <i>Commentaries on the Constitution of the United States</i> (1st ed. 1833)	30
Lawrence H. Tribe, <i>American Constitutional Law</i> (2d ed. 1988)	38
Frank J. Sorauf, <i>Politics, Experience, and the First Amendment: The Case of American Campaign Finance</i> , 94 Colum. L. Rev. 1348 (1994)	16
L. Sandy Maisel & Charles Bassett, <i>Political Parties and Elections in the United States: An Encyclopedia</i> (1991).....	5
Annenberg Public Policy Center, <i>Issue Advertising in the 1999-2000 Election Cycle</i> (2001).....	11
Jeffrey Stranger & Douglas Rivin, <i>Issue Advocacy Advertising During the 1997-1998 Election Cycle</i>	11

* Authorities on which the RNC Plaintiffs chiefly rely are marked with asterisks.

FEDERAL CASES

ACORN v. Edgar, 56 F.3d 791 (7th Cir. 1995) 3

Austin v. Chamber of Commerce, 494 U.S. 652 50

Bates v. City of Little Rock, 361 U.S. 516 (1960) 35

*Buckley v. Valeo, 424 U.S. 1 (1976) 21, 28, 30, 34, 36

*California Democratic Party v. Jones, 530 U.S. 567 (2000) 23, 35, 38

Citizens Against Rent Control v. City of Berkeley, 454 U.S. 290 (1981) 45

*Colorado Republican Fed. Campaign Comm. v. Federal Election Comm'n,
518 U.S. 604 (1996) 46

Common Cause v. Federal Election Comm'n, 692 F.Supp. 1391, 1395 (D.D.C. 1987) 13, 21

CPLCPAC v. Scully, 164 F.3d 1189 (9th Cir. 1999) 8

*Eu v. San Francisco County Democratic Cent. Comm., 489 U.S. 214 (1989) 35

Ex Parte Siebold, 100 U.S. 371 (1879) 21

First Nat'l Bank of Boston v. Bellotti, 435 U.S. 765 (1978) 45

*Gregory v. Ashcroft, 501 U.S. 452 (1991) 20, 22

Healey v. James, 408 U.S. 169 (1972) 35

NAACP v. Button, 371 U.S. 415 (1963) 36

New York Times Co. v. Sullivan, 376 U.S. 254 (1964) 35

*New York v. United States, 505 U.S. 144 (1992) 21, 21, 22

Nixon v. Shrink Mo. Gov't PAC, 528 U.S. 377 (2000) 32, 22

Oklahoma v. United States Civil Service Comm'n, 330 U.S. 127, 143 (1947) 22

*Oregon v. Mitchell, 400 U.S. 112 (1970) 22

Police Dept. of Chicago v. Mosley, 408 U.S. 92 50

Printz v. United States, 521 U.S. 898 (1997)	20
Riley v. National Fed'n of the Blind of North Carolina, 487 U.S. 781 (1988)	40
Rosenberger v. Rector & Visitors of Univ. of Va., 515 U.S. 819 (1995)	50
Schaumburg v. Citizens for a Better Env't, 444 U.S. 620 (1980)	40
Shays, et al v. Federal Election Comm'n (D.C.C. filed 10/8/02)	17
*Tashjian v. Republican Party of Conn., 479 U.S. 208 (1986)	23, 35, 38
United States v. Classic, 313 U.S. 299 (1941)	23
U.S. v. Bowman, 636 F 2d 103 (1981)	24

UNITED STATES CONSTITUTION

Art. I, § 4	20
Art. I, § 8	19
Amend. I	passim
Amend. X	passim

FEDERAL STATUTES

2 U.S.C.

§ 315(d)(4)	46
§ 323(b)	35, 37, 39
§ 323(b)(2)	16, 17, 18, 38
§ 323(b)(2)(B)	37
§ 323(d)	42
§ 323(e)(3)	38
§ 323(e)(4)(A)	42
§ 431	9
§ 431(8)(A)(i)	9
§ 431(9)(B)(iv)(viii)(ix)	9
§ 431(20)(A)(i)(ii)	17
§ 431(20)(B)(i)	17
§ 441a(a)	10
§ 441a(a)(1)(D), 441a(a)(1)(C)	49
§ 441a(c)(1)(D)	49
§ 441a(d)(4)(B)	46

The Federalist No. 39, at 245 (James Madison)	20
---	----

STATE STATUTES

Cal. Elec. Code

§ 7050	4
§ 7162	6
§ 7196	5
§ 7200	5
§ 7250	4
§ 7385	5
§ 7400	5
§ 7460	5
§ 8020	24

Cal. Govt. Code

§§ 81000 et seq.	8
§§ 85300 et seq	8-9

FEDERAL REGULATIONS

11 C.F.R. § 106.7	19
11 C.F.R. § 100.24 (a)(3)	19
11 C.F.R. § 100.24(a)(1)	23, 24
11 C.F.R. §102.5	10
11 C.F.R. §106.5	12, 25

**THOMPSON PLAINTIFFS'
TABLE OF AUTHORITIES**

CASES*

Ashcroft v. American Civil Liberties Union,
122 U.S. 1799,9 (2002) 14

**Buckley v. Valeo*,
424 U.S. 1 (1976).....3, 4, 6, 7, 10

Davis v. Benson,
133 U.S. 333 (1890)1

Evans v. Cornman,
398 U.S. 419 (1970).....2

Gomellion V. Lightfoot,
364 U.S. 339 (1960)2

Hadnott v. Amos,
394 U.S. 358 (1969)2

Hodgson v. Minnesota,
497 U.S. 417 (1990) 17

Katzenbach v. Morgan,
384 U.S. 641 (1996)2

Kramer v. Union Free School District,
395 U.S. 621 (1969)2

McConnell, et al v. FEC, et. al.,
Civ. Action No. 02-0582(CKK, KLH, RJL)5

Planned Parenthood v. Danforth
428 U.S. 52 (1976) 17

In re Sherbrooke Sodding Co.,
17 F. Supp 2d 1026 (D. Minn. 1998)2

Tinker v. Des Moines School District,
393 U.S. 503, 511 (1969) 15

* Authorities upon which we chiefly rely are marked with asterisks.

Ex Parte Yarborough,
110 U.S. 665, 4 S. Ct. 159 (1884)1

**STATUTES AND REGULATIONS
(TAB 1)**

U.S. Constitution, Preamble 001
 U.S. Constitution Amendment I & V 002
 U. S. Constitution Amendment XV 003
 Voting Rights Act of 1965 004
 Federal Election Campaign Act of 1971, Pub. L. No. 92-225 (1972) ...009
 Title 2 U.S.C. Section 441(f)

**BOOKS, TREATISES AND ARTICLES
(TAB 2)**

Public Campaign, The Color of Money: Campaign Contributions and Race
(September, 1998) page 5
 Washington Post article, June 26, 2002: Davis Ousts Rep. Hilliard in Alabama
Runoff
 Common Cause, November 2, 2002
 Hilliard Deposition, pages 53,15
 Congressional Record, March 20, 2002, page 2145
 Thompson Deposition, page 50
 Hilliard Biographical Sketch

**INTERNET SITES
(TAB 3)**

Statistical Findings on Campaign Funding, www.campaignfinance.com.. 301
 Earl F. Hilliard 2001 – 2002 Election Profile www.opensecrets.org
 Earl F. Hilliard 2002 Race Total Raised and Spent www.opensecrets.org

CHARTS, TABLES, GRAPHS, ETC.
(TAB 4)

The Color of Money, 1998:

- a. **Comparing Contribution and Income Figures**
- b. **Additional Comparisons**

Artur Davis, 2001-2002 Election Cycle Fundraising Statistics

TABLE OF AUTHORITIES

	<u>Page</u>
 <u>Cases</u>	
<i>ACLU v. Reno</i> , 929 F. Supp. 824 (E.D. Pa. 1996), <i>aff'd</i> , 521 U.S. 844 (1997).....	43
<i>Ashcroft v. Free Speech Coalition</i> , 122 S. Ct. 1389 (2002).....	17
<i>Austin v. Michigan State Chamber of Commerce</i> , 494 U.S. 652 (1990)	<i>passim</i>
<i>Branzburg v. Hayes</i> , 408 U.S. 665 (1972).....	41
* <i>Buckley v. Valeo</i> , 424 U.S. 1 (1976).....	<i>passim</i>
* <i>Buckley v. Valeo</i> , 519 F.2d 821 (D.C.Cir. 1975), <i>aff'd in part, rev'd in part</i> , 424 U.S. 1 (1976).....	49
<i>City of Ladue v. Gilleo</i> , 512 U.S. 43 (1994)	34
* <i>Colorado Republican Fed. Campaign Comm. v. FEC</i> , 518 U.S. 604 (1996).....	13, 14
<i>Dun & Bradstreet, Inc. v. Greenmoss Builders, Inc.</i> , 472 U.S. 749 (1985)	41
<i>Edwards v. California</i> , 314 U.S. 160 (1941)	19
<i>FCC v. League of Women Voters</i> , 468 U.S. 364 (1984).....	37, 39, 47
<i>FEC v. Colorado Republican Fed. Campaign Comm.</i> , 533 U.S. 431 (2001).....	11, 13
* <i>FEC v. MCFL</i> , 479 U.S. 238 (1986)	<i>passim</i>
* <i>FEC v. NCPAC</i> , 470 U.S. 480 (1985).....	9, 12, 23
<i>FEC v. NRA</i> , 254 F.3d 173 (D.C. Cir. 2001)	14, 21, 23
<i>FEC v. Survival Educ. Fund, Inc.</i> , 65 F.3d 285 (2d Cir. 1995)	23
* <i>First Nat'l Bank v. Bellotti</i> , 435 U.S. 765 (1978)	<i>passim</i>
<i>Florida Star v. B.J.F.</i> , 491 U.S. 524 (1989)	35, 38
<i>Miami Herald Publ'g Co. v. Tornillo</i> , 418 U.S. 241 (1974).....	8

<i>Mills v. Alabama</i> , 384 U.S. 214 (1966)	8, 41
* <i>New York Times Co. v. Sullivan</i> , 376 U.S. 254, (1964)	7, 8
* <i>Nixon v. Shrink Missouri Gov't PAC</i> , 528 U.S. 377 (2000).....	9, 16
<i>North Carolina Right to Life, Inc. v. Bartlett</i> , 168 F.3d 705 (4th Cir. 1999), <i>cert. denied</i> , 528 U.S. 1153 (2000).....	23
<i>Police Dep't of Chicago v. Mosley</i> , 408 U.S. 92 (1972)	41
<i>Red Lion Broad. Co. v. FCC</i> , 395 U.S. 367 (1969).....	47
<i>Renne v. Geary</i> , 501 U.S. 312 (1991).....	14, 24
<i>Reno v. ACLU</i> , 521 U.S. 844 (1997).....	25, 32, 36
* <i>Republican Party of Minnesota v. White</i> , 122 S. Ct. 2528 (2002).....	33, 34, 37
<i>Turner Broad. Co. v. FCC</i> , 512 U.S. 622 (1994)	14, 47
<i>United States v. National Treasury Employees Union</i> , 513 U.S. 454 (1995).....	35, 37

Statutes, Rules and Regulations

2 U.S.C. § 431 (4).....	1
26 U.S.C. § 501(c)(4)	1
11 C.F.R. 100.29.....	36
11 C.F.R. 114.10.....	20, 21, 22, 23
143 CONG. REC. H1382 (daily ed. Apr. 9, 1997)	4, 19
143 CONG. REC. S10,122 (daily ed. Sept. 29, 1997)	19
143 CONG. REC. S10,271 (daily ed. Oct. 1, 1997).....	4
144 CONG. REC. H4045 (daily ed. June 3, 1998)	19
144 CONG. REC. H4821 (daily ed. June 18, 1998)	19
145 CONG. REC. H3174 (daily ed. May 14, 1999)	19

145 CONG. REC. H4029 (daily ed. May 14, 1999)	19
147 CONG. REC. S2847 (daily ed. Mar. 26, 2001)	19
147 CONG. REC. S2851 (daily ed. Mar. 26, 2001)	19
147 CONG REC. S2931 (daily ed. Mar. 27, 2001)	19

Other

Anthony Lewis, <i>Make No Law</i> 52 (Random House, 1991).....	5
Harry Kalven, Jr., <i>A Worthy Tradition</i> 63 (1988).....	5
THE FEDERALIST NO. 68 (Alexander Hamilton).....	10
THE FEDERALIST NO. 35 (Alexander Hamilton).....	10
THE FEDERALIST NO. 51 (James Madison).....	10
2 A. DE TOCQUEVILLE, <i>DEMOCRACY IN AMERICA</i> 109 (P. Bradley ed. 1948).....	11

TABLE OF AUTHORITIES

Page

CASES

<p>* <u>American Civil Liberties Union v. Jennings</u>, 366 F. Supp.1041 (D.D.C. 1973)(three judge court), <i>vacated as moot sub nom</i>,422 U.S.1030(1975).....</p> <p><u>Ashcroft v. Free Speech Coalition</u>, __ U.S. ___, 122 S.Ct. 1389 (2002).....</p> <p><u>Austin v. Michigan State Chamber of Commerce</u>, 494 U.S. 652 (1990).....</p> <p><u>Brown v. Socialist Workers '74 Campaign Committee</u>, 459 U.S. 87 (1982).....</p> <p><u>Buckley v. American Constitutional Law Foundation</u>, 525 U.S. 182 (1999).....</p> <p>* <u>Buckley v. Valeo</u> 519 F.2d. 821 (D.C. Cir. 1975) (<i>en banc</i>), <i>aff'd in part and rev'd in part</i>, 424 U.S. 1 (1976).....</p> <p>* <u>Buckley v. Valeo</u>, 424 U.S. 1 (1976).....</p> <p><u>California Medical Association v. FEC</u>, 453 U.S. 182 (1981).....</p> <p><u>Citizens Against Rent Control v. Berkeley</u>, 454 U.S. 290 (1981).....</p> <p><u>Colorado Republican Federal Campaign Committee v. FEC</u>, 518 U.S. 604 (1996).....</p> <p><u>Day v. Holahan</u>, 34 F.3d 1356 (8th Cir. 1994).....</p> <p><u>FEC v. Colorado Republican Federal Campaign Committee</u>, 533 U.S. 431 (2001).....</p> <p>* <u>FEC v. Massachusetts Citizens for Life</u>, 479 U.S. 238 (1986).....</p> <p><u>FEC v. National Conservation Political Action Committee</u>,470 U.S. 480 (1985).....</p> <p><u>First National Bank of Boston v. Bellotti</u>, 435 U.S. 765 (1978).....</p> <p><u>McIntyre v. Ohio Elections Commission</u>, 514 U.S. 334 (1995)</p>	<p>3, 10, 11, 12, 16, 18</p> <p>17</p> <p>4</p> <p>4, 18</p> <p>20</p> <p>10, 13, 15</p> <p>passum</p> <p>4</p> <p>15</p> <p>4</p> <p>17</p> <p>4</p> <p>1,4,13,16</p> <p>4</p> <p>15</p> <p>4,15, 18</p>
--	---

<u>Mills v. Alabama</u> , 384 U.S. 214 (1996).....	15
<u>Minnesota Citizens Concerned for Life, Inc. v. FEC</u> , 936 F. Supp. 633 (D.Minn, 1996), <i>aff'd</i> , 113 F.3d 129 (8 th Cir. 1997).....	17
<u>New York Civil Liberties Union v. Acito</u> , 459 F. Supp. 75 (S.D.NY 1978).....	18
<u>Nixon v. Shrink Missouri Government PAC</u> , 528 U.S. 377 (2000).....	4
<u>Talley v. California</u> , 362 U.S. 60 (1960).....	18
<u>Thomas v. Collins</u> , 323 U.S. 516 (1945).....	14
* <u>United States v. National Committee for Impeachment</u> , 469 F.2d 1135 (2d Cir. 1972).....	3, 10, 11, 16

STATUTES

Bipartisan Campaign Reform Act Title I (2002) (Soft Money Ban).....	2
Bipartisan Campaign Reform Act Title II, § 203 (2002) (Prohibition of Corporate Electioneering Communications).....	passum
Bipartisan Campaign Reform Act Title II, § 201 (2002) (Disclosure of Electioneering Communications).....	7, 18, 19
Bipartisan Campaign Reform Act Title II §§ 202 and 214 (Coordinated Communications).....	9, 19
Federal Election Campaign Act (1971) (2 U.S.C. 431 et seq).....	3
2 U.S.C. § 437a.....	12

TABLE OF AUTHORITIES

Page

Federal Cases

<i>Austin v. Michigan Chamber of Commerce</i> , 494 U.S. 652 (1990)	3, 5, 6
* <i>Buckley v. Valeo</i> , 424 U.S. 1 (1976)	<i>passim</i>
<i>Clifton v. FEC</i> , 114 F.3d 1309 (1st Cir. 1997)	3, 8, 11, 12
<i>Consolidated Edison Company v. Public Service Commission</i> , 447 U.S. 530 (1980)	2, 3
* <i>FEC v. Christian Coalition</i> , 52 F. Supp. 2d 45 (D.D.C. 1999)	<i>passim</i>
<i>FEC v. Larouche Campaign</i> , 817 F.2d 233 (2d Cir. 1987)	10
<i>FEC v. Machinist Non-Partisan Political League</i> , 655 F.2d 380 (D.C. Cir. 1981)	10
<i>FEC v. Massachusetts Citizens for Life, Inc., ("MCFL")</i> 479 U.S. 238 (1986)	3
* <i>First National Bank of Boston v. Bellotti</i> , 435 U.S. 765 (1977)	2, 5
<i>Greater New Orleans Broadcasting Ass'n v. United States</i> , 527 U.S. 173 (1999)	3
<i>NAACP v. Alabama</i> , 357 U.S. 449 (1958)	18, 20
<i>Orloski v. FEC</i> , 795 F.2d 156 (D.C. Cir. 1986)	11
<i>Sweezy v. New Hampshire</i> , 354 U.S. 234 (1957)	10

Federal Statutes

2 U.S.C. § 437g	8, 15
2 U.S.C. § 441a(a)(7)(B)(i)	8, 10, 13
2 U.S.C. §431(17)	8, 10
2 U.S.C. §441b	3
Administrative Procedures Act, 5 U.S.C. § 553(d)	13
Bipartisan Campaign Reform Act of 2002, P.L. 107-155	<i>passim</i>
Congressional Review of Agency Rulemaking Act, 5 U.S.C. § 801(a)(1)	13, 14

Federal Regulations

11 C.F.R. § 100.23(c)	9
-----------------------------	---

Other Authorities

Craig B. Holman & Luke P. McLoughlin, <i>Buying Time 2000: Television Advertising in the 2000 Federal Elections</i> , Brennan Center for Justice at New York University School of Law (2001)	5, 6
Deborah Goldberg & Mark Kozlowski, <i>Constitutional Issues in Disclosure of Interest Group Activities</i> , 35 Ind. L. Rev. 755 (2002)	20
*Statement for the Record of FEC Commissioner Smith, MUR 4624 (November 6, 2001)	<i>passim</i>

* Authorities principally relied upon