
IN THE SUPREME COURT OF THE UNITED STATES

MITCH MCCONNELL, ET AL.,
Appellants,
v.

FEDERAL ELECTION COMMISSION, ET AL.,
Appellees.

On Appeal From The United States
District Court For The District Of Columbia

RESPONSE TO THE MOTION OF THE APPELLEES/CROSS-APPELLANTS
FEDERAL ELECTION COMMISSION, ET AL., FOR EXPEDITED BRIEFING
SCHEDULE BY THE BUSINESS PLAINTIFFS

Appellants Chamber of Commerce of the United States, National Association of Manufacturers, and Associated Builders and Contractors, Inc. (collectively “Business Plaintiffs”) generally support the Response to Motion of the Appellees/Cross-Appellants Federal Election Commission, et al., for Expedited Briefing Schedule submitted by Senator McConnell and allied parties, offering these further observations.¹

1. It is a difficult question whether setting argument in early September, rather than late September or early October, will materially advance the final resolution of this case. The lower court opinions are exceptionally lengthy and deeply divided, and they rest on a truly massive record that was assembled at breakneck speed without a full trial and, likewise, was

¹ The Business Plaintiffs filed their own timely notice of appeal and will submit a jurisdictional statement on June 2, 2003. They are “entitled to file” papers in the pending appeals under Rule 18.2.

briefed on a highly accelerated schedule. The Court might well gain by setting the argument in late September and allowing a few extra weeks for careful briefing.

2. The traditional three-stage briefing format evolved for a reason and seems well suited to this case. If the Court elects a four-stage brief for some reason, the burden of opening should fall on the Defendant parties who have the substantive obligation to justify the novel burdens on core First Amendment rights that are at issue here.

3. The Business Plaintiffs do not object to allowing some parties to file briefs that are longer than Rule 33 otherwise would authorize. Here, as in the district court, the Business Plaintiffs expect to coordinate with other parties and avoid duplication. However, it is imperative that the Business Plaintiffs and others who filed separate complaints and have participated in the case to this point be allowed fair opportunity to address the issues from their own distinctive perspectives.

The Business Plaintiffs are three of the major incorporated associations through which American business and business corporations communicate with Americans and American government officials. Of the more than 80 parties in this action, only the Business Plaintiffs speak for the wide range of businesses whose vital interests are at stake in this proceeding:

- The Chamber of Commerce of the United States (“Chamber”) is the world’s largest not-for-profit business federation. Founded in 1912, the Chamber represents over 3,000,000 businesses and business associations. The Chamber is a corporation, as are many of its members and supporters, and it is exempt from taxation under § 501(c)(6) of the Internal Revenue Code.
- The National Association of Manufacturers (“NAM”) is the oldest and largest broad-based industrial trade association in the United States. Its membership

comprises 14,000 companies and 350 member associations, meaning that NAM represents about 18 million individuals. Like many trade associations, NAM is incorporated and is exempt from taxation under § 501(c)(6).

- The Associated Builders and Contractors, Inc. (“ABC”) represents more than 23,000 contractors and related firms in the construction industry, both unionized and non-unionized, who share the view that work should be awarded and performed on the basis of merit, regardless of labor affiliation. ABC is funded primarily by membership dues and is exempt from taxation under § 501(c)(6).²

The Business Plaintiffs urgently request that, whatever special procedures are devised, they be allowed to brief the issues of particular concern to their members and supporters.

Respectfully Submitted,



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May 28, 2003

² The Associated Builders and Contractors Political Action Committee (ABC PAC) and the U.S. Chamber Political Action Committee (U.S. Chamber PAC) are separate segregated funds of their respective organizations under 2 U.S.C. §441b(b)(2)(C), and are political organizations under § 527(e)(1) of the Internal Revenue Code. They receive contributions from individuals as authorized by federal law and make contributions to or expenditures in support of federal candidates. Because of the associated burdens and risks, NAM does not have a PAC. The two business PACs will participate in this appeal as Appellees and join in this submission.

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SCHEDULE BY THE BUSINESS PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that on May 28, 2003, I caused a copy of the foregoing Response To The Motion Of The Appellees/Cross-Appellants Federal Election Commission, Et Al., For Expedited Briefing Schedule By The Business Plaintiffs to be placed in the United States mail, first class postage prepaid, addressed to:

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