

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

SENATOR MITCH McCONNELL;)	
REPRESENTATIVE BOB BARR;)	
REPRESENTATIVE MIKE PENCE; ALABAMA)	
ATTORNEY GENERAL BILL PRYOR;)	
LIBERTARIAN NATIONAL COMMITTEE, INC.;)	
ALABAMA REPUBLICAN EXECUTIVE)	
COMMITTEE, AS GOVERNING BODY FOR THE)	
ALABAMA REPUBLICAN PARTY;)	
LIBERTARIAN PARTY OF ILLINOIS; DUPAGE)	
POLITICAL ACTION COUNCIL; JEFFERSON)	
COUNTY REPUBLICAN EXECUTIVE)	
COMMITTEE; AMERICAN CIVIL LIBERTIES)	
UNION; ASSOCIATED BUILDERS AND)	
CONTRACTORS, INC.; ASSOCIATED BUILDERS)	
AND CONTRACTORS POLITICAL ACTION)	
COMMITTEE; CENTER FOR INDIVIDUAL)	
FREEDOM; CHRISTIAN COALITION OF)	
AMERICA, INC.; CLUB FOR GROWTH;)	
INDIANA FAMILY INSTITUTE; NATIONAL)	Case No. 02-582
RIGHT TO LIFE COMMITTEE, INC.; NATIONAL)	(CKK, KLH, RLL)
RIGHT TO LIFE EDUCATIONAL TRUST FUND;)	
NATIONAL RIGHT TO LIFE POLITICAL)	HEARING SCHEDULED
ACTION COMMITTEE; THE NATIONAL RIGHT)	FOR APRIL 23, 2002
TO WORK COMMITTEE; 60 PLUS)	
ASSOCIATION, INC.; SOUTHEASTERN LEGAL)	
FOUNDATION, INC.; U.S. d/b/a ProENGLISH;)	
MARTIN CONNORS; THOMAS E. McINERNEY;)	
BARRET AUSTIN O-BROCK; TREVOR M.)	
SOUTHERLAND,)	
Plaintiffs,)	
)	
v.)	
)	
FEDERAL ELECTION COMMISSION; FEDERAL)	
COMMUNICATIONS COMMISSION,)	
Defendants.)	

STATUS REPORT AND PROPOSED SCHEDULE

OF PLAINTIFFS SENATOR MITCH McCONNELL ET AL.

Plaintiffs Senator Mitch McConnell *et al.* (hereafter the McConnell plaintiffs) come before this

Court and state as follows:

1. This lawsuit, *McConnell v. FEC*, consists of a global fourteen-count complaint that comprehensively challenges various provisions of the Bipartisan Campaign Reform Act of 2002 (BCRA).

Also pending before this Court are two related but significantly narrower lawsuits, *NRA v. FEC* and *Echols v. FEC*, which challenge only specific aspects of the BCRA that are also challenged in this suit.

Other actions are expected to be filed shortly by additional parties, likewise challenging the constitutionality of the new law.

2. On Tuesday, April 16, 2002, this Court ordered counsel in these three cases to meet and confer, and reach agreement to the extent possible, on various procedural matters in this case, including, but not limited to, provisions for intervention, whether to consolidate all separately filed challenges to the Act; the need for and scheduling of discovery, if any; and a proposed schedule for the filing of dispositive motions (and in particular cross-motions for summary judgment). Counsel in these three cases met on the morning of Friday, April 19, 2002, and conferred again by telephone that afternoon. Discussions among counsel for the plaintiffs, defendants, intervenors, and potential additional plaintiffs have continued through the weekend, and counsel reconvened by telephone yesterday evening. Counsel, however, have been unable to reach agreement on the issues set forth by this Court.

3. Counsel for the McConnell plaintiffs therefore propose the following schedule for proceedings in this Court. This schedule is intended to achieve four primary objectives. *First*, this schedule is designed to put the cases in a posture in which plaintiffs' claims may be resolvable by this Court by November 6, 2002, the effective date of the BCRA. *See* BCRA § 402(a). The proposed schedule is

consistent with the clear congressional mandate C quoted by this Court in its April 16 order C that this Court Aadvance on the docket and . . . expedite to the greatest possible extent the disposition of@ constitutional challenges to the BCRA. See BCRA ' 403. Expeditious resolution is in the interest of plaintiffs, who are being forced even now to alter their conduct as a result of the BCRA's impending effect. And expeditious resolution is in the public interest in light of the importance of the constitutional questions presented. The proposed schedule enables all of the claims in the three cases to be litigated simultaneously, which is necessary because of the close interplay of the various statutory provisions at issue (particularly the provisions of Title I and Title II).

4. *Second*, the proposed schedule is designed to ensure that a full record is compiled for submission to this Court, and ultimately to the United States Supreme Court. The proposed schedule affords the parties a reasonable period in which discovery may occur.

5. *Third*, the proposed schedule is drafted so as to be fully consistent with the mandates of the Federal Rules of Civil Procedure. The McConnell plaintiffs anticipate that all the claims in the three suits should be resolvable through cross-motions for summary judgment. In the event that genuine issues of material fact arise at the summary-judgment stage, this Court retains the power to order a limited trial on those issues pursuant to Fed. R. Civ. P. 56(d).

6. *Fourth*, as all of the parties have agreed, the proposed schedule allows a reasonable amount of time for additional parties to join the existing suits, intervene in the existing suits, or file separate suits to be consolidated with the existing suits. Counsel for the McConnell plaintiffs have been in contact with a number of additional parties that have advised them of their intention to do so in the near future. The

proposed schedule contemplates that, upon completion of the period for the filing of separate suits, all of the suits be consolidated pursuant to Fed. R. Civ. P. 42(a).

7. The McConnell plaintiffs therefore propose the following schedule for proceedings in this Court:

May 7, 2002	Deadline for amendment of pleadings, motions to intervene and to join additional parties, and the filing of additional cases. All cases filed subsequent to <i>McConnell</i> , <i>NRA</i> , and <i>Echols</i> will be consolidated pursuant to Fed. R. Civ. P. 42(a) with the three currently pending cases.
May 7, 2002	Discovery begins.
May 14, 2002	Deadline for filing of answers by all defendants.
May 20, 2002	Deadline for service of document requests and interrogatories.
July 1, 2002	Deadline for service and filing of expert reports and lay witness statements or affidavits.
July 15, 2002	Deadline for service and filing of rebuttal expert reports and lay witness statements or affidavits; deadline for requests for admissions.
August 16, 2002	Discovery ends.
August 30, 2002	Parties file briefs in support of cross-motions for summary judgment.
September 23, 2002	Parties file opposing briefs.
October 4, 2002	Parties file reply briefs.
October 9-10, 2002	Oral argument.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that, on April 22, 2002, I served two true and correct copies of the foregoing Status Report and Proposed Schedule of Plaintiffs Senator Mitch McConnell *et al.* on each of the following by hand delivery:

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