

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

McCONNELL, et al., Plaintiffs,	)	
	)	
v.	)	Civ. No. 02-0582
	)	(CKK, KLH, RJL)
FEDERAL ELECTION COMMISSION et al., Defendants.	)	
	)	
	)	

NATIONAL RIFLE ASSOCIATION et al., Plaintiffs,	)	
	)	
v.	)	Civ. No. 02-0581
	)	(CKK, KLH, RJL)
FEDERAL ELECTION COMMISSION et al., Defendants.	)	
	)	
	)	

**NATIONAL RIFLE ASSOCIATION PLAINTIFFS’  
FIRST SET OF INTERROGATORIES AND FIRST REQUEST FOR  
PRODUCTION OF DOCUMENTS**

Pursuant to Rule 33 and Rule 34 of the Federal Rules of Civil Procedure, Plaintiffs National Rifle Association of America and the National Rifle Association Political Victory Fund (the "National Rifle Association Plaintiffs" or "NRA Paintiffs") by their undersigned counsel, request that Defendants answer the following interrogatories and produce documents in accordance with the following request for production of documents.

**DEFINITIONS**

1. The word “document(s)” includes all “writings,” “recordings,” and “photographs,” as those terms are defined in Rule 1001 of the Federal Rules of Evidence,

and should be construed in the broadest sense permissible. Accordingly, “document(s)” includes, but is not limited to, all written, printed, recorded or graphic matter, photographic matter, sound reproductions, or other retrievable data (whether recorded, taped, or coded electrostatically, electromagnetically, optically or otherwise on hard drive, diskette, compact disk, primary or backup tape, audio tape or video tape) from whatever source derived and however and by whomever prepared, produced, reproduced, disseminated or made. Without limiting the generality of the foregoing, “document(s)” includes the original and any non-identical copy and also every draft and proposed draft of all correspondence, internal memoranda, notes of meetings, telegrams, telexes, facsimiles, electronic mail, reports, transcripts or notes of telephone conversations, diaries, notebooks, minutes, notes, tests, reports, analyses, studies, testimony, speeches, worksheets, maps, charts, diagrams, computer printouts, and any other writings or documentary materials of any nature whatsoever, whether or not divulged to other parties, together with any attachments thereto and enclosures therewith. In addition, the word “Document(s)” encompasses all forms and manifestations of electronically or optically coded, stored, and/or retrievable information, including but not limited to “e-mail,” “voice mail,” digital images and graphics, digital or analog audiotapes and files, and digital or analog videotapes and files.

2. The word “person(s)” includes not only natural persons, but also firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, trusts, groups, and organizations; federal, state, or local governments or government agencies, offices, bureaus, departments, or entities;

other legal, business, or government entities; and all subsidiaries, affiliates, divisions, departments, branches, and other units thereof or any combination thereof.

3. As used herein, any reference to any “person” includes the present and former officers, executives, partners, directors, trustees, employees, attorneys, agents, representatives, and all other persons acting or purporting to act on behalf of the person and also its subsidiaries, affiliates, divisions, and predecessors and successors in interest.

4. The words “you,” “your” or “defendants” refer to defendants, defendant-intervenors, and their agents, representatives, attorneys, experts, and all other persons acting or purporting to act on behalf of Defendants.

5. The singular of each word shall be construed to include its plural and vice versa, and the root word and all derivations (*i.e.*, “ing,” “ed,” etc.) shall be construed to include each other.

6. The words “and” as well as “or” shall be construed both conjunctively as well as disjunctively.

7. The word “each” shall be construed to include “every” and vice versa.

8. The word “any” shall be construed to include “all” and vice versa.

9. The present tense shall be construed to include the past tense and vice versa.

10. The masculine shall be construed to include the feminine and vice versa.

11. The words “knowledge,” “information,” “possession,” “custody,” and “control” of a person shall be construed to include such person’s agents, representatives, and attorneys.

12. The word “including” shall have its ordinary meaning and shall mean “including but not limited to” and shall not indicate limitation to the examples or items mentioned.

13. The phrase “reflect, refer, or relate to” means reflecting, referring to, relating to, regarding, discussing, concerning, constituting, mentioning, pertaining to, alluding to, or associated with.

14. The words “to present” mean to the date on which you respond to these interrogatories and requests.

15. The term "NRA" means the National Rifle Association, Plaintiff to this action.

16. The term "BCRA" means the Bipartisan Campaign Reform Act of 2002, Pub. L. No. 107-155 (2002).

17. The term "electioneering communication" is defined in the same manner as that term is defined in section 201 of BCRA.

18. The words "restriction" and "restriction on electioneering communication" refer to those provisions of BCRA that prohibit and otherwise restrict "electioneering communications," as defined by BCRA, and disbursements or payments for the same.

### **INSTRUCTIONS**

1. Unless otherwise specified, if your response in regard to a portion of the time period addressed in any interrogatory differs from your response in regard to another portion of such period, provide a response for each such portion and indicate the period of time to which each response relates.

2. Deem any reference to a non-natural person to include the legal predecessors of such non-natural person.
3. When an interrogatory asks you to “describe” or “identify” a document, provide the following information with respect to each such document:
  - a. The date appearing on such document; or if it has no date, so state and give the date or approximate date such document was prepared, produced, created, or came into being;
  - b. Any identifying or descriptive code number, file number, title or label of such document;
  - c. The general nature or description of such document;
  - d. The name of the person(s) who signed, authored, produced or created such document;
  - e. The name of the person(s) who prepared such document if different from the name provided pursuant to subpart (d) of this instruction;
  - f. The name of the person(s) to whom such document was addressed and the name of each such person other than the addressee to whom such document, or copy or reproduction thereof, was given or sent;
  - g. The name of the person or entity having present possession, custody and/or control of such document;
  - h. The present location of such document;
  - i. If such document was, but is no longer in your possession or control, state what disposition was made of such document, the reason for such disposition, and the date thereof.

j. Whether or not any draft, copy, or reproduction of such document contains any script, notation, change, addendum, or the like, not appearing on such document itself, and if so, the answer shall give the description and identification of each such draft, copy or reproduction in accordance with the above subparts (a) through (i).

4. The above information shall be given in sufficient detail to enable any person or party to whom a subpoena or request for production is directed to identify the documents sought to be produced and to enable counsel to determine whether such document, when produced, is in fact the document so described and identified.

5. Notwithstanding any other instruction in this First Set of Interrogatories that is or may be to the contrary, if a document has already been produced by you to the NRA plaintiffs, such document may be identified by specifying the Bates numbers for all pages of such document.

6. A request that you identify a document is not limited to documents within your possession, and such requests shall extend to documents under your control.

7. When an interrogatory asks you to "identify" a person, the answer shall contain the following information with respect to each such person:

a. The full name, current or last known business and residence addresses, and business and residence phone numbers of such person;

b. The name and address of the agency, employer or entity at which such Person worked and/or to which such person reported;

c. The title(s) and related periods of service for such person with each such agency, employer or entity.

8. When an interrogatory calls for the “description” or “identity” of any “document” you contend to be subject to a privilege against disclosure in response to these interrogatories, provide with respect to each such document or communication the following:

- a. The nature of the document you contend is privileged (*e.g.*, letter, memorandum, chart, picture, report, etc.);
- b. The number of pages comprising the document and a description of any identifying marks or designations (*e.g.* Bates numbers) if any, on the document;
- c. The date of the document which you contend is privileged;
- d. The name(s) of the author(s) and of any recipient(s) of the document;
- e. The name and address of any person who is not included in your response to subpart (d) with respect to such document and who has access to or has seen, read, or heard any portion of the material in the document that you contend to be privileged; and
- f. The nature of the privilege asserted.

9. In answering each of these interrogatories, furnish all information available to you that is relevant or that might lead to the discovery of relevant evidence, including information in the possession of your attorneys, or their investigators, and all persons acting on your behalf, including but not limited to your employees, agents, officers, or representatives. If you are unable to answer these interrogatories in full after exercising due diligence to supply a complete answer, so state and answer to the extent possible. Specify the reasons for your inability to answer and state whatever information or knowledge you have concerning the unanswered portions.

10. For each interrogatory or part of an interrogatory that you refuse to answer on grounds of burdensomeness, explain in as much detail as possible the basis for your contention.

11. These interrogatories are deemed to be continuing; as such, you are requested to file and serve by way of supplemental answers thereto such additional information as may be required to complete your answers to these interrogatories.

### **INTERROGATORIES**

#### **INTERROGATORY NO. 1:**

Identify in detail each governmental purpose or interest that Congress sought to advance in enacting BCRA's restrictions on electioneering communications. With respect to your answer to this interrogatory, please:

- A. identify each person on whose testimony you will or may rely in support of this answer;
- B. identify each document on which you will or may rely in support of this answer.

#### **INTERROGATORY NO. 2:**

Describe in detail the basis for your contention that BCRA's restrictions on electioneering communications will advance the purposes or interests identified in response to interrogatory number 1. With respect to your answer to this interrogatory, please:



- A. identify each person on whose testimony you will or may rely in support of this answer;
- B. identify each document on which you will or may rely in support of this answer.

INTERROGATORY NO. 3:

Explain in detail why BCRA's restrictions on electioneering communications serve the purposes or interests identified in response to interrogatory number 1 in a manner that is neither overbroad nor underinclusive.

With respect to your answer to this interrogatory, please:

- A. identify each person on whose testimony you will or may rely in support of this answer;
- B. identify each document on which you will or may rely in support of this answer.

INTERROGATORY NO. 4:

Identify in detail each of Congress's purposes in enacting the exemption for news stories, commentaries, or editorials distributed through the facilities of any broadcasting station from BCRA's restrictions on electioneering communications. With respect to your answer to this interrogatory:

- A. identify each person on whose testimony you will or may rely in support of this answer;

- B. identify each document on which you will or may rely in support of this answer.

INTERROGATORY NO. 5:

Identify the name and, if known, the address and telephone number of each person likely to have discoverable information that you may use to support your defense of BCRA with respect to the NRA Plaintiffs' challenges to its constitutionality. With respect to each such person, identify in as much detail as possible the discoverable information he or she possesses.

**REQUESTS FOR PRODUCTION OF DOCUMENTS**

The NRA Plaintiffs hereby request that Defendants produce the following documents for inspection and copying within 30 days of service of this request, or any earlier date on which the parties agree, in accordance with the Definitions and Instructions set forth above, at the offices of Cooper & Kirk, 1500 K Street, N.W., Suite 200, Washington, D.C. 20005:

1. All documents identified by you in response to each and every interrogatory set forth above.
2. All documents or data compilations that are in your possession, custody or control that you may use to support your defense of BCRA with respect to the NRA Plaintiffs' challenges to its constitutionality.

Dated: May 7, 2002

Respectfully submitted,

Cleta Mitchell (No. 433386)

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Charles J. Cooper (No. 248070)  
David H. Thompson (No. 450503)

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Washington, D.C. 20007  
(202) 295-4081  
(202) 672-5399 fax

COOPER & KIRK  
1500 K Street, N.W., Suite 200  
Washington, D.C. 20005  
(202) 220-9600  
(202) 220-9601 fax

## CERTIFICATE OF SERVICE

I hereby certify that, on May 7, 2002, I served a true and correct copy of National Rifle Association Plaintiffs' First Set of Interrogatories and First Request for Production of Documents on each of the following by facsimile and e-mail:

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Federal Election Commission  
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Matthew D. McGill