

**United States District Court
District of Columbia**

Republican National Committee,
310 First Street, SE
Washington, D.C. 20003,

California Republican Party,
1201 K. Street #740
Sacramento, CA 95814,

Robert M. (Mike) Duncan,
Chairman, Republican National Committee
310 First Street, SE
Washington, D.C. 20003,

Republican Party of San Diego County,
5703 Oberlin Dr., Suite 107
San Diego, CA 92121

Plaintiffs,

v.

Federal Election Commission,
999 E Street, NW
Washington, DC 20463,

Defendant.

Case No. _____

THREE-JUDGE COURT

Complaint for Declaratory and Injunctive Relief

Republican National Committee (“RNC”), Robert M. (Mike) Duncan, California
Republican Party, and Republican Party of San Diego County complain as follows:

Introduction

1. This is an as-applied challenge to the constitutionality of portions of § 101 of the
Bipartisan Campaign Reform Act of 2002 (“BCRA”), Pub. L. No. 107-155, 116 Stat. 81, 82-
86, which added a new § 323 (entitled “Soft Money of Political Parties”) to the Federal

Election Campaign Act (“FECA”). The challenged provisions are codified at 2 U.S.C. § 441i.

2. Plaintiffs challenge 2 U.S.C. § 441i’s prohibition on soliciting, receiving and spending funds not subject to the source and amount limitations of FECA, as applied to their intended activities. This prohibition will herein be called the “Federal Funds Restriction” for ease of identification. Plaintiffs do not challenge 2 U.S.C. § 441i’s prohibition on soliciting, receiving and spending funds not subject to the reporting requirements of FECA.

3. The Federal Funds Restriction bans state, local and district committees of a political party and their officials from using funds subject only to state source and amount limitations (“state funds”) to engage in “federal election activity.” 2 U.S.C. § 441i(b)(1). State political parties may only use funds subject to FECA’s source and amount restrictions (“federal funds”) for this activity. *Id.* “Federal election activity” is defined to include (1) voter registration activity in the 120 days leading up to a federal election, (2) “voter identification, get-out-the-vote activity or generic campaign activity ” in connection with elections for federal office, and (3) public communications that identify and “promote,” “attack,” “support,” or “oppose” (“PASO”) a federal candidate. 2 U.S.C. § 431(20). “Generic campaign activity” is further defined as “campaign activity that promotes a political party and does not promote a candidate or non-federal candidate.” 2 U.S.C. § 431(21). The “PASO” terms are undefined.

4. The Federal Funds Restriction bans *national* committees of a political party and their officials from soliciting or using “state funds” or any type of “non-federal funds,” *i.e.* funds not subject to federal source and amount limitations, regardless of the purpose to which the funds will be put. National parties are restricted to soliciting and using only federal funds.

2 U.S.C. § 441i(a).

5. The Supreme Court requires that federal campaign finance laws be “unambiguously related to the campaign of a particular federal candidate.” *Buckley v. Valeo*, 424 U.S. 1, 80 (1976). This threshold requirement assures that the law’s “relation . . . to the purposes of [FECA]” (i.e., to regulate elections), is not “too remote,” making the provision “impermissibly broad.” *Id.* The sole authority that permits restriction of First Amendment activity in this area is Congress’ authority to regulate federal elections. *Id.* at 13-14 & n.16 (citing, inter alia, U.S. Const. art. I, § 4). So all federal campaign laws must limit only those First Amendment activities that are “unambiguously [federal] campaign related,” *id.* at 81, to assure that the laws are not too remotely related to their authority.

6. This threshold unambiguously-campaign-related requirement was recognized in *McConnell v. FEC*, in its analysis upholding the Federal Funds Restriction facially, where it required that the activity restricted by the Restriction must “benefit *directly* federal candidates.” 540 U.S. 93, 170 (2003) (emphasis added). It was reaffirmed in *FEC v. Wisconsin Right to Life*, 127 S. Ct. 2652, 2667 (2007) (“*WRTL II*”) (“an ad is the functional equivalent of express advocacy only if the ad is susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate”), 2672-73 (corporate-form corruption interest does not “extend[] beyond campaign speech” to issue advocacy). *WRTL II* also said that all doubts or ties in applying its no-other-reasonable-interpretation test must be resolved in favor of the speaker. *Id.* at 2666, 2669 n.7, 2674.

7. The unambiguously-campaign-related requirement has recently been recognized and applied by the Fourth Circuit Court of Appeals and three district courts. *See North*

Carolina Right to Life v. Leake, 525 F.3d 274, 282 (4th Cir. 2008) (“Pursuant to their power to regulate elections, legislatures may establish campaign finance laws, so long as those laws are addressed to communications that are unambiguously campaign related”); *Nat’l Right to Work Legal Def. and Educ. Found., Inc. v. Herbert*, No. 2:07-cv-809, 2008 WL 4181336, *10 (D. Utah Sept. 8, 2008) (“[T]he government possesses a substantial interest in the regulation of political speech only when that political speech is unambiguously campaign related”); *Center for Individual Freedom v. Ireland*, Nos. 08-190 & 08-1133, 2008 WL 4642268 (S.D. W. Va. Oct. 17, 2008) (same); *Broward Coalition of Condos., Homeowners Ass’ns and Cmty. Orgs. v. Browning*, No. 08-445, slip op. (N.D. Fla. Oct. 29, 2008) (same).

8. Plaintiffs plan to use state funds and non-federal funds to engage in First Amendment activities that are not “unambiguously related to the campaign of a particular federal candidate,” *Buckley*, 424 U.S. at 80, but they are prohibited by the Federal Funds Restriction. Plaintiffs will not proceed as planned without the relief herein requested. The Federal Funds Restriction is unconstitutional as applied to these activities.

Jurisdiction and Venue

9. This Court has jurisdiction over this case pursuant to 28 U.S.C. §§ 1331 and 2201, as well as BCRA § 403, 116 Stat. at 113-14, because Plaintiffs “elect[] such provisions to apply to this action.” BCRA § 403(d)(2), 116 Stat. at 114.

10. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(e) and BCRA § 403, 116 Stat. at 113-14.

Parties

11. Plaintiff Republican National Committee “ha[s] the general management of the

Republican Party, subject to direction from the national convention.” Rule 1, *Rules of the Republican Party* (2004). It is “[a] national committee of a political party” under 2 U.S.C. § 441i(a).

12. Plaintiff California Republican Party is the state Republican Party of California. It is “a State . . . committee of a political party” under 2 U.S.C. § 441i(b)(1).

13. Plaintiff Republican Party of San Diego County is a “local committee of a political party” under 2 U.S.C. § 441i(b)(1).

14. Plaintiff Robert M. (Mike) Duncan is the National Committeeman of the Kentucky Republican Party and the RNC Chairman, in which capacity he is RNC’s chief executive officer.

15. Defendant Federal Election Commission (“FEC”) is the government agency with enforcement authority over FECA.

Facts

16. RNC intends to (a) create a **New Jersey Account** for state funds subject to New Jersey state law, (b) solicit funds into the account under New Jersey state law, and (c) use those state funds to support state Republican candidates in the November 10, 2009 election. There are no federal candidates on the 2009 ballot in New Jersey. RNC intends to support the Republican gubernatorial candidate as well as Republican candidates for the State Assembly and Senate. This support would include, among other activities, communications expressly advocating the election and defeat of state candidates, contributions to the campaigns of state candidates, and contributions to the political parties involved. RNC is ready and able to do this activity, and it would do this activity but for the fact that the Federal Funds Restriction

makes it a crime. This activity, however, is not “unambiguously related to the campaign of a particular federal candidate.” *Buckley*, 424 U.S. at 80. Unless RNC is able to obtain the timely judicial relief requested herein, it will not do this activity. RNC intends to solicit and use state funds in materially similar situations in the future, if permitted.

17. RNC intends to (a) create a **Virginia Account**, for state funds subject to Virginia state law, (b) solicit funds into the account under Virginia state law, and (c) use those state funds to support Republican candidates for the November 10, 2009 election. There are no federal candidates on the 2009 ballot in Virginia. RNC intends to support the Republican gubernatorial candidate as well as Republican candidates for the State Assembly. This support would include, among other activities, communications expressly advocating the election and defeat of state candidates, contributions to the campaigns of state candidates, and contributions to the political parties involved. RNC is ready and able to do this activity, and it would do this activity but for the fact that the Federal Funds Restriction makes it a crime. This activity, however, is not “unambiguously related to the campaign of a particular federal candidate.” *Buckley*, 424 U.S. at 80. Unless RNC is able to obtain the timely judicial relief requested herein, it will not do this activity. RNC intends to solicit and use state funds in materially similar situations in the future, if permitted.

18. RNC intends to (a) create a **Redistricting Account**, for non-federal funds and state funds subject to state law, (b) solicit funds into the account under applicable state laws, and (c) use those state funds to support the redistricting efforts of various states Republican parties following the 2010 census. RNC intends to provide logistical support to the parties and state legislators involved in redistricting, e.g., computer redistricting software, litigation

support, as well as direct support or opposition to related state initiatives and litigation support, if necessary. This activity is not “unambiguously related to the campaign of a particular federal candidate.” *Buckley*, 424 U.S. at 80. RNC is ready and able to do this activity, and it would do this activity but for the fact that the Federal Funds Restriction makes it a crime. Unless RNC is able to obtain the timely judicial relief requested herein, it will not do this activity. RNC intends to solicit and use non-federal funds and state funds in materially similar situations in the future, if permitted.

19. RNC intends to (a) create a **Grassroots Lobbying Account**, for non-federal funds, (b) solicit non-federal funds into the account and (c) use those funds to support grassroots lobbying efforts for federal legislation and issues important to the Republican Party’s platform. This activity is not “unambiguously related to the campaign of a particular federal candidate.” *Buckley*, 424 U.S. at 80. RNC is ready and able to do this activity, and it would do this activity but for the fact that the Federal Funds Restriction makes it a crime. Unless RNC is able to obtain the timely judicial relief requested herein, it will not do this activity. RNC intends to solicit and use non-federal funds in materially similar situations in the future, if permitted.

20. RNC intends to (a) create several **State Elections Accounts**, for state funds, (b) solicit state funds into the account and (c) use those funds exclusively to support state candidates in various states. The funds would be solicited and spent in accordance with the any applicable state law. Support for state candidates from the Fund would include, among other activities, communications expressly advocating the election and defeat of state candidates, contributions to the campaigns of state candidates, and contributions to the state

and local political parties involved. RNC intends to support state candidates from this Fund in elections where only state candidates appear on the ballot and in elections where both federal and state candidates appear on the ballot. This activity is not “unambiguously related to the campaign of a particular federal candidate.” *Buckley*, 424 U.S. at 80. RNC is ready and able to do this activity, and it would do this activity but for the fact that the Federal Funds Restriction makes it a crime. Unless RNC is able to obtain the timely judicial relief requested herein, it will not do this activity. RNC intends to solicit and use non-federal funds in materially similar situations in the future, if permitted.

21. RNC intends to solicit non-federal funds to pay for the present litigation, which activity is not “unambiguously related to the campaign of a particular federal candidate.” *Buckley*, 424 U.S. at 80. RNC wants to solicit non-federal funds into a **Litigation Account** to be used solely for paying the fees and expenses attributable to this case. RNC is ready and able to do this activity, and it would do this activity but for the fact that the Federal Funds Restriction makes it a crime. Unless RNC is able to obtain the timely judicial relief requested herein, it will not do this activity. RNC intends to solicit and use non-federal funds in materially similar situations in the future, if permitted.

22. RNC Chairman Duncan intends to (1) solicit people to contribute state funds and non-federal funds to RNC’s New Jersey Account, Virginia Account, Redistricting Account, Grassroots Lobbying Account, State Elections Accounts and Litigation Account, (2) solicit people to contribute state funds to the California Republican Party, and (3) solicit people to contribute state funds to the campaigns of Republican candidates for state office appearing on the November 2009 ballot in New Jersey and Virginia. Chairman Duncan intends to make the

described solicitations in his official capacity as RNC Chairman on behalf of RNC, i.e., as an “officer or agent acting on behalf of such a national committee.” 2 U.S.C. § 441i(a)(2). Mr. Duncan’s solicitation of funds for the RNC accounts described above, state parties, and state candidates’ campaigns is not “unambiguously related to the campaign of a particular *federal* candidate.” *Buckley*, 424 U.S. at 80 (emphasis added). He is ready and able to do this activity, and he would do this activity but for the fact that the Federal Funds Restriction makes it a crime. Unless he is able to obtain the timely judicial relief requested herein, he will not do this activity. Chairman Duncan intends to solicit state funds and non-federal funds in materially similar situations in the future, if permitted.

23. California Republican Party and Republican Party of San Diego County (collectively “CRP”) intend to use state funds for public communications, 2 U.S.C. § 431(22) (“public communication” definition), to support or oppose the passage of California ballot initiatives appearing on the June 8, 2010 ballot, which involve the issues of property taxes, budget reform, and campaign finance.

24. In past ballot initiative campaigns in California candidates for federal office have publically supported or opposed ballot initiatives. CRP expects this to happen again and intends to mention such federal candidates in its public communications. Although “attack” and “oppose” are undefined in the definition of “federal election activity,” 2 U.S.C. § 431(20)(A)(iii), CRP believes that its public communications will “attack” or “oppose” federal candidates, as these terms are used in the definition of “federal election activity,” and so its communications must be funded with federal funds. 2 U.S.C. § 441i(b)(1). However, CRP’s public communications supporting or opposing state ballot initiatives are not

“unambiguously related to the campaign of a particular federal candidate.” *Buckley*, 424 U.S. at 80. CRP is ready and able to do this activity, and it would do so but for the fact that the Federal Funds Restriction makes it a crime. CRP intends to use state funds in materially similar situations in the future, if permitted.

25. CRP also intends to use state funds for voter registration, voter identification, and get-out-the-vote activities, as well as “generic campaign activity,” 2 U.S.C. § 431(21), in future elections where both state and federal candidates appear on the ballot. None of these activities will be targeted to any federal race or federal candidate. Thus, these activities are not “unambiguously related to the campaign of a particular federal candidate.” *Buckley*, 424 U.S. at 80. CRP is ready and able to do these activities, and it would do so but for the fact that the Federal Funds Restriction makes them a crime because they qualify as “Federal election activity” under 2 U.S.C. § 441i(b)(1). Unless it is able to obtain the judicial relief requested herein, CRP will not do these activities. CRP intends to use state funds in materially similar situations in the future, if permitted.

26. In accordance with 2 U.S.C. § 441i(e) no federal candidate or officeholder will solicit, receive, or spend funds in connection with any of the Plaintiffs’ activities described above.

27. As noted after the descriptions of each planned activity, Plaintiffs intend to solicit and use state funds and non-federal funds in materially similar situations in the future, if permitted. There is a strong likelihood that similar situations will recur, given the facts that Plaintiffs have engaged in similar activity in the past and that such activity relating to state candidate elections, ballot initiatives, redistricting, grassroots lobbying and litigation is

common, and regularly recurring.

28. If Plaintiffs do not obtain the requested injunctive relief, they will not proceed with their planned activities. In such an event, they will be deprived of their constitutional rights under the First Amendment to the United State Constitution and will suffer irreparable harm. There is no adequate remedy at law.

Count 1

RNC & Duncan—New Jersey Account

29. Plaintiffs RNC and Duncan reallege and incorporate by reference all of the allegations contained in all of the preceding paragraphs.

30. As applied to the activities that RNC and Chairman Duncan intend to do in connection with the “New Jersey Account,” *supra*, the Federal Funds Restriction is unconstitutional because the activity is not “unambiguously related to the campaign of a particular federal candidate.” *Buckley*, 424 U.S. at 80. Failing this threshold requirement, the Federal Funds Restriction does not come within congressional authority to regulate elections and is overbroad for sweeping in First Amendment activity without authority.

31. As applied to the proposed activities, the Federal Funds Restriction is unconstitutional under the First Amendment guarantees of free speech and association.

Count 2

RNC & Duncan—Virginia Account

32. Plaintiffs RNC and Duncan reallege and incorporate by reference all of the allegations contained in all of the preceding paragraphs.

33. As applied to the activities that RNC and Chairman Duncan intend to do in connection with the “Virginia Account,” *supra*, the Federal Funding Restriction is unconsti-

tutional because the activity is not “unambiguously related to the campaign of a particular federal candidate.” *Buckley*, 424 U.S. at 80. Failing this threshold requirement, the Federal Funds Restriction does not come within congressional authority to regulate elections and is overbroad for sweeping in First Amendment activity without constitutional authority.

34. As applied to the proposed activities, the Federal Funds Restriction is unconstitutional under the First Amendment guarantees of free speech and association.

Count 3

RNC & Duncan—Redistricting Account

35. Plaintiffs RNC and Duncan reallege and incorporate by reference all of the allegations contained in all of the preceding paragraphs.

36. As applied to the activities that RNC and Chairman Duncan intend to do in connection with the “Redistricting Account,” *supra*, the prohibition on soliciting and using state funds is unconstitutional because the activity is not “unambiguously related to the campaign of a particular federal candidate.” *Buckley*, 424 U.S. at 80. Failing this threshold requirement, the Federal Funds Restriction does not come within congressional authority to regulate elections and is overbroad for sweeping in First Amendment activity without constitutional authority.

37. As applied to the proposed activities, the Federal Funds Restriction is unconstitutional under the First Amendment guarantees of free speech and association.

Count 4

RNC & Duncan—Grassroots Lobbying Account

38. Plaintiffs RNC and Duncan reallege and incorporate by reference all of the allegations contained in all of the preceding paragraphs.

39. As applied to the activities that RNC and Chairman Duncan intend to do in connection with the “Grassroots Lobbying Account,” *supra*, the Federal Funds Restriction is unconstitutional because the activity is not “unambiguously related to the campaign of a particular federal candidate.” *Buckley*, 424 U.S. at 80. Failing this threshold requirement, the Federal Funds Restriction does not come within congressional authority to regulate elections and is overbroad for sweeping in First Amendment activity without constitutional authority.

40. As applied to the proposed activities, the Federal Funds Restriction is unconstitutional under the First Amendment guarantees of free speech and association.

Count 5

RNC & Duncan—State Elections Accounts

41. As applied to the activities that RNC and Chairman Duncan intend to do in connection with the several “State Elections Accounts,” *supra*, the Federal Funds Restriction is unconstitutional because the activity is not “unambiguously related to the campaign of a particular federal candidate.” *Buckley*, 424 U.S. at 80. Failing this threshold requirement, the Federal Funds Restriction does not come within congressional authority to regulate elections and is overbroad for sweeping in First Amendment activity without constitutional authority.

42. As applied to the proposed activities, the Federal Funds Restriction is unconstitutional under the First Amendment guarantees of free speech and association.

Count 6

RNC & Duncan—Litigation Account

43. Plaintiffs RNC and Duncan reallege and incorporate by reference all of the allegations contained in all of the preceding paragraphs.

44. As applied to the activities that RNC and Chairman Duncan intend to do in

connection with the “Litigation Account,” *supra*, the Federal Funds Restriction is unconstitutional because the activity is not “unambiguously related to the campaign of a particular federal candidate.” *Buckley*, 424 U.S. at 80. Failing this threshold requirement, the Federal Funds Restriction does not come within congressional authority to regulate elections and is overbroad for sweeping in First Amendment activity without constitutional authority.

45. As applied to the proposed activities, the Federal Funds Restriction is unconstitutional under the First Amendment guarantees of free speech and association.

Count 7

Duncan—Solicitation for State Candidates and Parties

46. Plaintiff Duncan realleges and incorporates by reference all of the allegations contained in all of the preceding paragraphs.

47. As applied to Chairman Duncan’s intended solicitation of contributions to state parties and state candidates, *supra*, the Federal Funds Restriction is unconstitutional because the activity is not “unambiguously related to the campaign of a particular federal candidate.” *Buckley*, 424 U.S. at 80. Failing this threshold requirement, the Federal Funds Restriction does not come within congressional authority to regulate elections and is overbroad for sweeping in First Amendment activity without constitutional authority.

48. As applied to the proposed activities, the Federal Funds Restriction is unconstitutional under the First Amendment guarantees of free speech and association.

Count 8

CRP—PASO Activities for California Initiatives

49. Plaintiff CRP realleges and incorporates by reference all of the allegations contained in all of the preceding paragraphs.

50. As applied to CRP's intended public communications supporting or opposing California ballot initiatives, *supra*, the Federal Funds Restriction is unconstitutional because the activity is not "unambiguously related to the campaign of a particular federal candidate." *Buckley*, 424 U.S. at 80. Failing this threshold requirement, the Federal Funds Restriction does not come within congressional authority to regulate elections and is overbroad for sweeping in First Amendment activity without constitutional authority.

51. As applied to the proposed activities, the Federal Funds Restriction is unconstitutional under the First Amendment guarantees of free speech and association.

Count 9

CRP —Non-targeted "Federal Election Activity"

52. Plaintiff CRP realleges and incorporates by reference all of the allegations contained in all of the preceding paragraphs.

53. As applied to CRP's intended "Federal election activity" in future elections, which will not targeted at any federal candidate or race, *supra*, the Federal Funds Restriction is unconstitutional because the activity is not "unambiguously related to the campaign of a particular federal candidate." *Buckley*, 424 U.S. at 80. Failing this threshold requirement, the Federal Funds Restriction does not come within congressional authority to regulate elections and is overbroad for sweeping in First Amendment activity without constitutional authority.

54. As applied to the proposed activities, the Federal Funds Restriction is unconstitutional under the First Amendment guarantees of free speech and association.

Prayer for Relief

Wherefore, Plaintiffs pray for the following relief:

1. a declaratory judgment declaring 2 U.S.C. § 441i unconstitutional in all the as-applied situations in Counts 1-9;
2. a permanent injunction enjoining defendant FEC from enforcing 2 U.S.C. § 441i against Plaintiffs in all the as-applied situations in Counts 1-9;
3. costs and attorneys fees pursuant to any applicable statute or authority; and
4. any other relief this Court in its discretion deems just and appropriate.

Respectfully submitted,

/s/ James Bopp, Jr.

James Bopp, Jr., Bar #CO0041

/s/ Richard E. Coleson

Richard E. Coleson*

/s/ Clayton J. Callen

Clayton J. Callen*

/s/ Kaylan L. Phillips

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Lead Counsel for all Plaintiffs
*Pro Hac Vice Motion pending

CIVIL COVER SHEET

JS-44
(Rev. 1/05 DC)

<p>I (a) PLAINTIFFS</p> <p>Republican National Committee, California Republican Party, Robert M. (Mike) Duncan, Republican Party of San Diego <i>Wool</i></p> <hr/> <p>(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF <u>11001</u> (EXCEPT IN U.S. PLAINTIFF CASES)</p> <hr/> <p>(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)</p> <p>James Bopp, Jr. Bopp, Coleson & Bostrom 1 S. Sixth St. Terre Haute, IN 47807-3510 P: (812) 232-2434 F: (812) 235-3685</p>	<p>DEFENDANTS</p> <p>Federal Election Commission</p> <hr/> <p>COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT (IN U.S. PLAINTIFF CASES ONLY) <u>11001</u></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED</p> <hr/> <p>AT T F 9 V</p> <p>Case: 1:08-cv-01953 Assigned To : Leon, Richard J. Assign. Date : 11/13/2008 Description: 3-Judge Court</p>																								
<p>II. BASIS OF JURISDICTION (PLACE AN x IN ONE BOX ONLY)</p> <p><input type="radio"/> 1 U.S. Government Plaintiff</p> <p><input checked="" type="radio"/> 2 U.S. Government Defendant</p> <p><input type="radio"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="radio"/> 4 Diversity (Indicate Citizenship of Parties in item III)</p>	<p>III CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN x IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) FOR DIVERSITY CASES ONLY!</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th>PTF</th> <th>DFT</th> <th></th> <th>PTF</th> <th>DFT</th> </tr> </thead> <tbody> <tr> <td>Citizen of this State</td> <td><input type="radio"/> 1</td> <td><input type="radio"/> 1</td> <td>Incorporated or Principal Place of Business in This State</td> <td><input type="radio"/> 4</td> <td><input type="radio"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="radio"/> 2</td> <td><input type="radio"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td><input type="radio"/> 5</td> <td><input type="radio"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="radio"/> 3</td> <td><input type="radio"/> 3</td> <td>Foreign Nation</td> <td><input type="radio"/> 6</td> <td><input type="radio"/> 6</td> </tr> </tbody> </table>		PTF	DFT		PTF	DFT	Citizen of this State	<input type="radio"/> 1	<input type="radio"/> 1	Incorporated or Principal Place of Business in This State	<input type="radio"/> 4	<input type="radio"/> 4	Citizen of Another State	<input type="radio"/> 2	<input type="radio"/> 2	Incorporated and Principal Place of Business in Another State	<input type="radio"/> 5	<input type="radio"/> 5	Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6
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IV. CASE ASSIGNMENT AND NATURE OF SUIT

(Place a X in one category, A-N, that best represents your cause of action and one in a corresponding Nature of Suit)

<p><input type="radio"/> A. Antitrust</p> <p><input type="checkbox"/> 410 Antitrust</p>	<p><input type="radio"/> B. Personal Injury/Malpractice</p> <p><input type="checkbox"/> 310 Airplane</p> <p><input type="checkbox"/> 315 Airplane Product Liability</p> <p><input type="checkbox"/> 320 Assault, Libel & Slander</p> <p><input type="checkbox"/> 330 Federal Employers Liability</p> <p><input type="checkbox"/> 340 Marine</p> <p><input type="checkbox"/> 345 Marine Product Liability</p> <p><input type="checkbox"/> 350 Motor Vehicle</p> <p><input type="checkbox"/> 355 Motor Vehicle Product Liability</p> <p><input type="checkbox"/> 360 Other Personal Injury</p> <p><input type="checkbox"/> 362 Medical Malpractice</p> <p><input type="checkbox"/> 365 Product Liability</p> <p><input type="checkbox"/> 368 Asbestos Product Liability</p>	<p><input type="radio"/> C. Administrative Agency Review</p> <p><input type="checkbox"/> 151 Medicare Act</p> <p>Social Security:</p> <p><input type="checkbox"/> 861 HIA ((1395ff)</p> <p><input type="checkbox"/> 862 Black Lung (923)</p> <p><input type="checkbox"/> 863 DIWC/DIWW (405(g)</p> <p><input type="checkbox"/> 864 SSID Title XVI</p> <p><input type="checkbox"/> 865 RSI (405(g)</p> <p>Other Statutes</p> <p><input type="checkbox"/> 891 Agricultural Acts</p> <p><input type="checkbox"/> 892 Economic Stabilization Act</p> <p><input type="checkbox"/> 893 Environmental Matters</p> <p><input type="checkbox"/> 894 Energy Allocation Act</p> <p><input type="checkbox"/> 890 Other Statutory Actions (If Administrative Agency is Involved)</p>	<p><input type="radio"/> D. Temporary Restraining Order/Preliminary Injunction</p> <p>Any nature of suit from any category may be selected for this category of case assignment.</p> <p>*(If Antitrust, then A governs)*</p>
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<p><input type="radio"/> E. General Civil (Other)</p> <p>Real Property</p> <p><input type="checkbox"/> 210 Land Condemnation</p> <p><input type="checkbox"/> 220 Foreclosure</p> <p><input type="checkbox"/> 230 Rent, Lease & Ejectment</p> <p><input type="checkbox"/> 240 Torts to Land</p> <p><input type="checkbox"/> 245 Tort Product Liability</p> <p><input type="checkbox"/> 290 All Other Real Property</p> <p>Personal Property</p> <p><input type="checkbox"/> 370 Other Fraud</p> <p><input type="checkbox"/> 371 Truth in Lending</p> <p><input type="checkbox"/> 380 Other Personal Property Damage</p> <p><input type="checkbox"/> 385 Property Damage Product Liability</p>	<p style="text-align: center;">OR</p> <p><input type="radio"/> F. Pro Se General Civil</p> <p>Bankruptcy</p> <p><input type="checkbox"/> 422 Appeal 28 USC 158</p> <p><input type="checkbox"/> 423 Withdrawal 28 USC 157</p> <p>Prisoner Petitions</p> <p><input type="checkbox"/> 535 Death Penalty</p> <p><input type="checkbox"/> 540 Mandamus & Other</p> <p><input type="checkbox"/> 550 Civil Rights</p> <p><input type="checkbox"/> 555 Prison Condition</p> <p>Property Rights</p> <p><input type="checkbox"/> 820 Copyrights</p> <p><input type="checkbox"/> 830 Patent</p> <p><input type="checkbox"/> 840 Trademark</p> <p>Federal Tax Suits</p> <p><input type="checkbox"/> 870 Taxes (US plaintiff or defendant)</p> <p><input type="checkbox"/> 871 IRS-Third Party 26 USC 7609</p>
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<p>Forfeiture/Penalty</p> <p><input type="checkbox"/> 610 Agriculture</p> <p><input type="checkbox"/> 620 Other Food & Drug</p> <p><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881</p> <p><input type="checkbox"/> 630 Liquor Laws</p> <p><input type="checkbox"/> 640 RR & Truck</p> <p><input type="checkbox"/> 650 Airline Regs</p> <p><input type="checkbox"/> 660 Occupational Safety/Health</p> <p><input type="checkbox"/> 690 Other</p> <p>Other Statutes</p> <p><input type="checkbox"/> 400 State Reapportionment</p> <p><input type="checkbox"/> 430 Banks & Banking</p> <p><input type="checkbox"/> 450 Commerce/ICC Rates/etc.</p> <p><input type="checkbox"/> 460 Deportation</p>	<p><input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organizations</p> <p><input type="checkbox"/> 480 Consumer Credit</p> <p><input type="checkbox"/> 490 Cable/Satellite TV</p> <p><input type="checkbox"/> 810 Selective Service</p> <p><input type="checkbox"/> 850 Securities/Commodities/Exchange</p> <p><input type="checkbox"/> 875 Customer Challenge 12 USC 3410</p> <p><input type="checkbox"/> 900 Appeal of fee determination under equal access to Justice</p> <p><input type="checkbox"/> 950 Constitutionality of State Statutes</p> <p><input type="checkbox"/> 890 Other Statutory Actions (if not administrative agency review or Privacy Act)</p>
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<input type="radio"/> G. Habeas Corpus/ 2255 <input type="checkbox"/> 530 Habeas Corpus-General <input type="checkbox"/> 510 Motion/Vacate Sentence	<input type="radio"/> H. Employment Discrimination <input type="checkbox"/> 442 Civil Rights-Employment (criteria: race, gender/sex, national origin, discrimination, disability age, religion, retaliation) *(If pro se, select this deck)*	<input type="radio"/> I. FOIA/PRIVACY ACT <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 890 Other Statutory Actions (if Privacy Act) *(If pro se, select this deck)*	<input checked="" type="radio"/> J. Student Loan <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (excluding veterans)
<input type="radio"/> K. Labor/ERISA (non-employment) <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Labor Railway Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="radio"/> L. Other Civil Rights (non-employment) <input type="checkbox"/> 441 Voting (If not Voting Rights Act) <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 American w/Disabilities-Employment <input type="checkbox"/> 446 Americans w/Disabilities-Other	<input type="radio"/> M. Contract <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholder's Suits <input type="checkbox"/> 190 Other Contracts <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input checked="" type="radio"/> N. Three-Judge Court <input checked="" type="checkbox"/> 441 Civil Rights-Voting (if Voting Rights Act)

V. ORIGIN

Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from another district (specify)
 6 Multi district Litigation
 7 Appeal to District Judge from Mag. Judge

28 USC 1331

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE)
 First Amendment as applied challenge to portions of Bipartisan Campaign Reform Act. *2 USC 441i*

VII. REQUESTED IN COMPLAINT CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMAND \$** _____ **JURY DEMAND:** YES NO Check YES only if demanded in complaint

VIII. RELATED CASE(S) IF ANY (See instruction) YES NO If yes, please complete related case form

DATE Nov. 13, 2008 SIGNATURE OF ATTORNEY OF RECORD *Jan Burns*

INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44
 Authority for Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil cover sheet. These tips coincide with the Roman Numerals on the Cover Sheet.

- I. COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence Use 11001 to indicate plaintiff is resident of Washington, D.C., 88888 if plaintiff is resident of the United States but not of Washington, D.C., and 99999 if plaintiff is outside the United States.
- III. CITIZENSHIP OF PRINCIPAL PARTIES This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II
- IV. CASE ASSIGNMENT AND NATURE OF SUIT The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of case
- VI. CAUSE OF ACTION Cite the US Civil Statute under which you are filing and write a brief statement of the primary cause
- VIII. RELATED CASES, IF ANY If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk's Office

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form

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