

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

_____	)	
<b>Republican National Committee, <i>et al.</i>,</b>	)	
	)	
<b>Plaintiffs,</b>	)	
	)	
<b>v.</b>	)	<b>Civ. No. 08-1953 (BMK, RJL, RMC)</b>
	)	
<b>Federal Election Commission, <i>et al.</i>,</b>	)	<b>THREE-JUDGE COURT</b>
	)	
<b>Defendants.</b>	)	
_____	)	

**INTERVENOR-DEFENDANT REPRESENTATIVE CHRISTOPHER VAN HOLLEN'S  
SUPPLEMENTAL MEMORANDUM IN OPPOSITION TO PLAINTIFFS' MOTION  
FOR SUMMARY JUDGMENT**

Pursuant to the Court's Order dated May 5, 2009 ("the May 5 Order"), Intervenor-Defendant Representative Christopher Van Hollen, Jr. ("Intervenor") respectfully submits this Supplemental Memorandum in Opposition to Plaintiffs' Motion for Summary Judgment.

The May 5 Order compelled Plaintiffs Republican National Committee ("RNC"), California Republican Party ("CRP"), and Republican Party of San Diego County ("SDRP") to produce documents responsive to Intervenor's February 23, 2009 discovery requests and permitted the deposition of RNC Chairman Michael Steele, which took place on June 1, 2009.

Intervenor maintains that the disposition of this case is not dependant on a factual inquiry; Plaintiffs' claims are foreclosed by the Supreme Court's decision in *McConnell v. FEC*, 540 U.S. 93 (2003), and therefore fail as a matter of law. However, Plaintiffs' legal theory is fact-dependant; Plaintiffs contend that the constitutionality of Title I of the Bipartisan Campaign Reform Act of 2002 ("BCRA"), as applied to this case, turns on (1) Plaintiffs' ultimate use of soft money, and (2) how Plaintiffs purport to conduct their soft-money fundraising operations.

Accordingly, for the purpose of preserving a full record, Intervenor hereby submits the transcript of the deposition of Chairman Steele, with supporting exhibits (Exhibit 1). Chairman Steele's testimony supports, *inter alia*, the following arguments made in Intervenor's March 9, 2009 Memorandum in Opposition to Plaintiffs' Motion for Summary Judgment:

1. Plaintiffs' intended redistricting activities will affect federal elections, (Steele Dep. June 1, 2009, 76:12-21); (Mem. in Opp'n to Pls.' Mot. for Summ. J. 33);
2. Plaintiffs' intended activities in New Jersey and Virginia may have an impact on future federal elections, (Steele Dep. 99:15-102:19); (Mem. in Opp'n to Pls.' Mot. for Summ. J. 35-36);
3. Plaintiffs' intended "grassroots lobbying" activities, which Chairman Steele is unwilling to define with specificity, will affect future federal elections, (Steele Dep. 80:1-82:20); (Mem. in Opp'n to Pls.' Mot. for Summ. J. 34-35);
4. Information about the identity of soft-money donors can be conveyed to federal officeholders and candidates, even if that information is not directly shared by Plaintiffs, (Steele Dep. 63:8-20); (Mem. in Opp'n to Pls.' Mot. for Summ. J. 30); and
5. Permitting soft-money donations to national political parties will shift funds that are currently spent on the RNC's proposed activities towards direct federal campaign activity, thereby conferring a direct benefit on federal candidates and meeting the terms of Plaintiffs' own test for when congressional regulation is permissible, (Steele Dep. 70:11-76:11); (Mem. in Opp'n to Pls.' Mot. for Summ. J. 32).

### **CONCLUSION**

For the foregoing reasons, and the reasons set forth in Intervenor's Memorandum in Opposition to Plaintiffs' Motion for Summary Judgment, Plaintiffs' Motion for Summary Judgment should be denied.

Dated this 18th day of June 2009.

Respectfully submitted,

/s Randolph D. Moss

---

Roger M. Witten (D.C. Bar No. 163261)  
Lauren E. Baer  
WILMER CUTLER PICKERING HALE  
AND DORR LLP  
399 Park Avenue  
New York, NY 10022  
Tel.: (212) 230-8800  
Fax: (212) 230-8888  
E-mail: roger.witten@wilmerhale.com

Seth P. Waxman (D.C. Bar No. 257337)  
Randolph D. Moss (D.C. Bar No. 417749)  
Francesco Valentini (D.C. Bar. No. 986769)  
WILMER CUTLER PICKERING HALE  
AND DORR LLP  
1875 Pennsylvania Avenue, N.W.  
Washington, D.C. 20006  
Tel.: (202) 663-6000  
Fax: (202) 663-6363  
E-mail: randolph.moss@wilmerhale.com

Donald J. Simon (D.C. Bar No. 256388)  
SONOSKY, CHAMBERS, SACHSE,  
ENDRESON & PERRY LLP  
1425 K Street, N.W., Suite 600  
Washington, D.C. 20005  
Tel.: (202) 682-0240  
Fax: (202) 682-0249  
Email: dsimon@sonosky.com

Fred Wertheimer (D.C. Bar No. 154211)  
DEMOCRACY 21  
1875 I Street, N.W., Suite 500  
Washington, D.C. 20006  
Tel.: (202) 429-2008  
Fax: (202) 293-2660  
E-mail: FWertheimer@democracy21.org

*Counsel for Intervenor-Defendant  
Representative Christopher Van Hollen, Jr.*