

2. The CLC is a nonpartisan, nonprofit organization that works in the area of campaign finance law, and participates in state and federal court litigation throughout the nation regarding contribution limits, disclosure, political advertising, enforcement issues, and other campaign finance matters. It also participates in rulemaking and advisory opinion proceedings at the FEC to ensure that the agency is properly enforcing federal election laws and files complaints with the FEC requesting that enforcement actions be taken against individuals or organizations that violate the law.

3. Democracy 21 is a nonprofit, nonpartisan organization dedicated to making democracy work for all Americans through support of campaign finance and other political reforms. To accomplish these goals, it conducts public education efforts, participates in litigation involving the constitutionality and interpretation of campaign finance laws, and engages in efforts to help ensure that campaign finance laws are properly enforced and implemented. It also participates in rulemakings and advisory opinion proceedings, and other administrative matters, at the FEC.

4. The *amici* have substantial experience and expertise with regard to the issues raised in this case.

5. The CLC and Democracy 21 have provided legal counsel to parties and *amici* in numerous campaign finance cases in federal and state court, including representing intervening defendants in *McConnell v. FEC*, 540 U.S. 93 (2003). More recently, the CLC and Democracy 21 have participated as *amici curiae* in a number of Supreme Court cases, including *American Tradition Partnership v. Bullock*, No. 11–1179, 567 U.S. ____ (2012), *Citizens United v. FEC*, 130 S. Ct. 876 (2010) and *FEC v. Wisconsin Right to Life*, 551 U.S. 449 (2007).

6. The CLC and Democracy 21 also participated as *amici curiae* in *Real Truth About Abortion (RTAA) v. FEC*, 681 F.3d 544 (4th Cir. 2012), a case concerning the same rules and policies and virtually identical legal arguments as at issue here. The CLC and Democracy 21 filed a total of four *amici* briefs in the course of the *RTAA* litigation.

7. Both the CLC and Democracy 21 were also active in the administrative proceedings that gave rise to this case. In response to Free Speech's request for an advisory opinion, *see* AOR 2012-11 (Mar. 9, 2012), the CLC and Democracy 21 filed comments with the FEC on March 22, 2012, arguing that most of Free Speech's proposed advertisements constituted "express advocacy," and that Free Speech would likely qualify as a "political committee" under FECA upon receiving contributions or making expenditures in excess of \$1,000.¹

8. The CLC and Democracy 21 wish to continue their participation in this matter by filing the attached memorandum. *Amici* believe that this brief will assist the Court's understanding of the statutes, FEC regulations and case law relating to the challenged rule and policies. This filing is timely because this motion and the attached memorandum are being filed on the date that defendant FEC's response to plaintiff's motion for preliminary injunction is due.

9. Counsel for *amici* consulted with counsel for the parties on this motion. Counsel for Plaintiff Free Speech (Benjamin Barr) and counsel for Defendant FEC (Erin Chlopak) have been contacted about their consent to the *amici* participation of the CLC and Democracy 21 in this case. Both consented to the participation.

¹ *See* Comments of Campaign Legal Center and Democracy 21 on AOR 2012-11 (Free Speech) (Mar. 22, 2012), which can be found using the search function at <http://saos.nictusa.com/saos/searchao>.

WHEREFORE, premises considered, the CLC and Democracy 21 respectfully pray that this Court will grant this motion and permit their participation in this case as *amici curiae*.

Respectfully submitted,

/s/ Larry B. Jones

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Dated: August 10, 2012

CERTIFICATE OF SERVICE

I certify that on August 10, 2012, I electronically filed a copy of the foregoing document using the CM/ECF system, which will then send a notification of such filing on the following counsel of record at the listed e-mail addresses:

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I further certify that courtesy copies of the brief were sent to the above counsel on August 10, 2012 via email (where email addresses were available and known).

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