

No. 19-5117

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UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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**LEVEL THE PLAYING FIELD, *et al.*,**  
Plaintiffs-Appellants,

v.

**FEDERAL ELECTION COMMISSION,**  
Defendant-Appellee.

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On Appeal from the United States District Court  
for the District of Columbia

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**SUPPLEMENT TO JOINT APPENDIX**

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**U.S. District Court**  
**District of Columbia (Washington, DC)**  
**CIVIL DOCKET FOR CASE #: 1:15-cv-01397-TSC**

LEVEL THE PLAYING FIELD et al v. FEDERAL ELECTION COMMISSION

Assigned to: Judge Tanya S. Chutkan

Case in other court: USCA, 19-05117

Cause: 28:2201 Declaratory Judgment

Date Filed: 08/27/2015

Date Terminated: 03/31/2019

Jury Demand: None

Nature of Suit: 890 Other Statutory Actions

Jurisdiction: U.S. Government Defendant

Date Filed	#	Docket Text
08/27/2015	<u>1</u>	COMPLAINT against FEDERAL ELECTION COMMISSION ( Filing fee \$ 400 receipt number 0090-4224713) filed by LIBERTARIAN NATIONAL COMMITTEE, INC., LEVEL THE PLAYING FIELD, GREEN PARTY OF THE UNITED STATES, PETER ACKERMAN. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Summons, # <u>3</u> Summons, # <u>4</u> Summons)(Shapiro, Alexandra) (Entered: 08/27/2015)
08/27/2015	<u>2</u>	NOTICE OF RELATED CASE by PETER ACKERMAN, GREEN PARTY OF THE UNITED STATES, LEVEL THE PLAYING FIELD, LIBERTARIAN NATIONAL COMMITTEE, INC.. Case related to Case No. 15cv961. (Shapiro, Alexandra) (Entered: 08/27/2015)
08/27/2015	<u>3</u>	Corporate Disclosure Statement by LIBERTARIAN NATIONAL COMMITTEE, INC.. (Shapiro, Alexandra) (Entered: 08/27/2015)
08/27/2015	<u>4</u>	Corporate Disclosure Statement by LEVEL THE PLAYING FIELD. (Shapiro, Alexandra) (Entered: 08/27/2015)
08/28/2015	<u>5</u>	MOTION to use Alternative Addresses to Comply with LR 5.1(c)(1) by PETER ACKERMAN, LEVEL THE PLAYING FIELD (Shapiro, Alexandra) (Entered: 08/28/2015)
08/28/2015	<u>6</u>	ERRATA by PETER ACKERMAN, LEVEL THE PLAYING FIELD <u>5</u> MOTION to use Alternative Addresses to Comply with LR 5.1(c)(1) filed by PETER ACKERMAN, LEVEL THE PLAYING FIELD. (Shapiro, Alexandra) (Entered: 08/28/2015)
08/28/2015		Case Assigned to Judge Tanya S. Chutkan. (md) (Entered: 08/28/2015)
08/31/2015	<u>7</u>	SUMMONS (3) Issued Electronically as to FEDERAL ELECTION COMMISSION, U.S. Attorney and U.S. Attorney General (Attachments: # <u>1</u> Notice of Consent) (md) (Entered: 08/31/2015)
08/31/2015		NOTICE OF ERROR re <u>5</u> Motion for Miscellaneous Relief; emailed to ashapiro@shapiroarato.com, cc'd 1 associated attorneys -- The PDF file you docketed contained errors: 1. Incorrect header/caption/case number, 2. Please refile the order with the correct case number. Use event Notice of Proposed Order. (td, ) (Entered: 08/31/2015)
08/31/2015		NOTICE OF ERROR re <u>6</u> Errata; emailed to ashapiro@shapiroarato.com, cc'd 1 associated attorneys -- The PDF file you docketed contained errors: 1. The main document should be the Errata Notice explaining what is being submitted. (td, ) (Entered: 08/31/2015)
09/01/2015	<u>8</u>	NOTICE of Proposed Order by PETER ACKERMAN, LEVEL THE PLAYING FIELD re <u>5</u> MOTION to use Alternative Addresses to Comply with LR 5.1(c)(1) (Attachments: # <u>1</u> Text of Proposed Order)(Shapiro, Alexandra) (Entered: 09/01/2015)
09/10/2015	<u>9</u>	NOTICE by PETER ACKERMAN, LEVEL THE PLAYING FIELD re <u>5</u> MOTION to use Alternative Addresses to Comply with LR 5.1(c)(1) (Shapiro, Alexandra) (Entered: 09/10/2015)

09/15/2015	<u>10</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. FEDERAL ELECTION COMMISSION served on 9/3/2015 (Attachments: # <u>1</u> Exhibit USPS return receipt)(Shapiro, Alexandra) (Entered: 09/15/2015)
09/15/2015	<u>11</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 9/5/2015. Answer due for ALL FEDERAL DEFENDANTS by 11/4/2015. (Attachments: # <u>1</u> Exhibit USPS return receipt)(Shapiro, Alexandra) (Entered: 09/15/2015)
09/15/2015	<u>12</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on United States Attorney General. Date of Service Upon United States Attorney General 09/04/2015. (Attachments: # <u>1</u> Exhibit USPS return receipt)(Shapiro, Alexandra) (Entered: 09/15/2015)
09/30/2015	<u>13</u>	NOTICE of Appearance by Robert William Bonham, III on behalf of FEDERAL ELECTION COMMISSION (Bonham, Robert) (Entered: 09/30/2015)
09/30/2015	<u>14</u>	NOTICE of Appearance by Harry Jacobs Summers on behalf of FEDERAL ELECTION COMMISSION (Summers, Harry) (Entered: 09/30/2015)
09/30/2015	<u>15</u>	NOTICE of Appearance by Kevin Deeley on behalf of FEDERAL ELECTION COMMISSION (Deeley, Kevin) (Entered: 09/30/2015)
10/15/2015		MINUTE ORDER: Granting <u>5</u> Motion to Use Alternative Addresses. Level the Playing Field may use the P.O. Box 25554, Alexandria, VA 22313 address and Peter Ackerman may use the 1775 Pennsylvania Avenue, NW, Suite 1200, Washington, DC 20006 address. Signed by Judge Tanya S. Chutkan on 10/15/15. (DJS) (Entered: 10/15/2015)
10/15/2015		VACATED PURSUANT TO MINUTE ORDER DATED 10/16/15.....MINUTE ORDER: A Status Conference is hereby set for 10/29/15 at 10:00 a.m. in Courtroom 2. Signed by Judge Tanya S. Chutkan on 10/15/15. (DJS) Modified on 10/16/2015 (zsm). (Entered: 10/15/2015)
10/16/2015		Set/Reset Hearings: Status Conference set for 10/29/2015 at 10:00 AM in Courtroom 2 before Judge Tanya S. Chutkan. (zsm) (Entered: 10/16/2015)
10/16/2015		MINUTE ORDER: The Status Conference previously set for 10/29/15 is hereby VACATED. Signed by Judge Tanya S. Chutkan on 10/16/15. (DJS) (Entered: 10/16/2015)
10/19/2015	<u>16</u>	NOTICE of Appearance by Chetan A. Patil on behalf of All Plaintiffs (Patil, Chetan) (Entered: 10/19/2015)
10/22/2015	<u>17</u>	AMENDED COMPLAINT against FEDERAL ELECTION COMMISSION filed by LIBERTARIAN NATIONAL COMMITTEE, INC., LEVEL THE PLAYING FIELD, GREEN PARTY OF THE UNITED STATES, PETER ACKERMAN.(Shapiro, Alexandra) (Entered: 10/22/2015)
10/23/2015		VACATED PURSUANT TO MINUTE ORDER DATED 10/30/15.....MINUTE ORDER: According to the record, Plaintiff served Defendants with the complaint on or around September 4, 2015 (See ECF Nos. 10–12). More than 21 days later, Plaintiff filed an Amended Complaint <u>17</u> . There is no indication in the record that Plaintiff obtained written consent from the Defendants or leave of court, as required by Federal Rule of Civil Procedure 15(a)(1), to file the Amended Complaint. Accordingly, not later than 10/30/15, Plaintiff shall SHOW CAUSE why the Amended Complaint <u>17</u> should not be stricken. Signed by Judge Tanya S. Chutkan on 10/23/15. (DJS) Modified on 11/2/2015 (zsm). (Entered: 10/23/2015)
10/23/2015		Set/Reset Deadlines: Response to Show Cause due by 10/30/2015. (zsm) (Entered: 10/23/2015)
10/29/2015	<u>18</u>	RESPONSE TO ORDER OF THE COURT re Order,, filed by PETER ACKERMAN, GREEN PARTY OF THE UNITED STATES, LEVEL THE PLAYING FIELD, LIBERTARIAN NATIONAL COMMITTEE, INC.. (Attachments: # <u>1</u> Exhibit A)(Shapiro, Alexandra) (Entered: 10/29/2015)
10/30/2015		MINUTE ORDER: Pursuant to Fed. R. Civ. P. 60(a), the Show Cause Order and order entered October 23, 2015, is hereby VACATED, due to clerical error. Signed by Judge

		Tanya S. Chutkan on 10/30/15. (DJS) (Entered: 10/30/2015)
11/09/2015	<u>19</u>	ANSWER to <u>17</u> Amended Complaint by FEDERAL ELECTION COMMISSION. Related document: <u>17</u> Amended Complaint filed by LIBERTARIAN NATIONAL COMMITTEE, INC., GREEN PARTY OF THE UNITED STATES, PETER ACKERMAN, LEVEL THE PLAYING FIELD.(Bonham, Robert) (Entered: 11/09/2015)
11/12/2015		MINUTE ORDER: Not later than 11/23/15 the parties shall file a jointly proposed schedule and proposed order for moving forward with this action. Signed by Judge Tanya S. Chutkan on 11/12/15. (DJS) (Entered: 11/12/2015)
11/13/2015		Set/Reset Deadlines: Proposed Briefing Schedule due by 11/23/2015. (zsm) (Entered: 11/13/2015)
11/23/2015	<u>20</u>	MEET AND CONFER STATEMENT. (Attachments: # <u>1</u> Proposed Scheduling Order)(Bonham, Robert) (Entered: 11/23/2015)
12/02/2015	<u>21</u>	SCHEDULING ORDER. The Commission shall file certified lists of the contents of the administrative records in MUR 6869 and REG 2014-06 by December 9, 2015. Any motion to supplement an administrative record shall be filed within thirty (30) days of the filing of the respective certified list of record documents. The following briefing schedule will apply in this case: Motions for Leave to Appear as Amici Curiae by March 6, 2016; Plaintiffs' Motion for Summary Judgment by April 6, 2016; Amicus Briefs in Support of Plaintiffs' Motion for Summary Judgment, if any, by April 13, 2016; The Commission's Opposition to Plaintiffs' Motion for Summary Judgment and Cross-Motion for Summary Judgment by May 4, 2016; Amicus Briefs in Support of the Commission's Cross-Motion for Summary Judgment, if any, by May 11, 2016; Plaintiffs' Reply in Support of their Motion for Summary Judgment and Opposition to the Commission's Cross-Motion for Summary Judgment by May 25, 2016; The Commission's Reply in Support of its Cross-Motion for Summary Judgment by June 15, 2016. See Order for additional details, including with regard to MUR 6942. Signed by Judge Tanya S. Chutkan on 12/2/15. (lctsc2) (Entered: 12/02/2015)
12/02/2015		Set/Reset Deadlines: Administrative Record due by 12/9/2015. Motions due by 3/6/2016. Summary Judgment motions due by 4/6/2016. Brief due by 4/13/2016. Response to Motion for Summary Judgment due by 5/4/2016. Amicus Brief due by 5/11/2016. Reply to Motion for Summary Judgment due by 5/25/2016.Replies due by 6/15/2016. (zsm) (Entered: 12/03/2015)
12/09/2015	<u>22</u>	NOTICE of Filing by FEDERAL ELECTION COMMISSION (Attachments: # <u>1</u> Certified List of Administrative Record Documents in REG 2014-06, # <u>2</u> Certified List of Administrative Record Documents in MUR 6869)(Bonham, Robert) (Entered: 12/09/2015)
12/15/2015	<u>23</u>	NOTICE of Final Agency Action in MUR 6942 by FEDERAL ELECTION COMMISSION (Bonham, Robert) (Entered: 12/15/2015)
12/30/2015	<u>24</u>	MOTION for Leave to File <i>Second Amended Complaint</i> by PETER ACKERMAN, GREEN PARTY OF THE UNITED STATES, LEVEL THE PLAYING FIELD, LIBERTARIAN NATIONAL COMMITTEE, INC. (Attachments: # <u>1</u> Proposed Second Amended Complaint, # <u>2</u> Blackline of Second Amended Complaint, # <u>3</u> Text of Proposed Order Granting Motion)(Shapiro, Alexandra) (Entered: 12/30/2015)
01/04/2016		MINUTE ORDER: Granting <u>24</u> Motion for Leave to File Second Amended Complaint. Signed by Judge Tanya S. Chutkan on 1/4/16. (DJS) (Entered: 01/04/2016)
01/05/2016	<u>25</u>	AMENDED COMPLAINT ( <i>Second</i> ) against All Defendants filed by LIBERTARIAN NATIONAL COMMITTEE, INC., LEVEL THE PLAYING FIELD, GREEN PARTY OF THE UNITED STATES, PETER ACKERMAN.(Shapiro, Alexandra) (Entered: 01/05/2016)
01/15/2016	<u>26</u>	NOTICE of Filing by FEDERAL ELECTION COMMISSION (Attachments: # <u>1</u> Certified List of Administrative Record Documents in MUR 6942)(Bonham, Robert) (Entered: 01/15/2016)
01/19/2016	<u>27</u>	ANSWER to <u>25</u> Amended Complaint <i>Second</i> by FEDERAL ELECTION COMMISSION. Related document: <u>25</u> Amended Complaint filed by LIBERTARIAN

		NATIONAL COMMITTEE, INC., GREEN PARTY OF THE UNITED STATES, PETER ACKERMAN, LEVEL THE PLAYING FIELD.(Bonham, Robert) (Entered: 01/19/2016)
03/04/2016	<u>28</u>	ENTERED IN ERROR.....MOTION for Leave to Appear Pro Hac Vice :Attorney Name– Stephen Chad Peace, :Firm– Peace & Shea LLP, :Address– 2700 Adams Avenue, Suite 204, San Diego, CA 92116. Phone No. – (619) 255–4461. Fee Status: No Fee Paid. by PETER ACKERMAN, GREEN PARTY OF THE UNITED STATES, LEVEL THE PLAYING FIELD, LIBERTARIAN NATIONAL COMMITTEE, INC. (Attachments: # <u>1</u> Exhibit Declaration of S. Chad Peace, # <u>2</u> Text of Proposed Order)(Shapiro, Alexandra) Modified on 3/4/2016 (jf). (Entered: 03/04/2016)
03/04/2016		NOTICE OF CORRECTED DOCKET ENTRY: Document No. re <u>28</u> MOTION for Leave to Appear Pro Hac Vice :Attorney Name– Stephen Chad Peace, :Firm– Peace & Shea LLP, :Address– 2700 Adams Avenue, Suite 204, San Diego, CA 92116. Phone No. – (619) 255–4461. Fee Status: No Fee Paid. was entered in error and counsel was instructed to refile said pleading. (jf) (Entered: 03/04/2016)
03/04/2016	<u>29</u>	MOTION for Leave to Appear Pro Hac Vice :Attorney Name– Stephen Chad Peace, :Firm– Peace & Shea, LLP, :Address– 2700 Adams Avenue. Suite 204. Phone No. – (619) 255–4461. Filing fee \$ 100, receipt number 0090–4436176. Fee Status: Fee Paid. by PETER ACKERMAN, GREEN PARTY OF THE UNITED STATES, LEVEL THE PLAYING FIELD, LIBERTARIAN NATIONAL COMMITTEE, INC. (Attachments: # <u>1</u> Exhibit Declaration of S. Chad Peace, # <u>2</u> Text of Proposed Order)(Shapiro, Alexandra) (Entered: 03/04/2016)
03/04/2016	<u>30</u>	MOTION for Leave to File <i>Brief as Amicus Curiae</i> by COMMISSION ON PRESIDENTIAL DEBATES (Attachments: # <u>1</u> Text of Proposed Order)(Loss, Lewis) (Entered: 03/04/2016)
03/07/2016	<u>31</u>	ENTERED IN ERROR. . . .AMICUS BRIEF <i>Motion for Leave to File</i> by FairVote. (Noble, Lawrence) Modified on 3/8/2016 (ztd). (Entered: 03/07/2016)
03/07/2016	<u>32</u>	MOTION for Leave to File Amicus Brief by FAIRVOTE (td) (Entered: 03/07/2016)
03/07/2016		NOTICE OF CORRECTED DOCKET ENTRY: re <u>31</u> Amicus Brief was entered in error and said pleading has bee refiled correctly as docket entry <u>32</u> . (td) (Entered: 03/07/2016)
03/10/2016		MINUTE ORDER: Granting <u>29</u> Motion for Leave to Appear Pro Hac Vice. Attorney Stephen Chad Peace is hereby admitted pro hac vice to appear in this matter on behalf of proposed amicus curiae Independent Voter Project. Signed by Judge Tanya S. Chutkan on 3/10/16. (DJS) (Entered: 03/10/2016)
03/14/2016		MINUTE ORDER granting <u>30</u> Motion for Leave to File and <u>32</u> Motion for Leave to File. Signed by Judge Tanya S. Chutkan on 3/14/16. (zsm) (Entered: 03/14/2016)
03/14/2016	<u>33</u>	MOTION for Leave to File <i>Amicus Brief</i> by Independent Voter Project (Peace, Stephen) (Entered: 03/14/2016)
03/14/2016	<u>34</u>	MOTION for Leave to Appear Pro Hac Vice :Attorney Name– Andrew Spencer, :Firm– FairVote, :Address– 6930 Carroll Ave, Suite 204, Takoma Park, Maryland 20912. Phone No. – 240–641–4829. Filing fee \$ 100, receipt number 0090–4446450. Fee Status: Fee Paid. by FAIRVOTE (Noble, Lawrence) (Entered: 03/14/2016)
03/14/2016	<u>35</u>	MOTION for Leave to file Amicus Brief by INDEPENDENT VOTER PROJECT; ("Leave to file Granted.") (td) (Entered: 03/14/2016)
03/15/2016		MINUTE ORDER granting <u>33</u> Motion for Leave to File. Signed by Judge Tanya S. Chutkan on 3/15/16. (zsm) (Entered: 03/15/2016)
03/15/2016		MINUTE ORDER denying <u>35</u> Motion for Order as moot. Signed by Judge Tanya S. Chutkan on 3/15/16. (zsm) (Entered: 03/15/2016)
03/15/2016		MINUTE ORDER: Denying without prejudice <u>34</u> Motion for Leave to Appear Pro Hac Vice for failing to fully comply with Local Civil Rule 83.2, which requires "a certification that the attorney [seeking admission] either HAS or HAS NOT BEEN DISCIPLINED by any bar, and if the attorney has been disciplined by any bar, the

		circumstances and details of the discipline." Signed by Judge Tanya S. Chutkan on 3/15/16. (DJS) (Entered: 03/15/2016)
03/16/2016	<u>36</u>	MOTION for Leave to Appear Pro Hac Vice :Attorney Name– Andrew Spencer, :Firm– FairVote, :Address– 6930 Carroll Ave, Suite 204, Takoma Park, Maryland 20912. Phone No. – 240–641–4829. Fee Status: No Fee Paid. by FAIRVOTE (Noble, Lawrence) (Entered: 03/16/2016)
03/17/2016		MINUTE ORDER: Granting <u>36</u> Motion for Leave to Appear Pro Hac Vice. Attorney Andrew Spencer is hereby admitted pro hac vice to appear in this matter on behalf of amicus FairVote. Signed by Judge Tanya S. Chutkan on 3/17/16. (DJS) (Entered: 03/17/2016)
04/06/2016	<u>37</u>	MOTION for Summary Judgment by PETER ACKERMAN, GREEN PARTY OF THE UNITED STATES, LEVEL THE PLAYING FIELD, LIBERTARIAN NATIONAL COMMITTEE, INC. (Attachments: # <u>1</u> Declaration Declaration of Alexandra A.E. Shapiro, # <u>2</u> Exhibit Exhibits to Declaration of Alexandra A.E. Shapiro, # <u>3</u> Text of Proposed Order Proposed Order)(Shapiro, Alexandra) (Entered: 04/06/2016)
04/13/2016	<u>38</u>	NOTICE <i>Amicus Brief</i> by INDEPENDENT VOTER PROJECT (Peace, Stephen) (Entered: 04/13/2016)
04/13/2016	<u>39</u>	NOTICE <i>Amicus Brief</i> by FairVote by FAIRVOTE (Spencer, Andrew) (Entered: 04/13/2016)
04/13/2016	40	AMICUS BRIEF by INDEPENDENT VOTER PROJECT.(See docket Entry no. <u>38</u> to view document.) (td) (Entered: 04/14/2016)
04/13/2016	41	AMICUS BRIEF by FAIRVOTE. (See docket entry no. <u>39</u> to view document.) (td) (Entered: 04/14/2016)
05/04/2016	<u>42</u>	MOTION for Summary Judgment <i>and Opposition to Plaintiffs' Motion for Summary Judgment</i> by FEDERAL ELECTION COMMISSION (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Text of Proposed Order, # <u>3</u> FEC Objection to Plaintiffs' Statement of Material Facts)(Bonham, Robert) . (Entered: 05/04/2016)
05/04/2016	<u>43</u>	Memorandum in opposition to re <u>37</u> MOTION for Summary Judgment filed by FEDERAL ELECTION COMMISSION. (Attachments: # <u>1</u> FEC Objection to Plaintiffs' Statement of Material Facts, # <u>2</u> Text of Proposed Order)(Bonham, Robert) (Entered: 05/04/2016)
05/06/2016	<u>44</u>	MOTION for Extension of Time to File Response/Reply by PETER ACKERMAN, GREEN PARTY OF THE UNITED STATES, LEVEL THE PLAYING FIELD, LIBERTARIAN NATIONAL COMMITTEE, INC. (Attachments: # <u>1</u> Text of Proposed Order Proposed Order for Extension of Briefing Schedule)(Shapiro, Alexandra) (Entered: 05/06/2016)
05/10/2016		MINUTE ORDER: Granting <u>44</u> Consent Motion for Extension of Time to File Response/Reply. Plaintiffs' Reply in Support of their Motion for Summary Judgment and Opposition to the FEC's Cross–Motion for Summary Judgment shall be filed by June 8, 2016. The FEC's Reply in Support of its Cross–Motion for Summary Judgment shall be filed by July 13, 2016. Signed by Judge Tanya S. Chutkan on 5/10/16. (DJS) (Entered: 05/10/2016)
05/11/2016		Set/Reset Deadlines: Reply to Motion for Summary Judgment due by 6/8/2016. Reply due by 7/13/2016. (zsm) (Entered: 05/11/2016)
05/11/2016	<u>45</u>	NOTICE <i>Amicus Brief</i> by COMMISSION ON PRESIDENTIAL DEBATES (Loss, Lewis) (Entered: 05/11/2016)
05/11/2016	46	AMICUS BRIEF by COMMISSION ON PRESIDENTIAL DEBATES; (See Docket Entry No. <u>45</u> to view document.) (td) (Entered: 05/11/2016)
06/08/2016	<u>47</u>	REPLY to opposition to motion re <u>37</u> MOTION for Summary Judgment filed by PETER ACKERMAN, GREEN PARTY OF THE UNITED STATES, LEVEL THE PLAYING FIELD, LIBERTARIAN NATIONAL COMMITTEE, INC.. (Attachments: # <u>1</u> Exhibit Response to Objections)(Shapiro, Alexandra) (Entered: 06/08/2016)

06/08/2016	<u>48</u>	Memorandum in opposition to re <u>42</u> MOTION for Summary Judgment filed by PETER ACKERMAN, GREEN PARTY OF THE UNITED STATES, LEVEL THE PLAYING FIELD, LIBERTARIAN NATIONAL COMMITTEE, INC.. (Attachments: # <u>1</u> Response to Objections)(Shapiro, Alexandra) (Entered: 06/08/2016)
06/15/2016	<u>49</u>	MOTION for Order <i>for Leave to File Amicus Brief</i> by SAM HUSSEINI (Wilcox, Ann) Modified on 6/16/2016 (td). (Entered: 06/15/2016)
06/17/2016	<u>51</u>	Memorandum in opposition to re <u>49</u> Proposed MOTION for Order <i>for Leave to File Amicus Brief</i> filed by FEDERAL ELECTION COMMISSION. (Bonham, Robert) (Entered: 06/17/2016)
06/29/2016		MINUTE ORDER denying <u>49</u> Motion for Order for Leave to File Amicus Brief by SAM HUSSEINI . Signed by Judge Tanya S. Chutkan on 6/29/16. (lctsc2) Modified on 6/30/2016 (DJS). (Entered: 06/29/2016)
06/29/2016	<u>52</u>	MOTION for Leave to Appear Pro Hac Vice :Attorney Name– Mohammad O. Jazil, :Firm– Hopping Green & Sams, P.A., :Address– 119 South Monroe St., Ste. 300, Tallahassee, FL 32301. Phone No. – 850–222–7500. Fax No. – 850–224–8551 Filing fee \$ 100, receipt number 0090–4586269. Fee Status: Fee Paid. by Better for America, Inc (Safriet, D.) (Entered: 06/29/2016)
06/29/2016	<u>53</u>	MOTION to Intervene by Better for America, Inc (Safriet, D.) (Entered: 06/29/2016)
06/29/2016	<u>54</u>	LCvR 7.1 CERTIFICATE OF DISCLOSURE of Corporate Affiliations and Financial Interests by Better for America, Inc (Safriet, D.) (Entered: 06/29/2016)
07/13/2016	<u>55</u>	REPLY to opposition to motion re <u>42</u> MOTION for Summary Judgment filed by FEDERAL ELECTION COMMISSION. (Bonham, Robert) Modified on linkage 7/14/2016 (td). (Entered: 07/13/2016)
07/14/2016	<u>56</u>	NOTICE of Appearance by Erin R Chlopak on behalf of FEDERAL ELECTION COMMISSION (Chlopak, Erin) (Entered: 07/14/2016)
07/15/2016	<u>57</u>	Memorandum in opposition to re <u>53</u> MOTION to Intervene filed by FEDERAL ELECTION COMMISSION. (Bonham, Robert) (Entered: 07/15/2016)
07/15/2016		ORDER denying <u>53</u> Motion for Permissive Intervention or, in the Alternative, to Participate as Amicus Curiae, and finding as moot <u>52</u> Motion for Leave to Appear Pro Hac Vice. Signed by Judge Tanya S. Chutkan on 7/15/16. (lctsc2) (Entered: 07/15/2016)
07/26/2016	<u>58</u>	JOINT APPENDIX by PETER ACKERMAN, GREEN PARTY OF THE UNITED STATES, LEVEL THE PLAYING FIELD, LIBERTARIAN NATIONAL COMMITTEE, INC.. (Attachments: # <u>1</u> Joint Appendix, Volume 2, # <u>2</u> Joint Appendix, Volume 3, # <u>3</u> Joint Appendix, Volume 4, # <u>4</u> Joint Appendix, Volume 5, # <u>5</u> Joint Appendix, Volume 6, # <u>6</u> Joint Appendix, Volume 7, # <u>7</u> Joint Appendix, Volume 8, # <u>8</u> Joint Appendix, Volume 9, # <u>9</u> Joint Appendix, Volume 10, # <u>10</u> Joint Appendix, Volume 11)(Shapiro, Alexandra) (Entered: 07/26/2016)
10/05/2016		MINUTE ORDER: A hearing is hereby set for 1/7/2017 at 10 a.m. in Courtroom 2 to consider <u>37</u> , <u>42</u> parties' motions for summary judgment. Parties should prepare to present arguments for no more than 25 minutes each, with time for rebuttal as needed, for a hearing not to exceed 60 minutes. If the parties anticipate requiring more time, they may submit a joint proposal on ECF. By no later than 1/2/2017 at 4 p.m., the parties must deliver hard copies of their filings and exhibits to the court. Hard copies should be printed double-sided in binders not exceeding 1.5" width, and filings and exhibits should be separated with labeled tabs. Signed by Judge Tanya S. Chutkan on 10/5/2016. (lctsc2) (Entered: 10/05/2016)
10/06/2016		Set/Reset Deadlines/Hearings: Exhibit List due by 1/2/2017. Motion Hearing set for 1/7/2017 at 10:00 AM in Courtroom 2 before Judge Tanya S. Chutkan. (zsm) (Entered: 10/06/2016)
10/06/2016		MINUTE ORDER: The hearing previously scheduled for 1/7/2017 is hereby VACATED and rescheduled for 1/5/2017 at 10:00 a.m. Signed by Judge Tanya S. Chutkan on 10/6/2016. (lctsc2) (Entered: 10/06/2016)

10/06/2016		Set/Reset Hearings: Motion Hearing set for 1/5/2017 at 10:00 AM in Courtroom 2 before Judge Tanya S. Chutkan. (zsm) (Entered: 10/06/2016)
01/05/2017		Minute Entry: Motion Hearing held on 1/5/2017 before Judge Tanya S. Chutkan: re <u>42</u> MOTION for Summary Judgment filed by FEDERAL ELECTION COMMISSION and <u>37</u> MOTION for Summary Judgment filed by LIBERTARIAN NATIONAL COMMITTEE, INC., GREEN PARTY OF THE UNITED STATES, PETER ACKERMAN, LEVEL THE PLAYING FIELD; Motions heard and taken under advisement. (Court Reporter Lisa Griffith) (ztb) (Entered: 01/05/2017)
01/26/2017	<u>59</u>	TRANSCRIPT OF PROCEEDINGS before Judge Tanya S. Chutkan held on 1-5-17; Page Numbers: 1-38. Date of Issuance:1-26-17. Court Reporter/Transcriber Lisa W GRIFFITH, Telephone number (202) 354-3247, Tape Number: Lisa_Griffith@dcd.uscourts.gov. Transcripts may be ordered by submitting the <a href="http://www.dcd.uscourts.gov/node/110">Transcript Order Form</a><P></P><P></P>For the first 90 days after this filing date, the transcript may be viewed at the courthouse at a public terminal or purchased from the court reporter referenced above. After 90 days, the transcript may be accessed via PACER. Other transcript formats, (multi-page, condensed, CD or ASCII) may be purchased from the court reporter.<P> <b>NOTICE RE REDACTION OF TRANSCRIPTS:</b> The parties have twenty-one days to file with the court and the court reporter any request to redact personal identifiers from this transcript. If no such requests are filed, the transcript will be made available to the public via PACER without redaction after 90 days. The policy, which includes the five personal identifiers specifically covered, is located on our website at www.dcd.uscourts.gov.<P></P> Redaction Request due 2/16/2017. Redacted Transcript Deadline set for 2/26/2017. Release of Transcript Restriction set for 4/26/2017.(Griffith, Lisa) (Entered: 01/26/2017)
02/01/2017	<u>60</u>	MEMORANDUM AND OPINION re <u>37</u> Plaintiffs' Motion for Summary Judgment and <u>42</u> Defendant's Cross-Motion for Summary Judgment. Signed by Judge Tanya S. Chutkan on 2/1/2017. (lctsc2) (Entered: 02/01/2017)
02/01/2017	<u>61</u>	ORDER granting <u>37</u> Plaintiffs' Motion for Summary Judgment and denying <u>42</u> Defendant's Cross-Motion for Summary Judgment. Defendant is ORDERED to submit a new decision with respect to Plaintiffs' administrative complaints within 30 days of this Order. Defendant is FURTHER ORDERED to submit a new decision with respect to Plaintiffs' Rulemaking Petition within 60 days. See Order for more details. Signed by Judge Tanya S. Chutkan on 2/1/2017. (lctsc2) (Entered: 02/01/2017)
02/02/2017		ENTERED IN ERROR....Set/Reset Deadlines: Defendant's Reply to Dispositive Motion due by 2/16/2017. (tb) Modified on 2/3/2017 (tb). (Entered: 02/02/2017)
02/02/2017		NOTICE OF CORRECTED DOCKET ENTRY re Staff Notes and set ddl regarding reply due 02/16/17: Counsel is instructed to disregard said entry. Entered in wrong case. (tb) Modified on 2/3/2017 (tb). (Entered: 02/02/2017)
02/06/2017	<u>62</u>	MOTION to Clarify, MOTION for Reconsideration re <u>60</u> Memorandum & Opinion, <u>61</u> Order on Motion for Summary Judgment,,, , MOTION for Extension of Time to Conform with the Court's Declaration by FEDERAL ELECTION COMMISSION (Attachments: # <u>1</u> Text of Proposed Order)(Bonham, Robert) (Entered: 02/06/2017)
02/09/2017	<u>63</u>	MOTION to Clarify, MOTION for Reconsideration <i>and Partial Opposition to Defendant's Motion for Clarification, Reconsideration, and/or Partial Extension of Time</i> by PETER ACKERMAN, GREEN PARTY OF THE UNITED STATES, LEVEL THE PLAYING FIELD, LIBERTARIAN NATIONAL COMMITTEE, INC. (Attachments: # <u>1</u> Proposed Order)(Shapiro, Alexandra) (Entered: 02/09/2017)
02/10/2017	<u>64</u>	ORDER granting in part <u>62</u> Defendant's Motion to Clarify and granting <u>63</u> Plaintiffs' Motion to Clarify. Signed by Judge Tanya S. Chutkan on 2/10/2017. (lctsc2) (Entered: 02/10/2017)
02/11/2017		Set/Reset Deadlines: Complete steps of the administrative process within sixty days from the courts initial Order or by 4/3/2017. (tb) (Entered: 02/11/2017)
02/23/2017	<u>65</u>	NOTICE OF WITHDRAWAL OF APPEARANCE as to PETER ACKERMAN, GREEN PARTY OF THE UNITED STATES, LEVEL THE PLAYING FIELD, LIBERTARIAN NATIONAL COMMITTEE, INC.. Attorney Chetan A. Patil terminated. (Shapiro, Alexandra) (Entered: 02/23/2017)

05/16/2017	<u>66</u>	MOTION for Leave to Appear Pro Hac Vice :Attorney Name– Eric S. Olney, :Firm– Shapiro Arato LLP, :Address– 500 Fifth Avenue, 40th Floor, NY, NY 10110. Phone No. – 212–257–4884. Fax No. – 212–202–6417 Filing fee \$ 100, receipt number 0090–4953570. Fee Status: Fee Paid. by PETER ACKERMAN, GREEN PARTY OF THE UNITED STATES, LEVEL THE PLAYING FIELD, LIBERTARIAN NATIONAL COMMITTEE, INC. (Attachments: # <u>1</u> Declaration in Support of Motion for Admission Pro Hac Vice, # <u>2</u> Text of Proposed Order, # <u>3</u> Certificate of Service)(Shapiro, Alexandra) (Entered: 05/16/2017)
05/16/2017	<u>67</u>	MOTION for Leave to Appear Pro Hac Vice :Attorney Name– Fabien M. Thayamballi, :Firm– Shapiro Arato LLP, :Address– 500 Fifth Avenue, 40th Floor, NY, NY 10110. Phone No. – 212–257–4891. Fax No. – 212–202–6417 Filing fee \$ 100, receipt number 0090–4953585. Fee Status: Fee Paid. by PETER ACKERMAN, GREEN PARTY OF THE UNITED STATES, LEVEL THE PLAYING FIELD, LIBERTARIAN NATIONAL COMMITTEE, INC. (Attachments: # <u>1</u> Declaration in Support of Motion for Admission Pro Hac Vice, # <u>2</u> Text of Proposed Order, # <u>3</u> Certificate of Service)(Shapiro, Alexandra) (Entered: 05/16/2017)
05/19/2017	<u>68</u>	MOTION for Leave to File a <i>Supplemental Complaint</i> , MOTION for Scheduling Order <i>Setting the FEC's Time to Respond</i> by PETER ACKERMAN, GREEN PARTY OF THE UNITED STATES, LEVEL THE PLAYING FIELD, LIBERTARIAN NATIONAL COMMITTEE, INC. (Attachments: # <u>1</u> Proposed Order)(Shapiro, Alexandra) (Entered: 05/19/2017)
05/19/2017	<u>69</u>	RESPONSE re <u>68</u> MOTION for Leave to File a <i>Supplemental Complaint</i> MOTION for Scheduling Order <i>Setting the FEC's Time to Respond</i> filed by FEDERAL ELECTION COMMISSION. (Bonham, Robert) (Entered: 05/19/2017)
05/22/2017		MINUTE ORDER: Upon consideration of <u>68</u> Plaintiffs' Consent Motion for Leave to File a Supplemental Complaint and <u>69</u> Defendant's Response, it is hereby ORDERED that Plaintiffs' Motion is GRANTED. It is FURTHER ORDERED that the FEC shall answer or otherwise respond to the supplemental complaint within 60 days after the filing of the supplemental complaint. It is FURTHER ORDERED that the FEC shall file certified indices of the administrative records within 30 days after filing its answer or other response to the supplemental complaint. Signed by Judge Tanya S. Chutkan on 5/22/2017. (lctsc2) (Entered: 05/22/2017)
05/26/2017	<u>70</u>	SUPPLEMENTAL COMPLAINT by PETER ACKERMAN, GREEN PARTY OF THE UNITED STATES, LEVEL THE PLAYING FIELD, LIBERTARIAN NATIONAL COMMITTEE, INC. (Attachments: # <u>1</u> Exhibit A – FEC Factual and Legal Analysis, # <u>2</u> Exhibit B – FEC Rulemaking Decision)(Shapiro, Alexandra) Modified on 5/30/2017 (jf). (Entered: 05/26/2017)
06/14/2017		MINUTE ORDER: Granting <u>66</u> <u>67</u> Motions for Leave to Appear Pro Hac Vice. Eric S. Olney and Fabien M. Thayamballi are hereby admitted pro hac vice to appear in this matter on behalf of Plaintiffs. Signed by Judge Tanya S. Chutkan on 6/14/17. (DJS) (Entered: 06/14/2017)
07/25/2017	<u>71</u>	MOTION to Dismiss <i>Supplemental Complaint</i> by FEDERAL ELECTION COMMISSION (Attachments: # <u>1</u> Text of Proposed Order)(Ward, Haven) (Entered: 07/25/2017)
08/08/2017	<u>72</u>	Consent MOTION for Leave to File <i>the Amended Supplemental Complaint</i> by PETER ACKERMAN, GREEN PARTY OF THE UNITED STATES, LEVEL THE PLAYING FIELD, LIBERTARIAN NATIONAL COMMITTEE, INC. (Attachments: # <u>1</u> Memorandum in Support Memorandum and Points of Authorities in Support of Plaintiffs' Motion to Amend and in Opposition to the Motion to Dismiss the Supplemental Complaint, # <u>2</u> Exhibit A: Amended Supplemental Complaint for Declaratory and Injunctive Relief, # <u>3</u> Exhibit B: Amended Supplemental Complaint for Declaratory and Injunctive Relief (Blackline), # <u>4</u> Text of Proposed Order Proposed Order)(Shapiro, Alexandra) (Entered: 08/08/2017)
08/08/2017	<u>73</u>	Memorandum in opposition to re <u>71</u> MOTION to Dismiss <i>Supplemental Complaint</i> filed by PETER ACKERMAN, GREEN PARTY OF THE UNITED STATES, LEVEL THE PLAYING FIELD, LIBERTARIAN NATIONAL COMMITTEE, INC.. (Attachments: # <u>1</u> Affidavit Affidavit of Peter Ackerman)(Shapiro, Alexandra) (Entered: 08/08/2017)

08/08/2017	<u>74</u>	MOTION for Briefing Schedule <i>Governing the Parties' Summary Judgment Motions</i> by PETER ACKERMAN, GREEN PARTY OF THE UNITED STATES, LEVEL THE PLAYING FIELD, LIBERTARIAN NATIONAL COMMITTEE, INC. (Attachments: # <u>1</u> Text of Proposed Order)(Shapiro, Alexandra) (Entered: 08/08/2017)
08/11/2017	<u>75</u>	STIPULATION re <u>72</u> Consent MOTION for Leave to File <i>the Amended Supplemental Complaint</i> , <u>71</u> MOTION to Dismiss <i>Supplemental Complaint and Proposed Order</i> by FEDERAL ELECTION COMMISSION. (Ward, Haven) (Entered: 08/11/2017)
08/11/2017		MINUTE ORDER: Having considered the parties' Joint Stipulation <u>75</u> , Defendant's <u>71</u> Motion to Dismiss is hereby denied as MOOT, and Plaintiff's <u>72</u> Motion for Leave to File the Amended Supplemental Complaint is hereby GRANTED. Signed by Judge Tanya S. Chutkan on 8/11/17. (DJS) (Entered: 08/11/2017)
08/11/2017		MINUTE ORDER: Defendant shall file its response, if any, to Plaintiffs' Motion for Briefing Schedule <u>74</u> by August 15, 2017. Signed by Judge Tanya S. Chutkan on 8/11/17. (DJS) (Entered: 08/11/2017)
08/11/2017	<u>76</u>	AMENDED COMPLAINT against FEDERAL ELECTION COMMISSION filed by GREEN PARTY OF THE UNITED STATES, PETER ACKERMAN, LEVEL THE PLAYING FIELD, LIBERTARIAN NATIONAL COMMITTEE, INC..(znmw) (Entered: 08/14/2017)
08/15/2017	<u>77</u>	RESPONSE re <u>74</u> MOTION for Briefing Schedule <i>Governing the Parties' Summary Judgment Motions</i> filed by FEDERAL ELECTION COMMISSION. (Attachments: # <u>1</u> Text of Proposed Order)(Ward, Haven) (Entered: 08/15/2017)
08/15/2017	<u>78</u>	REPLY to opposition to motion re <u>74</u> MOTION for Briefing Schedule <i>Governing the Parties' Summary Judgment Motions</i> filed by PETER ACKERMAN, GREEN PARTY OF THE UNITED STATES, LEVEL THE PLAYING FIELD, LIBERTARIAN NATIONAL COMMITTEE, INC.. (Shapiro, Alexandra) (Entered: 08/15/2017)
08/15/2017		Set/Reset Deadlines: Response due by 8/15/2017. (tb) (Entered: 08/15/2017)
08/16/2017	<u>79</u>	MOTION for Leave to File <i>Surreply regarding Plaintiffs' Motion for Briefing Schedule (ECF Nos. 74 &amp; 78)</i> by FEDERAL ELECTION COMMISSION (Attachments: # <u>1</u> Exhibit Surreply, # <u>2</u> Text of Proposed Order)(Ward, Haven) (Entered: 08/16/2017)
08/17/2017		MINUTE ORDER: Denying <u>74</u> Plaintiffs' Motion for Briefing Schedule; Granting Defendant's <u>79</u> Motion for Leave to File Sur-reply. Having considered the parties' proposed briefing schedule, the court hereby orders the parties to adhere to the following briefing schedule: Plaintiffs' Motion for Summary Judgment due September 15, 2017. Amicus Briefs in Support of Plaintiffs shall be limited to 12 pages and shall be filed by September 22, 2017. Defendant's Motion for Summary Judgment and Combined Opposition to Plaintiffs' Motion due October 13, 2017. Amicus Briefs in Support of the Defendant shall be limited to 12 pages and shall be filed by October 20, 2017. Plaintiffs' Combined Reply and Opposition to the Defendant's Motion due November 10, 2017. Defendant's Reply due December 8, 2017. Signed by Judge Tanya S. Chutkan on 8/17/17. (DJS) (Entered: 08/17/2017)
08/17/2017	<u>80</u>	SURREPLY to re <u>74</u> MOTION for Briefing Schedule <i>Governing the Parties' Summary Judgment Motions</i> filed by FEDERAL ELECTION COMMISSION. (znmw) (Entered: 08/18/2017)
08/18/2017		Set/Reset Deadlines: Plaintiffs' Motion for Summary Judgment is due by 9/15/2017; Amicus Briefs in Support of Plaintiffs (limited to 12 pages) are due by 9/22/2017; Defendant's Motion for Summary Judgment and Combined Opposition to Plaintiffs' Motion is due by 10/13/2017. Amicus Briefs in Support of the Defendant (limited to 12 pages) are due by 10/20/2017; Plaintiffs' Combined Reply and Opposition to the Defendant's Motion due by 11/10/2017. Defendant's Cross-Reply is due by 12/8/2017. (jth) (Entered: 08/18/2017)
08/24/2017	<u>81</u>	NOTICE of Filing of Certified Lists of Administrative Record Documents by FEDERAL ELECTION COMMISSION (Attachments: # <u>1</u> Supplemental Certified List in REG 2014-06, # <u>2</u> Certified List in MURs 6869R and 6942R)(Bonham, Robert) (Entered: 08/24/2017)

08/25/2017	<u>82</u>	ANSWER to <u>76</u> Amended Complaint by FEDERAL ELECTION COMMISSION. Related document: <u>76</u> Amended Complaint filed by LIBERTARIAN NATIONAL COMMITTEE, INC., GREEN PARTY OF THE UNITED STATES, PETER ACKERMAN, LEVEL THE PLAYING FIELD.(Bonham, Robert) (Entered: 08/25/2017)
09/15/2017	<u>83</u>	STRICKEN IN PART PURSUANT TO ORDER FILED 3/31/2019.....MOTION for Summary Judgment by PETER ACKERMAN, GREEN PARTY OF THE UNITED STATES, LEVEL THE PLAYING FIELD, LIBERTARIAN NATIONAL COMMITTEE, INC. (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Declaration of Eric S. Olney, # <u>3</u> Affidavit of Douglas Schoen, # <u>4</u> Text of Proposed Order)(Shapiro, Alexandra) Modified on 4/3/2019 (znmw). (Entered: 09/15/2017)
09/20/2017	<u>84</u>	MOTION for Leave to Appear Pro Hac Vice :Attorney Name– Breton A. Peace, :Firm– Peace & Shea, LLP, :Address– 2700 Adams Avenue, Suite 204. Phone No. – 619–225–4461. Fax No. – 619–255–4462 Filing fee \$ 100, receipt number 0090–5124960. Fee Status: Fee Paid. by PETER ACKERMAN, GREEN PARTY OF THE UNITED STATES, LEVEL THE PLAYING FIELD, LIBERTARIAN NATIONAL COMMITTEE, INC. (Attachments: # <u>1</u> Declaration in Support of Motion for Admission Pro Hac Vice, # <u>2</u> Text of Proposed Order)(Shapiro, Alexandra) (Entered: 09/20/2017)
09/20/2017		MINUTE ORDER: Granting <u>84</u> Motion for Leave to Appear Pro Hac Vice. Breton August Peace is hereby admitted pro hac vice to appear in this matter on behalf of amicus Independent Voter Project. Signed by Judge Tanya S. Chutkan on 9/20/17. (DJS) (Entered: 09/20/2017)
09/22/2017	<u>85</u>	Unopposed MOTION for Leave to File <i>Brief of Amici Curiae</i> by INDEPENDENT VOTER PROJECT, JAMES STAVRIDIS, JOSEPH ROBERT KERREY, JOSEPH ISADORE LIEBERMAN, CLARINE NARDI RIDDLE, DAVID M. WALKER, CHRISTINE TODD WHITMAN (Attachments: # <u>1</u> Text of Proposed Order, # <u>2</u> Exhibit Brief of Amici Curiae)(Peace, Stephen) Modified to add filers on 9/25/2017 (znmw). (Entered: 09/22/2017)
09/22/2017	<u>86</u>	MOTION for Leave to File <i>Amicus Curiae Brief</i> by NORMAN R. AUGUSTINE, DENNIS C. BLAIR, SCOTT BLACKMUN, MARY MCINNIS BOIES, W. BOWMAN CUTTER, JAMES J. FISHMAN, CARLA A. HILLS, DANIEL L. KURTZ, VALI R. NASR, NANCY E. ROMAN (Attachments: # <u>1</u> Exhibit Proposed Amicus Brief, # <u>2</u> Text of Proposed Order)(DeRise, Robert) (Entered: 09/22/2017)
10/03/2017		MINUTE ORDER granting <u>85</u> Motion for Leave to File Amicus Brief of Independent Voter Project, et al. Signed by Judge Tanya S. Chutkan on 10/3/17. (DJS) (Entered: 10/03/2017)
10/04/2017	<u>87</u>	AMICUS BRIEF by INDEPENDENT VOTER PROJECT, JOSEPH ROBERT KERREY, JOSEPH ISADORE LIEBERMAN, CLARINE NARDI RIDDLE, JAMES STAVRIDIS, DAVID M. WALKER, CHRISTINE TODD WHITMAN. (znmw) (Entered: 10/04/2017)
10/05/2017		MINUTE ORDER: Granting <u>86</u> Motion for Leave to File Amicus Brief of NORMAN R. AUGUSTINE, et al. Signed by Judge Tanya S. Chutkan on 10/5/17. (DJS) (Entered: 10/05/2017)
10/05/2017	<u>88</u>	AMICUS BRIEF by NORMAN R. AUGUSTINE, SCOTT BLACKMUN, DENNIS C. BLAIR, MARY MCINNIS BOIES, W. BOWMAN CUTTER, JAMES J. FISHMAN, CARLA A. HILLS, DANIEL L. KURTZ, VALI R. NASR, NANCY E. ROMAN. (znmw) (Entered: 10/06/2017)
10/13/2017	<u>89</u>	NOTICE of Appearance by Charles Kitcher on behalf of FEDERAL ELECTION COMMISSION (Kitcher, Charles) (Entered: 10/13/2017)
10/13/2017	<u>90</u>	MOTION for Summary Judgment by FEDERAL ELECTION COMMISSION (Attachments: # <u>1</u> Text of Proposed Order)(Bonham, Robert) (Entered: 10/13/2017)
10/13/2017	<u>91</u>	Memorandum in opposition to re <u>83</u> MOTION for Summary Judgment filed by FEDERAL ELECTION COMMISSION. (Attachments: # <u>1</u> Text of Proposed Order)(Bonham, Robert) (Entered: 10/13/2017)

10/13/2017	<u>92</u>	MOTION to Strike <u>83</u> MOTION for Summary Judgment by FEDERAL ELECTION COMMISSION (Attachments: # <u>1</u> Text of Proposed Order)(Bonham, Robert) (Entered: 10/13/2017)
10/18/2017	<u>93</u>	STIPULATION re <u>92</u> MOTION to Strike <u>83</u> MOTION for Summary Judgment by PETER ACKERMAN, GREEN PARTY OF THE UNITED STATES, LEVEL THE PLAYING FIELD, LIBERTARIAN NATIONAL COMMITTEE, INC.. (Shapiro, Alexandra) (Entered: 10/18/2017)
10/20/2017	<u>94</u>	Unopposed MOTION for Leave to File <i>Brief as Amicus Curiae</i> by COMMISSION ON PRESIDENTIAL DEBATES (Attachments: # <u>1</u> Proposed Brief of Amicus Curiae, # <u>2</u> Text of Proposed Order)(Loss, Lewis) (Entered: 10/20/2017)
10/23/2017		MINUTE ORDER: Granting <u>94</u> MOTION for Leave to File Brief as Amicus Curiae by COMMISSION ON PRESIDENTIAL DEBATES. Signed by Judge Tanya S. Chutkan on 10/23/17. (DJS) (Entered: 10/23/2017)
10/23/2017		MINUTE ORDER: Having considered the parties' Stipulation <u>93</u> , it is hereby ordered that Plaintiffs' opposition to Defendant's Motion to Strike <u>92</u> will shall be filed by November 10, 2017 and shall be limited to ten pages. Defendant's reply in support of the Motion to Strike shall be filed by December 8, 2017 and shall be limited to 5 pages. The parties are hereby reminded that footnotes shall appear in 12 point font and shall be kept to a minimum. Going forward, the parties are hereby reminded that they must file a motion seeking court approval to alter the limitations in the local rules, the Federal Rules or any deadlines. Signed by Judge Tanya S. Chutkan on 10/23/17.(DJS) (Entered: 10/23/2017)
10/23/2017		Set/Reset Deadlines: Response due by 11/10/2017. Reply due by 12/8/2017. (tb) (Entered: 10/23/2017)
10/23/2017	<u>95</u>	AMICUS BRIEF by COMMISSION ON PRESIDENTIAL DEBATES. (td) (Entered: 10/24/2017)
10/24/2017	<u>96</u>	NOTICE of Errata by COMMISSION ON PRESIDENTIAL DEBATES re <u>95</u> Amicus Brief (Attachments: # <u>1</u> Exhibit A)(Loss, Lewis) (Entered: 10/24/2017)
11/10/2017	<u>97</u>	REPLY to opposition to motion re <u>83</u> MOTION for Summary Judgment filed by PETER ACKERMAN, GREEN PARTY OF THE UNITED STATES, LEVEL THE PLAYING FIELD, LIBERTARIAN NATIONAL COMMITTEE, INC.. (Shapiro, Alexandra) (Entered: 11/10/2017)
11/10/2017	<u>98</u>	Memorandum in opposition to re <u>90</u> MOTION for Summary Judgment filed by PETER ACKERMAN, GREEN PARTY OF THE UNITED STATES, LEVEL THE PLAYING FIELD, LIBERTARIAN NATIONAL COMMITTEE, INC.. (Shapiro, Alexandra) (Entered: 11/10/2017)
11/10/2017	<u>99</u>	MOTION To Supplement The Record by PETER ACKERMAN, GREEN PARTY OF THE UNITED STATES, LEVEL THE PLAYING FIELD, LIBERTARIAN NATIONAL COMMITTEE, INC. (Attachments: # <u>1</u> Text of Proposed Order)(Shapiro, Alexandra) (Entered: 11/10/2017)
11/10/2017	<u>100</u>	Memorandum in opposition to re <u>92</u> MOTION to Strike <u>83</u> MOTION for Summary Judgment filed by PETER ACKERMAN, GREEN PARTY OF THE UNITED STATES, LEVEL THE PLAYING FIELD, LIBERTARIAN NATIONAL COMMITTEE, INC.. (Shapiro, Alexandra) (Entered: 11/10/2017)
11/24/2017	<u>101</u>	Memorandum in opposition to re <u>99</u> MOTION To Supplement The Record filed by FEDERAL ELECTION COMMISSION. (Attachments: # <u>1</u> Text of Proposed Order)(Bonham, Robert) (Entered: 11/24/2017)
12/01/2017	<u>102</u>	REPLY to opposition to motion re <u>99</u> MOTION To Supplement The Record filed by PETER ACKERMAN, GREEN PARTY OF THE UNITED STATES, LEVEL THE PLAYING FIELD, LIBERTARIAN NATIONAL COMMITTEE, INC.. (Shapiro, Alexandra) (Entered: 12/01/2017)
12/08/2017	<u>103</u>	REPLY to opposition to motion re <u>92</u> MOTION to Strike <u>83</u> MOTION for Summary Judgment filed by FEDERAL ELECTION COMMISSION. (Bonham, Robert) (Entered: 12/08/2017)

12/08/2017	<u>104</u>	REPLY to opposition to motion re <u>90</u> MOTION for Summary Judgment filed by FEDERAL ELECTION COMMISSION. (Ward, Haven) (Entered: 12/08/2017)
12/22/2017	<u>105</u>	JOINT APPENDIX by PETER ACKERMAN, GREEN PARTY OF THE UNITED STATES, LEVEL THE PLAYING FIELD, LIBERTARIAN NATIONAL COMMITTEE, INC.. (Attachments: # <u>1</u> Appendix 1 Tabs (1-9), # <u>2</u> Appendix 2 Tabs (10), # <u>3</u> Appendix 3 Tabs (11-13), # <u>4</u> Appendix 4 Tabs (14-15), # <u>5</u> Appendix 5 Tabs (16-17), # <u>6</u> Appendix 6 Tabs (18-22), # <u>7</u> Appendix 7 Tabs (23-38), # <u>8</u> Appendix 8 Tabs (39-41))(Shapiro, Alexandra) (Entered: 12/22/2017)
03/30/2018	<u>106</u>	NOTICE of Change of Address by Robert William Bonham, III (Bonham, Robert) (Entered: 03/30/2018)
08/27/2018	<u>107</u>	NOTICE OF WITHDRAWAL OF APPEARANCE as to FEDERAL ELECTION COMMISSION. Attorney Erin R Chlopak terminated. (Bonham, Robert) (Entered: 08/27/2018)
01/25/2019	<u>108</u>	NOTICE of Change of Address by Lewis Kleiman Loss (Loss, Lewis) (Entered: 01/25/2019)
02/12/2019	<u>109</u>	MOTION Seeking A Resolution Of The Parties' Summary Judgment Motions re <u>90</u> MOTION for Summary Judgment , <u>83</u> MOTION for Summary Judgment by PETER ACKERMAN, GREEN PARTY OF THE UNITED STATES, LEVEL THE PLAYING FIELD, LIBERTARIAN NATIONAL COMMITTEE, INC. (Shapiro, Alexandra) (Entered: 02/12/2019)
03/31/2019	<u>110</u>	MEMORANDUM OPINION regarding Plaintiffs' motion <u>83</u> for summary judgment, Defendant's cross-motion <u>90</u> for summary judgment, Defendant's motion <u>92</u> to strike, and Plaintiffs' motion <u>99</u> to supplement the record. Signed by Judge Tanya S. Chutkan on 3/31/2019. (lctsc1) (Entered: 03/31/2019)
03/31/2019	<u>111</u>	ORDER denying Plaintiffs' motion <u>83</u> for summary judgment; granting Defendant's cross-motion <u>90</u> for summary judgment; granting, in part, and denying, in part, Defendant's motion <u>92</u> to strike; and denying Plaintiffs' motion <u>99</u> to supplement the record. This is a final appealable order. The Clerk of Court is respectfully directed to close this case. Signed by Judge Tanya S. Chutkan on 3/31/2019. (lctsc1) (Entered: 03/31/2019)
04/02/2019		MINUTE ORDER: In light of the Memorandum Opinion <u>110</u> and Order <u>111</u> dated March 31, 2019, Plaintiffs' motion <u>109</u> seeking a resolution of the summary judgment motions is TERMINATED as moot. Signed by Judge Tanya S. Chutkan on 4/2/2019. (lctsc1) (Entered: 04/02/2019)
04/22/2019	<u>112</u>	NOTICE OF APPEAL TO DC CIRCUIT COURT as to <u>110</u> Memorandum & Opinion, <u>111</u> Order on Motion for Summary Judgment,,, Order on Motion to Strike,, Order on Motion for Miscellaneous Relief, by PETER ACKERMAN, GREEN PARTY OF THE UNITED STATES, LEVEL THE PLAYING FIELD, LIBERTARIAN NATIONAL COMMITTEE, INC.. Filing fee \$ 505, receipt number 0090-6075109. Fee Status: Fee Paid. Parties have been notified. (Shapiro, Alexandra) (Entered: 04/22/2019)
04/23/2019	<u>113</u>	Transmission of the Notice of Appeal, Order Appealed (Memorandum Opinion), and Docket Sheet to US Court of Appeals. The Court of Appeals fee was paid this date 4/22/19 re <u>112</u> Notice of Appeal to DC Circuit Court,. (ztd) (Entered: 04/23/2019)
04/25/2019		USCA Case Number 19-5117 for <u>112</u> Notice of Appeal to DC Circuit Court, filed by LIBERTARIAN NATIONAL COMMITTEE, INC., GREEN PARTY OF THE UNITED STATES, PETER ACKERMAN, LEVEL THE PLAYING FIELD. (zrdj) (Entered: 04/25/2019)

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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LEVEL THE PLAYING FIELD, <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 15-cv-1397 (TSC)
	)	
FEDERAL ELECTION COMMISSION,	)	
	)	
Defendant.	)	

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**ORDER**

Before the court are Plaintiffs’ motion for summary judgment (ECF No. 37) and Defendant’s cross-motion for summary judgment (ECF No. 42). Upon consideration of the motions, the Administrative Record (ECF No. 58), and the arguments at the hearing held on January 5, 2017, Plaintiffs’ motion is GRANTED, and Defendant’s cross-motion is DENIED.

Pursuant to 52 U.S.C. § 30109(a)(8)(C), the FEC is ORDERED to reconsider the evidence and allegations and issue a new decision consistent with this Opinion “within 30 days, failing which the complainant[s] may bring, in the name of such complainant[s], a civil action to remedy the violation involved in the original complaint.”

The FEC is FURTHER ORDERED to reconsider the Petition for Rulemaking and issue a new decision consistent with this Opinion within sixty days.

Date: February 1, 2017

*Tanya S. Chutkan*  
TANYA S. CHUTKAN  
United States District Judge

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

---

LEVEL THE PLAYING FIELD, <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 15-cv-1397 (TSC)
	)	
FEDERAL ELECTION COMMISSION,	)	
	)	
Defendant.	)	

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**ORDER**

On February 1, 2017, this court granted Plaintiffs’ motion for summary judgment and held that the FEC’s reason-to-believe determinations and subsequent dismissals in Matters Under Review 6869 and 6942 were arbitrary and capricious and contrary to law. On February 6, 2017, the FEC moved for clarification and/or reconsideration of this court’s Order. (ECF No. 62). Three days later, Plaintiffs also filed a motion for clarification and partial opposition to the FEC’s motion. (ECF No. 63). As explained further below, the FEC’s motion is GRANTED IN PART and DENIED IN PART, and Plaintiffs’ motion is GRANTED.

Under the Federal Elections Campaign Act, a court “may declare that the dismissal of the complaint . . . is contrary to law, and may direct the Commission to conform with such declaration within 30 days.” 52 U.S.C. § 30109(a)(8)(C). Pursuant to this provision of the Act, this court ordered the FEC to “reconsider the evidence and allegations and issue a new decision consistent with this Opinion within 30 days.” (ECF No. 61). The FEC now seeks clarification as to the scope of their obligations on remand.

Plaintiffs brought suit after the FEC determined with regard to two complaints that there was no reason to believe that respondents had violated the Act. This court found that in making

these reason-to-believe determinations the FEC acted arbitrarily and capriciously and contrary to law by failing to notify respondents, failing to consider evidence, failing to articulate its legal analysis, and failing to engage in reasoned decision-making with respect to its conclusion that the CPD's polling criterion was objective. It is these determinations that the FEC must now revisit on remand. Therefore, the court clarifies that its February 1 Order requires the agency to notify respondents, consider their written responses, consider the full evidence submitted by Plaintiffs, determine whether there is reason to believe any of the respondents has violated the Act, and issue a new statement of reasons in support of that determination.

The FEC additionally seeks reconsideration with respect to the deadline by which they must have complied with this court's remand order. Congress itself set a firm and expeditious deadline for reevaluating a dismissed complaint on remand: thirty days. 52 U.S.C. § 30109(a)(8)(C). The FEC requests additional time to make its reason-to-believe determinations because it must provide respondents with at least fifteen days to submit written responses to the allegations. The FEC further points out that reconsidering the complaint and over 700 pages of exhibits from Plaintiffs "takes some time." The court is perplexed by the FEC's assertion that it needs additional time to review the Plaintiffs' submissions given its earlier representations to the court that it had already carefully analyzed this evidence before dismissing Plaintiffs' administrative complaints. Nevertheless, the court will grant the FEC's request for additional time.

In the court's view, thirty additional days is more than sufficient to notify respondents, review their written responses, analyze the evidentiary record, and make a reason-to-believe determination on MURs 6869 and 6942. The FEC is therefore ORDERED to complete these steps of the administrative process within sixty days from the court's initial Order, or by April 3,

2017. If the FEC decides to file an appeal before that date, it remains free to seek a stay as needed.

The FEC additionally raised the concern that were it to find that there is reason to believe one or more respondents violated the Act, it would not be permitted to disclose such a finding publicly due to the Act's requirements. *See* 52 U.S.C. § 30109(a)(12)(A) ("Any notification or investigation made under this section shall not be made public by the Commission or by any person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made."). However, there are numerous mechanisms by which the FEC may notify the court and the Plaintiffs of its findings while adhering to the Act's requirement that an investigation "shall not be made public," such as requesting a protective order before filing a notice with this court.

Finally, Plaintiffs request that the court expressly retain jurisdiction over this matter pending the remand to the FEC, in order to allow them to bring an additional challenge if necessary. Because any further claims Plaintiffs bring regarding the FEC's reconsideration on remand of MURs 6869 and 6942 will be closely related to the issues already analyzed in this case, the court will retain jurisdiction pending remand. *See Cobell v. Norton*, 240 F.3d 1081, 1109 (D.C. Cir. 2001) (district court may retain jurisdiction pending agency remand); *Banner Health v. Burwell*, 126 F. Supp. 3d 28, 105 (D.D.C. 2015) (same).

Date: February 10, 2017

Tanya S. Chutkan  
TANYA S. CHUTKAN  
United States District Judge

**LOSS, JUDGE & WARD, LLP**

TWO LAFAYETTE CENTRE  
1133 21<sup>ST</sup> STREET, NW  
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(202) 778-4060  
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LEWIS K. LOSS  
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[LLOSS@LJWLLP.COM](mailto:LLOSS@LJWLLP.COM)

November 18, 2015

**VIA EMAIL**

Office of the General Counsel  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

Emailed to: [fhampton@fec.gov](mailto:fhampton@fec.gov)

Re: **MUR 6942**

Dear Sir/Madam:

We serve as counsel for the Commission on Presidential Debates (the "CPD") and the individual respondents in connection with MUR 6942. The complaints in MUR 6942 incorporate by reference the complaint in MUR 6869. Accordingly, on July 1, 2015, by way of response in MUR 6942, CPD and the individual respondents incorporated by reference the response and supplemental response they had filed in MUR 6869 on December 15, 2014 and May 26, 2015, respectively. On July 14, 2015, in MUR 6869, the Federal Election Commission found no reason to believe a violation had occurred. However, CPD understands that MUR 6942 remains pending.

On October 20, 2015, complainants in MUR 6942 filed certain supplemental materials with the FEC. CPD did not receive those materials until November 13, 2015. The supplemental materials repeat arguments advanced in MUR 6869 regarding the reliability of polling in general and in three-way races in particular. Insofar as CPD's prior submissions addressed these arguments, CPD respectfully refers the FEC to its prior submissions in MUR 6869 and, in particular, the December 14, 2014 Declaration of Dr. Frank Newport, the Editor-in-Chief of Gallup.

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FEDERAL ELECTION  
COMMISSION  
CELA

LOSS, JUDGE & WARD, LLP

November 18, 2015  
Page 2

Complainants' October 20 filing in MUR 6942 also asserts that "the results from recent Gallup polls belie Dr. Newport's and the CPD's unfounded faith in polling," and that "Gallup's polls throughout the 2012 presidential election exhibited substantial inaccuracies . . . ." Complainants also seize on an announcement by Gallup that it will not conduct "horse race" polling during the presidential primary season as "a tacit acknowledgement that it no longer has confidence in the accuracy of its public opinion polling." These assertions are not well-taken and warrant a brief response.

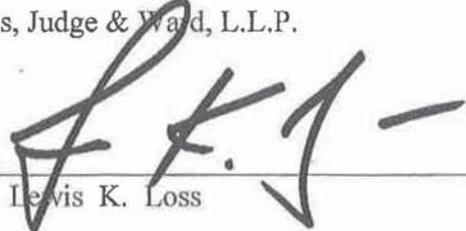
Complainants focus on the accuracy of the polling of one organization, Gallup, in connection with the 2012 presidential election. In addition to the fact that complainants do not and cannot assert that there was any misapplication of CPD's criteria in 2012 or any other election based on alleged polling errors, their focus on any one organization's polls ignores the lengths to which CPD goes to employ a sound process. As pointed out in CPD's previously submitted materials, CPD does not rely on a single organization's polling results. Rather, it relies on the average of five respected national polls that are selected based on the quality of the methodology employed by each organization, each organization's reputation and the frequency of the polls conducted. The use of an average in this way enhances the reliability of the results relied upon. These points are addressed again in the Supplemental Declaration of Dr. Frank Newport submitted herewith.

Second, complainants' assertion that Gallup "no longer has confidence in the accuracy of its public opinion polling," simply is not true. As Dr. Newport states in his attached Declaration, "We at Gallup remain very strong in our belief in the accuracy of polling today, even with the new challenges that are in front of the industry." F. Newport Supplemental Declaration at ¶ 14. Dr. Newport explains that "Others now do this polling," and "Gallup's decision not to engage in horse race polling in the 2016 primary campaign season is one of allocation of resources." *Id.* at ¶ 15. Dr. Newport concludes, "Again, this is not based on a lack of faith in the polling process or the value of horse race polling in general, but rather reflects a focus on how our particular firm can most effectively contribute to the democratic process." *Id.* These points are discussed at greater length in Dr. Newport's attached Declaration.

Based on the foregoing and its previously submitted materials, CPD respectfully submits that the Complaints should be dismissed. If we can provide any additional information, please do not hesitate to let us know.

Respectfully submitted,

Loss, Judge & Ward, L.L.P.

By: 

Lewis K. Loss

Attachment

**BEFORE THE FEDERAL ELECTION COMMISSION**

<b>In the matter of</b>	<b>MUR 6942</b>
<b>The Commission on Presidential Debates, et al.</b>	<b>Supplemental Declaration of Frank M. Newport in Support of the Commission on Presidential Debates' Opposition to Complaint.</b>

I, Frank M. Newport, give this declaration based on my personal knowledge.

1. I am Gallup's Editor-in-Chief. On December 12, 2014, I executed a Declaration in Support of the Commission on Presidential Debates' ("CPD") Opposition to the Complaint in MUR 6869. I understand that my December 12, 2014 Declaration is now part of the record in MUR 6942, in which complainants essentially adopted by incorporation the complaint filed in MUR 6869.

2. I have reviewed the supplemental materials, dated October 20, 2015, filed by complainants in MUR 6942. Much of what is said in those materials repeats assertions made in MUR 6869 and is addressed in my December 12, 2014 Declaration. Rather than repeat many passages from that Declaration, I incorporate it herein, and limit this Supplemental Declaration to a response to the two points that are the focus of the October 20 filing by complainants.

**CPD Uses the Average of Five Polls**

3. First, complainants continue their attack on the reliability of public opinion polling by citing perceived shortcomings in the accuracy of Gallup's pre-election polling in connection with the 2012 presidential campaign (and to a lesser extent in 2004 and 2008). While complainants overstate the issue as to Gallup's polls, the important fact for present purposes is that the CPD, in every election beginning in 2000, has determined whether a candidate has achieved a level of support of at least fifteen percent (15%) of the national electorate not by relying upon a single poll,

but by relying upon the determinations of five selected national public opinion polling organizations, using the average of those organizations' most recent publicly-reported results at the time of the determination.

4. CPD's approach—to select and average the results of five polls that are well-established, long-time, national, published, cited widely and directed by experienced and capable research professionals—minimizes the effect of both sampling and non-sampling errors and is a sound approach to identifying reliably those candidates who have achieved the requisite level of national support, in my professional judgment.

5. In my role as an advisor to CPD advisor, I have in each election cycle recommended to CPD which five national public opinion polls, in my professional judgment, were most suitable to be relied upon. In making my recommendations, I principally considered the quality of the methodology employed, the reputation of the polling organizations and the frequency of the polling conducted. I have made those recommendations based solely upon my professional judgment and without any partisan purpose or pre-determined result in mind. CPD has always adopted my recommendations.

6. The specific polls CPD has relied upon in each election cycle, based on my recommendations, are as follows:

7. 2000: ABC News/The Washington Post, NBC News/The Wall Street Journal, CBS News/The New York Times, Fox News/Opinion-Dynamic, CNN/USA Today/Gallup

8. 2004: ABC News/The Washington Post, NBC News/The Wall Street Journal, CBS News/The New York Times, Fox News/Opinion Dynamic, CNN/USA Today/Gallup

9. 2008: ABC News/The Washington Post, NBC News/The Wall Street Journal, CBS News/The New York Times, Fox News/Opinion Dynamic, USA Today/Gallup

10. 2012: ABC News/The Washington Post, NBC News/The Wall Street Journal, CBS News/The New York Times, Fox News, Gallup

11. I am familiar with the polling methods employed by all of the polling organizations upon whose polls CPD has relied since 2000. Based on my experience and professional judgment, it was, and remains, my professional opinion that these organizations' polls would be conducted in a responsible and professional manner that meets the industry standards and reflects the then-current advances in polling methodology.

**Public Opinion Polling is the Most Accurate Way to Measure Candidate Support Before an Election**

12. In my prior Declaration, I expressed my opinion that public polling is by far the best method of measuring a candidate's support among the electorate prior to Election Day, and I explained the bases for that opinion in detail. I stand by that prior testimony.

13. In their supplemental filing, complainants seize upon misleading news coverage of Gallup's determination not to participate in horse race polling during the 2016 primary campaign season to assert that Gallup no longer has confidence in the accuracy of its public opinion polling. This is false.

14. We at Gallup remain very strong in our belief in the accuracy of polling today, even with the new challenges that are in front of the industry. Our post-mortem work in 2012/2013 and our experimentation in the 2014 midterms leave us with little doubt that polling, including our own, can be accurate in 2016.

15. Gallup's decision not to engage in horse race polling in the 2016 primary campaign season is based on allocation of resources not any lack of confidence in Gallup's ability to conduct accurate polls. In the 2012 cycle Gallup invested a huge amount of time, money and interviewing in tracking the horse race on a nightly basis. Others now do this polling. We have examined in

this cycle whether this is the best investment of our resources, and have decided at present that it is not. Gallup chooses to dedicate its resources more toward understanding where the public stands on the issues of the day, how they are reacting to the proposals put forth by the candidates, what it is they want the candidates to do, and what messages or images of the candidates are developing with the public. Again, this is not based on a lack of faith in the polling process or the value of horse race polling in general, but rather reflects a focus on how our particular firm can most effectively contribute to the democratic process.

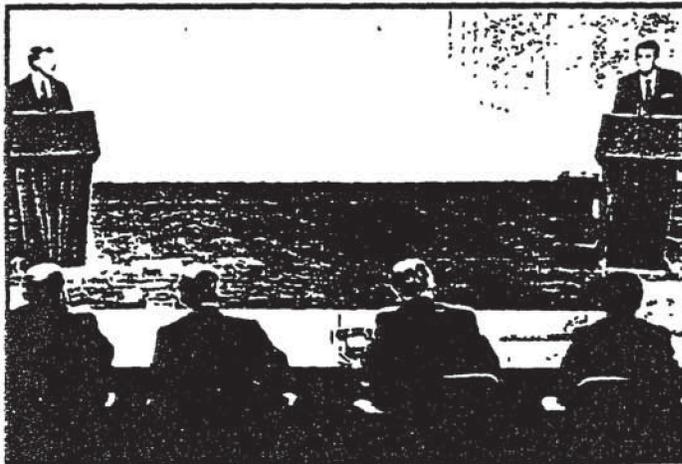
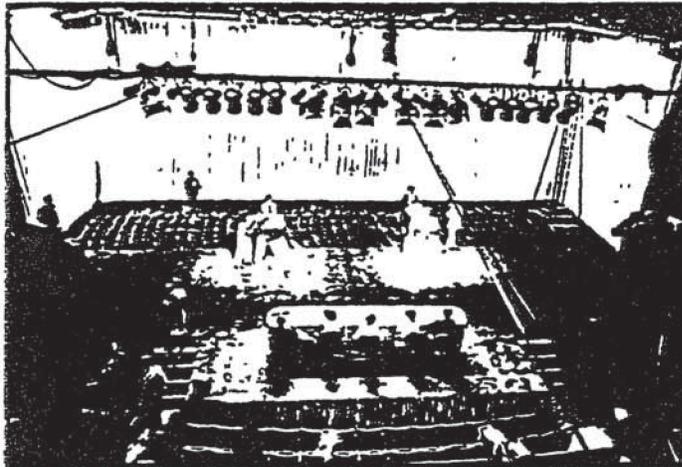
I declare under penalty of perjury that the foregoing is true and correct. Executed this 17<sup>th</sup> day of November, 2015.

A handwritten signature in black ink, appearing to read "Frank M. Newport", written over a horizontal line.

Frank M. Newport, Ph.D.

**Attachment to  
February 20, 2017 Declaration of  
Dorothy S. Ridings**

# THE 1980 PRESIDENTIAL DEBATES: BEHIND THE SCENES



League of  
Women Voters  
Education Fund

25 OCT 1980

OFFICE OF CONGRESS

**Corporate Contributors to the League of Women Voters Education  
Fund for 1980 Presidential Debates**

**Leadership Contributors – \$50,000 or more (cash or in kind)**

Atlantic Richfield Company	Herman Miller, Inc.
BankAmerica Foundation	IBM Corporation
Carter Hawley Hale Stores, Inc.	New York Life Insurance Company
Chevron USA, Inc.	Young & Rubicam, Inc.
Covington & Burling	

**Voters Service Grant of \$50,000 for State and Local League Activities**

Charles Benton Foundation

**Major Contributors – \$25,000**

The MacArthur Foundation

**National Supporters**

Alcoa Foundation	Interlake, Inc.
Anderson Clayton & Company	Lever Brothers Foundation
Beatrice Foods Company	Liggett Group, Inc.
Blue Bell, Inc.	Loctite Corporation
The Coca-Cola Company	Merck & Company
First City National Bank of Houston	O. I. Corporation
General Electric Company	Radio Corporation of America
W. R. Grace & Company	The Scherman Foundation
Gulf Oil Company	Sidney Stern Memorial Trust
Gulf & Western Foundation	Texas Utilities Company
Hoffman-La Roche, Inc.	Warner Communications, Inc.
Honeywell, Inc.	Waste Management, Inc.

The LWVEF gratefully acknowledges the many cash and in-kind contributions by corporations in Baltimore and Cleveland to defray site expenses.

The LWVEF also acknowledges, with great appreciation, the many cash and in-kind contributions of League members and citizens throughout the country to defray the costs of the Forums and Debates.

## The 1980 Presidential Debates: Behind the Scenes

On October 28, 1980, 120 million Americans, the largest television audience in our nation's history, watched Jimmy Carter and Ronald Reagan debate face-to-face. This event climaxed a long and grueling presidential campaign. Interest in it – on the part of both press and public – intensified as the long-playing drama unfolded and election day approached. Would the major presidential candidates actually face one another in what had been billed as the superbowl of the 1980 election?

The League of Women Voters, which sponsored this and the preceding Debate between Ronald Reagan and John Anderson, as well as three Presidential Forums during the primary season, undertook many roles during that critical time. It was by turns negotiator, mediator, fundraiser and producer, as it tried to overcome the obstacles and resolve the conflicting aims of all those with a stake in the debates. The public clearly wanted to see and hear presidential candidates at the same time, in the same place and under the same conditions. The candidates and their strategists understandably were seeking the most advantageous conditions and were anxious to control the terms of debates. If they didn't get what they wanted at any given time – conditions that changed as the political fortunes of the campaign shifted – they could walk away. The League's difficult job was to resolve those often conflicting interests and make the Presidential Debates a reality.

Against considerable odds, the League was successful in making two Presidential Debates happen in 1980 – Debates that set several benchmarks that promise to have a lasting effect on the way voters choose their presidents. It was the first time a debate sponsor grappled with the participation of nonmajor party candidates, an issue that is likely to persist in future debate presentations. What is perhaps more important, the League's successive sponsorship of 1976 and 1980 Presi-

dential Forums and Debates puts the organization well on the way toward achieving one of its major voters service goals – to establish such debates as an integral part of every presidential election.

### Laying the Groundwork for 1980

The League's determination to sponsor Presidential Forums and Debates in 1976 and 1980 was deeply rooted in its own history and sense of mission. The League has been committed to providing a variety of services to voters since its founding in 1920. State and local Leagues throughout the country have for years offered nonpartisan arenas for candidates to discuss campaign issues so that voters could make side-by-side comparisons of the candidates and their views. These candidate events have dealt with every elective office from local school boards to the United States Senate.

When the League set out in 1976 to bring presidential candidates together in a series of primary forums and general election debates, its sponsorship was thus a natural, though major, extension of the long tradition of these state and local League-sponsored candidate events. And the timing was right. There had not been presidential debates since 1960, when John Kennedy and Richard Nixon faced one another in network-sponsored debates. Sixteen years later, in 1976, the public wanted presidential debates (a Gallup poll showed that seven out of 10 people were in favor of debates), and very significantly, the candidates wanted them, too. With this tide flowing in its favor, the League was successful in its first Presidential Debates project. By the end of the 1976 election season, the League had presented four Forums at key points during the primaries and three Debates between the Republicans' candidate, Gerald Ford, and the

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Democrats' candidate, Jimmy Carter, as well as one between their running mates, Robert Dole and Walter Mondale.

As the next presidential campaign approached, the League's national board weighed the merits of making so major an effort once again. The League knew from experience that there was a huge "consumer demand" for more thoughtful treatment of the issues in the campaign and for getting the candidates to discuss their positions on the issues in a neutral setting. The board concluded that debates could serve as essential a role in 1980 as they had in 1976, by providing a necessary alternative to the 30- and 60-second spots and the paid political programs.

Once again, the League mobilized state and local Leagues throughout the country, undertook a massive fundraising drive, hired staff to

direct the project, began visiting potential debate sites and committed the whole organization to ensure that a series of Presidential Forums and Debates would be a part of the 1980 presidential election.

As it turned out, a series of four Presidential Forums throughout the primary season scheduled, only three of which took place. Though the original schedule provided events at each site, one for Democratic candidates, one for Republican aspirants, political candidates met face-to-face to address key campaign issues. The opposite was true in 1976 when forums took place only between Democratic candidates. (See Appendix A for details on 1980 Forums).

Near the end of the 1980 primaries, Ford and Reagan and Jimmy Carter, who each se

### **The League of Women Voters Education Fund – Sponsor of the Debates**

The League of Women Voters Education Fund (LWVEF) was established in 1957 as a research and citizen education organization (with 501(c)(3) tax status) by the League of Women Voters of the United States (LWVUS), a membership and action organization (with 501(c)(4) tax status) dedicated to promoting political responsibility through informed and active participation of citizens in government.\* The LWVEF provides local and state Leagues as well as the general public with research, publications and other educational services, both on current issues and on citizen participation techniques. The network of local Leagues has a multiplier effect in bringing the Education Fund's services to the wider public. Through workshops, conferences and the distribution of publications, Leagues disseminate the LWVEF's research and "how-to" citizen aids.

On the national level, the Education Fund's historic 1976 Presidential Forums and Debates paralleled the service to voters that local and state Leagues provide at election time with their candidate meetings. The Forums were the first series of their kind presented before the primaries, and the Debates marked the first time in more than 16 years that presidential candidates met face-to-face.

\*The two organizations, LWVUS and LWVEF, are explicitly identified in the text only where the distinctions are important to the particular points being discussed. Otherwise, the term "League" is used throughout to refer to the LWVEF.

likely to be his party's nominee, publicly agreed to participate in League-sponsored Debates that fall. In fact, Reagan's announcement came during the last League-sponsored Forum on April 23 in Houston, Texas. Moderator Howard K. Smith put the direct question to Reagan and to George Bush: "If nominated by your party, would you agree to participate [in League-sponsored Presidential Debates]?" Governor Reagan's reply: "I can't wait."

Carter's promise came on May 5, 1980 when he addressed the national convention of the League of Women Voters of the United States in Washington, DC. He was asked, "Mr. President . . . we'd like to know if you'd give your promise to us today to participate in the League-sponsored Presidential Debates this fall if you are the nominee of the Democratic Party." Mr. Carter's reply: "Yes! Yes I will be glad to participate this fall if I am the nominee. It would be a great pleasure to be the nominee and to debate . . ."

With public commitments in hand, the League turned toward several other issues related to the Debates, such as eligibility requirements for candidate participation, format, number of debates, and selection of debate sites. As a means of soliciting preliminary advice on these and other topics, the League's board established a 28-member Public Advisory Committee on Presidential Debates. The committee was chaired by Carla Hills, former Secretary of Housing and Urban Development with the Ford Administration, and Newton Minow, former chairman of the Federal Communications Commission under President Kennedy.

In July, the League's board announced its proposed schedule for the series: three Presidential Debates and one Vice-Presidential Debate, starting in September. At the same time, they reviewed some 20 potential debate sites and identified Baltimore, Maryland; Cleveland,

Ohio; Louisville, Kentucky; and Portland, Oregon, as the proposed sites for these Debates. Geographical diversity was a factor in selecting the sites, as was the availability of suitable facilities.

What was left to determine were the criteria by which candidates would be invited to debate — a process that was to become a *cause célèbre*.

## Criteria: The Debate About Who Should Debate

The inclusion of independent and third-party candidates in presidential debates was completely uncharted territory. There was no history to look back on. The Kennedy-Nixon debates in 1960 and the Ford-Carter debates in 1976 had set a precedent for debates between major-party candidates, but there was no precedent for how to deal with the fact that from time-to-time an independent or minor-party candidate emerges as a significant force in a presidential campaign. Since 1980 seemed to be such a year, it was imperative that the League set objective criteria early by which to determine which candidates merited treatment as "significant."

Literally dozens of candidates were interested in being included. Yet the goal of having candidates deal with the issues in some depth would be defeated if the cast of characters became too large. The League knew that it would also be much harder to get the major-party candidates to agree to debate if they had to share the platform with candidates they considered less significant. Therefore, the League decided not only to establish criteria for the selection of debate participants, but also to announce these criteria well before applying them, so that both the public and the candidates would know all the rules.

4

For the League, no issue took more attention or involved more discussion than the development of these criteria. The League knew that such criteria would not only play a critical part in the 1980 debates planning, but also that these criteria and the process by which they were determined would be carefully scrutinized. Moreover, the Federal Election Commission (FEC), the agency set up to regulate federal elections, would view the criteria as a measure of the League's nonpartisanship. (The FEC permits a debate sponsor to exercise its discretion as to whom to invite as long as debates are nonpartisan and include at least two candidates. See box, p. 8, for a detailed description.)

The criteria for selecting candidates to appear were based on the FEC's requirements and the League's own long-standing and strict standards for offering voters reliable, nonpartisan pre-election information about candidates and their positions on issues. They had to be nonpartisan; they had to be capable of objective application, so that they would be as free as possible from varying interpretations; and they had to be easy to understand.



UPI  
LWV President Ruth J. Hinerfeld meets with James Baker, chairman of the Reagan for President committee (L) and Carter Campaign Chairman Robert Strauss (R) to work out details for a Carter-Reagan debate.

On August 9, the League's board adopted three criteria by which invitations would be extended. Any candidate invited to participate would have to meet *all three*:

1. *Constitutional eligibility* — Only those candidates who met the requirements of the Constitution of the United States were considered. Article II, Section I requires the President to be a "natural born citizen," at least 35 years of age, and a resident within the United States for at least 14 years.
2. *Ballot access* — A presidential candidate had to be on the ballot in enough states to have a mathematical possibility of winning the election, namely, a majority of votes (270) in the Electoral College.
3. *Demonstrated significant voter interest and support* — A candidate could demonstrate significant voter interest and support in one of two ways: nomination by major party; or, for minor-party and independent candidates, nationwide public opinion polls would be considered as an indicator of voter interest and support. Those candidates who received a level of voter support in the polls of 15 percent or a level of support at least equal to that of a major-party candidate would be invited to participate in the Debates.

The criteria were announced at a press conference in New York City on August 10. The first and second criteria occasioned little comment, but the 15-percent level of support in nationwide public opinion polls created considerable controversy, with the press, the public and the candidates all getting into a mini-debate about the use of polls and the appropriate threshold for deciding who should be invited to debate.

Some, including pollsters, questioned the use of polling data to measure significant voter support, since polls are subject to

sampling error and variation in techniques. The League acknowledged the fact that poll data were not perfect, but argued that polls were the best objective measure available for determining how much voter interest and support a nonmajor party candidate had at a given point in the course of the campaign. And that is what the League had to gauge before extending invitations.

Others criticized either the use of a specific figure or the choice of 15 percent as that figure. Threshold levels ranging between 15 and 25 percent had been discussed by the Advisory Committee. The League's board, after carefully weighing the options, decided that a specific figure, though admittedly arbitrary, would provide the most objective basis for a decision. In settling on the 15-percent figure, the board took into account a number of factors: the records of public opinion polls in previous presidential elections and their relationship to election outcomes; the substantial obstacles faced by nonmajor party candidates; and variations among public opinion polling techniques and the precision of their results. The board concluded that any nonmajor party candidate who, despite the odds such candidates face, received even a 15-percent level of support in the polls should be regarded as a significant force in the election.

The League's board also decided that it was essential to apply the criteria to nonmajor party candidates as close in time to the first Debate as was realistically possible. To allow a sufficient amount of poll data to be gathered between the last major-party convention and the scheduled first Debate, which was targeted for the third week in September, it was clear that the League could not effectively apply the criteria until the second week in September.

At the same August 10 press conference, it was announced that the League would extend

formal invitations to the major-party candidates later that week at the conclusion of the Democratic National Convention. (The Republicans had met in July.)

Realizing that decisions made in early September, while appropriate at that time, might not remain so, the League's board had also determined that it was essential, in order to be faithful to the purposes of the Debates, to reserve "the right to reassess participation of nonmajor party candidates in the event of significant changes in circumstances during the debate period." League President Ruth J. Hinerfeld gave clear notice at the August 10 press conference that the board would review such candidates' standings before subsequent debates in light of the established criteria, then extend or withhold invitations accordingly.

The establishment of the criteria cleared the way for the League to invite candidates to debate.

## The Politics of Debating

By the summer of 1980, as the League was ready to extend invitations to the major-party candidates, the public commitments those candidates had made in the spring to participate in League-sponsored Debates had begun to waver. The political climate had changed. John Anderson's independent candidacy had gained momentum and had become a force to be reckoned with by both the candidates and the League.

On August 19, a week after the Democrats nominated Jimmy Carter as their standard bearer in 1980 (Ronald Reagan had already been nominated by the Republican Party), the League formally invited Jimmy Carter and Ronald Reagan to participate in a series of three Presidential Debates — the final date

sites and formats to be worked out at a later time.

By late August, neither candidate had said yes to the League's invitation. Starting on August 26, the League began to meet with their representatives in joint session to discuss the whole debate package, including the number of debates, dates, sites and formats, and to secure an agreement from both candidates to debate. Carter strategists wanted earlier debates, Reagan strategists wanted later debates; Carter representatives wanted more debates, Reagan representatives wanted fewer debates. All these specifics were put on the table for discussion — none of the differences seemed insurmountable. Yet at the end of this meeting neither side made a commitment to debate — each was waiting to see whether John Anderson would be included.

On September 9, after reviewing data from five different polling organizations, in consultation with three polling experts (not involved in the polls being used), the League announced that John Anderson met its criteria, and he was immediately invited to participate in a three-way Debate in Baltimore on September 21.\* He accepted immediately, as did Ronald Reagan. Jimmy Carter announced that he would participate in a three-way Debate only after a two-way Debate with Ronald Reagan. Having established its criteria and having invited John Anderson, the League would not agree to Carter's proposal.

Following the September 9 decision, the

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\*The five polling organizations whose data the League examined were: Louis Harris Associates, the Los Angeles Times, the Roper Organization, NBC/Associated Press and the Gallup Poll. The three polling experts consulted by the League were: Mervin Field, Chairman of the Board of the Field Research Corporation; Lester R. Frankel, Executive Vice-President of Audits and Surveys, Inc.; and Dr. Herbert Abelson, Chairman of the Board of Response Analysis Corporation.

League set up meetings with the candidates' representatives to reach agreement on the details of the first Debate, scheduled for September 21. All aspects of this first Debate in Baltimore were agreed upon by Reagan and Anderson representatives. Carter had still not agreed to debate.

The invitation to debate remained open to Jimmy Carter, and the League indicated that a third podium would be held in readiness for him at the Baltimore Debate in the hope that he would be present. For several days, the possibility of a third podium or "empty chair" was the source of considerable speculation in the press and a favorite topic for political cartoonists. However, when it became apparent that Jimmy Carter would not change his mind about participating in a three-way Debate, the League announced that there would be no "empty chair" in Baltimore. The first 1980 League-sponsored Debate took place on September 21 as scheduled, but only Reagan and Anderson took part. (See Appendix B for details on 1980 Debates.)

In sponsoring the Baltimore Debate, the League had held firm to its plan to invite all significant candidates to debate and had not agreed to Carter's condition that he would appear in a three-way Debate only after debating Ronald Reagan one-on-one. However, the League also recognized that the Baltimore Debate had failed to meet its goal of giving voters an opportunity to see and hear all of the significant presidential candidates at the same time, in the same place under the same conditions. Unfortunately, prospects for a three-way Debate did not improve after September 21. With Carter's terms unchanged and with Anderson still showing enough support in the polls to meet the League's criteria for participation, it appeared there might be no further debates.

Yet it was becoming increasingly clear that the public wanted more debates. The League

was caught between the "irresistible force" of voter demand and the "immovable object" of Carter's demand. In an effort to break the stalemate, the League called all three candidates' representatives shortly after the Baltimore Debate and put forward a new package. The League now offered a two-way Debate between Carter and Reagan tied to a three-way Debate among Carter, Reagan and Anderson. This time Carter and Anderson accepted, but Reagan rejected the plan.

At the same time the League made this offer, it also invited all three vice-presidential candidates to participate in a Debate in Louisville, Kentucky. Democrat Walter Mondale said yes, Independent Patrick Lucey said yes, but Republican George Bush said no. When Bush said no, Mondale then declined the League invitation, and the vice-presidential debate was cancelled.

The presidential series also appeared doomed. The League withdrew its proposal when no agreement could be reached, and there seemed very little hope of working out any future agreement. In the next few weeks, however, several developments helped to break the stalemate. Voter interest in a debate between the major-party candidates continued to build, as evidenced by major national public opinion polls released during that period. Editorials and columns appeared in some of the nation's leading newspapers and magazines calling on Jimmy Carter and Ronald Reagan to debate one-on-one.

During this same period, the polls also showed that John Anderson's support was eroding. In mid-October, in keeping with the policy established when the criteria were announced, the League's board reviewed his eligibility for participation. The board examined the results of five national polls taken between September 27 and October 16, conducted by the same polling organizations whose results the League had examined in



*LWF officials brief the journalists who formed the panel of questioners for the debate in Baltimore between Ronald Reagan and John Anderson.*

making its early September decision. Four of these five polls showed John Anderson's level of support below 15 percent, clearly below the levels of support he received in those same polls in early September. In consultation with the same three polling experts with whom it had conferred earlier, the League's board determined that John Anderson no longer met the League's criteria. The League then — on October 17 — invited Jimmy Carter and Ronald Reagan to debate in Cleveland, Ohio on October 28. Both candidates accepted the invitation.

The scenario was very different from that first envisioned by the League. As originally planned, a debate so late in the campaign would have been the last in a series of three, a series that would have offered the possibility of varying the subject matter and format. Now, the two main contenders would have only one chance to face one another. October 28 had become transformed from one in a series of opportunities for candidates and voters to deal thoughtfully with the issues into a winner-take-all event.

With such high stakes, planning for the actual Debate was a delicate process. Candidates' representatives were concerned about audience size, color of backdrop, the place-

ment of still photographs in the hall, etc. But the format was of greatest concern.

For the very reason that the Cleveland Debate would now be the only one between the two major-party candidates, the League urged a format that would produce the freest possible exchange on the broadest possible range of campaign issues — namely, using only a moderator to direct the flow of exchange between the two candidates. It was a format that had worked exceptionally well in the second of the 1980 League-sponsored Forums in Chicago.

For exactly the same reason — that it was to be the only Debate between Carter and Reagan — this format was not acceptable to either candidate. With the stakes so high, neither was willing to take his chances on such a free-flowing format. Both insisted on a more predictable exchange, using a moderator and panelists as in the 1960 and 1976 debates.

The League, like many viewers and press critics, was far from satisfied with either this format or that of the September Debate. The fact was, however, that the candidates' representatives insisted on the "modified press conference" format of both Debates, negotiated to the minutest detail. It was that or nothing.

Closely allied to the format issue was that of panel selection. The League had developed a roster of 100 journalists from which the moderators and panelists for both Debates were finally drawn. League staff conducted an exhaustive search through consultation with professional media associations, producers of major news analysis shows and editors and news directors representing minority media. Particular attention was given to the journalists' areas of expertise and their reputation for fair and objective reporting of the issues.

The final selections were made by the League in consultation with the co-chairs of

## The League

When the League announced in November 1979 its intention to sponsor a series of Presidential Forums and Debates, it was in the midst of a prolonged struggle over funding sources and the structure of federal candidate debates with the Federal Election Commission (FEC), the agency set up to regulate federal elections under the 1974 Federal Election Campaign Act (FECA). One of the provisions of that act made it unlawful for any corporation or union "to make a contribution or expenditure in connection with an election to any political office...." In 1976, while the LWVEF was planning the 1976 Presidential Forums, the FEC informed the League that corporate and union funds to finance the Forums would not be prohibited as long as such contributions "do not have the effect of supporting or opposing particular parties or candidates." But after the LWVEF had already conducted the forums series partly financed by corporate and union contributions, the FEC issued a policy statement barring 501(c)(3) organizations such as the LWVEF from accepting corporate or union donations to defray the costs of such events as debates. The FEC admitted that corporate and union donations to the LWVEF were not political contributions or expenditures under FECA's definition of those terms, but the agency said that the LWVEF's expenses were nevertheless "in connection with" an election and therefore could not come from corporate or union sources.

The 1976 decision, which was made in advance of the League-sponsored Forums and Debates, had a devastating effect on the League's

## and the FEC: Financing the Debates

plans to fund these Presidential Debates. Forced to rely solely on contributions from individuals and unincorporated organizations, the League was unable to raise enough money to cover the full cost of the 1976 Debates.

On February 11, 1977, convinced that Presidential Debates were an important educational service to the public, and fearing the FEC decision would have an impact on state and local League-sponsored candidate events, the League of Women Voters of the United States, the League of Women Voters Education Fund and the League of Women Voters of Los Angeles sued the FEC, challenging its decision to prohibit the LWVEF from accepting corporate and union money.

As a result of the lawsuit and FEC public hearings on the importance of debates to an informed electorate, the FEC cancelled its earlier decision and agreed to begin the process of writing regulations that would clarify issues of debate funding and sponsorship. The League did not believe that any regulations in this area were necessary but saw them as a way to remove the chilling effect of the FEC's prior action on potential corporate donors.

The process of setting those regulations took almost three years. In order to guarantee nonpartisanship, the FEC formulated regulations limiting sponsors of debates to those who might reasonably be expected to act in a nonpartisan manner and by establishing strict rules as to who might be invited to participate in the debate.

The agency's first attempt at regulation was vetoed by the Senate in September 1979.

Thus the FEC began the rulemaking process again and developed a regulation that took effect on April 1, 1980, barely in time for the League to undertake the massive fundraising necessary to sponsor the 1980 Presidential Debates. This regulation broadened sponsorship of debates to 501 (c)(3) and 501 (c)(4) organizations that did not endorse, support or oppose political candidates or parties. It also allowed bona fide broadcasters and the print media to spend corporate money to stage debates. It left to the discretion of the sponsor the method by which candidates were chosen to participate. The FEC stated that debates are required to be nonpartisan and left it up to the sponsor as to how that was to be achieved.

As soon as the new regulation went into effect, the League began to raise money from corporations for the 1980 Presidential Debates. A breakthrough in securing the necessary amount of funding came when six major corporations each contributed \$50,000. (See inside front cover for list of corporate contributors.) (The largest single contribution in the history of the LWVEF's Debates project was a gift of \$250,000 from the Charles Benton Foundation in 1976, made before the 1976 FEC ruling.)

In all, the League raised and spent nearly \$700,000 for the 1980 Presidential Forums and Debates, which could not have taken place without the generous contributions of the corporations and individuals involved. This \$700,000 was greatly augmented by the value of volunteer hours — particularly those of League members in Baltimore, Louisville, Portland and Cleveland — making the Debates far more than a million dollar effort.

the Advisory Committee, Carla Hills and Newton Minow, after they discussed the pool of journalists with the candidates' representatives.

The League preferred to keep the candidates' representatives entirely out of the panel selection process. However, because of the tremendous significance of the Cleveland Debate, the candidates' representatives insisted on being involved in almost every decision – large and small.

## A Look Back... and a Look Ahead

Scholars Steven Chaffee and Jack Dennis write that while many questions about debates need more study and research, one conclusion drawn from studies of the 1960 and 1976 presidential debates is that "the debates make substantial contributions to the process of democracy and perhaps even to the longer-term viability of the system. The research offers a great deal of support for the proposition that the debates serve important informational functions for voters."<sup>1</sup> They enable the voter to weigh the alternatives being proposed by each candidate, and "as an information-gathering device they have the unique virtue of allowing a simultaneous consideration of the alternatives,"<sup>2</sup> without which the voter is forced to gather information from "a large series of such discontinuous, one-sided presentations as advertisements, news reports of speeches, and party conventions."<sup>3</sup>

When scholars, historians and political ob-

<sup>1</sup>*The Past and Future of Presidential Debates*, Austin Ranney, Ed. "Presidential Debates: An Empirical Assessment" by Steven H. Chaffee and Jack Dennis, 1979, American Enterprise Institute, p. 98.

<sup>2</sup>*Ibid.*, p. 99.

<sup>3</sup>*Ibid.*, p. 99.

servers write the definitive history of the Presidential Debates, how will they be viewed? What contributions did they make toward the democratic system of government? How will the League's experience as sponsor – both successes and its failures – serve to improve the quality of debates in the future?

Although it is too early to achieve an historical perspective, it is possible to make some telling observations about the significance of the 1980 Presidential Debates and the lessons to be learned. The nature and quality of the 1984 presidential campaign – a fast-approaching event – will be affected by how constructively we use the intervening time to evaluate the 1980 Presidential Debates' experience in order to build a better one in 1984.

Presidential Debates in 1984? Yes. Presidential Debates every four years are now becoming the norm: never before have we had debates in consecutive presidential elections. This nascent tradition, together with voters' heightened sense of entitlement – a right to see and hear presidential candidates debate the issues at the same time, in the same place and under the same conditions – will weigh heavily against the reluctance of future candidates to participate.

But even if the weight of voter expectation overrides the resistance of major-party candidates, the complex problems surrounding the participation of minor-party and independent candidates remain. In a 1979 report, the 20th Century Fund Task Force on Televised Presidential Debates called this "the single most difficult issue confronting Presidential Debates." (The 20th Century Fund is an independent research foundation that studies economic, political and social institutions and issues.) In 1980, the League tackled the issue with its eligibility criteria. That approach will be a starting point for all future efforts to set rules for debate participation.

## Backstage at the Debates

In 1975, the Federal Communications Commission ruled that debates could be exempt from the "equal time" restrictions of Section 315 of the Communications Act of 1934 if sponsorship was independent of both broadcasters and candidates and the debates could be classified as bona fide news events. Thus, in 1976 and 1980, the League served as the independent sponsor of the Debates, which were covered by the broadcast media as news events.

In 1980:

- 45.8 million households, approximately 120 million viewers, in the United States watched the Carter-Reagan Debate.
- 1,204 members of the media were present in Baltimore to cover the Anderson-Reagan Debate; 1,632 media representatives were in Cleveland to cover the Carter-Reagan Debate. This included still photographers and print, TV, radio and foreign journalists.
- The Voice of America broadcast the Debates live or tape-delayed in English to a worldwide listening audience. VOA's 39 language services used excerpts of the Debates in translation for newscasts. The Debates were broadcast live in Spanish to all of Latin America.

The League itself gives the 1980 Presidential Debates experience mixed reviews. It takes pride in the history-making nature of its efforts. And it takes pride in adhering to its main goal. The League's persistence *did* enable American voters, in record-breaking numbers, to hear significant presidential candidates debating the issues. It met an unquestionable "consumer demand": an October 1980 national public opinion poll found that 73 percent of the people surveyed wanted such debates. Voters had two opportunities to make side-by-side comparisons of candidates and their positions on the issues. In an election characterized by slick candidate packages — 30- and 60-second radio and television advertisements and canned speeches — the League Debates gave the voters the solid information they needed to help them cast an informed vote.

Yet despite the clear demand from voters for this service, the 1980 Presidential Debates were in constant jeopardy. League plans for a comprehensive series of four Debates — three among presidential candidates and one

among their running mates — had to be abandoned; a three-way Debate never took place; and because the major-party candidate met only once, that Debate took on all the burdens of a "winner-take-all" event. Issues concerning structure and format were negotiated to the minutest detail. Candidates were unwilling to try new formats, and they threatened to walk away from debating at many turns if they did not get what they wanted.

These difficulties faced by the League in 1980 will be facing the League or any other debates sponsor in the future. Whenever a major candidate sees disadvantages in sharing a platform with an opponent, a debate may not take place. And whenever the smallest feat of the plan seems disadvantageous, the threat to walk away can hold the effort hostage. To ensure that improved debates become a regular part of every presidential election, and to examine and improve the political communications process (how candidates communicate to voters their stands on issue — the LWVEF has embarked on a three-year

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*Above, LWVEF Chair Ruth J. Hinerfeld briefs the press the day before the Cleveland debate between Jimmy Carter and Ronald Reagan.*

project leading up to the 1984 presidential election. The League will reach out to the 73 percent of Americans who have said they are in favor of debates through their various organizations, institutions and as individuals.

The purpose of this effort is to raise issues about the ways in which candidates communicate with the electorate, and to educate the public about debates and the whole political communication process. The events will include town meetings, opinion leader gatherings and hearings among others. Above all, this project will identify and mobilize the debates constituency so that the constituency can demand of future candidates that they face each other and the public in an open exchange of ideas.

The League's primary goal is to see that presidential debates occur in 1984 and in the future, and that the debates process continue to be improved. The League's experience as a sponsor of Presidential Debates in 1976 and 1980, combined with the long tradition of state and local League-sponsored candidate events, places the organization in an ideal position to ensure that this happens.

## Appendix A 1980 Presidential Forums\*

### First Presidential Forum

Wednesday, February 20, 1980  
8:30-10:00 p.m. EST  
Manchester, New Hampshire

- Moderator:** Howard K. Smith, broadcast journalist
- Panelists:** Joseph Kraft, syndicated columnist  
Eileen Shanahan, managing editor, *Washington Star*
- Candidates:** Representative John Anderson  
Senator Howard Baker  
Ambassador George Bush  
Governor John Connally  
Representative Phillip Crane  
Senator Robert Dole  
Governor Ronald Reagan
- Format:** Part I. Seven questions were posed. The candidate to whom a question was first addressed had two minutes to respond; the other six candidates each had one minute to respond. Total: 1 hour.
- Part II. Individuals from the audience directed their questions to a specific candidate who was given one and one-half minutes to respond. Total: 23 minutes.
- Part III. Each candidate was given one minute to make a closing statement. Total: 7 minutes.

\*Questions for each forum could cover any subject.

### Second Presidential Forum

Thursday, March 13, 1980  
8:00-9:30 p.m. CST  
Chicago, Illinois

- Moderator:** Howard K. Smith
- Candidates:** Representative John Anderson  
Ambassador George Bush  
Representative Phillip Crane  
Governor Ronald Reagan
- Format:** Part I. The moderator directed questions to specific candidates; after the initial response, all the candidates were free to participate in a discussion of the issue. Total: 90 minutes.
- Part II. Individuals from the audience asked questions; the format for response was the same as in Part I. Total: 26 minutes.
- Part III. Each candidate was allotted one minute for a closing statement. Total: 4 minutes.

### Third Presidential Forum

Wednesday, April 23, 1980  
8:00-9:00 p.m. CST  
Houston, Texas

- Moderator:** Howard K. Smith
- Candidates:** Ambassador George Bush  
Governor Ronald Reagan
- Format:** Same as in Second Presidential Forum. Part I: 45 minutes. Part II: 13 minutes. Part III: 2 minutes.

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## Appendix B 1980 Presidential Debates\*

### First Presidential Debate

Sunday, September 21, 1980  
10:00-11:00 p.m. EST  
Baltimore, Maryland

**Moderator:** Bill Moyers, public television commentator/producer

**Panelists:** Charles Cordry, reporter, *Baltimore Sun*  
Soma Golden, editorial writer, *New York Times*  
Daniel Greenberg, syndicated columnist  
Carol Loomis, board of editors, *Fortune* magazine  
Lee May, reporter, *Los Angeles Times*  
Jane Bryant Quinn, columnist, *Newsweek* magazine

**Candidates:** Representative John Anderson  
Governor Ronald Reagan

**Format:** Each panelist asked one question. Each candidate was given two and one-half minutes to respond; then each had an additional one minute 15 seconds to challenge the other's response. Each candidate was allotted three minutes for a closing statement. Total: one hour.

\*Questions for each debate could cover any subject.

### Second Presidential Debate

Tuesday, October 28, 1980  
9:30-11:00 p.m. EST  
Cleveland, Ohio

**Moderator:** Howard K. Smith

**Panelists:** Harry Ellis, Washington staff correspondent, *Christian Science Monitor*  
William Hilliard, assistant managing editor, *Portland Oregonian*  
Marvin Stone, editor, *U.S. News and World Report*  
Barbara Walters, correspondent, ABC News

**Candidates:** President Jimmy Carter  
Governor Ronald Reagan

**Format:** Part I. Each panelist directed one question to a candidate who was given two minutes to respond. The panelist then asked a follow-up question, and the candidate had one minute to respond. The same question was directed to the other candidate, who had the same opportunity to respond to that question and a follow-up question. Each candidate was then given one minute to challenge the other's response. Total: 40 minutes.

Part II. Each panelist asked one question to which each candidate had two minutes to respond. Each candidate was then given one and one-half minutes for a rebuttal. Each had one minute for a sur-rebuttal. Total: 40 minutes.

Part III. Each candidate had three minutes for a closing statement. Total: 6 minutes.

**Appendix C****Public Advisory Committee\***

Carla Hills, Co-Chair  
Robert Anderson  
Jerry Apodaca  
James David Barber  
Charles Benton  
Shirley Temple Black  
Douglass Cater  
Sol Chaikin  
Archibald Cox  
Lee Hanna  
Dorothy Helght  
Harriet Hentges  
Ruth J. Hinerfeld

Newton Minow, Co-Chair  
Benjamin Hooks  
Pat Hutar  
Jim Karayn  
Jewel Lafontant  
Lee Mitchell  
Austin Ranney  
Sharon Percy Rockefeller  
Carmen Delgado Votaw  
Paul Wagner  
Charis Walker  
Caspar Weinberger

Bill Brock, Chairman  
Republican National Committee

**Ex-officio**

John White, Chairman  
Democratic National Committee

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\* When the Advisory Committee was formed, Anne Armstrong served as one of the co-chair. She resigned on July 2, 1980 to play a major role in the Republican presidential campaign. She was succeeded as co-chair by Carla Hills.