IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

LIBERTARIAN NATIONAL COMMITTEE, INC.,) Case No
TH. 1. 200)
Plaintiff,)
v.)
)
FEDERAL ELECTION COMMISSION,)
Defendant.)
)

APPLICATION FOR THREE-JUDGE COURT AND MEMORANDUM IN SUPPORT

Plaintiff Libertarian National Committee ("LNC") respectfully requests the appointment of a three-judge court to adjudicate this case, which challenges the constitutionality of a provision of the Bipartisan Campaign Reform Act of 2002 ("BCRA"), Pub. L. No. 107-155, 116 Stat. 81. In support of its request, Plaintiff submits the following memorandum of points and authorities. See LCvR 9.1.

Points and Authorities

Section 403 of BCRA provides that any case "brought for declaratory or injunctive relief to challenge the constitutionality of any provision of this Act or any amendment made by this Act... shall be heard by a 3-judge court convened pursuant to section 2284 of title 28, United States Code." BCRA § 403(a), 116 Stat. at 113-14. In actions filed after December 31, 2006, the three-judge procedural rule applies at the plaintiff's election. BCRA § 403(d)(2).

Title 28, United States Code § 2284(a)(4) provides that "[a] district court of three judges shall be convened when otherwise required by Act of Congress." Title 28, United States Code § 2284(b)(1) provides:

[T]he judge to whom the request is presented shall, unless he determines that three judges are not required, immediately notify the chief judge of the circuit, who shall designate two other judges, at least one of whom shall be a circuit judge. The judges so designated, and the judge to whom the request was presented, shall serve as members of the court to hear and determine the action or proceeding.

Plaintiff seeks declaratory and injunctive relief in challenging the constitutionality of BCRA § 101, codified at 2 U.S.C. § 441i, as applied to decedents' bequests. As Plaintiff elects the provisions of BCRA § 403(a) to apply to this action, a three-judge court should be convened to hear this action.

Dated: March 17, 2011

Respectfully submitted,

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By:

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