

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
Ocala Division**

)	
MARIBETH SCHONBERG and)	
STEVEN E. SCHONBERG,)	
)	
Plaintiffs,)	
)	
v.)	Case No. 5:09-CV-534-Oc-32JRK
)	
CIVIL OFFICER BERNIE SANDERS,)	
<i>et al.</i> ,)	
)	
Defendants.)	
)	

**MOTION TO DISMISS OF
DEFENDANTS U.S. REPRESENTATIVES
JOHN A. BOEHNER AND ERIC CANTOR**

Pursuant to Rules 12(b)(1), 12(b)(2), 12(b)(3), and 12(b)(6) of the Federal Rules of Civil Procedure, defendants the Honorable John A. Boehner and the Honorable Eric Cantor – respectively, the U.S. Representative for the 8th congressional district of Ohio and the Republican Leader of the U.S. House of Representatives, and the U.S. Representative for the 7th congressional district of Virginia and the House Republican Whip – respectfully move for an Order dismissing with prejudice the Complaint in this action. Oral argument is not requested.

MEMORANDUM OF POINTS AND AUTHORITIES

Plaintiffs filed this action, as best we can tell, because they believe the cost of their medical insurance premiums is related in some manner to campaign contributions that are legal under the Federal Election Campaign Act, 2 U.S.C. §§ 431, *et seq.* (the

“FECA”). At the center of the Complaint is the notion that the FECA designates Members of Congress as agents of their campaign committees which, Plaintiffs claim, renders the FECA unconstitutional under the Incompatibility Clause, U.S. Const. art. I, § 6, cl. 2. According to the Plaintiffs, if Members did not receive campaign contributions, “Defendants and the rest of Congress would probably act in the best interests of the Plaintiffs.” Complaint ¶ 15.

ARGUMENT

I. The Plaintiffs Lack Standing to Sue Congressmen Boehner and Cantor.

Representatives Boehner and Cantor incorporate by reference the standing arguments asserted by Defendants U.S. Senators Joe Lieberman, Blanche Lincoln, John McCain, Mitch McConnell and Bernie Sanders (collectively, “Senate Defendants”). *See* Motion to Dismiss on Behalf of Senate Defendants at 7-12 (Feb. 12, 2010).

II. The Complaint Is Barred by the Constitution’s Speech or Debate Clause.

Defendants Boehner and Cantor incorporate by reference the Speech or Debate Clause arguments asserted by the Senate Defendants. *See id.* at 12-15.

III. The Court Lacks Personal Jurisdiction Over Congressmen Boehner and Cantor.

As noted above, Congressmen Boehner and Cantor represent congressional districts in Ohio and Virginia, respectively. Neither represents a congressional district in Florida and, accordingly, Defendants Boehner and Cantor incorporate by reference the personal jurisdiction arguments asserted by the Senate Defendants. *See id.* at 16-

18.¹

IV. The Complaint Fails to State a Claim.

Congressmen Boehner and Cantor incorporate by reference the Senate Defendants' arguments concerning Plaintiffs' failure to state a claim under the Constitution's Incompatibility Clause, *see id.* at 19-20, as well as those made by the Federal Election Commission, *see* Motion to Dismiss on Behalf of the Federal Election Commission at 17-24 (Feb. 2, 2010).

CONCLUSION

For the foregoing reasons, the Complaint should be dismissed with prejudice.

Respectfully submitted,

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¹ In addition, we note that Congressmen Boehner and Cantor have yet to be properly served.

² Attorneys in the Office of the General Counsel for the U.S. House of Representatives are "entitled, for the purpose of performing the counsel's functions, to enter an appearance in any proceeding before any court of the United States . . . without compliance with any requirement for admission to practice before such court . . ." 2 U.S.C. § 130f(a).

Counsel for Defendants U.S. Representatives John
A. Boehner and Eric Cantor

February 16, 2010

CERTIFICATE OF SERVICE

I certify that on this 16th day of February, 2010, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will provide notice of electronic filing to Steven E. Schonberg, *pro se* plaintiff, counsel for defendant Federal Election Commission and counsel for United States Senators Joseph Lieberman, Blanche Lincoln, John McCain, Mitch McConnell, and Bernie Sanders.

I also hereby certify that on this 16th day of February, 2010, I served the foregoing document to the following non-CM/ECF participant by first-class mail, postage prepaid:

Maribeth Schonberg
60 Wilson Hill Road
Merrimack, NH 03054

/s/ Christine Davenport
CHRISTINE DAVENPORT