

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

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Rep. Christopher Shays  
1126 Longworth House Office Building  
Washington, DC 20515

and

Rep. Martin Meehan  
2447 Rayburn House Office Building  
Washington, D.C. 20515

Plaintiffs,

v.

Civil Action No. 1:04-CV-01597 (EGS)

United States Federal Election Commission,

Defendant,

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**UNOPPOSED MOTION AND SUPPORTING STATEMENT OF POINTS AND  
AUTHORITIES OF U.S. SENATORS JOHN MCCAIN AND  
RUSSELL D. FEINGOLD TO PARTICIPATE AS AMICI CURIAE**

U.S. Senators John McCain and Russell D. Feingold, by their undersigned counsel, respectfully move this Court for leave to participate in this case as *amici curiae* in support of Plaintiffs in the above-captioned matter.<sup>1</sup>

*Amici* propose to limit their participation to filing briefs and making arguments on issues before the Court. Counsel for *amici* has spoken with Mr. Donald Simon, counsel

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<sup>1</sup> Senators McCain and Feingold could not participate as plaintiffs in this case because, in contrast to the Rules of the U.S. House of Representatives, the Rules of the U.S. Senate do not allow them to accept *pro bono* legal representation as parties in this matter. *Cf.* S. Res. 227, 107<sup>th</sup> Cong. (2002) (allowing *pro bono* legal services to be provided to Senators with respect to civil actions challenging the constitutionality of a federal statute which expressly authorizes a Senator to file or intervene in an action). United States Senators, however, are permitted to accept *pro bono* services for the filing of *amicus* briefs, and Senators McCain and Feingold have accordingly authorized undersigned counsel and the Campaign Legal Center to file this motion so that they can file briefs as *amici curiae* in this proceeding.

for Plaintiffs, and Mr. Robert Bonham, counsel for the Defendant, and neither party opposes the *amici* participation of Senators McCain and Feingold in this proceeding. As grounds for this motion, *amici* would show unto the Court that:

1. Proposed *amicus* John McCain is a U.S. Senator, representing the state of Arizona. Senator McCain was first elected to the U.S. Senate in November of 1986 and was re-elected every subsequent six years. Proposed *amicus* Russell D. Feingold is a U.S. Senator, representing the state of Wisconsin. Senator Feingold was first elected to the U.S. Senate in November of 1992 and re-elected in November of 1998. Senators McCain and Feingold were each re-elected to the Senate in November of 2004.
2. Senators McCain and Feingold were the principal U.S. Senate sponsors of the Bipartisan Campaign Reform Act of 2002 (“BCRA”). They worked together over seven years to secure passage of BCRA, to rid politics of the corrupting influence of soft money and enhance the public’s confidence in the workings of its governing institutions.
3. Senators McCain and Feingold strongly support the efforts of plaintiffs to challenge the failure of the Federal Election Commission to promulgate regulations defining “political committees”, and in particular as that term is applied to organizations created pursuant to Section 527 of the Federal tax laws (see 26 U.S.C. §527). The Federal Election Commission’s failure to issue regulations governing activity by these 527 groups permitted the 2004 election cycle to be characterized by the improper and illegal

spending of millions of dollars of soft money for the purpose of influencing federal elections. Senators McCain and Feingold each have a direct and substantial interest in insuring that the FEC take the action necessary and available that will bring these 527 political committees into compliance with federal campaign finance laws.

4. Senators McCain and Feingold have appeared as both parties and *amici curiae* in this Court in other campaign finance cases. See, e.g., *Shays v. Federal Election Comm'n*, 337 F. Supp. 2d 28, 129-30 (D.D.C. 2004) (appeal pending) (*amici curiae*); and *McConnell v. Federal Election Comm'n*, 251 F. Supp. 2d 176, 260-64 (D.D.C.) (three-judge court) (*per curiam*), *aff'd*, 124 S. Ct. 619 (2003) (defendant-intervenors). Moreover, Senators McCain and Feingold also participated as parties in the United States Supreme Court in the landmark *McConnell* case, defending the constitutionality of the legislation that they had worked to secure passage of in the United States Senate, the Bipartisan Campaign Reform Act of 2002.
5. This unopposed motion is timely, and participation by *amici* will not delay these proceedings in any way or burden any party.

WHEREFORE, premises considered, Senators John McCain and Russ Feingold respectfully pray that this Court will grant this unopposed motion and permit them to participate in this case as *amici curiae*.

Respectfully submitted,

/s/ J. Gerald Hebert  
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Dated: December 13, 2004

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**ORDER**

Pending before the Court is an unopposed motion by United States Senators JOHN McCain and RUSS FEINGOLD for leave to appear in this cause as *amici curiae*. For good cause shown, the motion for leave to participate as *amici curiae* by Senators McCain and Feingold is hereby GRANTED.

This \_\_\_\_ day of December, 2004.

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United States District Judge

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing motion with supporting points and authorities and proposed order have been filed electronically on this 13<sup>th</sup> day of December, 2004. In addition, the following counsel have been served with copies of the foregoing motion for leave to participate amici curiae and the proposed order via email (where email addresses are available and known) and via first-class mail, postage pre-paid:

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