

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

<p>Wisconsin Right to Life, Inc.,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>Federal Election Commission,</p> <p style="text-align: center;">Defendant</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>Case No. 04-1260 (DBS, RWR, RJL) THREE-JUDGE COURT</p>
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**MOTION OF SENATOR JOHN MCCAIN, REPRESENTATIVE
TAMMY BALDWIN, REPRESENTATIVE CHRISTOPHER SHAYS,
AND REPRESENTATIVE MARTIN MEEHAN TO INTERVENE AS
DEFENDANTS SUPPORTING THE AS-APPLIED CONSTITUTIONALITY
OF THE BIPARTISAN CAMPAIGN REFORM ACT OF 2002**

Senator John McCain, Representative Tammy Baldwin, Representative Martin Meehan, and Representative Christopher Shays respectfully move, pursuant to Federal Rule of Civil Procedure Rule 24(a) and section 403(b) of the Bipartisan Campaign Reform Act of 2002 (“BCRA” or the “Act”), to intervene as defendants in this action to defend the constitutionality of the provisions of the Act challenged by plaintiff Wisconsin Right to Life (“WRTL”). Counsel for movants has conferred with counsel for WRTL and the FEC pursuant to Local Rule 7(m)

regarding this motion. Counsel for the FEC has consented to the relief sought herein, while counsel for WRTL has indicated that WRTL will oppose this motion.

Attached hereto is a proposed Answer and Affirmative Defenses. The grounds for this motion, as set forth more fully in the accompanying memorandum and declarations, are as follows:

1. Movant John McCain is a United States Senator from the State of Arizona who was elected in 1986 and re-elected in 1992, 1998, and 2004. Senator McCain ran for President of the United States in 2000 and expects to be a candidate for federal office in the future. Senator McCain was a principal sponsor of BCRA.
2. Movant Tammy Baldwin is a member of the United States House of Representatives from the 2d Congressional District of Wisconsin. She was first elected in 1998, re-elected every two years thereafter, and faces re-election in November 2006. Representative Baldwin is longtime supporter of legislative efforts to curb campaign finance abuses and voted in favor of BCRA.
3. Movant Christopher Shays is a member of the United States House of Representatives from the 4th Congressional District of the State of Connecticut who was elected in 1987, re-elected in 1988 and every two years thereafter, and next faces re-election in November 2006. Representative Shays was a principal sponsor of BCRA.
4. Movant Martin Meehan is a member of the United States House of Representatives from the 5th Congressional District of the Commonwealth of Massachusetts

who was elected in 1992, re-elected every two years thereafter, and next faces re-election in November 2006. Representative Meehan was a principal sponsor of BCRA.

5. Fed. R. Civ. P. 24(a)(1) provides that, upon timely application, anyone shall be permitted to intervene in an action “when a statute of the United States confers an unconditional right to intervene.”

6. Plaintiff in this action seeks to have certain provisions of BCRA declared unconstitutional as applied. Section 403(b) of the Act provides in relevant part:

In any action in which the constitutionality of any provision of this Act or any amendment made by this Act is raised . . . any member of the House of Representatives . . . or Senate shall have the right to intervene either in support of or opposition to the position of a party to the case regarding the constitutionality of the provision or amendment.

The movants are members of the House of Representatives and the Senate who wish to intervene in this action in defense of the constitutionality of the Act.

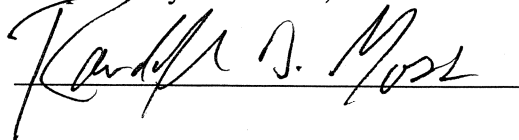
7. Each movant is a United States citizen, member of Congress, candidate or potential candidate, voter, recipient of campaign contributions, fundraiser, and political party member. As federal officeholders and candidates, or potential candidates, for election to federal office, the movants are among those whom the Act seeks to insulate from the actual or apparent corrupting influence of special interest money. If the Act’s “electioneering communications” provisions are not applied to prohibit the use of corporate treasury funds to pay for the broad category of advertisements like those at issue in this case, movants face the risk that such advertisements, paid for with corporate money, will be used in an attempt to influence federal elections in which they are candidates.

8. Intervention as of right under Fed. R. Civ. P. 24(a)(1) is the appropriate avenue for intervention in this action, given the plain and unconditional terms of section 403(b). The movants also satisfy, however, the requirements for intervention as of right under Fed. R. Civ. P. 24(a)(2) and permissive intervention under Fed. R. Civ. P. 24(b).

9. Factual support for this motion is contained in the accompanying declarations. Further argument and legal authority are set forth in the accompanying memorandum of law.

Dated this 16th day of February, 2006.

Respectfully submitted,



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