COURT CASES OF INTEREST

September 2013

1. U.S. SUPREME COURT

a. Pending cases

***James v. FEC*, No. 12-cv-1451 (D.D.C), appeal filed No. 12-683 (U.S. Sup. Ct.)**

Case Description: On August 31, 2012, Virginia James filed suit to challenge the biennial limits on contributions to federal candidates. In the 2012 elections, individuals were subject to a $46,200 aggregate limit on contributions to federal candidates and a $70,800 aggregate limit on contributions to PACs and party committees in a two-year election cycle. James argued that she wished to contribute the full $117,000 solely to federal candidates, instead of dividing that amount between candidates and PACs/parties, as required by the law.

On September 5, 2012, James filed a motion for preliminary injunction and a motion for a three-judge court. On September 19, 2012, the court stayed the proceedings pending a decision in *McCutcheon v. FEC*.

Case Status: On October 31, 2012, the three-judge court denied plaintiff's motion for a preliminary injunction and dismissed the challenge. On November 1, 2012, plaintiff appealed directly to the Supreme Court. The appeal was distributed at the Supreme Court's March 15 conference; no order has yet issued.

CLC Position/Involvement: The CLC has been tracking this case.

***McCutcheon v. FEC*, 12-cv-01034-JEB-JRB-RLW (D.D.C.) (three-judge court), jurisdiction noted, No. 12-536 (U.S. Sup. Ct.)**

Case Description: The Republican National Committee (RNC) and donor Shaun McCutcheon brought suit on June 22, 2012 to challenge the biennial limits on contributions

by individuals. Despite U.S. Supreme Court precedent upholding aggregate contribution limits, plaintiffs challenged both the $70,800 aggregate limit on contributions to non-candidate committees and the $46,200 aggregate limit on contributions to candidate committees in a two-year election cycle.[1]

Case Status: On September 28, 2012, the three-judge district court denied plaintiffs' motion for a preliminary injunction, finding that they were unlikely to succeed on the merits of their challenge.

On October 26, 2012, plaintiffs appealed to the Supreme Court; the Court accepted the appeal, noting probable jurisdiction on February 19, 2013. The Supreme Court appeal has been fully briefed and is scheduled for oral argument on October 8, 2013.

CLC Position/Involvement: The CLC filed an *amici* brief with the Supreme Court on July 25, 2013, on behalf of numerous citizen, civil rights and watchdog groups (including AARP, Asian Americans Advancing Justice, Asian American Legal Defense and Education Fund (AALDEF), Citizens for Responsibility and Ethics in Washington (CREW), Common Cause, The League of Women Voters of the United States, Progressives United and Public Campaign). The Legal Center also coordinated the *amici* effort in defense of the law.

The CLC and Democracy 21 ("D21") previously filed an *amici* brief in support of the FEC on July 10, 2012 with the district court.

***Shelby County v. Holder*, No. 1:10-cv-00651 (D.D.C.), No. 11-5256 (D.C. Cir.), petition cert. granted No. 12-96 (U.S. Sup. Ct.), decision June 25, 2013.**

Case Description: In April 2010, Shelby County, Alabama filed suit in federal court in Washington, DC to challenge Section 5 of the Voting Rights Act, arguing that Congress did not have the constitutional authority in 2006 to reauthorize Section 5 for another 25 years.

On September 21, 2011, the U.S. District Court for the District of Columbia upheld the constitutionality of Section 5, and on May 18, 2012, the D.C. Circuit affirmed this decision.

Case Status: On November 9, 2012, the Supreme Court granted *certiorari*, limited to the following question: "Whether Congress's decision in 2006 to reauthorize Section 5 of the Voting Rights Act under the pre-existing coverage formula of Section 4(b) of the Voting Rights Act exceeded its authority under the Fourteenth and Fifteenth Amendments and thus violated the Tenth Amendment and Article IV of the United States Constitution."

On June 25, 2013, the Supreme Court struck down Section 4(b) of the Voting Rights Act, holding that the coverage formula was unconstitutional in light of "current conditions," and also violated "fundamental principles of equal sovereignty" among the states.

CLC Position/Involvement: On February 1, 2013, the Campaign Legal Center (CLC) filed an *amici* brief in defense of the constitutionality of the Act's provisions on behalf of several

[1] These contribution amounts were set for the 2011-12 election cycle, but will be indexed for inflation for the 2013-14 cycle.

jurisdictions that have bailed out under the Act by demonstrating a record of non-discrimination.

***Texas v. U.S. and Holder*, No. 11-cv-1303 (TBG-RMC-BAH) (D.D.C. three-judge court), on appeal No. 12-496 (U.S. Sup. Ct.)**

Case Description: On July 19, 2011, Texas submitted its redistricting plans to the United States District Court for the District of Columbia for preclearance under Section 5 of the Voting Rights Act.[2] Various state elected officials, civil rights groups and voters intervened, highlighting that although over two-thirds of the population growth in Texas in the last decade was attributable to minorities, the number of districts in which minority voters could elect a candidate declined from eleven to ten under the proposed plan.

On November 8, 2011, the district court denied Texas's motion for summary judgment, declining to find that its plans fully met the standards of Section 5.

Case Status: On August 28, 2012, the three-judge court enjoined all three redistricting plans—for Texas's congressional delegation, its state House of Representatives and its state Senate. The court found that Texas had not met its burden to show that the U.S. Congressional and state House Plans would not have a retrogressive effect, or that the U.S. Congressional and state Senate Plans were not enacted with discriminatory purpose.

Texas filed its jurisdictional statement with the U.S. Supreme Court on October 19, 2012, seeking review of the lower court's decision. Intervenors-appellees filed their response on December 7, 2012.

On June 27, 2013, the Supreme Court vacated the decision below and remanded to the district court for further consideration in light of *Shelby County v. Holder* and the Davis Intervenors' claims of mootness. On remand, a number of the Defendant Intervenors filed motions with the DC Court seeking leave to amend their answers and requesting that Texas be subject to the preclearance requirements under Section 3(c) of the Voting Rights Act, due to its ongoing intentional discrimination against minority voters.

CLC Involvement: The CLC's Executive Director, J. Gerald Hebert, took a leave of absence from the Legal Center to represent state senator Wendy Davis and several Texas voters as defendants-intervenors in the litigation.

<u>Related</u>: *Perry v. Perez*, 11-cv-00360-OLG-JES-XR (W.D. Tex.), Nos. 11–713, 11–714 and 11–715 (U.S. Sup. Ct.)

Case Description: Various voters, elected officials and civil rights groups filed suit in the U.S. District Court for the Western District of Texas, claiming that Texas's redistricting

[2] Prior to the Supreme Court's decision in *Shelby County v. Holder*, Texas was among the jurisdictions that needed to have voting law changes precleared by either the Justice Department or a three-judge district court in D.C. under Section 5.

plans for Congress, the state house and the state senate violate the Constitution and Section 2 of the Voting Rights Act. The court heard argument and held a trial with respect to the plaintiffs' claims, but withheld judgment pending resolution of *Texas v. U.S. and Holder*. As it became increasingly unlikely that the D.C. district court would preclear the state's plans in time for the 2012 primary elections, the district court drafted interim plans. The state appealed to the U.S. Supreme Court.

On January 20, 2012, the Supreme Court vacated the district court's order implementing the interim map, instructing the court that instead of drafting a plan from scratch, it should have taken guidance from the state's plan and made adjustments only as needed where the plan violated the VRA or the Constitution. Thereafter, the three-judge district court imposed interim plans for the congressional delegation, the state house and the state senate that would govern the 2012 elections.

Case Status: In the 2013 legislative session, the State of Texas enacted the interim plans as final permanent plans and repealed the original plans it had enacted in 2011. Texas then moved to dismiss the case on mootness grounds, arguing that the passage of new plans in 2013 meant that the repealed 2011 plans no longer posed any threat of injury to plaintiffs.

On September 6, 2013, the court denied the State's motion to dismiss, finding that the plaintiffs' claims challenging the 2011 plans were not moot. In the same order, the court also granted plaintiffs' requests to amend their pleadings to add: requests for relief that Texas be bailed in and subject again to preclearance coverage under Section 3(c) of the Voting Rights Act; and challenges to the 2013 redistricting maps for Congress and the state House. But the court said that because "a full, fair and final review of all issues before the Court cannot be completed prior to upcoming deadlines for the 2014 elections," it would adopt the 2013 maps as interim maps for the 2014 election cycle. Separately, the court entered orders allowing the plaintiffs to supplement the record with approximately 400 documents from the preclearance case tried in Washington, but denying a request to supplement the record with excerpts of trial transcripts from the D.C. case.

On July 25, 2013, the United States filed a statement of interest in support of plaintiffs' pending requests for relief under the VRA's "bail-in" provision. DOJ asks the court to impose Section 3(c) coverage on the State of Texas as to all voting changes for a ten-year period. Texas filed its response in opposition to the plaintiffs' and DOJ's requests for bail-in on August 5, 2013. Thereafter, the Department of Justice filed a motion to intervene in the suit, again seeking 3(c) coverage. The State of Texas has opposed the motion, which remains pending.

CLC Involvement: In his solo practice, the CLC's Executive Director, J. Gerald Hebert, represents several Texas voters as plaintiffs in this action challenging the Congressional Plan.

<u>Related</u>: *Davis v. Perry*, No. 5:11-cv-00788 (W.D. Texas)

Case Description: Plaintiffs, Texas State Senator Wendy Davis and individual voters, filed suit in the United States District Court for the Western District of Texas challenging Texas's

2011 proposed state senate redistricting plan under the VRA and the U.S. Constitution. The plaintiffs alleged that the senate plan was drawn with the purpose, and would have the effect, of diluting minority voting strength in the Dallas and Tarrant area of North Texas, and that the intentional fracturing of Senate District 10 constituted unlawful vote dilution and discrimination in violation of Section 2 of the VRA, as well as the Fourteenth and Fifteenth Amendments to the U.S. Constitution. Plaintiffs also asserted that the pre-existing benchmark plan was unconstitutionally malapportioned and that the enacted 2011 plan would fail to gain Section 5 preclearance.

Case Status: In 2013, the Texas Legislature accepted as permanent the interim map used for the 2012 elections, which restored Senate District 10 to its original configuration. Accordingly, the final state senate map—unlike the congressional and state house maps still at issue in *Perez v. Perry*—was no longer in dispute. Accordingly, on September 4, 2013, the three-judge court issued its judgment declaring the Davis Plaintiffs the prevailing party, dismissing the case as moot, and setting forth a briefing schedule for resolving a claim for attorneys' fees.

CLC Involvement: In his solo practice, the CLC's Executive Director, J. Gerald Hebert, served as counsel for State Senator Wendy Davis and the other plaintiffs. Mr. Hebert took a leave of absence from the Legal Center to handle this case.

b. Past cases/ orders

Doe v. Reed, No. 09-559 (U.S. Sup. Ct.), on remand No. 3:09-cv-05456 (W.D. Wa.), on appeal No. 11-35854 (9th Cir.) [CLOSED]

Case Description: Plaintiffs filed suit to halt Washington State from making petitions connected to a state ballot measure publicly available in response to requests made under the state Public Records Act. Plaintiffs argued the following: (a) the state records law was facially unconstitutional in connection to ballot measure petitions, and (b) the law was unconstitutional as applied to petitions for Referendum 71, a domestic partnership ballot measure, because supporters of the measure had experienced harassment and therefore were entitled to an exemption from disclosure. On September 10, 2009, the district court issued a preliminary injunction blocking the release of the petitions. On October 22, 2009, the Ninth Circuit found that the state law was constitutional in connection to ballot measure petitions, but did not reach the plaintiffs' as-applied claim relating to Referendum 71.

Plaintiffs petitioned for *certiorari*, and the U.S. Supreme Court accepted the case. On June 24, 2010, the Supreme Court upheld the law on its face. The Court, however, remanded the case to the district court to allow the district court to consider plaintiffs' remaining as-applied claim.

On remand, the district court rejected the as-applied challenge and granted summary judgment in favor of the state on October 17, 2011.

Case Status: Plaintiffs appealed the district court's October 2011 decision dismissing their as-applied challenge to the Ninth Circuit Court of Appeals. On October 23, 2012, the Ninth Circuit dismissed the appeal, finding that the release of petitions following the lower court's decision rendered moot plaintiffs' as-applied claim.

CLC Position/Involvement: The CLC filed an *amicus* brief on March 28, 2012 with the Ninth Circuit, urging the court to reject the plaintiffs' as-applied challenge and arguing that the narrow exemption to disclosure for harassment set forth in *Buckley v. Valeo* was not warranted in this case.

***National Organization for Marriage (NOM) v. Walsh*, No. 1:10-cv-00751 (W.D.N.Y.), on appeal No. 10-4572 (2d Cir.)**

Case Description: On September 16, 2010, NOM challenged New York's statutory definition of "political committee" as vague and overbroad. NOM also argued that political committee status under New York law, which entailed disclosure requirements, could not be imposed on groups whose major purpose did not relate to campaign activity. On October 25, 2010, the district court dismissed the challenge on jurisdictional grounds, *i.e.* plaintiff's claims were not ripe.

Case Status: Plaintiff filed a notice of appeal on November 1, 2010. On April 22, 2013, the Second Circuit vacated the lower court's decision and remanded for consideration on the merits.

On June 8, 2013, NOM filed a stipulation of dismissal without prejudice, to which all parties consented.

CLC Position/Involvement: The CLC has been tracking this case.

***The Real Truth About Obama, Inc. v. FEC*, No. 08-cv-00483 (E.D. Va.), on appeal *The Real Truth About Abortion v. FEC*, No. 11-1760 (4th Cir.), No. 12-311 (U.S. Sup. Ct.)**

Case Description: In July 2008, The Real Truth About Obama (RTAO) filed suit in the U.S. District Court for the Eastern District of Virginia to enjoin four FEC regulations governing when independent groups must register as federal political committees and comply with the applicable federal restrictions and disclosure requirements. The district court denied RTAO's request for preliminary relief. On August 5, 2009, the Fourth Circuit Court of Appeals affirmed the district court's decision.

On April 26, 2010, the U.S. Supreme Court vacated the Fourth Circuit decision, remanding the case for further consideration in light of *Citizens United* and "the Solicitor General's suggestion of mootness."

Upon remand to the district court, only two FEC rules remained at issue due to intervening litigation: 11 C.F.R. § 100.22(b) (defining "express advocacy") and the FEC's policy for

determining a group's "major purpose." Both effectuate only disclosure requirements. On June 16, 2011, the district court granted summary judgment to the FEC, finding that the regulation and policy were constitutional. Plaintiffs filed a notice of appeal on July 15, 2011.

Case Status: On June 12, 2012, the Fourth Circuit Court of Appeals affirmed the district court, upholding both Section 100.22(b) and the FEC's "major purpose" policy. On September 10, 2012, plaintiffs filed a petition for *certiorari*, which the Supreme Court denied on January 7, 2013.

CLC Position/Involvement: The CLC, with D21, filed an *amici* brief in the Fourth Circuit on October 27, 2011 to defend the FEC rules, following the remand of the case. The CLC previously filed *amici* briefs in this case in the district court and the Fourth Circuit on August 14, 2008, October 28, 2008 and October 17, 2010.

U.S. v. Danielczyk, No. 11-cr-00085 (E.D. Va.), No. 11-4667 (4th Cir.), No. 12-579

Case Description: This case is a criminal matter concerning a number of alleged campaign finance violations, including that the defendants illegally directed corporate contributions to Hillary Clinton's 2008 presidential campaign. On May 26, 2011, the district court dismissed the count in the indictment concerning illegal corporate contributions on the grounds that the Supreme Court's decision in *Citizens United* rendered the federal restriction on corporate contributions unconstitutional. The district court then requested additional briefing on the applicability of *FEC v. Beaumont*, a Supreme Court ruling upholding the corporate contribution restriction that the district court had failed to consider. On June 7, 2011, the lower court reaffirmed its May 26 decision to strike down the federal restriction.

On June 28, 2012, the Fourth Circuit Court of Appeals reversed the district court and reaffirmed that the federal restriction on corporate contributions was constitutional.

Case Status: On November 8, 2012, the defendants filed a petition for *certiorari*. On February 25, 2013, the U.S. Supreme Court declined to grant *certiorari*.

CLC Position/Involvement: The CLC, along with D21, filed an *amici* brief with the Fourth Circuit in support of the law on October 26, 2011.

2. FEDERAL CAMPAIGN FINANCE LAW LITIGATION

Free Speech v. FEC, 2:12-cv-00127-SWS (D. Wyo.), No. 12-8078 (10th Cir.) (dismissed), on appeal No. 13-8033 (10th Cir.)

Case Description: On June 14, 2012, Free Speech (FS) brought suit in the U.S. District Court for the District of Wyoming after receiving an FEC advisory opinion wherein the Commissioners found that certain of FS's proposed ads constituted "express advocacy" and deadlocked on the status of other ads. In the suit, FS challenges the constitutionality of the FEC's definition of "express advocacy" and its policy for judging a group's "major purpose" – both important to the determination of whether a group constitutes a political committee.

On July 13, 2012, FS filed a motion for preliminary injunction. On October 3, 2012, the district court denied plaintiff's motion, finding that it was unlikely to succeed on the merits of its claims.

Case Status: FS appealed to the Tenth Circuit Court of Appeals on October 19, 2012. While this appeal was pending, the district court decided the case on the merits, granting the FEC's motion to dismiss on March 19, 2013. FS appealed this final judgment on March 20, and then voluntarily dismissed its earlier appeal of the district court's denial of preliminary relief. Upon request of the parties, the Court of Appeals transferred the briefs and other materials on file in the preliminary injunction appeal (No. 12-8078) to the 2013 appeal (No. 13-8033).
On June 26, 2013, the Court of Appeals upheld the disclosure regulations, adopting the district court's decision as its own. FS filed a petition for rehearing *en banc* on August 9, 2013. The FEC filed its response to the petition for rehearing *en banc* on September 3, 2013.

CLC Position/Involvement: On February 11, 2013, the CLC, along with D21, filed an *amici* brief with the Tenth Circuit to defend the federal disclosure regulations applicable to independent spending. The CLC and D21 previously filed an *amici* brief with the district court in August 2012.

Libertarian National Committee (LNC) v. FEC, 11-cv-00562 (D.D.C.), on appeal No. 13-5088 (D.C. Cir.)

Case Description: In March 2011, the LNC filed suit to challenge the federal contribution limits as applied to bequests from decedents to political parties, specifically a $217,734 bequest from Raymond Groves Burrington to the LNC. The LNC argued that the FEC's requirement that it accept this bequest in annual increments of $30,800 as per the contribution limits, instead of in one lump sum, infringed on its First Amendment rights. On May 4, 2012, the LNC moved the court to certify constitutional questions to the Court of Appeals pursuant to 2 U.S.C. § 437(h).

Case Status: On September 28, 2012, the district court declined to certify the constitutional questions as formulated by plaintiff, finding that a facial challenge to the contribution limits was precluded by Supreme Court precedent, and that plaintiff's attempt to bring an as-applied challenge to the application of the contribution limits to <u>all</u> bequests to <u>all</u> political parties was improper. The court, however, amended the constitutional question and certified the following, "Does imposing annual contribution limits against the bequest of Raymond Groves Burrington violate the First Amendment rights of the Libertarian National Committee?" The Court of Appeals held the case in abeyance until June 21, 2013, and has not yet issued a briefing schedule.

CLC Position/Involvement: The CLC has been tracking this case.

Van Hollen v. FEC, No. 11-cv-00766 (D.D.C.), No. 12-5118 (D.C. Cir.)

Case Description: On April 21, 2011, Representative Chris Van Hollen (D-MD) sued the FEC in the U.S. District Court for the District of Columbia, arguing that its 2007 regulation improperly narrowed the scope of federal disclosure requirements connected to electioneering communications.[3] Plaintiff challenged the regulation under the Administrative Procedures Act, alleging that it is arbitrary, capricious and contrary to the federal campaign finance statute it purports to implement.

On March 30, 2012, the district court granted summary judgment in favor of Van Hollen, finding that the regulation was beyond the scope of the FEC's authority and failed a *Chevron* step one analysis. Two non-profit groups intervening in the case appealed the decision to the D.C. Circuit Court of Appeals.

Case Status: On September 18, 2012, the Court of Appeals reversed the district court. But it remanded the case back to the district court for consideration of plaintiff's *Chevron* step two argument.

On October 5, one of the defendant-intervenors filed a petition of rulemaking to amend the challenged rule with respect to a minor issue not relevant to the outcome of the lawsuit. In response, the court stayed the case on October 18, 2012. The FEC decided against such a rulemaking, and on March 12 the court lifted the stay. The parties completed supplemental briefing on the *Chevron II* issue on May 13, 2013.

CLC Position/Involvement: The CLC and D21 are part of Van Hollen's *pro bono* legal team, led by Roger Witten of the law firm WilmerHale.

Van Hollen v. IRS, No. 1:13-cv-1841 (D.D.C.)

Case Description: On August 21, 2013, Representative Chris Van Hollen sued the IRS in the U.S. District Court for the District of Columbia, challenging the IRS regulations that govern eligibility for tax-exempt status as a section 501(c)(4) "social welfare" organization. The lawsuit alleges that IRS regulations have failed to properly implement the tax code's requirement that a 501(c)(4) organization be operated "exclusively" to promote social welfare by permitting such organizations to engage in a substantial amount of activity that does not promote social welfare, including election campaign intervention.

Van Hollen seeks a declaratory judgment that the IRS's failure to initiate a rulemaking to address the conflicts between IRS regulations governing section 501(c)(4) organizations and the tax code is arbitrary, capricious and contrary to law. The lawsuit also seeks an injunction barring the IRS from enforcing the regulation at issue until it is amended to conform with the

[3] In addition to the lawsuit, Van Hollen also filed a petition at the FEC requesting an expedited rulemaking to revise and amend an existing FEC "independent expenditure" disclosure regulation.

tax code, as well as a writ of mandamus compelling the IRS to institute rulemaking proceedings.

Case Status: Van Hollen's complaint was filed on August 21, 2013.

CLC Position/Involvement: The CLC, along with Public Citizen and D21, are part of Van Hollen's *pro bono* legal team, led by Scott Nelson of Public Citizen.

Related: *CREW v. IRS*, No. 1:13-cv-00732 (D.D.C.)

Case Description: On May 21, 2013, plaintiff Citizens for Ethics and Responsibility in Washington (CREW) filed a lawsuit against the Internal Revenue Service (IRS) in the United States District Court for the District of Columbia to compel the agency to initiate a rulemaking procedure to address conflicts between the tax code's requirements for section 501(c)(4) groups and the IRS's implementing regulations. Current IRS regulations grant tax-exempt status under section 501(c)(4) of the tax code to groups "primarily engaged" in promoting social welfare, while the tax laws require such groups to be "operated exclusively" for social welfare purposes.

Case Status: Plaintiff's complaint was filed on May 21, 2013. The agency's answer is due August 30, 2013.

CLC Position/Involvement: The CLC has been tracking this case.

Wagner v. FEC, No. 11-cv-1841 (D.D.C.), on appeal No. 12-5365 (D.C. Cir.)

Case Description: On October 19, 2011, plaintiffs filed a complaint with the U.S. District Court for the District of Columbia to challenge the constitutionality of the federal government contractor contribution ban, 2 U.S.C. § 441c, as applied to individuals who have personal services contracts with federal agencies. Plaintiffs filed an amended complaint and motion for preliminary injunction on January 31, 2012.

Case Status: On April 16, 2012, the court denied plaintiffs' motion for a preliminary injunction. On November 5, 2012, the court granted summary judgment in favor of the FEC.

Plaintiffs' appeal was docketed with the D.C. Circuit Court of Appeals on November 19, 2012. On May 31, 2013, a three-judge panel of the D.C. Circuit vacated the judgment below on jurisdictional grounds, finding that the lower court should have certified constitutional questions to the *en banc* Court of Appeals pursuant to FECA's expedited judicial review provision, 2 U.S.C. § 437h. The panel remanded to the district court to make appropriate findings of fact, and on June 5, 2013, the district court certified two questions to the *en banc* Court of Appeals:

(1) Does 2 U.S.C. § 441c, as applied to individuals such as plaintiffs, but not to others similarly situated, violate the Fifth Amendment's Equal Protection guarantee?
(2) Does 2 U.S.C. § 441c, as applied to individuals such as plaintiffs, violate the First Amendment?

The *en banc* proceedings are now fully briefed, although the case has been removed from the oral argument calendar and held in abeyance pending the Supreme Court's disposition of *McCutcheon v. FEC*..

CLC Position/Involvement: On February 27, 2013, the CLC, joined by D21 and Public Citizen, filed an *amici* brief with the D.C. Circuit. On August 23, 2012, the CLC, with D21, filed an *amici* brief with the district court in support of the FEC's motion for summary judgment. On August 9, 2013, the CLC, D21 and Public Citizen filed an *amici* brief with the D.C. Circuit, sitting *en banc*, in support of the contractor contribution ban.

3. STATE/MUNICIPAL LAW LITIGATION

a. Voting Rights Cases

Arcia v. Detzner, No. 1:12-cv-22282-WJZ (S.D. Fla.), on appeal *Arcia v. Fla. Sec'y of State*, No. 12-15738 (11th Cir.) (Florida purge case)

Case Description: In April 2012, Florida initiated a voter purge program, sending to state Supervisors of Elections ("SOEs") a list containing approximately 2,625 names of "potential non-citizens." On June 19, 2012, several public interest groups challenged Florida's voter purge program under Section 2 of the Voting Rights Act (VRA), which prohibits such activities that have a discriminatory impact; and Sections 8(b)(1) and 8(c)(2)(A) of the National Voter Registration Act (NVRA), which prohibit list maintenance programs within 90 days of a federal election.

On September 12, 2012, the parties filed a joint stipulation limiting the claims in the case to the NVRA claim. The stipulation required the SOEs to reinstate any voters who were improperly removed from the rolls and to inform the more than 2,600 citizens who were sent purge letters that they remained registered and could vote in November.

Plaintiffs filed an amended complaint on September 12, 2012, alleging that the Secretary of State had resumed efforts to identify noncitizens on the voter rolls after receiving access to the Department of Homeland Security's Systematic Alien Verification for Entitlements database, in violation of § 8(c)(2)(A) of the NVRA. On September 19, 2012, plaintiffs filed their motion for preliminary injunction and summary judgment.

Case Status: On October 4, 2012, the district court denied plaintiffs' motion for preliminary injunction and summary judgment, finding that the NVRA's 90-day purge prohibition applies only to registrants who become ineligible based on a change in residence, and does not extend to other systematic voter removal programs within 90 days of a federal election. Plaintiffs filed their notice of appeal on November 1, 2012. Appellants' opening brief was filed on December 17, 2012, and the appeal is now fully briefed. Oral argument is scheduled for October 10, 2013.

CLC Involvement: CLC is tracking this lawsuit.

LULAC v. Harris County, No. 4:12-cv-03035 (S.D. Tex.)

Case Description: On October 11, 2012, plaintiffs League of United Latin American Citizens (LULAC) and Harris County voters filed suit in the U.S. District Court for the Southern District of Texas, alleging that Harris County's administration of its voter registration process resulted in the wrongful rejection or removal of eligible voters, including plaintiffs, in violation of Sections 2, 5, 11(b) and 12(d) of the Voting Rights Act (VRA); Section 8(b)(1) of the National Voter Registration Act; and the First and Fourteenth Amendments to the U.S. Constitution. Campaign Legal Center attorneys serve as co-counsel for the plaintiffs in this lawsuit.

Plaintiffs claim that Harris County wrongfully rejected voter registration applications at a substantially higher rate than any other Texas county, thus depriving eligible voters of their First Amendment right to vote, and that Harris County rejects a disproportionate number of applications from minority applicants in violation of Section 2 of the VRA. Plaintiffs also allege that Harris County failed to follow the terms of a 2009 settlement agreement relating to voter registration procedures reached in *Texas Democratic Party v. Vasquez*, No. 08-3332 (S.D. Tex.), arguing that because the agreement was precleared, failure to follow its procedures constitutes a change in voting subject to Section 5 preclearance requirements.

Case Status: Defendants filed their answer to plaintiffs' complaint on December 18, 2012. Discovery is underway, with trial currently scheduled for February 2014.

CLC Involvement: As noted above, CLC attorneys serve as co-counsel for the plaintiffs.

South Carolina v. U.S. and Holder, No. 1:12-cv-00203-CKK-BMK-JDB (D.D.C.) [CLOSED]

Case Description: South Carolina enacted a voter photo identification law in May 2011 that requires voters to present one of five forms of state-issued photo identification, but allows voters to vote a provisional ballot if they appear at the polls without ID and attest that "a reasonable impediment" prevents them from obtaining ID. In December 2011, the U.S. DOJ refused to preclear the law under Section 5 of the Voting Rights Act, finding that voters without the required forms of ID are 20 percent more likely to be African-American. On February 28, 2012, South Carolina filed suit in the U.S. District Court of the District of Columbia requesting judicial preclearance of its voter ID law.

Case Status: On October 10, 2012, a three-judge panel ruled that there was not enough time to implement the voter ID law before the 2012 general election. The court granted preclearance with respect to future elections, but based its decision on South Carolina's broad articulation of the law's "reasonable impediment" provision; any alterations or attempts to narrow that provision would still require preclearance.

CLC Involvement: The CLC served as co-counsel with the ACLU for a group of intervenors who will be harmed if the voter ID law is allowed to take effect.

***United States v. Texas*, No. 2:13-cv-00263 (S.D. Tex.)**

Case Description: On August 22, 2013, the United States filed suit against the State of Texas, the Texas Secretary of State, and the Director of the Texas Department of Public Safety over the State's strict voter photo identification law (SB 14). A three-judge federal panel in the District of Columbia previously held that Texas had failed to meet its burden of proving that the 2011 voter identification law was not discriminatory under Section 5 of the Voting Rights Act, but the decision was vacated following the Supreme Court's decision in *Shelby County v. Holder*. Within hours of *Shelby County*, Texas Attorney General Greg Abbott announced that Texas would immediately implement SB 14, even though the federal court had concluded the law would discriminate against minority voters.

The United States seeks a declaration that SB 14 violates Section 2 of the Voting Rights Act, as well as the Fourteenth and Fifteenth Amendments, alleging that SB 14 was adopted with the purpose, and will have the result, of denying or abridging the right to vote on account of race, color, or membership in a language minority group. The complaint asks the court to prohibit Texas from enforcing the requirements of its law, and also requests that the court order bail-in relief under Section 3 of the Voting Rights Act. If granted, this would subject Texas to a new preclearance requirement.

Case Status: The complaint was filed on August 22, 2013.

CLC Involvement: The CLC serves as co-counsel for plaintiffs in related case *Veasey v. Perry* (see below).

<u>Related</u>: *Veasey v. Perry*, No. 2:13-cv-00193 (S.D. Tex.)

Case Description: On June 26, 2013, plaintiffs filed suit against the State of Texas seeking a declaration that SB 14 dilutes and/or prevents the voting strength of minority voters in violation of Section 2 of the VRA, and is unconstitutional under the First and Fourteenth Amendments. The suit, which also seeks to enjoin the implementation of SB 14, was filed by Texas voters, U.S. Representative Marc Veasey and other elected officials in the state. On August 22, plaintiffs filed an amended complaint, adding as plaintiffs additional voters adversely affected by the law, the League of United Latin American Citizens (LULAC) and Dallas County, Texas. The amended complaint further argues that SB 14 violates the First, Fourteenth, Fifteenth, and Twenty-Fourth Amendments to the Constitution, as well as Section 2 of the VRA by denying and abridging the right to vote on account of race and language minority status.

Case Status: Plaintiffs filed their first amended complaint on August 22, 2013. On August 20, 2013, the United States filed an unopposed motion to consolidate *Veasey v. Perry* with *United States v. Texas* (described above).

CLC Position/Involvement: The CLC is part of the legal team that includes Chad Dunn and K. Scott Brazil (Brazil & Dunn), Neil G. Baron, David Richards (Richards, Rodriguez &

Skeith), Armand Derfner (Derfner, Altman & Wilborn), Luis Roberto Vera, Jr. (LULAC) and Craig M. Wilkins and Teresa G. Snelson (Dallas County District Attorney's Office).

b. Campaign Finance Cases

Alabama Democratic Conference v. Attorney General, No. 11-cv-02449 (N.D. Ala.), on appeal No. 11-16040E (11th Cir.)

Case Description: On July 11, 2011, plaintiffs filed a complaint with the U.S. District Court for the Northern District of Alabama to challenge an Alabama law that prohibited contributions or transfers of funds between PACs, 527 organizations and private foundations insofar as the law prohibited transfers for the purpose of funding independent expenditures. Plaintiffs argued that pursuant to the reasoning of *Citizens United*, prohibiting transfers for the purpose of funding independent spending could not be justified by the governmental interest in preventing corruption or the appearance of corruption. Plaintiffs also argued that the PAC-to-PAC transfer restriction violated Section 2 of the Voting Rights Act.

On December 14, 2011, the district court struck down the PAC-to-PAC transfer restriction as applied to ADC on First Amendment grounds, but dismissed plaintiffs' claim under the Voting Rights Act. The state appealed to the Eleventh Circuit Court of Appeals.

Case Status: The appeal was docketed on December 22, 2011, and was fully briefed as of May 2012. Oral argument was heard on January 8, 2013.

CLC Position/Involvement: The CLC has been tracking this case.

Center for Individual Freedom (CIF) v. Tennant, No. 1:08-cv-00190 (S.D.W. Vir.) (lead case), consolidated with *West Virginians for Life (WVFL) v. Ireland*, No. 1:08-cv-01133 (S.D.W. Vir.), on appeal No. 11-1952 (lead case), No. 11-1993 (4th Cir.) [CLOSED]

Case Description: In June 2007, the Center for Individual Freedom (CIF) challenged multiple provisions of West Virginia's campaign finance law, including the state's electioneering communications disclosure provisions, and requested a preliminary injunction to enjoin enforcement of these provisions. The *WVFL* case was consolidated with the *CIF* case on October 7, 2008.

The district court, on October 17, 2008, granted in part the plaintiffs' motions for preliminary relief. On July 18, 2011, the district court granted in part plaintiffs' motion for summary judgment, striking down several provisions of West Virginia's law, including its definitions of "express advocacy" and "electioneering communications," as well as its requirement that groups making electioneering communication disclose all their donors (instead of only those donors that earmarked their funds for electioneering communications).

Case Status: Both defendants and plaintiffs appealed the district court decision to the Fourth Circuit Court of Appeals. On January 18, 2013, the Fourth Circuit affirmed in part and

reversed in part the district court decision, but, in so holding, sustained almost all the challenged provisions in West Virginia's campaign finance law. In particular, the Court of Appeals found that the state's broad definition of "express advocacy" was constitutional, and reversed the district court's decision to narrow the disclosure connected to electioneering communications to only donations earmarked for electioneering communications.

CLC Position/Involvement: The CLC has been tracking this case.

Dickranian v. City of Los Angeles, No. 2:12-cv-05145-ODW-SS (C.D. Cal.), on appeal No. 12-56844 (9th Cir.)

Case Description: On June 13, 2013, plaintiff Laurel Dickranian filed suit in U.S. District Court for the Central District of California challenging Los Angeles disclaimer and disclosure requirements as unconstitutional, and seeking declaratory and injunctive relief as well as damages. The City's law requires those making independent expenditures above certain thresholds in city candidate or ballot measure elections to file a campaign finance report and a copy of the communication. Dickranian spent nearly $8,000 sending letters to more than 17,000 Los Angeles voters urging them to elect a particular candidate for the office of City Attorney. The district court summarily dismissed Dickranian's complaint and upheld the City's disclosure law.

Case Status: Dickranian appealed the district court's dismissal to the Ninth Circuit Court of Appeals. On April 17, 2013, plaintiff-appellant's opening brief was filed. The City filed its brief in response on June 17, 2013.

CLC Position/Involvement: The CLC filed an *amicus* brief in support of the City's law on June 24, 2013.

Giant Cab Co. v. Bailey, No. 13-cv-00426-MCA/ACT (D.N.M.)

Case Description: On May 6, 2013, plaintiffs[4] filed a lawsuit challenging an Albuquerque city ordinance, Article XIII § 4(f) of the Albuquerque City Charter, that prohibits corporations, partnerships, business entities, or their agents from making contributions to candidates for city office, on free speech and equal protection grounds. Plaintiffs seek a declaration that the ban is unconstitutional on its face and as applied to them, as well as to enjoin Albuquerque from enforcing it. The suit also alleges that the City's law impermissibly distinguishes among speakers, violating their rights of free speech and equal protection under the First and Fourteenth Amendments.

Case Status: On September 4, 2013, the district court struck down Albuquerque's ordinance, finding that the City's ban on corporate campaign contributions was unconstitutional under the First Amendment. Although the court acknowledged that such bans are constitutional as a

[4] Original plaintiffs Neal Greenbaum, Victor Jury, Gail Armstrong, and Dale Armstrong, and plaintiff-in-intervention Robert Torch were dismissed from the suit for want of Article III standing, leaving plaintiff-in-intervention Giant Cab Co. as the sole plaintiff.

general matter, it held that the City Council had failed to develop an adequate record demonstrating that corporate campaign contributions would lead to a perception of corruption among Albuquerque voters or that they would be employed as a means of circumventing individual contribution limits. Because the Court found that there was not a sufficiently close fit between the restriction and its stated goals of preventing actual and apparent corruption to satisfy the First Amendment, it did not reach plaintiff's equal protection claim.

CLC Position/ Interest: The CLC has been tracking this case.

Iowa Right to Life v. Smithson, No. 10-cv-00416 (S.D. Iowa), on appeal *Iowa Right to Life v. Tooker*, No. 12-1605 (8th Cir.)

Case Description: On September 7, 2010, Iowa Right to Life (IRTL) filed suit to challenge several aspects of Iowa's campaign finance law, including:

1. The state definition for "political committee";
2. The state independent expenditure disclosure requirements;
3. The state restriction on corporate contributions; and
4. The state requirement that entities obtain annual approval from their board of directors for independent expenditures.

On October 20, 2010, the district court denied IRTL's motion for a preliminary injunction. On June 29, 2011, the district court granted summary judgment in favor of the state on three of the four claims, upholding the state independent expenditure disclosure requirements and the corporate contribution restriction, and finding that the plaintiffs lacked standing to challenge the board approval requirement. The court, however, directed certain aspects of Count One of the complaint (definition of "political committee") to the state Supreme Court for further clarification of the law. On February 7, 2012, the state court returned its decision as to the certified question to the federal district court, and the district court entered summary judgment for the state on this claim.

Case Status: On March 12, 2012, IRTL filed its notice of appeal. On June 13, 2013, the Eighth Circuit issued an opinion upholding Iowa's corporate contribution ban and event-driven disclosure requirements, striking down the state's continuous reporting requirements, and remanding the claims involving Iowa's board-authorization and certification requirements to the district court for hearing on the merits. On July 19, 2013, the Court of Appeals denied IRTL's petition for rehearing *en banc*.

On August 15, 2013, the district court granted IRTL's motion to stay remand proceedings pending the filing of a petition for *certiorari*.

CLC Position/Involvement: The CLC has been tracking this case.

***Illinois Liberty PAC v. Madigan*, No. 12-cv-05811 (N.D. Ill.), on appeal No. 12-3305 (7th Cir.)**

Case Description: Illinois Liberty PAC (ILP) filed suit in the U.S. District Court for the Northern District of Illinois to challenge the constitutionality of Illinois's state contribution limits. Specifically, ILP challenged the $50,000 limit on contributions from PACs to state candidates and the $5,000 limit on contributions from individuals to candidates, arguing that the law authorizes political parties to make far larger contributions and therefore discriminates against non-party political speakers in favor of political parties.

Case Status: ILP moved for a preliminary injunction on August 30, 2012. On October 5, 2012, the court denied plaintiff's motion for preliminary relief, allowing the contribution limits to stand. ILP appealed the decision to the Seventh Circuit, which summarily affirmed the district court's ruling on November 15, 2012.

On May 10, 2013, ILP filed their second amended complaint in the district court, adding an additional plaintiff. On August 9, 2013, the state responded with a motion to dismiss for failure to state a claim and lack of subject-matter jurisdiction.

CLC Position/ Interest: On September 18, 2012, the CLC filed an *amici* brief with the Illinois Coalition for Political Reform and Chicago Appleseed, defending the state contribution limits. The CLC also filed a brief opposing an injunction pending appeal with the Seventh Circuit on October 18, 2012.

On September 30, 2013, the CLC filed another *amici* brief in the district court supporting Illinois's motion to dismiss.

***Lair v. Murray*, No. 12-cv-0012 (D. Mont.), on appeal Nos. 12-35484, 12-35538, 12-35809 (lead case), 12-35889 (9th Cir.)**

Case Description: On September 6, 2011, plaintiffs filed a complaint and a motion for a preliminary injunction, challenging multiple provisions of Montana's campaign finance law, including:

1. Requirements for political election materials that mention another candidate's voting record ("vote reporting requirement");
2. A prohibition on misrepresenting a candidate's public voting record or any other matter relevant to the issues of the campaign ("political civil libel");
3. Limits on contributions from individuals and political committees to candidates;
4. An aggregate contribution limit applicable to contributions from state political parties to candidates; and
5. A prohibition on corporate contributions to a candidate or corporate independent expenditures on behalf of a candidate.

On February 24, 2012, the district court preliminarily enjoined the provisions governing the discussion of candidates' voting records in campaign materials, *i.e.*, the voting reporting requirement and the political civil libel provision. The court, however, denied preliminary

relief as to all other claims, although it noted that (a) the challenge to the corporate expenditure prohibition was moot because the prohibition had been enjoined in the *American Tradition Partnership* litigation, and (b) the plaintiffs could potentially marshal evidence showing that the contribution limits prevented candidates from "amassing the resources necessary for effective [campaign] advocacy" as proscribed by *Randall v. Sorrell*.

On May 16, 2012, the district court granted summary judgment in part for plaintiffs, striking down the vote reporting requirement and the political civil libel provision, as well as the restriction on corporate contributions to independent expenditure committees, an issue not reached in the preliminary injunction proceedings.

Case Status: On June 20, 2012, the state moved for summary judgment on the *Randall*–style challenge to the contribution limits. The district court denied the motion on June 29, 2012. After a bench trial on this issue, however, the court struck down Montana's contribution limits on grounds that they prevent candidates from "amassing the resources necessary for effective campaign advocacy."

On October 16, the Ninth Circuit stayed the district court's decision invalidating Montana's contribution limits pending the state's appeal. The Supreme Court denied plaintiffs' application to vacate the stay on October 23, 2012 (No. 12A-395).

On February 22, 2013, the Ninth Circuit granted the parties' joint motion to stay appellate proceedings until June 26, 2013. The parties' second motion to stay appellate proceedings pending the resolution of *McCutcheon v. FEC* was granted in part on June 21, 2013. Appellants have until the expiration of the stay, September 24, 2013, to file either their opening brief or a motion for appropriate relief. If the opening brief is filed, the answering brief is due October 24, 2013.

CLC Position/Involvement: The CLC intends to file an *amicus* brief in this case. CLC Senior Counsel Paul Ryan submitted written testimony as an expert witness to the district court in May 2012.

Minnesota Citizens Concerned for Life v. Swanson, 10-cv-2938 (D. Minn.), on appeal No. 10-3126 (8th Cir.)

Case Description: On July 7, 2010, Minnesota Concerned Citizens for Life (MCCL) challenged multiple provisions of Minnesota's campaign finance law, including:

1. The state requirement that associations disclose their independent spending by creating a "political fund," subject to registration, record-keeping and reporting requirements; and
2. The restriction on corporate contributions to parties and candidates.

On September 20, 2010, the district court denied plaintiffs' motion for a preliminary injunction, and plaintiffs appealed to the Eighth Circuit Court of Appeals. On May 16, 2011, a three-judge panel of the Eighth Circuit affirmed that MCCL was unlikely to prevail in its

challenge to Minnesota's independent expenditures disclosure requirements and the state restriction on corporate contributions.

On July 12, 2011, the Court of Appeals granted the plaintiffs' petition for an *en banc* rehearing of the May 2011 decision. On September 5, 2012, the Court unanimously held that the challenge to the State of Minnesota's corporate contribution restriction was unlikely to succeed, but in a split decision, struck down the continuous reporting requirement of the "political fund" disclosure law.

Case Status: On February 11, 2013, the district court entered a permanent injunction enjoining the state from applying Minn. Stat. § 10A.20, subd. 7, to political funds, *i.e.*, the requirement that groups file regular reports even in periods where no political activity has occurred. The court dismissed the remainder of the case.

CLC Position/Involvement: On December 22, 2010, the CLC, with D21, filed an *amici* brief with the Eighth Circuit to defend Minnesota's campaign finance laws. The CLC and D21 again filed an *amici* brief with the *en banc* Court of Appeals in July of 2011.

Ognibene v. Parkes, 08-cv-1335 (S.D.N.Y.), on appeal No. 09-0994 (2d Cir.)

Case Description: In February 2008, a collection of candidates, lobbyists, LLCs and party entities filed suit to challenge the constitutionality of multiple provisions of New York City's municipal campaign finance law and public financing program, including:

(1) New York's pay-to-play law that subjects persons doing business with the city and lobbyists to lower contribution limits and provides that their contributions are not "matched" with public funds;

(2) A 2007 expansion of New York's ban on corporate contributions to also prohibit contributions from partnerships, LLCs and LLPs; and

(3) The trigger provisions of the public financing program that provide publicly-financed candidates with a greater "match" of public funds and an increase in their voluntary spending limits if they face a high-spending non-participating opponent.

Plaintiffs brought their claims under the First and Fourteenth Amendments and Section 2 of the Voting Rights Act.

On April 24, 2008, plaintiffs moved for a preliminary injunction on their First and Fourteenth Amendment claims against the pay-to-play provisions and the expanded corporate contribution prohibition (but did not address the trigger provisions or VRA claims). On February 6, 2009, the district court denied plaintiffs' motion, and granted summary judgment in favor of the City.

Plaintiffs appealed the decision. On December 21, 2011, the Second Circuit Court of Appeals affirmed the district court's decision. Plaintiffs filed a petition for *certiorari* (No. 11-1153) on March 19, 2012, but the U.S. Supreme Court denied *cert* on June 25, 2012.

Case Status: The parties filed cross-motions for summary judgment in March and June 2012 in the district court on their remaining claims pertaining to the trigger provisions of the public financing program. At issue were (1) provisions that raise/eliminate the expenditure limits for participating candidates facing high-spending non-participating opponents, and (2) the "sure winner" provision that provides participants with additional matching funds when an opponent's spending and contributions cross 20% of the applicable expenditure limit and/or meet other trigger criteria. (Plaintiffs and the City stipulated that a provision that provides participating candidates with additional matching funds when their non-participating opponents spend above a certain amount was unconstitutional.)

On April 4, 2013, the district court granted summary judgment in part to plaintiffs, in part to defendants, and struck down the 20% trigger in the "sure winner" provision, but upheld all other challenged provisions.

On August 13, 2013, the parties filed a stipulation wherein the plaintiffs agreed to voluntarily dismiss the remaining claims in the amended complaint.

CLC Position/Involvement: The CLC has been tracking this case.

***Protectmarriage.com v. Bowen*, 2:09-cv-00058 (E.D. Calif.), on appeal No. 11-17884 (9th Cir.)**

Case Description: In January 2009, plaintiffs brought a challenge in the U.S. District Court for the Eastern District of California to a California law requiring ballot measure committees to disclose their contributors of $100 or more. Specifically, plaintiffs sought an as-applied "blanket exemption" from California's disclosure provisions, claiming that compelled disclosure of their contributors would result in threats, harassment, and reprisals against supporters of Proposition 8, a ballot measure pertaining to same-sex marriage. Additionally, plaintiffs contended that the law's $100 threshold for the disclosure of contributors is not narrowly tailored.

The district court denied plaintiffs' motion for a preliminary injunction on January 30, 2009, and granted summary judgment in favor of the state on October 20, 2011 in a ruling from the bench.

Case Status: Plaintiffs appealed the decision to the Ninth Circuit Court of Appeals on December 2, 2011. The appeal is now fully briefed, with oral argument scheduled for October 11, 2013.

CLC Position/Involvement: The CLC filed an *amicus* brief to support California's ballot measure disclosure law with the Ninth Circuit on April 17, 2012.

***Republican Party of New Mexico v. King*, No. 1:11-cv-00900 (D. N. Mex.), on appeal No. 12-2015 (10th Cir.)**

Case Description: In October 2011, plaintiffs filed a complaint and motion for preliminary injunction, challenging multiple provisions of New Mexico's campaign finance law, including:

1. The $5,000 limit on contributions to political committees, including political parties;
2. The $5,000 limit on contributions from political committees to other political committees or candidates, including contributions from party committees to other party committees; and
3. The restriction on committees' solicitation or acceptance of contributions greater than $5,000.

On January 5, 2012, the district court preliminarily enjoined the contribution limit as applied to independent expenditure committees but denied the motion for preliminary injunction as to the remaining claims.

Case Status: The state defendants appealed the decision to the Tenth Circuit Court of Appeals on February 2, 2012. The appeal is fully briefed, and oral argument was held on November 7, 2012.

CLC Position/Involvement: The CLC has been tracking this case.

***Texas Democratic Party v. King Street Patriots*, No. D-1-GN-11-002363 (D. Ct. Travis Co.)**

Case Description: The Texas Democratic Party filed an action seeking damages and injunctive relief in connection to several violations of state campaign finance law allegedly committed by the King Street Patriots (KSP). The Party alleges that KSP, a non-profit 501(c)(4) corporation, made in-kind contributions to the state Republican Party in violation of Texas's restriction on corporate political contributions, and failed to register as a "political committee" and comply with state disclosure law. In response to the suit, KSP filed a counterclaim challenging the constitutionality of numerous provisions of Texas campaign finance law, including the state corporate contribution restriction, and the disclosure and organizational requirements applicable to political committees.

On March 27, 2012, the state district court rejected KSP's counterclaim, and upheld the challenged provisions of Texas campaign finance law.

Case Status: KSP appealed the decision to the state Court of Appeals (Third District). The appeal is fully briefed, and oral argument was heard on December 19, 2012.

CLC Position/Involvement: On August 3, 2012, the CLC filed an *amicus* brief in the Texas Court of Appeals to defend the constitutionality of Texas's campaign finance laws. The CLC previously filed an *amicus* brief on September 21, 2011 with the state district court.

***Vermont Right to Life Committee, Inc. v. Sorrell*, 09-cv-00188 (D. Vt.), on appeal No. 12-2904 (2d Cir.)**

Case Description: In August 2009, Vermont Right to Life Committee (VRTL) filed a complaint challenging several aspects of Vermont's campaign finance law, arguing that the law violates the First Amendment by regulating VRTL as a political committee, requiring disclaimers on electioneering communications, and requiring the reporting of "mass-media activities."

Plaintiffs filed an amended complaint on July 19, 2010, which also challenged the state contribution limits as applied to its political committee making only independent expenditures, as well as the $100 reporting threshold for contributions to a committee.

On June 21, 2012, the district court granted the state's motion for summary judgment, upholding both the challenged disclosure law and, notably, the $2,000 contribution limit as applied to VRTL's independent expenditure committee (IEC). In support of this holding, the Court highlighted the specific facts of the case, including that VRTL's IEC was intertwined with its conventional PAC with a "fluidity of funds" and overlapping governance between the committees.

Case Status: Plaintiffs appealed to the Second Circuit Court of Appeals on July 18, 2012. Oral argument was heard on March 15, 2013.

CLC Position/Involvement: The CLC filed an *amicus* brief with the Second Circuit to defend Vermont's laws on December 6, 2012.

***Yamada v. Kuramoto*, 10-cv-00497 (D. Haw.), on appeal No. 12-15913 (9th Cir.)**

Case Description: On August 27, 2010, plaintiffs filed suit to challenge multiple aspects of Hawaii state campaign finance law, including:

1. The statutory definitions of "political committee" and "expenditure";
2. The electioneering communications reporting requirements;
3. The disclaimer requirements connected to "advertisements," as defined by state law;
4. The state restriction on contributions from government contractors; and
5. The contribution limits applicable to independent expenditure committees.

On October 7, 2010, the district court granted plaintiffs' motion for preliminary injunction only on its challenge to the contribution limits as applied to independent expenditure committees. On October 29, 2010, the district court denied plaintiffs' motion for a preliminary injunction on the remaining claims. On March 21, 2011, the district court granted summary judgment to plaintiffs on their claim regarding independent expenditure committee contribution limits, and granted summary judgment to the state on all other claims.

Case Status: On April 19, 2012, plaintiffs appealed the March 2011 decision to the Ninth Circuit Court of Appeals. The appeal was fully briefed by November 2012. Oral argument is scheduled to be heard on October 9, 2013.

CLC Position/Involvement: On September 19, 2012, the CLC filed an *amicus* brief with the Ninth Circuit to defend Hawaii's disclosure laws and its restriction on contributions from government contractors.

Wisconsin Right to Life v. Vocke, No. 10-CV-0669 (E.D. Wis.), on appeal No. 12-3046 (7th Cir.)

Case Description: On August 5, 2010, plaintiffs filed suit to challenge numerous aspects of Wisconsin state campaign finance law, including:

1. The definition of "political committee";
2. The disclosure requirements applicable to "independent expenditure organizations";
3. The 24-hour reporting requirement;
4. A requirement that a committee file an oath attesting that its independent disbursements are independent;
5. The $20 and $100 reporting thresholds;
6. The $10,000 cap on the aggregate annual amount individuals may contribute to candidates, political parties and political committees, as applied to political committees making only independent expenditures (IECs);
7. The $10,000 contribution limit as applied to WRTL's contributions to its PAC, WRTL-SPAC; and
8. The attribution and disclaimer requirements.

On June 24, 2011, plaintiffs moved to lift the stay placed on the case pending resolution of a parallel state court case in connection to one claim in their complaint, *i.e.*, their challenge to the contribution limits as applied to IECs. On July 12, 2011, the court denied the motion, and plaintiffs appealed to the Seventh Circuit Court of Appeals. On December 12, 2011, the Court of Appeals heard their claim and struck down the $10,000 limit as applied to IECs.

On April 18, 2012, the district court lifted the stay after the state Supreme Court dismissed the parallel state case. On April 18, 2012, plaintiffs filed an amended complaint and motion for temporary restraining order and preliminary injunction. The amended complaint dropped plaintiffs' claims pertaining to the $20 and $100 reporting thresholds and added a claim challenging the constitutionality of Wisconsin's corporate expenditure restriction.

Case Status: On August 31, 2012, the district court granted plaintiffs' motion for summary judgment in part, holding that:

1. The corporate expenditure ban was unconstitutional facially and as-applied to plaintiffs;
2. The attribution disclaimer requirements were unconstitutional with respect to ads that are less than 30 seconds in length.

The district court granted summary judgment to the state on all remaining claims. Plaintiffs appealed the summary judgment decision on September 9, 2012. Oral argument was heard on January 18, 2013. Supplemental briefing occurred in February and March of 2013.

CLC Position/Involvement: The CLC filed an *amicus* brief with the Seventh Circuit on November 9, 2012, defending Wisconsin's disclosure law.

Young v. Vocke, No. 2:13-cv-00635 (E.D. Wis.)

Case Description: On June 6, 2013, plaintiff Young filed suit in the U.S. District Court for the Eastern District of Wisconsin challenging Wisconsin's annual aggregate limits on individual contributions to candidates and committees as unconstitutionally low. The state's law caps overall contributions to state candidates and committees at $10,000 per year.

Case Status: On August 9, 2013, the parties filed a joint motion to stay proceedings pending the resolution of *McCutcheon v. FEC*. The district court granted the parties' motion on August 13, 2013, staying the case for 90 days.

CLC Position/Involvement: CLC has been tracking this case.