IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Senator Mitch McConnell, et al., Plaintiffs, v. Federal Election Commission, et al., Defendants, and Senator John McCain, Senator Russell Feingold, Representative Christopher Shays, Representative Martin Meehan, Senator Olympia Snowe, Senator James Jeffords, Intervening Defendants.	Civil Action No.: 02-CV-582 (CKK, KLH, RJL) ALL CONSOLIDATED CASES

DEFENDANT-INTERVENORS' EXCERPTS OF REPLY BRIEF OF DEFENDANTS
(Redacted Version for Public Distribution)

ROGER M. WITTEN (D.C. Bar #163261)
SETH P. WAXMAN (D.C. Bar #257337)
RANDOLPH D. MOSS (D.C. Bar #417749)
WILMER, CUTLER & PICKERING
2445 M Street, N.W.
Washington, D.C. 20037-1420
(202) 663-6000

Counsel for Defendant-Intervenors

Counsel for Defendant -Intervenors: Senator John McCain, Senator Russell Feingold, Representative Christopher Shays, Representative Martin Meehan, Senator Olympia Snowe, and Senator James Jeffords

Lynn Bregman
Eric J. Mogilnicki
Edward DuMont
Michael D. Leffel
Anja L. Manuel
Stacy E. Beck
A. Krisan Patterson
Jennifer L. Mueller
WILMER, CUTLER & PICKERING
2445 M Street, N.W.
Washington, D.C. 20037-1420

Bradley S. Phillips
Michael R. Doyen
Stuart N. Senator
Deborah N. Pearlstein
Randall G. Sommer
Shont E. Miller
MUNGER, TOLLES & OLSON LLP
355 South Grand Avenue, 35th Floor
Los Angeles, CA 90071

David J. Harth
Charles G. Curtis, Jr.
Monica P. Medina
Michelle M. Umberger
Sarah E. Reindl
HELLER EHRMAN WHITE & MCAULIFFE LLP
One East Main Street, Suite 201
Madison, WI 53703

Frederick A.O. Schwarz, Jr.
E. Joshua Rosenkranz
Prof. Burt Neuborne
Elizabeth Daniel
Laleh Ispahani
Adam H. Morse
BRENNAN CENTER FOR JUSTICE
NYU School of Law
161 Avenue of the Americas, 12th Floor
New York, NY 10013

Paul M. Dodyk
Christopher J. Paolella
Peter Ligh
CRAVATH, SWAINE & MOORE
Worldwide Plaza
825 Eighth Avenue
New York, NY 10019

Fred Wertheimer
Lexa Edsall
DEMOCRACY 21
1825 Eye Street, N.W., Suite 400
Washington, DC 20006

Trevor Potter
Glen Shor
THE CAMPAIGN AND MEDIA LEGAL CENTER
1101 Connecticut Ave., N.W.,
Suite 330
Washington, DC 20036

Alan B. Morrison
PUBLIC CITIZEN LITIGATION GROUP
1600 20th Street, N.W.
Washington, DC 2000

TABLE OF CONTENTS

INTRODUCTION

After two rounds of briefing, the positions of the parties pose a rather stark choice:

If plaintiffs are right, then the Constitution condemns the Nation to endure a campaign finance system that is rife with influence-peddling, ridden with loopholes that mock existing law, encourages evasion on a massive scale, and causes over seventy percent of the American people to believe their government is corrupt. The First Amendment renders Congress impotent to solve these problems, say the plaintiffs, even if an unanswered "perception of impropriety . . . jeopardize[s] the willingness of voters to take part in democratic governance."[1]

If defendants are right, then Congress has the power to protect the integrity of federal elections and federal officeholders from the insidious assaults of actual and apparent corruption, to reinvigorate longstanding bans on the use of corporate and union money in connection with federal elections, to close loopholes in longstanding (now increased) contribution limits and in the presidential public financing system, and to restore respect for the law by abandoning unworkable and easily evaded distinctions that have had some currency in the life of the law but have had no viability in the real world life of American politics.

To sustain the Bipartisan Campaign Reform Act ("BCRA"), this Court need not venture beyond established constitutional jurisprudence. Existing jurisprudence amply supports the conclusion that Congress has acted constitutionally in limiting soft money, sham issue ads, and other abuses. And the legislative history, as amplified by the substantial adjudicative record, leaves no question that these abuses exist and that they pose serious problems which must be addressed if "confidence in the system of representative Government is not to be eroded to a disastrous extent.'"[2]

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1 *Nixon v. Shrink Missouri Gov't PAC*, 528 U.S. 377, 390 (2000).

2 *Buckley v. Valeo*, 424 U.S. 1, 27 (1976).

A bipartisan majority of Congress, after years of effort, has responded by producing a sensible set of reforms to restore citizen confidence in government. Because Congress acted in an area where it is uniquely expert, the Court owes substantial deference to Congress's findings and its judgment about how best to accomplish its objectives.