IN THE SUPREME COURT OF THE UNITED STATES

Nos. 02-1674, et al.

MITCH MCCONNELL, SENATOR, ET AL., APPELLANTS/CROSS-APPELLEES

v.

FEDERAL ELECTION COMMISSION, ET AL.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

RESPONSE OF THE FEDERAL ELECTION COMMISSION, ET AL., TO PLAINTIFFS' MOTIONS FOR DIVIDED ARGUMENT

On July 14, 2003, the Solicitor General, on behalf of the Executive Branch appellees/cross-appellants Federal Election Commission, et al. (appellants in No. 02-1676), moved for divided argument in these consolidated cases. The Executive Branch parties proposed, inter alia, that two hours of argument time be allotted to Title I and Section 213 of the Bipartisan Campaign Reform Act of 2002 (BCRA), Pub. L. No. 107-155, 116 Stat. 81, and that two hours be allotted to the remainder of the challenged BCRA provisions. That motion further proposed that the argument time allotted to the defendants be divided as follows: one hour and 20 minutes for the Executive Branch parties, which the government contemplates would be divided relatively equally between the Solicitor General and the Principal Deputy Solicitor General, and 40 minutes for appellees/cross-appellants Senator John McCain, et al. (appellants

in No. 02-1702). The McCain parties joined in that motion. Five different motions for divided argument were also filed on that date on behalf of the 11 groups of plaintiffs in these cases. Those motions set forth divergent views as to the proper division of the argument time allotted to the plaintiffs.

The Executive Branch parties take no position as to the manner in which argument time should be divided among the various groups of plaintiffs. The Executive Branch parties urge, however, that this Court's decision regarding the proper division of plaintiffs' argument time should have no effect on the manner in which the time allotted to the defendants may be utilized. Thus, regardless of the number of attorneys for plaintiffs who may be allowed to present oral argument, and the division of that time among the various issues presented by these cases, the Executive Branch and McCain parties should be permitted to utilize their allotted time without regard to the subdivision of the plaintiffs' time and subject only to the constraints identified in our July 14 motion.

Respectfully submitted.

THEODORE B. OLSON
Solicitor General
Counsel of Record

JULY 2003