

**In the Supreme Court of the United States**

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CALIFORNIA DEMOCRATIC PARTY, ET AL., APPELLANTS

*v.*

FEDERAL ELECTION COMMISSION, ET AL.

---

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

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**RESPONSE OF APPELLEES FEDERAL ELECTION  
COMMISSION, ET AL.**

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LAWRENCE H. NORTON  
*General Counsel*  
RICHARD B. BADER  
*Associate General Counsel*  
STEPHEN E. HERSHKOWITZ  
DAVID KOLKER  
*Assistant General Counsels*  
*Federal Election Commission*  
*Washington, D.C. 20463*

THEODORE B. OLSON  
*Solicitor General*  
*Counsel of Record*  
ROBERT D. MCCALLUM, JR.  
*Assistant Attorney General*  
PAUL D. CLEMENT  
*Deputy Solicitor General*  
MALCOLM L. STEWART  
GREGORY G. GARRE  
*Assistants to the Solicitor*  
*General*  
DOUGLAS N. LETTER  
JAMES J. GILLIGAN  
MICHAEL S. RAAB  
DANA J. MARTIN  
*Attorneys*  
*Department of Justice*  
*Washington, D.C. 20530-0001*  
*(202) 514-2217*

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### **QUESTION PRESENTED**

In 2002, the President signed into law the Bipartisan Campaign Reform Act of 2002 (BCRA), Pub. L. No. 107-155, 116 Stat. 81. BCRA is designed to address various abuses associated with the financing of federal election campaigns and thereby protect the integrity of the federal electoral process. The question presented by this appeal is as follows:

Whether the limitations on political parties imposed by Section 101 of BCRA are constitutional.

**In the Supreme Court of the United States**

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No. 02-1753

CALIFORNIA DEMOCRATIC PARTY, ET AL., APPELLANTS

*v.*

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**RESPONSE OF APPELLEES FEDERAL ELECTION  
COMMISSION, ET AL.<sup>1</sup>**

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**OPINIONS BELOW**

The opinions of the district court are not yet reported.

**JURISDICTION**

The judgment of the district court was entered on May 2, 2003. Appellants' notice of appeal was filed on May 12, 2003. Appellants' jurisdictional statement was

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<sup>1</sup> This response is filed on behalf of the Federal Election Commission (FEC) and David M. Mason, Ellen L. Weintraub, Danny L. McDonald, Bradley A. Smith, Scott E. Thomas, and Michael E. Toner, in their capacities as Commissioners of the FEC; John Ashcroft, in his capacity as Attorney General of the United States; the United States Department of Justice; the Federal Communications Commission; and the United States of America. Those parties are appellants in *Federal Election Commission v. Mitch McConnell, United States Senator*, No. 02-1676.

filed on May 30, 2003. The jurisdiction of this Court is invoked under the Bipartisan Campaign Reform Act of 2002, Pub. L. No. 107-155, § 403(a)(3), 116 Stat. 114.

#### STATEMENT

This case presents a facial challenge to the constitutionality of the Bipartisan Campaign Reform Act of 2002 (BCRA), Pub. L. No. 107-155, 116 Stat. 81. A three-judge panel of the District Court for the District of Columbia held that several provisions of BCRA violate the First Amendment to the Constitution, while sustaining other BCRA provisions against various constitutional challenges. The district court also held that the plaintiffs' challenges to certain BCRA provisions are not justiciable in this suit. Congress has vested this Court with direct appellate jurisdiction over the district court's decision. See BCRA § 403(a)(3), 116 Stat. 114.

Appellants challenge various rulings of the district court that rejected some of appellants' constitutional challenges on the merits. As of this date, 11 other jurisdictional statements arising out of the same district court judgment are pending before this Court. See *Mitch McConnell, United States Senator v. Federal Election Commission*, No. 02-1674; *National Rifle Association v. Federal Election Commission*, No. 02-1675; *Federal Election Commission v. Mitch McConnell, United States Senator*, No. 02-1676 (see note 1, *supra*); *John McCain, United States Senator v. Mitch McConnell, United States Senator*, No. 02-1702; *Republican National Committee v. Federal Election Commission*, No. 02-1727; *National Right to Life Committee, Inc. v. Federal Election Commission*, No. 02-1733; *American Civil Liberties Union v. Federal Election Commission*, No. 02-1734; *Victoria Jackson*

*Gray Adams v. Federal Election Commission*, No. 02-1740; *Congressman Ron Paul v. Federal Election Commission*, No. 02-1747; *AFL-CIO v. Federal Election Commission*, No. 02-1755; *Chamber of Commerce v. Federal Election Commission*, No. 02-1756.

#### DISCUSSION

Under Section 403(a)(3) of BCRA, the final decision of the district court in this case is “reviewable only by appeal directly to the Supreme Court of the United States.” 116 Stat. 114. Pursuant to Section 403(a)(4) of BCRA, this Court is directed “to advance on the docket and to expedite to the greatest possible extent the disposition of the \* \* \* appeal.” 116 Stat. 114. In addition to filing our own jurisdictional statement (see note 1, *supra*) to appeal the district court’s rulings declaring certain provisions of BCRA to be invalid, appellees will defend on appeal those provisions of the statute that were sustained against appellants’ constitutional challenges. Appellees agree, however, that appellants’ jurisdictional statement identifies substantial questions of federal law and that this Court should note probable jurisdiction over the appeal.<sup>2</sup>

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<sup>2</sup> On May 23, 2003, appellees filed a motion for expedited briefing schedule applicable to all then-pending appeals (see pp. 2-3, *supra*) from the district court’s judgment in this case. That briefing schedule should also be made applicable to the instant appeal.

**CONCLUSION**

The Court should note probable jurisdiction.

Respectfully submitted.

LAWRENCE H. NORTON  
*General Counsel*

RICHARD B. BADER  
*Associate General Counsel*

STEPHEN E. HERSHKOWITZ

DAVID KOLKER  
*Assistant General Counsels  
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*Assistants to the Solicitor  
General*

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JAMES J. GILLIGAN

MICHAEL S. RAAB

DANA J. MARTIN

*Attorneys*

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