

INSTITUTE FOR JUSTICE & CENTER FOR COMPETITIVE POLITICS



INSTITUTE FOR JUSTICE

January 21, 2010



**Via Electronic Filing**

Mark Langer, Clerk of Court  
Office of the Clerk  
U.S. Court of Appeals for the D.C. Circuit  
333 Constitution Ave., NW  
Washington, D.C. 20001-2866

RE: Notice of Supplemental Authority under Fed. R. App. P. 28(j), *SpeechNow.org v. FEC*, Case Nos. 08-5223 (L) & 09-5342

Dear Mr. Langer:

Pursuant to Fed. R. App. P. 28(j), the Plaintiffs *SpeechNow.org*, et al., write to inform the Court of the recent decision of the United States Supreme Court in *Citizens United v. FEC*, No. 08-205 (Jan. 21, 2010). This new authority is directly relevant to the First Amendment issues involved in *SpeechNow.org v. FEC*, Case Nos. 08-5223(L) & 09-5342, which is pending before the Court and is scheduled for oral argument on January 27, 2010.

*Citizens United v. FEC* speaks to several issues currently before this Court. The Supreme Court in *Citizens United* discusses at great length the burdens that groups face from having to register and operate as political committees. Slip op. at 21-22. The opinion also reaffirms the concept of independence by holding that “the absence of prearrangement and coordination of an expenditure with the candidate . . . alleviates the danger that expenditures will be given as a quid pro quo for improper commitments from the candidate.” Slip op. at 41 (quoting *Buckley v. Valeo*, 424 U.S. 1, 47 (1976)). In addition, the Supreme Court in *Citizens United* also rejects the argument that concerns about “undue influence” or “access” are sufficient grounds to restrict campaign finances. Slip op. at 43-44.

Thank you, and please do not hesitate to contact me should you have any questions.

Respectfully,

/s/ Steven M. Simpson

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