

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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