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MONTANA SUPREME COURT UPHOLDS STATE'S CENTURY-OLD BAN ON CORPORATE MONEY IN ELECTIONS

RULING SETS UP FIRST DIRECT CHALLENGE TO US SUPREME COURT'S JANUARY 2010 DECISION IN CITIZENS UNITED v. FEC

'A Huge Victory for Democracy'

HELENA, MONTANA -- The Montana Supreme Court today upheld Montana's century-old ban on corporate political expenditures in state elections. The Court's 5-2 ruling sets up the first direct challenge to the US Supreme Court's January 2010 decision in *Citizens United v. FEC*, which equated corporations with people under the First Amendment and swept away longstanding precedent that had barred corporate expenditures in federal elections. Montana's 1912 Corrupt Practices Act came under legal attack following the *Citizens United* decision, and Montana Attorney General Steve Bullock has vigorously defended the state's law in the Montana courts, leading to today's state supreme court ruling.

"[T]he State of Montana, or more accurately its voters, clearly had a compelling interest to enact the challenged statute in 1912," wrote Chief Justice Mike McGrath for the Court's the majority opinion in the case of *Western Tradition Partnership, Inc. v. State of Montana*. "At that time the State of Montana and its government were operating under a mere shell of legal authority, and the real social and political power was wielded by powerful corporate managers to further their own business interests."

"The question then, is when in the last 99 years did Montana lose the power or interest sufficient to support the statute, if it ever did," Chief Justice McGrath continued. "...Issues of corporate influence, sparse population, dependence upon agriculture and extractive resource development, location as a transportation corridor, and low campaign costs make Montana especially vulnerable to continued efforts of corporate control to the detriment of democracy and the republican form of government. Clearly, Montana has unique and compelling interests to protect through preservation of this statute."

“*Citizens United*,” Chief Justice McGrath declared for the Court, “does not compel a conclusion that Montana’s law prohibiting independent political expenditures by a corporation related to a candidate is unconstitutional.”

“This is a huge victory for democracy,” said John Bonifaz, the co-founder and director of Free Speech For People (www.freespeechforpeople.org), a national campaign launched on the day of the *Citizens United* ruling in January 2010 to overturn the Court’s decision. “In a powerful ruling, the Montana Supreme Court has rightly upheld its century-old law barring corporate political expenditures, a law that has proved necessary for protecting the integrity of Montana elections. With this ruling, the Montana Supreme Court now sets up the first test case for the US Supreme Court to revisit its *Citizens United* decision, a decision which poses a direct and serious threat to our democracy.

“The Montana state supreme court justices have just provided a New Year’s gift to the nation,” Bonifaz continued.

In April 2011, Free Speech For People led a coalition of public interest groups and businesses in the filing of a friend-of-the-court brief before the Montana Supreme Court in defense of Montana’s Corrupt Practices Act. “The 5-4 decision in *Citizens United v. Federal Election Commission*,” the coalition’s brief stated, “was an extreme extension of an erroneous corporate rights doctrine that has eroded the First Amendment and the Constitution for the past 30 years.” The ruling, the brief continued, “is contrary not only to our republican principles of government, but also to American principles of free and fair commerce among free people and the States.”

“Corporations are not people,” said Jeff Clements, the co-founder and general counsel for Free Speech For People and the author of the coalition’s brief. “The Framers understood that. The First Amendment and the Constitution is for people. We are proud to stand today with the State of Montana to vindicate the Framers’ intent and to defend our democracy.”

“Montana has the right and the duty to defend its laws against Beltway-based corporate front groups,” said Jeff Milchen, co-founder of the Bozeman, MT - based American Independent Business Alliance. “Butte, Libby and other Montana communities are still recovering from the ravages of large corporations whose political power allowed them to profit at the expense of Montanans’ health and our environment. Overturning our essential protections for election integrity would invite even more harm while allowing out-of-state corporations to gain political favors that undermine Montana entrepreneurs.”

“All businesses must ask ourselves: Are our goals furthered by pay-to-play elections where precious capital is diverted to politics, or should we focus on our business and the benefits that we bring to the local and national economy? Montana’s ban on corporate spending should be applauded as a national model. A decision to overturn this decision will substantially increase the over-dominance of corporate influence in politics—both in determining who gets elected and how they make decisions once they are in office,” said David Levine, executive director of the American Sustainable Business Council.

In addition to Free Speech For People, other signatories to the brief included the American Sustainable Business Council, representing a network of more than 70,000 businesses across the country; the American Independent Business Alliance, based in Bozeman, Montana; Mike’s

Thriftway, a supermarket business in Chester, Montana; and Home Resource Center, Inc., a non-profit Montana corporation operating a building materials and re-use center in Missoula, Montana.

Jonathan Motl of Morrison, Motl & Sherwood in Helena, Montana, served as co-counsel with Jeff Clements on the brief.

Launched on the day of the *Citizens United* ruling, Free Speech For People is a national non-partisan campaign challenging the fabrication of corporate rights under the US Constitution and pressing for a constitutional amendment to ensure that people, not corporations, govern in America.

The Montana Supreme Court's opinion can be found here:

<http://courts.mt.gov/supreme/default.mcpx>

(searching under Opinions/Briefs for the opinion in *Western Tradition Partnership, Inc. v. State of Montana*.)

The coalition's amicus brief filed in April 2011 can be accessed here:

<http://freespeechforpeople.org/sites/default/files/FSFPAmicusBrief.pdf>

To learn more about Free Speech For People, visit www.freespeechforpeople.org.

To learn more about the American Sustainable Business Council and the Business For Democracy Campaign, visit www.businessfordemocracy.com.

To learn more about the American Independent Business Alliance, visit www.amiba.net.