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CONTACT: Edward Erikson, 202-420-9947, [edward.erikson@gmail.com](mailto:edward.erikson@gmail.com)

## **MEMBERS OF CONGRESS AND CONGRESSIONAL CANDIDATES FILE SUIT AGAINST THE FEC TO ABOLISH SUPER PACS**

### **LAWSUIT SEEKS REVERSAL OF 2010 FEDERAL APPEALS COURT RULING WHICH SANCTIONED SUPER PAC SPENDING IN US ELECTIONS**

WASHINGTON, DC – A bipartisan coalition of Members of Congress and 2016 congressional candidates filed a federal lawsuit today against the Federal Election Commission seeking to end super PAC spending in US elections. The lawsuit, led by Representative Ted Lieu (D-CA-33), Senator Jeff Merkley (D-OR), and Representative Walter Jones (R-NC-3), seeks to reverse a federal appeals court ruling which created super PACs and has resulted in an explosion of spending in elections across the country.

The March 2010 ruling by the U.S. Court of Appeals for the D.C. Circuit in *SpeechNow.org v. FEC* opened the door to super PACs by holding that the federal law limiting contributions to political committees to \$5,000 per person each year did not apply to a political committee that promised to make only “independent expenditures.” The lawsuit filed today alleges that super PACs have now become vehicles for wealthy donors to evade campaign contribution limits designed to prevent corruption and the appearance of corruption. The US Supreme Court has yet to review this question.

As the lawsuit cites, more than forty percent of federal super PAC contributions, as of April 2016, had come from just 50 funders and their families. By late October 2016, federal super PACs had reported total receipts of more than \$1.1 billion and total expenditures of more than \$799 million.

The filing of this lawsuit today follows the filing of a complaint before the FEC on July 7, 2016, which named ten super PACs as respondents, including the Democratic and Republican super PACs for Senate and House candidates. The FEC complaint alleged that the super PACs “have knowingly accepted and continue to knowingly accept contributions that exceed the \$5,000 per contributor limit, in some cases by over a hundredfold.” The \$5,000 per contributor limit has remained a part of the federal campaign finance statute despite the *SpeechNow* ruling. The FEC complaint sought to enforce the \$5,000 contribution limit, thereby abolishing super PACs in US elections.

Federal law allows for complainants to sue the FEC if the agency has not acted on their complaint within 120 days of its filing. To date, the FEC has taken no action on the complaint.

The lawsuit states, “[t]he availability of quid pro quo transactions through super PAC contributions creates a potential for corruption, and an appearance of corruption that is confirmed by the public. For this reason, enforcing the contribution limits...against super PACs is justified by the interest in preventing corruption and the appearance of corruption.”

Free Speech For People, a national non-profit public interest organization founded on the day of the US Supreme Court's ruling in *Citizens United v. FEC*, serves as co-lead counsel for the plaintiffs, along with the Campaign for Accountability; Brad C. Deutsch and the law firm of Garvey Schubert Barer; and Stephen A. Weisbrod and the law firm of Weisbrod Matteis & Copley. Mr. Deutsch served as lead counsel to the 2016 presidential campaign of Senator Bernie Sanders, and previously served for eight years as Chief of Staff and Senior Legal Advisor to Commissioner Steven T. Walther at the Federal Election Commission. The legal team also includes a bipartisan group of distinguished scholars and practitioners in the law of the First Amendment, corruption, and government ethics: Professor Laurence Tribe (Harvard Law School); Professor Albert Alschuler (Univ. of Chicago Law School, emeritus); Ambassador (ret.) Norman Eisen (former chief ethics counsel to President Barack Obama); and Professor Richard Painter (Univ. of Minnesota Law School, and former chief ethics counsel to President George W. Bush).

For a copy of the complaint filed in federal court today and background materials, visit [www.endingsuperpacs.org](http://www.endingsuperpacs.org).

### **Quotes on Lieu v. FEC, the Lawsuit Seeking to End Super PACs**

#### **Senator Jeff Merkley**

“When huge corporations and the super-wealthy can drown out the voices of ordinary Americans, we’ve lost President Lincoln’s vision of a government of the people, by the people, and for the people. We need to put ‘We the People’ back in charge, and that starts by closing the gaping super PAC loophole that has allowed dark money to overwhelm our elections.”

#### **Congressman Ted Lieu**

“I am honored to join my colleagues and Free Speech For People as one of the lead plaintiffs in a legal challenge seeking to compel the Federal Election Commission to enforce federal contribution limits on super PACs. It is time to get big money out of politics. Since the *SpeechNow.org v. Federal Election Commission* decision, the amount of money being spent on our elections has exploded, adding fuel to the public perception of election corruption. Americans across the political spectrum want to see their elected officials responsive to them instead of big money donors. The idea that one person or one corporation can essentially buy an election is a threat to our democracy. Progress happens when people stand up and demand a change. The vast majority of the American people want to see limits to campaign contributions. It is time we address these inequities and advocate for changes to our campaign finance system.”

#### **Congressman Walter Jones**

“Since the *Citizens United* and *SpeechNow.org* decisions in 2010, I have witnessed the influence of money in politics become more and more pervasive. I see its influence shape policy in Washington to the detriment of the American people all the time. This effort is an important step towards returning the government to the people, and I’m proud to be a part of it.”

Professor Laurence Tribe

“Super PACs take their cue from a judicially-made loophole that stems from a lower court decision (*SpeechNow*) that, to this day, the Supreme Court has never reviewed. The Supreme Court Justices, including some who joined the *Citizens United* decision, may well be aghast at how a lower-court misinterpretation of the First Amendment gave birth to the super PAC takeover of American politics.”

Ron Fein, Legal Director, Free Speech For People

“This is the start of a new chapter in the effort to reclaim our system from super PACs. For too long, opponents of campaign finance reform have set the agenda in the courts. Today, we’re taking back the initiative.”

Brad C. Deutsch, Garvey Schubert Barer

Contribution limits are essential to the confidence we place in our democracy. Contribution limits not only prevent *actual* corruption – in the form of favors owed by elected officials to mega-donors – but, just as important, they also prevent the *appearance* of corruption and the inevitable cynicism that would follow.

Contribution limits become meaningless when big donors can make multi-million dollar contributions to super PACs. A donor can only give \$2,700 directly to a candidate, but they can give millions of dollars to a super PAC supporting that same candidate. The FEC should enforce the contribution limits that already exist in the law, but if the FEC refuses, the courts must step in.

Stephen A. Weisbrod, Weisbrod Matteis & Copley

“The court’s decision in *SpeechNow* was grounded in a simplistic legal theory that has proven to be woefully inconsistent with the real world experiences of Democrats and Republicans alike. The actual facts on the ground show that the massive expenditures by super PACS are distorting our country’s politics and causing people to lose faith in our government institutions.”

Professor Albert Alschuler

“Super PACs have been called the attack dogs and provocateurs of modern politics. In the *SpeechNow* case, a federal appeals court struck down Congress’s limits on contributions to these groups. It held that contributors have a constitutional right to make unlimited contributions. The court’s ruling transformed American politics, and the Supreme Court has never decided whether this ruling was correct. In fact, the appeals court ruling went substantially beyond even the *Citizens United* decision. The time has come to challenge the ruling and to bring the issue before the US Supreme Court.”

Ambassador (ret.) Norman Eisen

*Citizens United* is a famously bad case, but *SpeechNow* made it even worse. The tragedy is that it does not have to be this way. The FEC, and the courts, should and can apply federal law to stop super PACs from running amok, and this case is a vehicle for helping them to do that.

Professor Richard Painter:

"This case is an opportunity for the federal courts to address an important aspect of the campaign finance issue. Super PACs have had a corrosive and corrupting influence on our government and we believe that it is within Congress's constitutional powers to fight public corruption by regulating super PACs and their sources of funding."

Anne Weismann, Executive Director, Campaign for Accountability

"Americans understand what the FEC and federal courts have refused to see: super PACs are destroying our democracy. The quest for ever-increasing amounts of money leads candidates to be far more concerned about the interests of their billionaire benefactors than their home state constituents."

John Bonifaz, President, Free Speech For People

"Super PACs are threatening the integrity of our elections and undermining the promise of American self-government: of, by, and for the people. We cannot allow wealthy donors to evade our contribution limits and undermine the constitutional interest of preventing corruption and the appearance of corruption. This case will provide the US Supreme Court the opportunity to end the super PAC threat facing our democracy today."