

# CONTINUING THE FIGHT FOR OUR DEMOCRACY: FREE SPEECH FOR PEOPLE'S 2016 PROGRESS REPORT

OVER THE PAST SEVEN YEARS, Free Speech For People has emerged as a recognized leader of the movement to challenge big money in politics and unchecked corporate power, and to reclaim our democracy, and we have you to thank! Your support has enabled Free Speech For People to be the leading force in the courts to advance a new jurisprudence on money in politics; to continue to help lead the growing national movement for a 28<sup>th</sup> Amendment to the US Constitution to restore democracy to the people; to build key support within the legal community for a new jurisprudence through a series of convenings and through advancing new scholarship on this critical question of our time; and, to serve as an important resource for public education for this movement, generating significant coverage of our work through our communications and social media outreach.

Read on to learn about all the exciting things you have made possible in 2016.

## OUR PATH FORWARD FOR WINNING KEY CAMPAIGN FINANCE CASES IN THE COURTS

In 2015, prior to Justice Antonin Scalia's passing, Free Speech For People began developing a legal strategy to bring new test cases that could win at the Supreme Court, even under the Roberts Court as it existed at that time. These test cases were not targeted at a new post-Scalia Justice; they were built under the assumption that we would need to get Justice Anthony Kennedy and/or Chief Justice John Roberts on our side to prevail.

Prior to the November 2016 election, it looked like we might have a new justice who would be more favorable to campaign finance reform, possibly rendering Justice Kennedy's or Roberts's votes superfluous to victory. But the core strategy of these cases remains the same—legal arguments designed to persuade one of the justices from the Citizens United majority—and they are even more vital to pursue today.

We are pleased to share with you this report of our key legal advocacy projects in 2016.

## A CHALLENGE TO SUPER PACS

In March 2010, the US Court of Appeals for the DC Circuit, in the case of *Speechnow.org v. FEC*, unleashed super PACs into our political process. The *Speechnow* ruling, which has led to the current explosion of super PAC spending in our elections, has yet to be reviewed by the Supreme Court. In July 2016, Free Speech For People filed a complaint before the Federal Election Commission to abolish super PACs. In the complaint, we argue that the *Speechnow* ruling was wrongly decided and that super PACs have become vehicles for wealthy donors to evade longstanding limits on campaign contributions to candidates, presenting a new threat of corruption of the political process. In early November 2016, we filed this case against the FEC in federal district court in Washington, DC, starting this new litigation to challenge *Speechnow*. Our impressive legal team in this case includes Harvard Law Professor Laurence Tribe, one of the nation's leading constitutional scholars; Norm Eisen, the former chief ethics counsel for President Barack Obama; Richard Painter, the former chief ethics counsel for President George W. Bush; and University of Chicago Law Professor Albert Alschuler, a nationally-recognized expert on corruption.

## A CHALLENGE TO FOREIGN CORPORATE MONEY IN OUR ELECTIONS

Federal law prohibits foreign nationals from directly or indirectly influencing our elections. The Supreme Court recently upheld this longstanding prohibition in January 2012 in the case of *Bluman v. FEC*. In July 2016, Free Speech For People launched a campaign in St. Petersburg, Florida, to press for the passage of an ordinance by the St. Petersburg City Council which would abolish super PACs and end foreign corporate money in local elections. Thanks to your support, Free Speech For People drafted the ordinance and is working closely in this campaign with St. Petersburg City Councilwoman Darden Rice, who has introduced this ordinance before the City Council in partnership with American Promise-Tampa Bay and the League of Women Voters of the St. Petersburg Area. If the St. Petersburg City Council passes this ordinance, it could set up a new test case for challenging the *Speechnow* ruling and for challenging foreign corporate money in our elections. Such a case, if it were to reach the Supreme Court, could result in the abolition of super PACs and it could significantly limit the impact of the *Citizens United* ruling.

**You can read more about our work to challenge big money in politics, and how your support is helping to uphold the rights of all people to have an equal voice and equal vote in our democracy, on our website: [www.freespeechforpeople.org](http://www.freespeechforpeople.org)**

# THANK YOU FOR CONTINUING TO BE A CHAMPION OF OUR DEMOCRACY!

## DEFENDING CAMPAIGN CONTRIBUTION LIMITS

Your support has helped Free Speech For People to continue to defend campaign contribution limits in Montana. On October 6, 2016, we filed an amicus brief with our partners – the Indian Law Resource Center, American Independent Business Alliance, American Sustainable Business Council, and retired Montana Supreme Court Justice James Nelson – to uphold that state’s campaign contribution limits. The brief advances a political equality argument in defense of the limits by making the case for political equality as a constitutional value, and argues the political contribution system, if left unchecked, creates and empowers a “donor class” that prevents candidates without wealth from successfully seeking public office and disproportionately impacts the political participation of people of color, women, and young people.

## CHALLENGING CORPORATE CLAIMS OF CONSTITUTIONAL RIGHTS

In addition to our legal advocacy work challenging big money in politics, your support has enabled Free Speech For People to continue to fight for the rights of people against corporate claims of constitutional rights. On May 2, 2016, the US Supreme Court let stand a federal appeals court ruling upholding a living wage ordinance that raises the minimum wage, in stages, to \$15 per hour. This is a huge victory, not only for Seattle workers, but also for the Constitution, in challenging corporate claims of constitutional rights. Since the initial passage of the ordinance in 2014, McDonald’s and other franchised businesses have claimed the law violates their First Amendment and equal protection “rights” as corporations. We challenged these claims in amicus briefs submitted in 2014 and 2015 before the federal district court and the federal appeals court—legal advocacy work that could not have taken place without your support. As a result of the Supreme Court decision this year, the case has now ended and Seattle’s living wage law will go fully into effect.

This victory in Seattle will be an important building block for more victories to come for our democracy and for the promise of American self-government: of, by, and for the people. Because of you, we are at the ready to continue to fight back in other courtrooms across the country against these false claims of corporate constitutional rights whenever and wherever they arise.

## CONTINUING TO HELP LEAD THE MOVEMENT FOR A 28<sup>TH</sup> AMENDMENT

Our innovative and cutting-edge work in the courts is on a parallel track with our continued work to help lead the movement for a 28<sup>th</sup> Amendment to reclaim our democracy. With our launch on the day of the *Citizens United* ruling, we helped to catalyze this movement and your support has helped us to play an instrumental role in many of the victories to date in this movement - 18 states and more than 725 cities and towns are now on record in support of a constitutional amendment, along with the historic Senate vote in September 2014 where 54 Senators voted in support of the Democracy For All Amendment. Thanks to your support, we played an active role in winning in November 2016 the passage of statewide ballot measures in California and Washington State which call for a 28<sup>th</sup> amendment.

## BUILDING NEW SCHOLARSHIP AND SUPPORT FOR A NEW JURISPRUDENCE

Thanks to your support, in 2016 we continued to build support for a new jurisprudence within the legal community and among other influential actors, advancing new scholarship and convening a series of educational events and legal symposia with leading scholars and activists from across the country. These included:

- “Democracy by the People: Reforming Campaign Finance in America Today,” an all-day symposium in April 2016, at Seton Hall School of Law in Newark, New Jersey, with Justice Cheri Beasley of the North Carolina Supreme Court serving as our keynote speaker.
- “Bold Strategies for Achieving Political Equality Through a New Supreme Court,” a panel presentation at the 2016 Netroots Nation in St. Louis, Missouri, which discussed strategies inside and outside the courts for defending our democracy.

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Free Speech For People looks forward to continuing our partnership with you at this critical moment as we keep fighting to advance a new jurisprudence on money in politics and as we keep leading the growing grassroots movement to reclaim our democracy. We are so proud and thankful to count you among our stalwart supporters, and look forward to sharing more victories in the months ahead.