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## **Free Speech For People's Project to Abolish Super PACs**

In 2015, Free Speech For People launched a bold and innovative campaign to abolish super PACs in our elections. Since the emergence of super PACs in 2010, the nation has witnessed a new explosion of campaign spending, fueled largely by unlimited donations from billionaires and corporate interests. With super PACs, wealthy donors and big money interests are wielding alarming and disproportionate influence in our elections and our political process, creating new threats of corruption and drowning out the voices of ordinary citizens. From questions of climate change to economic justice, healthcare to a sustainable economy, big money forces are dominating the discussion and undermining the promise of political equality for all. Free Speech For People is fighting back against this threat to our democracy by bringing innovative legal challenges before the courts and by advancing legislation in the states and in Congress to abolish super PACs.

### **Project Background**

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. In *SpeechNow*, the Court concluded that the federal law limiting contributions to political action committees to \$5,000 per person per year did not apply to political committees that promised to make only “independent” expenditures. Unfortunately, then-Attorney General Eric Holder decided not to appeal *SpeechNow* to the Supreme Court, on the (clearly mistaken in retrospect) theory that the *SpeechNow* decision would “affect only a small subset of federally regulated contributions.” This prediction, like the court’s speculation that contributions to super PACs could not lead to corruption or the appearance of corruption, has proven incorrect with time. To this day, the Supreme Court has not reviewed the question. As a result, super PACs have become one of the primary vehicles for wealthy donors to evade campaign contribution limits designed to prevent corruption and the appearance of corruption.

In 2015, Free Speech For People launched the Ending Super PACs project to implement a new legal strategy to challenge the DC Circuit’s ruling that prevents the federal government from limiting contributions to super PACs. With this project, we apply pressure for new review by federal appellate courts and eventually by the Supreme Court of the *SpeechNow* ruling. To advance this initiative, we seek to help pass new legislation and ballot initiatives which abolish super PACs; to defend such new laws in court; and to promote scholarly and public conversations on overturning *SpeechNow*.

### **Past Cases and Legislative Advocacy**

- *Lieu v. FEC – A Legal Challenge to Super PACs*: In November 2016, Free Speech For People filed a lawsuit against the Federal Election Commission to abolish super PACs. The [lawsuit](#) sought the reversal of the 2010 federal appeals court ruling in [SpeechNow.org v. FEC](#). The plaintiffs were a bipartisan coalition of Members of Congress and 2016 congressional candidates led by Representative Ted Lieu (D-CA-33), Senator Jeff Merkley (D-OR), and the late Representative Walter Jones (R-NC-3). On June 18, 2020, we filed a [petition for certiorari](#) review in the U.S. Supreme Court. Unfortunately, in November 2020, the Supreme Court denied certiorari. The untimely passing of the late Justice Ruth Bader Ginsburg changed the dynamic of the Court. While we were disappointed that the Court did not take

the opportunity to review *SpeechNow*, we can understand why justices who might have been inclined to take such an opportunity with Justice Ginsburg on the bench might have concluded that they did not have the votes at that time. We intend to present this issue to the Court again in a future case.

- *Massachusetts Ballot Initiative to End Super PACs*: In 2022, Free Speech For People and Equal Citizens, on behalf of individual Massachusetts voters, filed two lawsuits in the Massachusetts Supreme Judicial Court as part of a joint campaign to end to super PAC spending in the state and to provide critical legal precedent for ending super PACs nationwide. The lawsuits were filed after the Massachusetts Attorney General's Office declined to certify our proposed ballot initiative petition to abolish super PAC spending in state elections. Following oral argument before the Massachusetts Supreme Judicial Court, the Court ruled on procedural grounds that the case was moot and did not address the merits of Free Speech For People's argument.
- *Legislation introduced to end super PACs in Seattle, Washington and Massachusetts*: In 2020, the Seattle City Council considered an ordinance to end super PACs in city elections and in 2021 state legislators introduced bills in the Massachusetts state legislature to end super PAC spending in state elections and to prohibit spending by foreign-influenced corporations in Massachusetts elections.

### **Current Action – Maine Citizen's Initiative to End Super PACs**

Free Speech For People is proud to endorse and support a citizen's initiative effort to abolish super PAC spending in state elections in Maine. The ballot initiative committee, led by Maine Citizens to End Super PACs and founded by Lawrence Lessig, the Roy L. Furman professor of law and leadership at Harvard Law School, collected over 76,000 signatures in support of a referendum to limit annual contributions to super PACs from individuals, business, and other PACs to \$5,000 in a calendar year. Currently, the state of Maine does not place any limits on contributions to super PACs. Per recent [polling](#), 72% of Maine residents strongly support establishing limits on the size of contributions to super PACs. The measure has received approval from the Maine Secretary of State to appear on the November 2024 statewide ballot.

To support the effort to abolish super PACs in Maine, Free Speech For People is providing additional communications, organizing, and legal capacity to the state and local groups leading efforts on the ground. In addition, following the potential passage of the initiative, we are prepared to offer legal expertise and representation to state and local groups, if the measure is challenged in court. Reporting in the [Portland Press Herald](#) and the [Maine Morning Star](#) indicates that the measure has the potential to reach the Supreme Court, presenting to the Court another opportunity to review the DC Circuit's 2010 *SpeechNow* ruling. If Maine voters pass the ballot measure, Free Speech For People will work with the Maine Attorney General's Office in defending the law in court.

### **Conclusion**

Through our work to challenge the unprecedented corruption through super PACs in our political system and ensure political equality for all, Free Speech For People serves at the forefront of the movement to reclaim our democracy for we, the people.