

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

---

Senator Mitch McConnell,	)	
	)	
	)	
Plaintiff,	)	Case No. 02-0582 (RJL)
v.	)	
	)	
	)	
Federal Election Commission, <i>et al.</i> ,	)	
	)	
	)	
Defendants.	)	

---

**MOTION OF  
SENATOR JOHN McCAIN, SENATOR RUSSELL FEINGOLD,  
REPRESENTATIVE CHRISTOPHER SHAYS,  
REPRESENTATIVE MARTIN MEEHAN, SENATOR OLYMPIA SNOWE, AND  
SENATOR JAMES JEFFORDS  
TO INTERVENE AS DEFENDANTS  
SUPPORTING THE CONSTITUTIONALITY OF  
THE BIPARTISAN CAMPAIGN REFORM ACT OF 2002**

---

Pursuant to Federal Rule of Civil Procedure Rule 24(a) and (b) and section 403(b) of the Bipartisan Campaign Reform Act of 2002 (the “Reform Act” or “Act”), Senator John McCain, Senator Russell Feingold, Representative Christopher Shays, Representative Martin Meehan, Senator Olympia Snowe, and Senator James Jeffords respectfully move to intervene as defendants in this action to defend the constitutionality of the provisions of the Act challenged by the plaintiff. Counsel for the proposed intervening defendants has conferred with counsel for plaintiff, who has indicated that plaintiff consents to the proposed intervention.

Attached hereto is a proposed Answer and Affirmative Defenses setting forth the claims and defenses for which intervention is sought. The grounds for this motion, as set forth more fully in the accompanying memorandum and declarations, are as follows:

1. Movant John McCain is a United States Senator from the State of Arizona who was elected in 1986, re-elected in 1992 and 1998, and next faces re-election in 2004. Senator McCain was a principal sponsor of the Act.

2. Movant Russell Feingold is a United States Senator from the State of Wisconsin who was elected in 1992, re-elected in 1998, and next faces re-election in 2004. Senator Feingold was a principal sponsor of the Act.

3. Movant Christopher Shays is a member of the United States House of Representatives from the 4th Congressional District of the State of Connecticut who was elected in 1987, re-elected in 1988 and every two years thereafter, and next faces re-election in November 2002. Representative Shays was a principal sponsor of the Act.

4. Movant Martin Meehan is a member of the United States House of Representatives from the 5th Congressional District of the Commonwealth of Massachusetts who was elected in 1992, re-elected every two years thereafter, and next faces re-election in November 2002. Representative Meehan was a principal sponsor of the Act.

5. Movant Olympia Snowe is a United States Senator from the State of Maine who was elected in 1994, re-elected in 2000, and next faces re-election in 2006. Senator Snowe was a principal supporter of the Act and an author of a portion of the Act.

6. Movant James Jeffords is a United States Senator from the State of Vermont who was elected in 1988, re-elected in 1994 and 2000, and next faces re-election in 2006. Senator Jeffords was a principal supporter of the Act and an author of a portion of the Act.

7. Fed. R. Civ. P. 24(a)(1) provides that, upon timely application, anyone shall be permitted to intervene in an action “when a statute of the United States confers an unconditional right to intervene.”

8 Plaintiff in this action seeks to have various provisions of the Act declared unconstitutional. Section 403(b) of the Act provides in relevant part:

In any action in which the constitutionality of any provision of this Act or any amendment made by this Act is raised . . . any member of the House of Representatives . . . or Senate shall have the right to intervene either in support of or opposition to the position of a party to the case regarding the constitutionality of the provision or amendment.

The movants are members of the House of Representatives and the Senate who wish to intervene in this action in defense of the constitutionality of the Act, and section 403(b) gives them an unconditional right to do so.

9. Each movant is a United States citizen, member of Congress, candidate or potential candidate, voter, recipient of campaign contributions, fundraiser, and political party member, and each faces personal, particularized, and concrete injury in the event that any provision of the Act is invalidated. In particular, as federal officeholders and candidates, or potential candidates, for election to federal office, the movants are among those whose conduct the Act regulates, and among those whom the Act seeks to insulate from the actual or apparent corrupting influence of special interest money. If any of the reforms embodied in the Act are struck down, movants will once again be forced to attempt to discharge their public responsibilities, raise money, and campaign in a system that is widely perceived to be, and in many respects is, significantly corrupted by the influence of special-interest money.

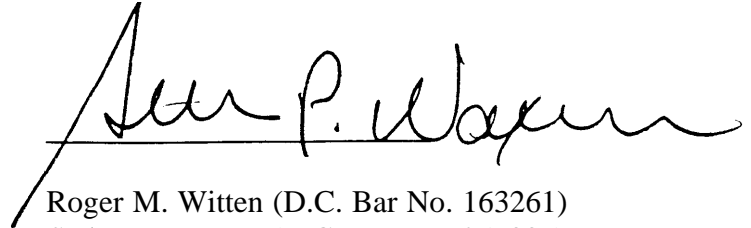
10. Intervention as of right under Fed. R. Civ. P. 24(a)( 1) is the most appropriate avenue for intervention in this action, given the plain terms of section 403(b). The movants also satisfy, however, the requirements for intervention as of right under Fed. R. Civ. P. 24(a)(2) and permissive intervention under Fed. R. Civ. P. 24(b).

11. The movants recognize that, pursuant to section 403(b), other members of the House of Representatives and the Senate may seek leave to intervene as defendants in support of the Act's constitutionality. The movants and their counsel will strive to "avoid duplication of efforts and reduce the burdens placed on the parties to the action," as provided in section 403(b).

12. Factual support for this motion is contained in the movants' accompanying declarations. Further argument and legal authority are set forth in the accompanying memorandum of law.

Dated this 2nd day of April, 2002.

Respeciffully submitted,

A handwritten signature in black ink, appearing to read "Seth P. Waxman", is written over a horizontal line. The signature is cursive and extends to the right of the line.

Roger M. Witten (D.C. Bar No. 163261)  
Seth P. Waxman (D.C. Bar No. 257337)  
Randolph D. Moss (D.C. Bar No. 417749)  
WILMER, CUTLER & PICKERING  
2445 M Street, N.W.  
Washington, D.C. 20037-1420  
(202) 663-6000

David J. Harth  
Charles G. Curtis, Jr.  
Monica P. Medina  
HELLER EHRMAN WHITE &  
MCAULIFFE LLP  
One East Main Street, Suite 201  
Madison, WI 53703

Prof. Burt Neuborne  
Frederick A.O. Schwarz, Jr.  
E. Joshua Rosenkranz  
BRENNAN CENTER FOR JUSTICE  
161 Avenue of the Americas, 12th Floor  
New York, NY 10013

Trevor Potter  
THE CAMPAIGN AND MEDIA LEGAL CENTER  
1101 Connecticut Ave., N.W.,  
Suite 330  
Washington, DC 20036

*Counsel for Movants Senator John McCain,  
Senator Russell Feingold, Representative  
Christopher Shays, Representative Martin  
Meehan, Senator Olympia Snowe, and  
Senator James Jeffords*

Bradley S. Phillips  
MUNGER, TOLLES & OLSON LLP  
355 South Grand Avenue, 35th Floor  
Los Angeles, CA 90071

Fred Wertheimer  
DEMOCRACY 21  
1825 Eye Street, N.W., Suite 400  
Washington, DC 20006