

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF CONNECTICUT**

DEMOCRATIC GOVERNORS ASSOCIATION,	)	
	)	
Plaintiff,	)	Civil Action No. 3:14-CV-00544-JCH
v.	)	
	)	
MICHAEL J. BRANDI, et. al,	)	
	)	
Defendants.	)	
	)	

**MOTION OF THE CAMPAIGN LEGAL CENTER, COMMON CAUSE OF  
CONNECTICUT, CONNECTICUT CITIZEN ACTION GROUP AND THE  
LEAGUE OF WOMEN VOTERS OF CONNECTICUT FOR LEAVE TO FILE  
BRIEF AS *AMICI CURIAE***

The Campaign Legal Center (CLC), Common Cause of Connecticut, Connecticut Citizen Action Group and The League of Women Voters of Connecticut respectfully move this Court for leave to file the attached Memorandum as *Amici Curiae* In Opposition To Plaintiff’s Motion For Preliminary Injunction. Counsel for Defendants have consented to our *amici* participation and do not oppose this motion. Counsel for Plaintiff Delaware Governors Association (DGA) have not consented to our *amici* participation.

As permitted by Fed. R. Civ. P. 78(b), the CLC, Common Cause of Connecticut, Connecticut Citizen Action Group and The League of Women Voters of Connecticut respectfully request that this Court rule upon this motion without an oral hearing. *Amici* movants do not request the opportunity to participate in oral argument on the merits of this case.

As grounds for this motion, *amici* movants would show unto the Court that:

1. Plaintiff requests that this Court preliminarily enjoin the enforcement of Connecticut's definition of "expenditure," *see* Conn. Gen. Stat. § 9-601b, as well as the implementation and enforcement of Conn. Gen. Stat. § 9-601c(c) and certain declaratory rulings of the State Elections Enforcement Commission (SEEC) as they relate to a finding of coordination based on a candidate's solicitation of funds for a group that makes allegedly independent expenditures on that candidate's behalf.

2. The CLC is a nonpartisan, nonprofit organization that works in the area of campaign finance law, and participates in state and federal court litigation throughout the nation regarding contribution limits, disclosure, political advertising and other campaign finance matters. It also participates in rulemaking and advisory opinion proceedings at the Federal Election Commission (FEC) to ensure that the agency is properly enforcing federal election laws, and files complaints with the FEC requesting that enforcement actions be taken against individuals or organizations which violate the law.

3. The CLC has provided legal counsel to parties and *amici curiae* in numerous campaign finance cases at the federal and state court levels, including representing intervening defendants in *McConnell v. FEC*, 540 U.S. 93 (2003). More recently, the CLC has participated as *amici curiae* in a number of Supreme Court cases raised by plaintiff here, including *McCutcheon v. FEC*, 134 S. Ct. 1434 (2014), *Citizens United v. FEC*, 130 S. Ct. 876 (2010) and *Wisconsin Right to Life v. FEC*, 127 S. Ct. 2652 (2007). The CLC has also participated as an *amicus* in several recent cases concerning coordination and coordinated expenditure limits that are directly relevant to this matter, including *Vermont Right to Life Committee, Inc. v. Sorrell*, 875 F. Supp. 2d

376 (D. Vt. 2012), on appeal No. 12-2904 (2d Cir. argued Mar. 15, 2013) (challenge to application of contribution limits to purported independent expenditure committee), and *Cao v. FEC*, 619 F.3d 410 (5th Cir. 2010), *cert. denied* 131 S. Ct. 1718 (2011) (challenge to federal party coordinated expenditure limits). Finally, the CLC participated in the FEC rulemaking proceedings on the federal coordination regulations that plaintiff references repeatedly in its papers (*see* Coordinated and Independent Expenditures, 68 Fed. Reg. 421 (2003); Coordinated Communications, 71 Fed. Reg. 33,190 (2006); Coordinated Communications, 75 Fed. Reg. 55,947 (2010)), and in addition, represented Senator Jon McCain and former Senator Russell Feingold as *amici curiae* in two actions litigating these coordination regulations. *Shays v. FEC*, 414 F.3d 76 (D.C. Cir. 2005) (“*Shays I*”), *Shays v. FEC*, 528 F.3d 914 (D.C. Cir. 2008) (“*Shays III*”).

4. Common Cause is a nonprofit, nonpartisan citizens’ organization with approximately 400,000 members and supporters nationwide, including 4,500 in Connecticut. Common Cause has long been concerned with the growing problem of money in the political process, and has publicly advocated for appropriate regulation in order to restore integrity to the electoral system at the federal, state and local levels. Common Cause was a strong advocate for congressional enactment of the Bipartisan Campaign Reform Act of 2002.

5. The League of Women Voters of Connecticut (the League), a statewide organization with over 1600 members in 27 local Leagues, is committed to effective public policy and the active involvement of citizens in their government. The League believes that the goals of a campaign finance system should ensure the public’s right to

know, combat corruption and undue influence, and enable candidates to compete more equitably for public office.

6. Connecticut Citizen Action Group (CCAG) is a 501(c)(4) social justice organization with more than 20,000 members in Connecticut. CCAG is concerned with the increasing role that money has in corrupting the political process. CCAG has been advocating for public financing of elections since the organization's inception in 1971.

7. All of the *amici* movants have had a long history of interest and involvement in Connecticut elections and the state's laws on elections, campaign finance and political disclosure.

8. Common Cause was a leader in the development and enactment of Connecticut's 2005 public campaign financing program, the Citizens' Election Program, in the wake of political corruption scandal at the highest level of government in the state. Common Cause has championed strong contribution limits, disclosure reforms, and helped protect and strengthen the ability of the SEEC in its ability to enforce Connecticut's strong campaign finance regime. Common Cause in Connecticut was one of the parties that acted as an intervenor-defendant in the *Green Party of Connecticut v. Garfield*, 616 F.3d 213 (2d Cir. 2010), *cert. denied*, 131 S. Ct. 3090 (2011), the case that challenged the constitutionality of the Citizens' Election Program.

9. For over a decade, the League has been a leading Connecticut organization advocating for campaign finance reform. It worked to pass the 2005 and 2010 laws; supported the creation of the Citizens' Election Program, a public financing system with spending limits for state-wide election campaigns; and has worked consistently to protect the campaign finance disclosure and attribution provisions. Its members and Connecticut

residents at large have a strong interest in preserving laws that were enacted and have been enforced in the face of state political corruption scandals.

10. In Connecticut, CCAG was a leader in the development and enactment of the 2005 Citizens' Election Program—the voluntary state public campaign financing program. In addition, CCAG was one of the parties that acted as an intervenor-defendant in the *Green Party of Connecticut v. Garfield* case, which challenged the constitutionality of the Citizens' Election Program.

11. The CLC also has been active in proceedings specific to Connecticut's campaign finance laws. It served as part of the legal team representing the intervenor-defendants in the *Green Party of Connecticut* case concerning the constitutionality of the Citizens' Election Program. The CLC has also participated in SEEC proceedings, most recently filing comments in Proposed Declaratory Ruling 2013-02, another petition for a declaratory ruling filed by Perkins Coie and also addressing the treatment of independent expenditures under Connecticut law.

12. *Amici* movants thus all have substantial experience and expertise with regard to the issues raised in this case. This case may have national impact, directly implicating the interests of CLC, and will most certainly have a profound impact on Connecticut elections, directly implicating the interests of Common Cause of Connecticut, CCAG and the League.

13. *Amici* movants wish to participate in this matter by filing the attached memorandum. *Amici* movants believe that this brief will assist the Court's understanding of well-established constitutional jurisprudence on the distinction between "independent"

and “coordinated” expenditures, as well as the legal framework at both the federal and state level governing coordinated expenditures.

14. This motion and the attached memorandum are timely filed, having been filed on May 13, 2014, the due date for defendants’ opposition to plaintiff’s motion for preliminary injunction. Although there is no local rule governing the procedures for obtaining leave to file as *amicus curiae*, see *Dist. Lodge 26 of the Int’l Ass’n of Machinists v. United Techs. Corp.*, No. 09-1494, 2009 WL 3571624, at \*1 (D. Conn. Oct. 23, 2009), the Federal Rules of Appellate Procedure require such briefs and motions for leave to be filed “no later than 7 days after the principal brief of the party being supported is filed.” Fed. R. App. P. 29(e).

15. This will provide plaintiff with the opportunity to respond to *amici* movant’s arguments on virtually the same schedule as that ordered by the Court on May 1, 2014 for plaintiff’s response to defendants’ opposition to the motion for preliminary injunction.

16. The attached memorandum complies with all applicable Federal and Local Rules of Civil Procedure and this Court’s Standing Orders, including the page limitations set forth in Local Rule of Civil Procedure 7.

WHEREFORE, premises considered, the CLC, Common Cause of Connecticut, CCAG and the League respectfully pray that this Court will exercise its discretion to grant this motion and permit their participation in this case as *amici curiae*.

**Respectfully submitted,**

/s/ Patrick Tomasiewicz  
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Counsel for *Amici Curiae*

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**Dated: May 13, 2014**

**CERTIFICATE OF SERVICE**

I hereby certify that I caused a copy of the foregoing motion with the Memorandum of *Amici Curiae* in Opposition to Plaintiff's Motion for Preliminary Injunction to be served by email, pursuant to the provisions of Fed. R. Civ. P. 5(b)(3), through filing with the Clerk of Court using the CM/ECF system on this 13th day of May 2014.

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