



FIRST FREEDOMS FOUNDATION, INC.

P.O. Box 2545
BROOKFIELD, WISCONSIN 53005

info@firstfreedomfoundation.org

MICHAEL D. DEAN, GENERAL COUNSEL

FIRST FREEDOMS FOUNDATION

Contact - info@firstfreedomfoundation.org

December 2, 2021

WISCONSIN-BASED FIRST FREEDOMS FOUNDATION JOINS INSTITUTE FOR FREE SPEECH IN LAUNCHING SUIT AGAINST FEC TO DEFEND DONOR PRIVACY

This week, the Wisconsin-based First Freedoms Foundation joined the Washington, DC based Institute for Free Speech in filing suit against the FEC for unconstitutionally stifling free speech. The suit, *Wisconsin Family Action v. Federal Election Commission*, was filed in response to the FEC's unconstitutional administrative actions requiring 501(c)(4) organizations to disclose all of their donors who give in aggregate of over \$200 if the organization spends over \$250 in aggregate on independent expenditures - regardless of whether or not a donation was made by a donor without any intention of the donation being used for .

WFA wishes to make modest independent expenditures in 2022, but based on the ruling by the U.S. Court of Appeals for the District of Columbia Circuit (the appellate court with the most direct jurisdiction over federal agency actions) in *Citizens for Responsibility and Ethics in Washington (CREW) v. Federal Election Commission*, WFA would be netted in the FEC's new directive requiring the new invasive level of disclosure. WFA and its staff have already endured documented incidents of serious harassment and threat which will only be exacerbated and lead to potential danger if large scale donor disclosure is required.

In response to the lawsuit, First Freedoms Foundation General Counsel Mike Dean issued stated, "has compelled the FEC to WFA would have to disclose all of its donors spent as identities if they engage in so little as

Recently, a federal appeals court issued a decision that could have major negative impacts on the privacy rights of a multitude of non-profit organizations across the country and their donors. In cooperation with lead attorneys at Institute for Free Speech, the First Freedoms Foundation is helping to protect the privacy rights and First Amendment rights of Wisconsinites and all Americans wishing to have their voice impact an election.

Background

On August 21, 2020, the U.S. Court of Appeals for the District of Columbia Circuit (the appellate court with the most direct jurisdiction over federal agency actions), issued its opinion in *Citizens for Responsibility and Ethics in Washington (CREW) v. Federal Election Committee (FEC)*. In the decision, the court vacated an FEC rule that had been in place for generations that limited disclosure requirements for those making an independent expenditure – which is, by its statutory definition, an expenditure “expressly advocating the election or defeat of a clearly identified candidate and that is not made in concert or cooperation with or at the request or suggestion of such candidate, the candidate’s authorized political committee, or their agents, or a political party committee or its agents.”

Prior to the D.C. Circuit’s decision, an organization like a non-profit, 501(c)(4) social welfare organization could make independent expenditures as a small part of its overall mission and only have to disclose donations made to their organization from donors intending that their donation be made for a specific independent expenditure. Dangerously, the D.C. Circuit’s opinion has upended that policy and at minimum requires the disclosure of donors making contributions to an organization that might *potentially* be used for making IEs and through a lack of specificity in its decision, has obscured whether organizations must disclose all donors who have made general donations – not intended for IEs – to an organization amounting to more than \$200 in a calendar year.

Chilling Free Speech

WFA and its attorneys at the Institute for Free Speech and the First Freedoms Foundation are standing up for the free speech rights of those

who want to advocate for or against political candidates through their association with a social welfare organization. WFA wishes to make modest IEs on behalf of federal candidates for the 2022 elections, but fears that the disclosure of donors making modest donations to its organization is not within the scope of the law, and will, more importantly, lead to their supporters being doxxed and otherwise intimidated by the left. Without these actions, the left will continue to silence dissent and utilize other lower courts to get their way, using government agencies like the FEC to stifle Americans' First Amendment rights.