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Federal Lawsuit by Wisconsin Family Action Clarifies Donor Disclosure Regulations

Legal Update – WFA v. FEC

Today, Wisconsin Family Action voluntarily dismissed its claim against the Federal Elections Commission after the court's initial ruling and concessions by the FEC provided clarity WFA sought to protect small non-profits like WFA and their donors.

In December, 2021, First Freedoms Foundation joined the Institute for Free Speech in a federal action against the Federal Elections Commission on behalf of Wisconsin Family Action (WFA).

The suit in the Eastern District Court of Wisconsin challenged FEC administrative actions that threatened the privacy of donors to WFA and similar § 501(c)(4) social welfare organizations across the country. Following a 2019 decision by the D.C. Circuit Court of Appeals, *CREW v. FEC*, FEC guidance appeared to require disclosure of any WFA donor that gave \$200 or more to WFA in one year if WFA spent over \$250 in independent expenditures to elect or defeat a candidate for federal office.

In March, 2022, the district court denied WFA's motion for a preliminary injunction because the FEC clarified that it "will not require WFA to disclose all of its donors simply because it makes independent expenditures exceeding \$250 in a calendar year."

WFA then voluntarily dismissed its complaint after determining that the decision and FEC concessions provided the assurance and protection it sought for donors to WFA and similar organizations.

The result also preserves WFA's rights to litigate in the future if necessary. WFA had challenged ambiguous regulations that required disclosure of donors whose contributions "earmarked" for independent expenditures exceeded the \$200 limit.

WFA believes there should be a "bright line" standard providing a donor clear guidance whether a donation is "earmarked" based on the donor's own actions rather than surrounding circumstances of which the donor may be unaware.

If necessary, WFA is ready to return to court in the future to answer that question.