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The Case for Overturning *Citizens United*

In 2010, when the U.S. Supreme Court's ruling in *Citizens United v. Federal Election Commission* struck down laws restricting corporate and union spending in elections, Americans from all political backgrounds expressed outrage at the Court's disastrous decision. Today, when Americans are asked if they believe big money has a corrupting and undue influence on our political process, the answer is consistently a resounding yes.

Yet, a small band of corporate-backed commentators and advocacy groups, such as the original Citizens United, claim the Court's ruling was a "victory for free speech" and that overturning *Citizens United* is part of a "liberal" political agenda. Despite these claims, there are compelling reasons why conservatives should be concerned about the impact of the Court's ruling and should join fellow conservatives as well as Americans across the political spectrum in efforts to overturn *Citizens United*.

***CITIZENS UNITED V. FEC* – REPUBLICANS EXPRESS THEIR OUTRAGE**

There has been a lot of noise from a small group of corporate-backed political organizations about how the *Citizens United* ruling was a "victory for free speech." Yet, in the wake of the Court's decision, poll after poll has shown that Americans of all political stripes believe the Court made a disastrous decision.

Most Republicans think Citizens United was bad for democracy:

- A survey conducted in April 2012 by the Opinion Research Corporation (ORC) found that overall, **69% of Americans** agreed that "new rules that let corporations, unions and people give unlimited money to Super PACs **will lead to corruption.**" Only 15% disagreed.ⁱ
 - **Notably, three out of four Republicans (74%)** agreed with this statement.ⁱⁱ
 - A similar poll conducted in January 2012 by the Pew Research Center (PRC) showed that **Independent voters** were by far the group that felt the *Citizens United* ruling was negative – **more than two out of three (67%)** of those polled said the ruling has a negative impact on political campaigns.ⁱⁱⁱ

Most Republicans think big campaign spenders, including corporations, can influence how a member of Congress votes:

- More than two-thirds of respondents (68%) in the ORC poll— **including 71% of Republicans** — also agreed that, "if a company spent \$100,000 to help elect a member of Congress, it could successfully pressure him or her to change a vote on proposed legislation." Only one in five respondents disagreed.^{iv}

Most Republicans think that increased campaign spending erodes trust:

- **Over two out of three Republicans (67%)** responding to the OCR poll said that "they trust government less because big donors to Super PACs have more influence than regular voters."^v



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Most Republicans, including Tea Party supporters, think steps should be taken to curb this corrosive campaign spending:

- A March 2012 poll conducted by [ABC News/Washington Post](#), showed that over two-thirds of Americans (69%) felt Super PACs should be illegal – and over half of these people (52%) said they strongly supported such a move.^{vi}
- Among Tea Party supporters, the number was the same: **69% of Tea Party supporters felt that super PACs should be outlawed.**^{vii}

CAMPAIGN FINANCE REFORM: PART OF THE CONSERVATIVE LEGACY

Campaign finance reform – including efforts to limit political spending by corporations, unions and the super-wealthy – has historically been part of the conservative legacy.

- The Court's decision rolled back **nearly a century of laws – federal and state – passed by lawmakers from both sides of the aisle** who, regardless of political affiliation, agreed that reasonable restrictions can and should be placed on campaign spending by powerful special interests in order to preserve our democracy. Bipartisan reform efforts included the original ban on direct corporate contributions in the 1907 Tillman Act, and both the 1971 Federal Election Campaign Act and its strong amendments passed in the aftermath of the Watergate scandal.
- *Citizens United* itself struck down key parts of the Bipartisan Campaign Reform Act of 2002 (BCRA), known as the McCain-Feingold Act. BCRA was introduced by Senator John McCain, and was signed into law in 2003 by **Republican President George W. Bush.**^{viii}

Stalwart conservative statesmen have fought for campaign finance reform.

- No less a conservative movement icon than Republican Senator **Barry Goldwater** of Arizona uttered these words in support of bipartisan campaign finance reform in 1983: "[O]ur nation is facing a crisis of liberty if we do not control campaign expenditures. **We must prove that elective office is not for sale. We must convince the public that elected officials are what James Madison intended us to be, agents of the sovereign people, not the hired hands of rich givers, or what Madison called factions.**"
- Arizona Senator **John McCain**, Goldwater's successor and the 2008 Republican presidential nominee, called the Supreme Court's ruling "**a combination of arrogance, naiveté and stupidity, the likes of which I have never seen.**"
- Arguing that campaign finance and government waste are often connected, former Senator **Alan Simpson** of Wyoming notes that, "Public employee pensions, which far exceed their private-sector equivalents, and multibillion-dollar defense programs not requested by the Pentagon are but two examples of the very real price we pay when special interest groups are permitted to influence policies. Both parties are to blame."^{ix}
- Decrying *Citizens United* and seeking to reinvigorate the tradition of pro-reform conservatives in Congress that he'd been a part of for decades, former Senator **Warren Rudman** of New Hampshire wrote that "Supreme Court opinion notwithstanding, corporations are not defined as people under the Constitution, and free speech can hardly be called free when only the rich are heard."^x



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CITIZENS UNITED V FEC – BAD FOR CORE CONSERVATIVE POLITICAL CONCERNS

Protecting States' Rights

- This new influx of *Citizens United* enabled corporate and union political spending stands to have the greatest impact on the outcomes of state and local elections, where huge spending increases can dwarf local resources. This summer's recall elections in Wisconsin, where money from out-of-state corporations, unions, and millionaires is pouring in at record levels, shows how *Citizens United* has made local matters less determined by local voters than ever.
- In a Montana case, *Western Tradition Partnership vs. Montana*, an appointee of Republican Governor and RNC Chairman Marc Racicot, Justice James fiercely criticizes the *Citizens United* ruling. He states "I thoroughly disagree with the Supreme Court's decision in *Citizens United*. I agree, rather, with the eloquent and, in my view, better-reasoned dissent of Justice Stevens."^{xi}

Supporting Small Business

- Small business owners oppose the *Citizens United* ruling: **A recent survey in January 2012 of small business owners indicated that 66% of the small business owners polled felt that the Supreme Court's ruling has been bad for small business, compared to only 9% who felt that it has been good for small business.**
- Additionally, **88% of those polled view money in politics negatively, including 68% who view it "very negatively."**^{xii}
- Why do small businesses feel this way? It's not hard to see why – most political contributions given to SuperPACs and independent groups come from a very, very small pool of extremely wealthy donors and giant corporations.
- Though small businesses owners are now 'free' to make these unlimited political contributions, when it comes to political spending small business owners on Main St. can't compete with Big Banks on Wall Street.

Support is growing quickly for an amendment

- On Election Day of 2012, over 6 million voters had the opportunity to vote on ballot initiatives regarding a constitutional amendment. Voters approved every single initiative with approximately 75% support, including the states of Montana and Colorado.
- So far, **more than 2 million people** have signed petitions in support of an amendment. And at least **126 members of the 113th Congress** declared their support.
- More than 120 national organizations – groups concerned about civil rights, the environment, climate change, open government and workers' rights – have endorsed the United for the People collaborative's unified Call to Action for a constitutional amendment (www.United4ThePeople.org).



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- Nearly 500 municipalities have called for a constitutional amendment to overturn *Citizens United* and rein in corporate influence.

Thirteen states: California, Connecticut, Colorado, Connecticut, Hawaii, Maine, Maryland, Massachusetts, Montana, New Jersey, New Mexico, Rhode Island, Vermont, West Virginia, and the District of Columbia have called for an amendment.

When local decision makers do away with partisan rhetoric and look at the facts on the ground, it's clear that Americans across the political spectrum are concerned about the impacts of the *Citizens United* on our democracy and our American way of life, and have a big opportunity to reach out – across the aisle or across town – to work with others to undo this ruling.

From the grassroots on up, the American people are mobilizing to take back local voters' right to hold sway over our elected decision-makers. By passing a local resolution calling for [a constitutional amendment to] overturn *Citizens United*, conservatives can play an integral part in protecting our democracy for the next generation.

ⁱ Brennan Center for Justice (24 April 2012). "National Survey: Super PACs, Corruption, and Democracy." Retrieved 27 April 2012, from http://www.brennancenter.org/content/resource/national_survey_super_pacs_corruption_and_democracy.

ⁱⁱ Brennan Center, *Ibid*.

ⁱⁱⁱ Pew Research Center (17 Jan 2012). "Super PACs Having Negative Impact, Say Voters Aware of 'Citizens United' Ruling, Retrieved 18 January, 2012, from <http://www.people-press.org/2012/01/17/super-pacs-having-negative-impact-say-voters-aware-of-citizens-united-ruling/>

^{iv} Brennan Center, *Ibid*.

^v Pew Research Center, *Ibid*.

^{vi} Eggen, D. (17 Feb 2010, 15 Sept 2011). "Poll: Large majority opposes Supreme Court's decision on campaign financing." *Washington Post*. Retrieved 15 Sept, 2011, from <http://www.washingtonpost.com/wp-dyn/content/article/2010/02/17/AR2010021701151.html>.

^{vii} Eggen, *Ibid*.

^{viii} Roll call votes for BCRA in the U.S. House accessed via the U.S. House Clerk here:

<http://mentata.com/ds/retrieve/congress/vote/VC107S22>. Roll call votes for BCRA for the U.S. Senate accessed via U.S. Senate Clerk here:

www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=107&session=1&vote=00054

^{ix} Simpson, A. (25 April 2011). "Special Interests Distort Elections." *Politico*. Retrieved 1 May 2012 from <http://www.politico.com/news/stories/0411/53597.html#ixzz1tkI09YdT>.

^x Rudman, R. (5 Feb 2010). "Republicans losing their way on campaign reform." *Washington Post*. Retrieved 1 May 2012 from <http://www.washingtonpost.com/wp-dyn/content/article/2010/02/04/AR2010020403624.html>.

^{xi} *Western Tradition Partnership vs. Montana* 2011 MT 328 (MT 2011). (Nelson, J. dissenting).

^{xii} American Sustainable Business Council (17 Jan 2012). "Poll Results: Money and Politics" Retrieved 18 January, 2012, from http://www.asbcouncil.org/poll_money_in_politics.html.



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