UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CITIZENS FOR RESPONSIBILITY AND ETHICS IN WASHINGTON, *et al.*,	)	
Plaintiffs,	)	
v.	)	Civil Action No. 16-1088 (RJL)
FEDERAL ELECTION COMMISSION,	)	
Defendant.	)	

PLAINTIFFS' MEMORANDUM IN OPPOSITION TO
DEFENDANTS FEDERAL ELECTION COMMISSION'S MOTION TO DISMISS

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INTRODUCTION

Plaintiffs Citizens for Responsibility and Ethics in Washington ("CREW") and Noah Bookbinder (collectively, "Plaintiffs") brought the underlying administrative complaint against Murray Energy Corporation ("Murray Energy"), Murray Energy Corporation Political Action Committee ("MECPAC"), and Robert E. Murray (collectively, "Respondents"). The administrative complaint, as amended, alleged Respondents unlawfully coerced an unknown number of Murray Energy employees into contributing to federal candidates and to MECPAC and unlawfully reimbursed an unknown number of employees for some of those contributions with funds from Murray Energy's corporate coffers, thereby causing contributions to be unlawfully made in the name of Murray Energy employees when in fact one or more of the Respondents was the true source of the contribution. Plaintiffs asked the FEC to, among other things, order Respondents to correct the false disclosure reports which wrongly attributed contributions to Murray Energy employees. Although the Federal Election Commission's ("FEC") Office of General Counsel ("OGC") recommended investigating the alleged violations, the FEC commissioners ultimately deadlocked on whether to investigate, resulting in a dismissal that was contrary to law.

Plaintiffs bring this action to reverse the FEC's unlawful dismissal and to remedy the injuries Respondents and the FEC have caused by denying Plaintiffs access to information guaranteed to them under the Federal Election Campaign Act ("FECA"). Specifically, Plaintiffs wish to learn the true source of various contributions reportedly originating with an unknown number of Murray Energy employees but which, according to testimony of some of those same employees, actually originated from either Murray Energy or Robert Murray himself. Plaintiffs

have been denied the fact of the true source of perhaps hundreds of thousands of dollars in contributions donated to federal candidates either directly or indirectly through MECPAC.

The FEC has nonetheless moved to dismiss this action because, the FEC argues, Plaintiffs have not suffered a cognizable informational injury sufficient to establish a case or controversy here. Binding Supreme Court precedent, however, forecloses that argument. The FECA grants Plaintiffs a right to factual information about the true source of contributions; Respondents, by their activities, and the FEC, by its failure to enforce the FECA, have denied Plaintiffs that information; and the Court can remedy that injury by reversing the FEC's unlawful dismissal.

Accordingly, Plaintiffs respectfully request the Court deny Defendant's motion.

STATEMENT OF FACTS

As alleged in the Complaint, Plaintiffs filed an administrative complaint with the FEC on October 5, 2012 against Respondents, and thereafter amended it on September 16, 2014 and November 18, 2015. Compl. ¶¶ 40, 44, 46, ECF No. 1; AR 1–15, 79–96, 194–202 (Plaintiffs' administrative complaints). As alleged in the amended pleadings, Respondents unlawfully coerced employee contributions and unlawfully reimbursed employee contributions with corporate funds, resulting in contributions unlawfully made and received by Respondents in the name of another. Compl. ¶ 40, AR 197-99. In particular, the amended administrative complaint alleged, based on testimony of company employees in news articles and judicial pleadings and supported by other administrative findings against Murray Energy, that at least as early as 2012, and likely for many years before and after, Respondents coerced Murray Energy employees into contributing to MECPAC and to federal candidates by means of threatening letters and other pressure to contribute, threats enforced by tracking the employees' contributions and other

political participation. Compl. ¶¶ 29–37. As a carrot, Murray Energy also reimbursed at least some employees' contributions with corporate treasury funds. *Id.* ¶ 38–39. Nevertheless, despite Respondents being the true source of these contributions as a result of this use of coercion and reimbursements, an unknown number of public disclosures by MECPAC and federal candidates wrongly reported the source of the contributions as Murray Energy employees, a result directly traceable to Respondents' conduct. *Id.* ¶¶ 15, 40, 65.[1] Because Plaintiffs were thereby denied the identity of the true source of an unknown number of contributions that were made to MECPAC and to federal candidates and that were erroneously attributed to Murray Energy employees, Plaintiffs' amended administrative complaint asked the FEC to investigate these allegations and to order Respondents, among other things, to correct the falsely reported information their actions caused. *Id.* ¶ 65; AR 201 (Plaintiffs' amended administrative complaint request for relief).

On February 1, 2016, the OGC issued its First General Counsel's Report on Plaintiffs' administrative complaint (the "Report"). Compl. ¶ 47; AR 203–23. The Report, considering the amended administrative complaint, Respondents' response thereto, and the sworn deposition testimony gathered in *Cochenour v. Murray*, No. 1:14-cv-164 (N.D. W. Va. July 27, 2015),

[1] *See also* Center for Responsive Politics, Murray Energy, Contributors, 2012 cycle, *available at* https://www.opensecrets.org/pacs/pacgave2.php?cmte=C00410985&cycle=2012 (summary FEC data and listing contributors to MECPAC, but listing no donations from Murray Energy, original data available at http://www.fec.gov/finance/disclosure/candcmte_info.shtml and searching for "Murray Energy Corporation Political Action Committee"). The Court may take judicial notice of this website as it is a summary of official filings made with the FEC, *Jones v. Lieber*, 579 F. Supp. 2d 175, 179 (D.D.C. 2008) (noting court may take judicial notice of public records on a motion to dismiss), and the Court is not limited to considering matters in the pleadings when considering a motion brought under Rule 12(b)(1), *see Flores ex rel. J.F. v. District of Columbia*, 437 F. Supp. 2d 22, 28–29 (D.D.C. 2006) (court may consider "materials outside the pleadings" on Rule 12(b)(1) motion). MECPAC in turn contributed money to numerous candidates, many of which still hold their office and are or will be up for reelection in the future. *See, e.g.*, MECPAC, FEC Form 3X, 2016 Pre-Primary Report, June 6, 2016, *available at* http://docquery.fec.gov/cgi-bin/fecimg/?201606069017473953 (listing MECPAC contribution to Senators John Hoeven and Rob Portman); MECPAC, FEC Form 3X, 2011 October Quarterly Report, Amended, Apr. 18, 2013, *available at* http://docquery.fec.gov/cgi-bin/fecimg/?13961661177 (listing contribution to Senator Bob Corker).

recommended finding reason to believe Respondents unlawfully coerced employee contributions to MECPAC and federal candidates, but recommended postponing action on Plaintiffs' other allegations until that investigation was complete. Compl. ¶¶ 47–51; AR 203–23. Nonetheless, on April 12, 2016, the Commission deadlocked on whether to find reason to believe any of the alleged violations may have occurred, leading the FEC to dismiss the administrative complaint. Compl. ¶ 52; AR 224–25.

On June 10, 2016, Plaintiffs, as aggrieved parties whose complaint was wrongfully dismissed, exercised their right under the FECA to file suit against the FEC. *See generally* Compl. On August 22, 2016, the FEC filed the instant motion to dismiss Plaintiffs' complaint on the ground that Plaintiffs lack standing under Article III of the U.S. Constitution. Mot., ECF No. 10.

ARGUMENT

I. Standard of Review

In evaluating a defendant's motion to dismiss under Rule 12(b)(1) of the Federal Rules of Civil Procedure, the court "'must accept the factual allegations in the complaint as true'" and "'must assume that [plaintiffs] state[] a valid legal claim.'" *Info. Handling Serv., Inc. v. Defense Automated Printing Serv.*, 338 F.3d 1024, 1029 (D.C. Cir. 2003) (quoting *Warth v. Seldin*, 422 U.S. 490, 500 (1975); *Sturm, Ruger & Co. v. Chao*, 300 F.3d 867, 871 (D.C. Cir. 2002)). Accordingly, "[a]t the pleading stage, general factual allegations of injury resulting from the defendant's conduct may suffice, for on a motion to dismiss [courts] presume that general allegations embrace those specific facts that are necessary to support the claim." *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 561 (1992) (internal quotation marks omitted). Further, "[t]he Supreme Court has made clear that when considering whether a plaintiff has Article III

standing, a federal court must assume arguendo the merits of his or her legal claim." *Parker v. D.C.*, 478 F.3d 370, 377 (D.C. Cir. 2007) (citing *Warth*, 422 U.S. at 501–02). "Indeed, in reviewing the standing question, the court must be careful not to decide the questions on the merits for or against the plaintiff, and must therefore assume that on the merits the plaintiffs would be successful in their claims." *Id.* Finally, plaintiffs need not show that each plaintiff has standing to assert every claim; rather, "if constitutional and prudential standing can be shown for at least one plaintiff, [the court] need not consider the standing of the other plaintiffs to raise that claim." *Mountain States Legal Found. v. Glickman*, 92 F.3d 1228, 1231 (D.C. Cir. 1995).

II. Plaintiffs Suffered a Cognizable Informational Injury

The FEC's primary argument is that Plaintiffs lack standing because they have not suffered an injury in fact, a requirement to bring a suit in federal court. Binding Supreme Court precedent, however, states an injury in fact occurs wherever a statute confers to a party a right to information which they were denied: precisely what happened here. The FECA confers on Plaintiffs the right to know the identity of the true source of contributions, information Plaintiffs do not currently possess. The FEC attempts to muddle this analysis, but its arguments are meritless. Despite the FEC's contentions, Respondents' alleged activity and the FEC's refusal to enforce the FECA have directly denied Plaintiffs the information to which they are entitled. Plaintiffs also seek to learn a fact—the identity of contributors—and do not merely seek a legal conclusion. Plaintiffs need not show an additional injury to their right to vote, as the FEC suggests. Finally, Plaintiff CREW has suffered cognizable informational and organizational injuries and, even if CREW had not suffered injury, the court has jurisdiction if any one plaintiff has.

A. Plaintiffs Suffered an Injury In Fact

The FEC asks the Court to dismiss this action because, it asserts, Plaintiffs are not seeking "information for which the FECA requires disclosure," but, rather, are seeking "a legal conclusion that carries legal enforcement consequences," a claim the FEC asserts gives rise to no cognizable injury sufficient to meet Article III's standing requirements. Mot. at 8, 9.[2] The FEC, however, flatly contradicts this argument in its own papers by admitting the denial of access to information may constitute an Article III injury and that Respondents' alleged conduct and the FEC's inaction denied Plaintiffs information to which Plaintiffs have a legal right. Mot. at 9 ("FECA is, of course, a statute that explicitly requires disclosure and can be the source of an informational injury."); *see also* Mot. at 12 ("Plaintiffs have alleged that Murray Energy coerced its employees into contributing to its PAC and reimbursed them for doing so, thereby concealing the true sources of funding to the PAC.").[3] Accordingly, the FEC's argument fails.

As federal courts are courts of limited jurisdiction, Article III requires parties demonstrate the existence of a case or controversy. *FEC v. Akins*, 524 U.S. 11, 20 (1998). Accordingly, plaintiffs must show "an 'injury in fact.'" *Id.* A plaintiff's "inability to obtain information that Congress has decided to make public is a sufficient injury in fact to satisfy Article III." *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540, 1549 (2016) (citing *Akins*, 524 U.S. at 20–25; *Public Citizen v. Dep't of Justice*, 491 U.S. 440, 449 (1989)). That is precisely the injury Plaintiffs suffered here.

In *Akins*, the Supreme Court considered whether the plaintiffs satisfied Article III standing when they sued the FEC for unlawfully dismissing a complaint which alleged an

[2] The FEC does not assert that Plaintiffs lack prudential standing.
[3] Though ignored by the FEC, Plaintiffs also allege Respondents coerced contributions made directly to federal candidates, not only to MECPAC. *See* Compl. ¶¶ 1, 29, 35–36, 47, 53, 64.

organization, AIPAC, failed to properly disclose donors as required by the FECA. 524 U.S. at 20–21. The Court found a constitutionally sufficient injury in fact had occurred, stating:

> The "injury in fact" that respondents have suffered consists of their inability to obtain information—lists of AIPAC donors . . . and campaign-related contributions and expenditures—that, on respondents' view of the law, the statute requires that AIPAC make public. There is no reason to doubt [plaintiffs'] claim that the information would help them (and others to whom they would communicate it) to evaluate candidates for public office, especially candidates who received assistance from AIPAC, and to evaluate the role that AIPAC's financial assistance might play in a specific election. Respondents' injury consequently seems concrete and particular. Indeed, this Court has previously held that a plaintiff suffers an "injury in fact" when the plaintiff fails to obtain information which must be publicly disclosed pursuant to a statute.

Id. at 21. The Court went on to note that, even though the "informational injury at issue here" was "widely shared," that "does not deprive Congress of constitutional power to authorize its vindication in the federal courts." *Id.* at 24–25.

Akins commands the same conclusion here: Plaintiffs were denied information that the FECA requires to be made public. As a result of Murray Energy's and Robert Murray's coercive activity and reimbursements, one or both of them are the "true source" of certain contributions made to MECPAC and to various federal candidates. 52 U.S.C. § 30122; 11 C.F.R. § 110.4(b)(1).[4] As such, the FECA demands that they be identified in public disclosures as the source of the contributions. Due to Respondents' actions, however, the true source of those

[4] Reimbursing another for a contribution causes the one who does the reimbursing to be deemed the source of the contribution that must be identified in public disclosures. *See United States v. Hsia*, 176 F.3d 517, 524 (D.C. Cir. 1999) (holding that FECA requires reporting of "true source" of a contribution, which is the individual who paid to reimburse the conduit contributor); Mot. 3–4. Similarly, by coercing employee contributions, Robert Murray and/or Murray Energy are the "true source" beyond those contributions. *Nye & Nissen v. United States*, 336 U.S. 613, 618 (1949) (one who "counsels, commands, induces, or procures the commission of an act is as responsible for that act as if he committed it directly); 3 Am. Jur. 2d Agency § 245 (2016) (a principal who commands or directs the act of an agent is responsible for it). The FEC does not dispute this view of the law, nor could it. As noted above, on a Rule 12(b)(1) motion, the Court must accept Plaintiffs' legal theory that coercion and reimbursements result in false reporting of contributions. *See Parker*, 478 F.3d at 377.

contributions was never reported. Rather, contributions were unlawfully made in the name of another, and public disclosures wrongly identified that false source as the source of the contribution. The FEC even admits "the prohibition on making contributions in the name of another furthers informational interests as a general matter and is an essential companion to the Act's reporting requirements." Mot. at 9. That admission is dispositive. Plaintiffs indisputably alleged below that Respondents unlawfully made contributions in the name of another, and Plaintiffs sought corrective disclosures below to protect their informational interests. AR 201. Moreover, here, Plaintiffs allege that, as a result of the FEC's refusal to order these corrections and unlawful dismissal of their administrative complaint, they have been denied access to information to which they the FECA grants them a legal right, and therefore suffered an Article III injury. Compl. ¶ 65; *see also Akins*, 524 U.S. at 21.

B. Respondents and the FEC Directly Deprived Plaintiffs of Information

Nonetheless, the FEC argues that even though Plaintiffs were denied information that Congress has mandated must be made public, they nevertheless have no standing because the violations did not "directly deprive[]" Plaintiffs of information. Mot. at 9. The FEC is simply wrong on that matter, however.

In the instant case, the alleged misconduct directly deprived Plaintiffs of access to information to which they are entitled under the FECA. *ASPCA v. Feld Entm't, Inc.*, 659 F.3d 13, 23 (D.C. Cir. 2011) ("For purposes of informational standing, a plaintiff is injured-in-fact . . . because he did not get what the statute entitled him to receive." (internal quotation marks omitted)). The FECA directly entitles Plaintiffs to know the identity of the true source of contributions to corporate PACs and candidates. *Akins*, 524 U.S. at 25. Respondents, by coercing and reimbursing Murray Energy employees whose identities are not known to Plaintiffs, induced those employees to make contributions to MECPAC and to federal

candidates. The resulting contributions were unlawfully made in the name of the unknown Murray Energy employees, and an unknown number of MECPAC's and federal candidates' public disclosure reports therefore erroneously identified the Murray Energy employees as the source. Consequently, Respondents' actions denied Plaintiffs the information to which they are entitled: the identity of the true source of an unknown number of contributions that were falsely attributed to Murray Energy Employees. The FEC further directly denied Plaintiffs this information by refusing to enforce the FECA and by dismissing Plaintiffs' administrative complaint, contrary to law.

This case, therefore, is unlike the case the FEC cites for the "direct[] depri[vation]" test. In *CREW v. U.S. Department of the Treasury*, 21 F. Supp. 3d 25 (D.D.C. 2014), the Court held that the plaintiff, CREW, had not sufficiently alleged an informational injury because it failed to identify any law which required the missing information be disclosed to it. *Id.* at 32. The Court rejected CREW's argument that it might receive additional information if, as a result of the requested agency action—a rulemaking—groups would choose to register under a provision of the tax code that would require them to disclose donors, namely, section 527. *Id.* The Court found that even if the rulemaking proceeded as requested, "nothing requires the organizations in question to file under section 527" and groups could still choose a number of other options that would not result in disclosure. *Id.* Because the ultimate relief CREW sought depended on the voluntarily choice of third parties, the court found CREW had not demonstrated that it was "directly deprived of information that must be disclosed under a statute." *Id.* Here, however, if Plaintiffs are granted the relief they seek, Respondents would not be free to choose a separate course of action that would deny Plaintiffs the information the FECA commands be produced. Rather, Respondents will be required to correct the unknown number of disclosure reports that

their misconduct caused to be erroneous and ensure the correct information is produced. *Buchanan v. FEC*, 112 F. Supp. 2d 58, 67 (D.D.C. 2000) (plaintiff had standing to assert claims where corrections of violations alleged would "presumably" result in additional reports).

The FEC further argues that Plaintiffs could not have been directly deprived of contributor information by Respondents' activities because the sections of the FECA that Plaintiffs alleged below that Respondents violated do not directly relate to disclosure, and Respondents were not directly responsible for disclosure anyway. Mot. at 9. Instead, according to the FEC, Respondents were only responsible for informing recipients of the donations of the identity of the contributors, and the recipients could have refused to accept and report those contributions. *Id.* The FEC's argument is unavailing.

As a preliminary matter, although styled as an attack on Plaintiffs' injury, the FEC's argument rather attacks a separate element of standing: causation. The FEC's argument does not relate to the nature of the injury Plaintiffs' suffered. Rather, it is an argument that the Respondents' conduct might not necessarily cause false information to be publicly reported because third parties who are responsible for public disclosure could have refused the contributions and never disclosed the false information.

To satisfy Article III causation, however, a plaintiff need only show that an injury is "fairly traceable" to the alleged conduct. *Akins*, 524 U.S. at 25. "Under common-law principles, a plaintiff can be directly injured by a representation even where a third party, and not the plaintiff, relies on it." *Lexmark Int'l, Inc. v. Static Control Components, Inc.*, 134 S. Ct. 1377, 1391 (2014) (internal quotation marks omitted). Accordingly, with regard to third-party federal candidates who reported false information, Plaintiffs' informational injury was still directly caused by Respondents' unlawful actions. The third parties relied on the Respondents false

attribution of the contributions made in the name of the Murray Energy employees and dutifully reported those names to the public. Moreover, with regard to MECPAC, a respondent below, it filed the false disclosure reports itself. There is no third party responsible for disclosing those contributions: the responsibility fell directly on one of the Respondents. Thus, even under the FEC's attenuated causation theory, a Respondent directly caused Plaintiffs' injury.

Nor does the FEC identity any authority which requires Plaintiffs to have alleged below that respondents violated a section of the FECA specifically related to disclosure for Plaintiffs to show an injury in fact here. That is because there is no such requirement. Plaintiffs need only show an injury is fairly traceable to "the challenged *action* of the defendant," *Lujan*, 504 U.S. at 555 (emphasis added), not the particular legal claims cited below, *Pres. of Los Olivos v. U.S. Dept. of Interior*, 635 F. Supp. 2d 107, 1085-86 (C.D. Cal. 2008) (while claims before administrative agency related to two federal statutes, federal standing did not depend on those claims). Plaintiffs alleged conduct by Respondents which, for reasons explained herein, caused Plaintiffs' informational injury. Plaintiffs further allege an injury traceable to the FEC's inaction. Moreover, Plaintiffs *in fact requested* the FEC below to order the Respondents to correct their information in the false disclosures—something the FEC does not dispute that it could order Respondents to do based on their alleged actions—and the FEC's failure to order that relief and dismissal of Plaintiffs' administrative complaint has inexorably led to Plaintiffs' injury: they do not possess the correct information and will not possess it unless this Court reverses the dismissal. That is sufficient to give rise to an injury in fact fairly traceable to the conduct alleged, regardless of the particular statutory sections cited by the Plaintiffs.

C. Plaintiffs Do Not Currently Possess Factual Information to Which FECA Entitles Them

The FEC next argues that Plaintiffs have no standing because they seek information "already available to them." Mot. at 10. The FEC argues, "Plaintiffs are already aware of the identities of the employees and the candidates, and the amount of support the candidates received from those affiliated with Murray Energy." Mot. 14. The FECA, however, does not allow contributors to give the identity of someone affiliated with the true source of the contribution and leave the public to try to guess if the reported source is the right one or if the contribution came from an affiliate of the reported source. It commands disclosure of the one and only "true source" of the contribution, information Plaintiffs do not currently possess. *Hsia*, 176 F.3d at 524.

Despite its arguments here, the FEC knows that the identification of one "affiliated" with the true source of a donation is not sufficient to meet the purposes of the Act. In fact, the FEC has pursued enforcement actions against individuals who used people with whom they were affiliated as straw donors, and some of those individuals have been criminally prosecuted. *See United States v. Whittemore*, 776 F.3d 1074, 1079 (9th Cir. 2015) (upholding conviction of individual who laundered contributions through his employees and relatives); *United States v. O'Donnell*, 608 F.3d 546, 548 (9th Cir. 2010) (same); *Hsia*, 176 F.3d at 521 (upholding conviction for use of straw donors "associated" with true source); *FEC v. Weinsten*, 462 F. Supp. 243, 246 (S.D.N.Y. 1978) (allowing FEC's suit against defendant for unlawfully reimbursing employee contributions to proceed). While Plaintiffs may know that the universe of possible sources of the reported contributions is limited to either Respondents or the "affiliated" employees who were identified as the contributors, Plaintiffs are entitled to know more: the singular true source of the contributions.

The cases cited by the FEC do not show otherwise. In contrast to *CREW v. FEC*, 475 F.3d 337 (D.C. Cir. 2007), a case in which Plaintiff CREW was found to suffer no injury where it sought information about an in-kind contribution that the FEC made available on its website, *id.* at 339–40 (noting "any citizen who wants to learn the details of the transaction . . . can do so by visiting the Commission's website"), the information sought by Plaintiffs here—the true source of contributions made to MECPAC and to federal candidates—has not been made available on the FEC's website or in any other way. Similarly, this case is unlike *CREW v. FEC*, 799 F. Supp. 2d 78 (D.D.C. 2011), where Plaintiff CREW was found to have suffered no injury where it was denied only a legal conclusion about the proper allocation of travel expenses between two committees, and all other facts about the travel expenses were public, *id.* at 88–89. Plaintiffs here are not seeking a legal classification of a contribution as either in-kind or something else. Rather, they seek to know the facts about the true source of an unknown number of contributions, factual information the Supreme Court has identified as vitally important. *See Buckley v. Valeo*, 424 U.S. 1, 66–67 (1976) (knowing the source of contributions provides the electorate with information about "where political campaign money comes from," allows "voters to place each candidate in the political spectrum," and "alert[s] voters to the interests to which a candidate is most likely to be responsive"). Further, Plaintiffs are not currently in possession of the information about which contributions originated with Respondents and which were, instead, voluntarily made by employees. *Cf. Judicial Watch, Inc. v. FEC*, 293 F. Supp. 2d 41, 47 (D.D.C. 2003) (where plaintiff himself was the source of contributions made to a Senate campaign committee, he did not suffer informational injury and thus did not have standing because he was "already aware of the facts underlying his own alleged contributions" to the campaign).

Nor do Plaintiffs merely seek, as the FEC surmises, disclosure of the "fact" that Respondents violated the FECA. Mot. at 8 (arguing Plaintiffs seek only "a legal conclusion that carries certain law enforcement consequences"). This is not a situation in which Plaintiffs know that one of the Respondents reimbursed a particular employee for a particular contribution, and only seek an FEC sanction for that activity. *Cf. Wertheimer v. FEC*, 268 F.3d 1070, 1074–75 (D.C. Cir. 2001) (finding plaintiffs were not denied factual information; "'fact' of 'coordination'" was a legal conclusion to which plaintiffs were not entitled and plaintiffs identified no additional withheld facts); *CREW v. FEC*, 401 F. Supp. 2d 115, 118 (D.D.C. 2005) (holding plaintiff suffered no informational injury where plaintiff was aware of the FEC's estimate of the dollar figure of the contribution, but sought remand so that it could "hold the administrative defendants accountable for the illegal receipt and nondisclosure of the master contact list"). Plaintiffs, rather, are seeking to know a fact: which contributions originated with Respondents and passed through straw donors as a result of their use of coercion or reimbursements.

At this time, Plaintiffs do not possess knowledge of a fact to which they are entitled under the FECA. While the FEC is likely to make certain legal determinations in investigating the facts behind the true source of contributions currently attributed to Murray Energy employees, and Plaintiffs hope the FEC does indeed "get the bad guys," Plaintiffs' standing does not depend on that. Rather, Plaintiffs' standing rests on the fact that, as a result of Respondents' actions and the FEC's inaction, Plaintiffs do not know the identity of the source of those contributions, information which the FECA entitles Plaintiffs to have.

D. Plaintiffs Need Not Show an Injury in Addition to Denial of Information

The FEC argues that Plaintiffs must show not only that they were denied information to which FECA grants them a right, but that the information must be useful to Plaintiffs in voting

and that the denial of information must cause an injury to Plaintiffs' exercise of their own franchise. Mot. 11–16 (arguing Plaintiffs must show lack of information affected their own votes). The FEC's argument, however, runs counter to the Supreme Court's finding that an informational injury, standing alone, is sufficient to constitute an injury in fact. *Spokeo*, 136 S. Ct. at 1549–50; *Akins*, 524 U.S. at 21. "In other words, a plaintiff in such a case need not show any *additional* harm beyond the one Congress has identified." *Spokeo*, 136 S. Ct. at 1549.

There is no need to tie an informational injury to the information's usefulness in voting because an Article III informational injury may arise in situations unrelated to voting. Plaintiffs need only show Congress has given them a right to obtain information which they were denied. *Akins*, 524 U.S. at 21 (citing *Havens Realty Corp. v. Coleman*, 455 U.S. 363, 373–74 (1982) (holding deprivation of information about housing availability constitutes specific injury permitting standing); *Public Citizen*, 491 U.S. at 449 (holding standing to seek information relating to the ABA's advice on judicial appointments to which plaintiffs were entitled under Federal Advisory Committee Act, information with no relation to voting)); *see also Spokeo*, 136 S. Ct. at 1549–50 (citing *Public Citizen* as example where informational injury is sufficient to satisfy Article III). Congress is not limited to conferring rights to information about voting to establish an injury sufficient give rise to a case or controversy. Accordingly, Plaintiffs' need no more show a particular usefulness to the withheld information than a property owner must show a use of the property to claim trespass: the denial of information is an injury in fact alone.

Of course, the information Plaintiffs seek *is* useful in voting. As the Supreme Court in *Akins* noted in affirming the plaintiffs' standing, the particular information sought—the identity of AIPAC donors and campaign-related contributions and expenditures—was useful to voters. 524 U.S. at 21 (identity of the source of a contribution is useful to voters to "evaluate the role

that AIPAC's financial assistance might play in a specific election"). Similarly, the identity of the contributors to MECPAC and numerous federal candidates—the information sought here—is indisputably also "useful information" for voters. *Common Cause v. FEC*, 108 F.3d 413, 418 (D.C. Cir. 1997); *see also Buckley*, 424 U.S. at 66–67. Indeed, the identity of the source of a contribution may be one of the most useful items of information made available to a voter under the FECA. It would be vitally important to know if, for example, an environmentalist candidate received money from a coal company rather than its employee who may have a myriad of mixed reasons to contribute unrelated to his or her employment. Similarly, it might be critical for a voter to know if a pro-business candidate took money from a union rather than its member who may or may not agree with the union's positions. *See Harris v. Quinn*, 134 S. Ct. 2618, 2633 (2014) (noting union member's views and union's views may diverge). The FEC concedes as much. Mot. at 14 (conceding "there is an undoubted general public interest" in "the true sources of funds contributed to Murray Energy PAC and candidates"). Further, although the FEC attempts to cabin this concession by asserting that the information is only of "general public interest," the fact that information is of interest to many individuals does not limit the fact that it is of interest to each individual separately and the denial of that information constitutes a specific and concrete injury in fact. *Akins*, 524 U.S. at 24–25 (holding that the fact that interest in FECA disclosures is "widely shared does not deprive Congress of the constitutional power to authorize its vindication in the federal courts").

The FEC's nevertheless argues that Plaintiffs must show that the information is uniquely valuable to them in their own exercise of the franchise to establish an injury in fact, and that Plaintiffs may not rely on the electoral usefulness of the information to other voters with whom Plaintiffs may communicate the information. Nevertheless, even assuming usefulness is a

necessary element to establish standing, the Supreme Court has treated the usefulness to third parties with whom Plaintiffs communicate as equally important as usefulness to Plaintiffs themselves.

In discussing the usefulness of the information, the Supreme Court in *Akins* noted that the information could be useful to *either* the plaintiffs *or* "others to whom they would communicate it." 524 U.S. at 21. The second possibility for usefulness would be entirely superfluous if the only usefulness that was relevant was to the plaintiffs themselves. Nor is it possible to read the language as a surplusage without rendering other portions of the opinion nonsensical. For example, *Akins* found voters had standing to challenge the FEC's inaction because there was no reason to exclude voters from the standing enjoyed by "political parties . . . or [candidate] committees." *Id.* at 20. The Court's reliance on party and committee standing would be exceedingly odd if those groups lacked standing because they were themselves not voters. *See also Kean for Congress Comm. v. FEC*, 398 F. Supp. 2d 26, 37–38 (D.D.C. 2005) (holding organization, not itself a voter, had standing to sue FEC for wrongful dismissal of complaint seeking the disclosure of unlawfully withheld information).[5]

Significantly, *Akins* did not even mention the particular district in which the plaintiffs voted as being a relevant factor to the standing analysis, even though the court below raised that issue and suggested it could be determinative. *See Akins v. FEC*, 101 F.3d 731, 737–38 (D.C. Cir. 1997) (suggesting "it would not be enough for standing in this case for appellants to assert only that they were voters, for appellants would not be injured as voters if AIPAC's activities were unrelated to any election in which they voted"), *vacated*, 524 U.S. 11. The silence speaks

[55] Although this discussion in *Akins* was related to the plaintiffs' prudential standing, the discussion is nonetheless "highly relevant" to the parties' Article III standing, given prudential standing must be narrower than constitutional standing. *Kean for Congress*, 398 F. Supp. 2d at 37–38.

volumes: the Supreme Court did not impose a voter residency requirement to satisfy standing because there is no such requirement. Indeed, in *Akins*, there was no indication that the plaintiffs were voters in any election that AIPAC directly sought to influence. *Id.* (noting that, as AIPAC did not disclose expenditures, plaintiffs could not know whether they voted in an election AIPAC sought to influence).[6] Nonetheless, the Supreme Court found that the plaintiffs had standing for the simple reason that they were unable "to obtain information . . . that, on [plaintiffs'] view of the law, the statute requires that AIPAC make public." 524 U.S. at 21. That denial of information was sufficient by itself: there was no need to show additional injury to the Plaintiffs' own votes.

The FEC rests its entire argument that Plaintiffs must show an additional injury to their franchise on an overwrought reading of *Alliance for Democracy v. FEC*, 335 F. Supp. 2d 39 (D.D.C. 2004) ("*Alliance I*"). In that case, a plaintiff advocacy group and others sued the FEC even though the FEC did not dismiss the plaintiffs' administrative complaint but, rather, investigated the complaint, found probable cause the alleged violations occurred, and sanctioned the responsible parties. *Id.* at 42. Even so, the plaintiffs argued that the FEC unreasonably delayed resolution of the matter. *Id.* at 43. Nonetheless, because the matter was already resolved, the court ruled the issue was moot. *Id.*; *see also id.* at 46 (finding request for declaratory judgment moot). Thereafter, in *dicta*, the court stated that the plaintiffs also lacked an informational injury because, as the case had been resolved, they "already possess the information they claim to lack." *Id.* at 48. Then, in passing, the district court further noted that

[6] Similarly, Plaintiffs have no way of knowing to which candidates Murray Energy or Mr. Murray may have contributed using straw donors. Indeed, MECPAC contributed funds to the National Republican Senatorial Committee, the Republican National Committee, and the National Republican Congressional Committee, through which money could easily have flowed to every federal election in the country. MECPAC's contributions may be viewed on the FEC website by going to http://www.fec.gov/finance/disclosure/candcmte_info.shtml and searching for the committee name.

plaintiffs had also failed to show how "the precise value of a mailing list and the date it was transferred"—the purportedly withheld information—"could have a concrete effect on plaintiffs' voting." *Id.* at 48.

The FEC seizes on the court's passing use of the possessive. *See* Mot. at 12. Nonetheless, it is clear from context that the court was questioning the general value of the information to *any* voter. *Compare Alliance I*, 355 F. Supp. 2d at 48 *with CREW v. FEC*, 401 F. Supp. 2d at 121 (finding plaintiffs lacked standing to seek "precise dollar value of the [contributed] list" because that information is not "useful in voting" where all other information about the contribution was already publicly disclosed). Nowhere did the court suggest that information about the mailing list would have value to voters other than the plaintiffs, but that such value could not support plaintiffs' standing. It simply did not decide the relevance of third-party value, despite the FEC's suggestion otherwise.

Indeed, it would be surprising and alarming if, as the FEC suggests, the district court truly rejected in so brief a way the standard outlined by the Supreme Court in *Akins* that the denial of information that a statute requires to be made public is a cognizable injury that confers standing. *Akins*, 524 U.S. at 21; *see also Spokeo*, 136 S. Ct. at 1549. Of course, *Alliance I* need not be read as making the fantastic leap the FEC urges here, and no other court has interpreted that passing statement in that way. *See, e.g.*, Mem. Opinion 12–17, *Alliance for Justice v. FEC*, No. 1:04-cv-00127-RBW (D.D.C. Mar. 4, 2005) (discussing *Alliance I* and construing it as denying standing because plaintiffs were already in possession of the information they sought). The FEC simply tries to infer too much from an apostrophe.[7]

[7] The FEC cites two other cases to support its claim that Plaintiffs must show an impact on their own voting, but both cases are inapposite. In *Common Cause*, 108 F.3d 413, the court denied standing to an organization despite the fact that it pursued a claim on behalf of members who voted in the election in which the alleged violations occurred (the fact the FEC asserts here *would* confer standing), *see id.* at 416, because the organization did not seek any new

Nor does *Alliance I*, properly read, undermine Plaintiffs' standing. In contrast to the value of the list sought in *Alliance I*, Plaintiffs do not currently possess the information about the true source of contributions reportedly from Murray Energy employees. Furthermore, the identity of a contributor is vastly more important than the precise value of a mailing list. *Buckley*, 424 U.S. at 66–67; *supra*.

Article III recognizes that a case or controversy can arise where a plaintiff is denied information to which it has a particular and concrete right, even if everyone else has an identical right and even if the information is only of ultimate "use" to a third party with whom a plaintiff may communicate. That injury is not simply a derivative of an injury to the plaintiffs' voting right, it is an injury that is alone sufficient. As Plaintiffs were denied information to which they have a right under the FECA, they have suffered a cognizable injury in fact and need show nothing more.

E. CREW Has Suffered an Injury in Fact

The FEC further argues that one Plaintiff, CREW, must establish an additional injury because, as a nonprofit nonpartisan corporation, it cannot itself vote and thus cannot have suffered an injury to its own right to vote. This argument, however, is simply derivative of the FEC's continued insistence that an informational injury is insufficient to constitute an injury in fact, despite the Supreme Court's continued insistence to the contrary. *See Spokeo*, 136 S. Ct. at 1549; *Akins*, 524 U.S. at 21. It is also meritless: CREW has suffered cognizable injury.

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information in its requested relief, *see id.* at 418. Here, in contrast, Plaintiffs do seek corrected disclosures. Compl. ¶ 65; AR 201. In the other cited case, *CREW v. FEC*, 401 F. Supp. 2d 115, the court held plaintiff CREW lacked standing because the "character of the information sought"—namely the precise dollar value of an in-kind contribution—was not useful to *any* voter who already knew every other detail of the contribution by reviewing the information already made public by the FEC, *id.* at 120–21. Here, no voter knows which contributions reportedly originating with Murray Energy employees actually originated with one of the Respondents.

Initially, it is important to note that "only one plaintiff must have standing" to satisfy Article III. *In re Navy Chaplaincy*, 697 F.3d 1171, 1178 (D.C.Cir.2012). Thus, "if constitutional and prudential standing can be shown for at least one plaintiff, [the court] need not consider the standing of the other plaintiffs to raise that claim." *Glickman*, 92 F.3d at 1232. Accordingly, any purported deficiency in Plaintiff CREW's standing is irrelevant if Plaintiff Bookbinder has standing. Nonetheless, Plaintiff CREW has also suffered cognizable injuries in fact.

First, Plaintiff CREW, like Plaintiff Bookbinder, was denied information that the FECA grants it a right to possess, information CREW can (and will) communicate to others who may use the information to "evaluate candidates" or "evaluate the role [Respondents'] financial assistance might place in a specific election." *Akins*, 524 U.S. at 21; *see also Kean*, 398 F. Supp. 2d at 37–38 (holding nonvoting entity may suffer informational injury under FECA). That alone confers standing, and CREW need not show an additional injury to its programming. *See ASPCA*, 659 F.3d at 22–28 (separately analyzing whether informational injury granted standing to organization under *Akins*, or whether injury to organizations programs granted standing under *Havens*).[8]

Second, CREW has suffered an injury to its activities sufficient to confer it standing. In addition to other forms of cognizable injury, an organizational plaintiff may suffer an injury in fact where it suffers a "concrete and demonstrable injury to the organizational activities."

[8] While the court in *CREW v. FEC*, 401 F. Supp. 2d 115, found CREW's tax status prevented it from suffering an informational injury under the FECA, it did so in *dicta* and erroneously. There, the court relied on the fact that CREW is a "§501(c)(3) non-profit, tax-exempt organization that cannot vote and is legally foreclosed from contributing to or participating in the political process" to find CREW could not suffer an injury in fact. *Id*. at 120–21. While it is true that CREW does not contribute to candidates, vote, or advocate for or against the election of any particular candidate, CREW can and does share information about the federal campaign finance system made public under the FECA: information section 501(c)(3) groups are free to share. Rev.Rul. 78-248, 1978-1 C.B. 154 (1978). Moreover, the district court's discussion is *dicta*, as the court went on to find that *no one* could suffer an informational injury in the case because the unreleased information provided no additional value to information already made public. *CREW*, 401 F. Supp. 2d. at 121–22.

Havens Realty Corp., 455 U.S. at 379.[9] Where a plaintiff's organizational activities include educational programs, an organizational injury arises where the plaintiff is denied information necessary for that program. *PETA v. U.S. Dep't of Agr.*, 797 F.3d 1087, 1094–95 (D.C. Cir. 2015) (holding nonprofit suffered injury from government action that restricted flow of information to it that the organization used in its educational programs); *Action Alliance of Senior Citizens of Greater Philadelphia v. Heckler*, 789 F.2d 931, 937–38 (D.C. Cir. 1986) (holding denial of organizations' "access to information and avenues of redress they wish to use in their routine information-dispending, counseling, and referral activities" constitutes a "injury both concrete and specific to the work in which they are engaged").

As detailed in the Complaint, CREW's mission is to "protect[] the rights of citizens to be informed about the activities of government officials, ensuring the integrity of government officials, protecting our political system against corruption, and reducing the influence of money in politics." Compl. ¶ 7. CREW advances its mission by "disseminat[ing] information to the public about public officials and their actions, as well as the outside influences that have been brought to bear on those actions." *Id.* ¶ 8. "Using the information" filed with the FEC, "CREW, through its website, press releases, and other methods of distribution, publicizes the role of these individuals and entities in the electoral process." *Id.* ¶ 9. As an example, CREW issued a report in May 2013 "detailing the growing political influence of high-frequency traders in Washington," which report "was based in large part on the lobbying and campaign contribution records of 48 companies specializing in high frequency trading." *Id.* ¶ 13, *see also* ¶ 14 (providing additional example). CREW has also written extensively about Respondents,[10] and

[9] *Havens* treated organizational injury as a distinct inquiry from informational injury. *Compare* 455 U.S. at 373–74 *with id.* at 379.

[10] Stuart McPhail, New Docs Reveal Murray Energy Employees Gave Generously, but Perhaps Not Voluntarily, to Company PAC, CREW (Aug. 31, 2016), available at http://www.citizensforethics.org/new-docs-murray-employees-

its work has garnered considerable interest.[11] CREW also files complaints with the FEC when violations of campaign finance laws become apparent. *Id.* ¶ 10. Accordingly, the FEC's dismissal of the administrative complaint below "hinders CREW in its programmatic activity, as compliance with [FECA] reporting requirements often provides CREW with the only source of information about those individuals and groups funding the political process." *Id.* ¶ 11.

Of course, CREW cannot know exactly how it would use information that Respondents have not yet made public: CREW does not yet know which employee contributions were coerced or reimbursed and thus does not know which officials actually received contributions from Respondents. *Cf. CREW*, 401 F. Supp. 2d at 122–23 (noting plaintiff would not need to "detail how information will be used when [it] does not yet possess that information" to satisfy standing). Nonetheless, CREW would certainly publicize any information it gained from FEC

giving/; Matt Corley, Exclusive: Court Docs Reveal Financial Ties Between 60 Plus Association and Alabama Power, CREW (Aug. 11, 2016), *available at* http://www.citizensforethics.org/exclusive-court-docs-reveal-financial-ties-60-plus-association-alabama-power/; CREW v. FEC (Murray Energy), CREW (June 10, 2016), *available at* http://www.citizensforethics.org/lawsuit/crew-vs-fec-murray-energy/; Alison Grass, Dark Money Fuels Florida Energy Ballot Initiative Fight, CREW (Feb. 26, 2016), *available at http://www.citizensforethics.org/dark-money-fuels-florida-energy-ballot-initiative-fight/;* Matt Corley, Coal-Funded GOP AG Group Praises West Virginia AG for "His Defense of the Coal Industry," CREW (Feb 22, 2015), *available at http://www.citizensforethics.org/coal-funded-gop-ag-group-praises-west-virginia-ag/;* Stuart McPhail, Fed Regulators Cite Murray Energy for Intimidating Employees; FEC Should Follow Suit, CREW (Nov. 13, 2015), *available at* http://www.citizensforethics.org/fed-regulators-cite-murray-energy-for-intimidating-employees-fec-should-fol/; Stuart McPhail, Murray Energy Fined for Campaign Violations But Employees Remain Vulnerable to Abuse, CREW (Oct. 26, 2015), *available at* http://www.citizensforethics.org/murray-energy-fined-for-campaign-violations-but-employees-remain-vulnerable/; Carrie Levine, Federal Election Commission's Failure to Act Leaves Murray Energy Employees Vulnerable, CREW (Sept. 16, 2014), *available at* http://www.citizensforethics.org/fec-failure-to-act-leaves-murray-energy-employees-vulnerable/; CREW Files FEC Complaint Against Murray Energy Corporation and CEO Robert Murray, CREW (Oct. 9, 2012), *available at* http://www.citizensforethics.org/legal-filling/crew-files-fec-complaint-against-murray-energy-corporation-robert-murray/.

[11] Sabrina Eaton, Group sues Federal Election Commission for dropping Murray Energy Probe, Cleveland Plain Dealer (June 10, 2016), *available at* http://www.cleveland.com/metro/index.ssf/2016/06/group_sues_federal_election_co.html; Tracie Mauriello, Federal Agency Drops Murray Energy Case, Pittsburg Post-Gazette (May 25, 2015), *available at* http://powersource.post-gazette.com/powersource/companies/2016/05/25/Federal-agency-drops-probe-into-Murray-Energy/stories/201605250076; Laura A. Bischoff, Coal company gives boost to GOP, Dayton Daily News (Sept. 28, 2014), *available at* http://www.mydaytondailynews.com/news/news/coal-company-gives-boost-to-gop/nhWmc/?icmp=daytondaily_internallink_textlink_apr2013_daytondailystubtomydaytondaily_launch; Suzanne Goldenberg, Mitt Romney champions coal – but Americans turned on by natural gas, the Guardian (Oct. 12, 2012), *available at* https://www.theguardian.com/environment/2012/oct/10/romney-defends-coal-natural-gas.

enforcement, as it has done in similar situations where CREW's activities have brought new information to light.[12]

The FEC's failure to enforce the law has frustrated CREW's educational program. Accordingly, CREW has suffered an injury in fact sufficient to create a case or controversy.

III. The FEC's Discretion on Remand Does Not Destroy Plaintiffs' Standing

The FEC finally argues that Plaintiffs lack standing because, when dealing with unlawful contributions in the name of another, the FEC "has typically negotiated administrative settlements that did not contain any requirement to file revised disclosure reports." Mot. at 20. Accordingly, the FEC argues, Plaintiffs' informational injuries were not caused by Respondents and will not be remedied by the Court if Plaintiffs' succeed here. The FEC's argument, however, is foreclosed by *Akins*.

In that case, the Supreme Court considered an identical argument by the FEC that, because it had discretion on remand to determine the remedy that it thought applicable to the violations and could even exercise prosecutorial discretion to dismiss the case, plaintiffs' injury was not fairly traceable or redressable. *Akins*, 524 U.S. at 25 ("Of course, as the FEC points out, it is possible that even had the FEC agreed with respondents' view of the law, it would still have decided in the exercise of its discretion not to require AIPAC to produce information." (citation omitted)). "But that fact does not destroy Article III 'causation,'" the Court held, "for we cannot know that the FEC would have exercised its prosecutorial discretion in this way." *Id.*

> Agencies often have discretion about whether or not to take a particular action. Yet those adversely affected by a discretionary agency decision generally have standing to complain that the agency based its decision upon an improper legal ground. If a

[12] *See, e.g.* CREW, Koch Brothers Group Hit With Massive Fine from CREW Complaint (July 13, 2016), *available* at http://www.citizensforethics.org/press-release/koch-brothers-groups-hit-massive-fines-crew-complaint/; Stuart McPhail, CREW, Newly Discovered Internal Documents Reveal Group's Lies to IRS, FEC (Apr. 20, 2016), *available a* http://www.citizensforethics.org/newly-disclosed-internal-documents-reveal-groups-lies-irs-fec/.

> reviewing court agrees that the agency misinterpreted the law, it will set aside the agency's action and remand the case—even though the agency (like a new jury after a mistrial) might later, in the exercise of its lawful discretion, reach the same result for a different reason. Thus respondents' "injury in fact" is "fairly traceable" to the FEC's decision not to issue its complaint, even though the FEC might reach the same result exercising its discretionary powers lawfully. For similar reasons, the courts in this case can "redress" respondents' "injury in fact."

Id. The same is true here.

In fact, here, even if the FEC responded in its "typical[]" fashion, Mot. at 20, that could do much to remedy Plaintiffs' injuries. Even if the FEC did not require Respondents to correct previously released campaign finance disclosures, the FEC would presumably still publicize the names of the individual employees who were coerced or reimbursed and which contributions were coerced or reimbursed. Plaintiffs would then be able to use that information to identify the officials who actually received financial support from Respondents and not from the straw donor employee, and could discuss that information with a voter in any future elections of those officials and could use that information to attempt to identify and publicize possible corruption. Simply put, the FEC can—and, if it follows the law, will—do much to redress the injuries caused to Plaintiffs, and Plaintiffs therefore have standing to bring this suit.

CONCLUSION

For the reasons stated above, Plaintiffs respectfully request the Court deny Defendant's motion.

Dated: September 6, 2016.

Respectfully submitted,

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CITIZENS FOR RESPONSIBILITY AND ETHICS IN WASHINGTON, *et al.*,	)	
Plaintiffs,	)	Civil Action No. 16-1088 (RJL)
v.	)	
FEDERAL ELECTION COMMISSION,	)	
Defendant.	)	

[DRAFT] ORDER DENYING
DEFENDANT FEDERAL ELECTION COMMISSION'S
MOTION TO DISMISS

Upon consideration of Defendant Federal Election Commission's Motion to Dismiss (the "Motion to Dismiss") and the briefing by the parties on the Motion to Dismiss, it is hereby

ORDERED, that Defendant's Motion to Dismiss is DENIED for the reasons stated in Plaintiffs' Opposition to the Defendant Federal Election Commission's Motion to Dismiss.

ENTERED this _____ day of _____, 2016.

_____
Hon. RICHARD J. LEON
United States District Judge

NOTICE OF PERSONS TO BE SERVED WITH PROPOSED ORDER UPON ENTRY

In accordance with Local Civil Rule 7(k), listed below are the names and addresses of the attorneys and parties entitled to be notified of the proposed order's entry.

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