



Campaign Expenditure Limits: The State of the Law

In 1976, the Supreme Court struck down federal campaign spending limits and equated money with speech in its infamous *Buckley v. Valeo* decision. Reasonable spending limits can put the brakes on the fundraising arms race; level the playing field for grassroots candidates and challengers; protect candidates' valuable time; and prevent millionaires from buying elected office. But, until now, *Buckley* had taken this powerful campaign finance reform off the public agenda for nearly 30 years.

A recent Second Circuit decision has changed everything...

In August 2004, the U.S. Court of Appeals for the Second Circuit issued a landmark decision declaring that campaign expenditure limits can be constitutional. In February 2005, the Second Circuit announced it would not rehear *Landell v. Sorrell*, preserving its earlier ruling. *Landell* conflicts with Tenth and Sixth Circuit decisions holding that under *Buckley* spending limits are *per se* unconstitutional. The new circuit split may pave the way for the Supreme Court to revisit *Buckley* and resolve the conflict. This, however, is the current state of the law:

Second Circuit: New York, Connecticut, Vermont

Campaign expenditure limits are constitutional if narrowly tailored to achieve the state's compelling interest in preventing corruption and its appearance and protecting candidates' scarce time.

Sixth and Tenth Circuits: Kentucky, Michigan, Ohio, Tennessee, Oklahoma, Kansas, New Mexico, Colorado, Wyoming, and Utah

Campaign expenditure limits are *per se* unconstitutional under these courts' interpretation of *Buckley v. Valeo*.

All Remaining Circuits: Maine, New Hampshire, Massachusetts, Rhode Island, Pennsylvania, New Jersey, Delaware, Maryland, North Carolina, South Carolina, Virginia, West Virginia, Louisiana, Mississippi, Texas, Illinois, Indiana, Wisconsin, Arkansas, Iowa, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon, Washington, Alabama, Florida, Georgia, Washington, D.C.

No Circuit Court precedent: Campaign expenditure limits may be constitutional.