

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

)
THE TEA PARTY LEADERSHIP FUND,)
et al.)
Plaintiffs,)
v.) Civil Case No. 1:12-cv-01707-RWR
FEDERAL ELECTION COMMISSION)
Defendant.)

)

PLAINTIFFS' RESPONSE TO ORDER TO SHOW CAUSE

This Court rightly asks why this case should not conserve judicial resources by combining a resolution of the motion for preliminary injunction with a determination on the merits under Fed. R. Civ. P. 65(a)(2). *See* Order to Show Cause, Oct. 22, 2012 (hereinafter “Order”). But the reason it should rule on the motion for preliminary injunction is straightforward: Plaintiff Sean Bielat is battling Joseph P. Kennedy III to represent the citizens of Massachusetts’ Fourth Congressional District in the U.S. House of Representatives, with the contest to be decided on November 6, 2012. Mr. Bielat can use \$2,500 in additional support from the Tea Party Leadership Fund on or before November 6th.

Plaintiff John Raese is currently engaged in a bid to unseat Senator Joe Manchin of West Virginia and would welcome additional support to do so. There are many other candidates the Tea Party Leadership Fund would like to support up to \$5,000 per election between now and November 6th. If this Court does not make a preliminary ruling on plaintiffs’ claims by November 5, the opportunity to support these candidates, and the ability of these candidates to

deploy that support, will be lost. This is unacceptable: “The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable harm.” *Elrod v. Burns*, 427 U.S. 347, 373 (1976).

Defendant FEC has until November 1 to oppose Plaintiffs’ Motion for Preliminary Injunction. *See* Consent Motion for Extension of Time, Oct. 19, 2012. Plaintiffs are hopeful this Court can grant preliminary relief to Plaintiffs between November 1 and November 5 of this year, so that Plaintiffs may use any favorable ruling to participate in the November 6 election.

As such, Plaintiffs do not agree that the hearings should be consolidated. Consolidation would leave insufficient time between the filing of the FEC’s Opposition to Plaintiffs Motion for Preliminary Injunction on November 1 and the election of November 6 for the parties to file “a proposed schedule on which full sequential summary judgment briefing [c]ould proceed,” Order at 1-2, let alone conduct that briefing in time to grant adequate relief to Plaintiffs.

This Court should not consolidate the preliminary injunction determination with briefing on the merits.

Respectfully submitted,

Stephen M. Hoersting*

/s/

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*Motions for *Pro Hac Vice* to be filed.