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COUNSEL FOR DEFENDANTS

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

DOUG LAIR; STEVE DOGIAKOS;)	
AMERICAN TRADITION PARTNERSHIP;)	Cause No. 6:12-cv-00012-CCL
AMERICAN TRADITION PARTNERSHIP)	
PAC; MONTANA RIGHT TO LIFE)	DEFENDANTS'
ASSOCIATION PAC; SWEET GRASS)	IDENTIFICATION OF
COUNCIL FOR COMMUNITY INTEGRITY;)	REBUTTAL EXPERT
LAKE COUNTY REPUBLICAN CENTRAL)	WITNESSES
COMMITTEE; BEAVERHEAD COUNTY)	
REPUBLICAN CENTRAL COMMITTEE;)	
JAKE OIL LLC; JL OIL LLC; CHAMPION)	
PAINTING INC.; and JOHN MILANOVICH,)	
)	
Plaintiffs,)	
)	
v.)	
)	
JAMES ("JIM") MURRY, in his official)	
capacity as Commissioner of Political Practices;)	
STEVE BULLOCK, in his official capacity as)	
Attorney General of the State of Montana; and)	
LEO GALLAGHER, in his official capacity as)	
Lewis and Clark County Attorney,)	
)	
Defendants.)	

IDENTIFICATION OF EXPERT WITNESSES

1. Edwin Bender. National Institute on Money in State Politics,
833 North Last Chance Gulch, Helena, MT 59601, Phone: (406) 449.2480.

STATEMENT OF OPINIONS TO BE EXPRESSED

A statement of opinions to be expressed by Mr. Bender is set forth in his attached report (Exhibit A).

BASIS AND REASON OF ALL OPINIONS

A statement of the basis and reason for each of the opinions is set forth in the attached report (Exhibit A).

DATA OR INFORMATION CONSIDERED

The data or information, to date, that Defendants' rebuttal expert has considered in forming his opinions is set forth in the attached report (Exhibit A).

EXHIBITS TO BE USED

Any exhibits to be used as a summary of or support for the opinions are set forth in or incorporated by the attached report (Exhibit A).

QUALIFICATIONS OF WITNESS

The qualifications of Defendants' rebuttal expert, including a list of all publications each has authored during the past ten years, are set forth in or incorporated by the attached report (Exhibit A).

COMPENSATION

The compensation for Defendants' rebuttal expert is set forth in the attached report (Exhibit A). Any expenses or costs incurred by each of Defendants' experts are also reimbursed.

LISTING OF OTHER CASES

A list of cases, if any, where Defendants' rebuttal expert provided expert testimony in, at trial or by deposition, during the preceding four years is set forth in or incorporated by the attached report (Exhibit A).

ANTICIPATED SUPPLEMENTATION

As a result of pending, but unanswered discovery requests, as well as any further investigation or discovery, these disclosures may be supplemented, if necessary, in accordance with the provisions of Rule 26(e)(1).

Respectfully submitted this 14th day of June, 2012.

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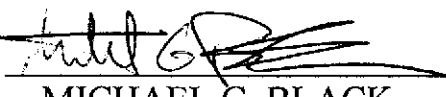
CERTIFICATE OF SERVICE

I hereby certify that under penalty of perjury that on the 14th day of June, 2012, a true and correct copy of the foregoing was personally served on the following:

Mr. John E. Bloomquist
Mr. James E. Brown
Doney, Crowley, Payne,
Bloomquist, P.C.
P.O. Box 1185
44 West 6th Avenue
Helena, MT 59601

I hereby certify that under penalty of perjury that on the 14th day of June, 2012, a true and correct copy of the foregoing was served by mail on the following:

Mr. James Bopp, Jr.
Mr. Jeffrey Gallant
The Bopp Law Firm
1 South Sixth Street
Terre Haute, IN 47807

By: 
MICHAEL G. BLACK
Assistant Attorney General
Counsel for Defendant

REBUTTAL EXPERT DISCLOSURE OF EDWIN BENDER

This Disclosure sets forth my analysis and rebuttal of the "Campaign Finance Review," which was submitted to Defendants in this case on May 15, 2012 on letterhead of Clark H. Bensen (Bensen Report). This rebuttal disclosure outlines serious problems with the Bensen Report's methodology and conclusions. The Bensen Report's inference that current contribution limits negatively impact Montana campaigns is not supported by an accurate assessment of the relevant data, and it is not supported by a fair reading of the data used in the Bensen Report itself. I hereby incorporate my expert disclosure (dated May 29, 2012) by reference, and further opine and submit as follows:

A. Facts or Data Considered in Forming Opinions.

1. Verified Complaint and Declarations filed in Lair, et al v. Murry, et al., CV-12-12-H-CCL.
2. Information obtained from electronic and paper files of the Office of Commissioner of Political Practices, including campaign finance reports. This information is compiled and maintained in databases of the National Institute on Money in State Politics. The Institute tracks campaign money in several categories, including individuals, PACs, and political party committees.
3. Findings of Fact and Conclusions of Law (Docket No. 195) in Montana Right to Life, et al. v. Eddleman, et al., CV 96-165-BLG-JDS (filed September 19, 2000).
4. Defendants' expert disclosures in Montana Right to Life, et al. v. Eddleman, et al., CV 96-165-BLG-JDS.
5. Exhibit D-24, admitted into evidence at trial in Montana Right to Life, et al. v. Eddleman, et al., CV 96-165-BLG-JDS.
6. Communications with candidates, political consultants and volunteers, political party representatives, government employees monitoring elections, and elected officials in Montana, during period of 1982 to the present. I have been compiling state-level campaign-finance data and analyzing trends since 1992.
7. Montana Code Annotated Sections 13-37-216(1), (3), and (5), and Campaign Contribution Limits Summary prepared by Montana Commissioner of

Political Practices.

8. CI-64, which is a constitutional initiative passed by Montana voters in 1992, and now found in the Montana Constitution, Article IV, Section 8.

9. Reported cases, including Montana Right to Life Associate v. Eddleman, 343 F.3d 1085 (9th Cir. 2003) and Randall v. Sorrell, 548 U.S. 230 (2006), as well as Order Granting and Denying Motion for Preliminary Injunction (Doc. No. 66) filed in Lair, et al v. Murry, et al., CV-12-12-H-CCL.

10. Summary of Facts, Statement of Findings and Conclusion, In the Matter of the Complaint Against the Steve Bullock for Attorney General Campaign Committee and Montana Democratic Party and Chairman Dennis McDonald (Deputy Commissioner of Political Practices Jay P. Dufrechou, May 15, 2012).

11. Campaign Finance Review for Montana (May 2012) on letterhead of Clark H. Bensen, as well as data, supporting data tables and information provided therewith.

12. Defendants' Expert Disclosures in this matter (May 29, 2012).

13. Plaintiffs' Discovery Responses (June 2012).

B. Statement of Opinions and Bases of Opinions

Statement of Opinions

Based on the information reviewed, as well as my knowledge, skill, experience, training, and education developed over the course of 30 years studying and analyzing elections in Montana, including the charts appended hereto that help explain the reasoning behind my analysis and which may be offered as exhibits, it is my rebuttal opinion as to the Bensen Report:

Because of methodological and other problems, the Bensen Report's conclusion that Montana's contribution limits prevent campaigns from obtaining needed resources is erroneous and unsupported. As I have already stated in my initial expert disclosure, Montana contribution limits make Montana campaigns very participatory, healthy and competitive. My opinions and reasoning set forth below are further supported by the tables in the attached appendices at pages 11-25, and these charts may be offered at trial to help explain my opinions and the

bases of my opinions.

The major methodological deficiencies with the Bensen Report are as follows:

1. The focus of the analysis on only those elections with a margin of 10% or less of the votes cast renders the data pool too small and ignores relevant data from other sources.
2. The analysis does not include primary campaigns.
3. The analysis does not include an assessment of non-itemized contributors and contributions.
4. The analysis does not account for the general voting age population in or other local characteristics of the selected districts.
5. The analysis of selected campaigns presents an overstated and biased assessment of the number of donors at the maximum level.
6. Even with the selected campaigns, the number of donors affected by limits is well below 10 percent when small-donor estimates are included.
7. Non-individual donors (PACs) constitute an extremely small percentage (1%-7% House/ 2%-5% Senate) of donors who hit the limit.
8. Non-individual donors (Political Party Committees) constitute an extremely small percentage (3%-5% House/ 1%-5% Senate) of donors who hit the limit.
9. Political Party Committees may pay compensation of persons who provide personal services rendered to a campaign or political committee, which are not considered contributions, and the Bensen Report does not consider this aspect of Montana political campaigns.
10. The Bensen Report's discussions concerning "hypothetical lost revenues" are not supported by reasonable assumptions.

11. The Bensen Report's conclusions rest on speculation derived from inadequate data and assumptions that are not supportable based on accepted methodology or facts relating to Montana elections and political campaigns.

Bases of Opinions

The Bensen Report reviews 121 candidate campaigns that have taken place since 2004. These races, hand-selected for inclusion in their Report, represent "close" elections (within a 10% margin). *See* Bensen Report, at 10. The Bensen Report's assumption that only close elections can render useful information about contribution limits is not correct. The narrow data pool excludes information that is vital to any determination of the impact of contribution limits on campaigns. My analysis of the Bensen Report includes the Charts in the appendices at pages 11-20.

First, there is no explanation in the Bensen Report for why primary campaigns were excluded from the analysis. The data from primaries indicates that contribution limits are not often hit. The inexplicable exclusion of primaries from the Bensen Report's analysis skews the results of the report. Second, the Bensen Report only assesses the itemized contributions of donors who contributed \$35 or over. Small contributions of less than \$35 represent, however, a significant portion of overall contributions and come from a pool of donors who could have given more but did not. Without an analysis of this pool of donors, it is impossible to know whether candidates are being impeded by contribution limits, or simply not doing the work of seeking greater contributions from an existing pool of donors. The Montana contribution limits encourage candidates to acquire a broad and diverse base of support, which has also been recognized as a method to eliminate undue influence, or the appearance thereof, from large contributors and special interests. Similarly, the Bensen Report includes no analysis of the number of donors as compared to the total voting age population in the selected districts. Without such an analysis, it is impossible to know whether candidates are being impeded by contribution limits, or simply not tapping into the full potential donor pool in a district.

In addition to the overly-narrow data pool, the Bensen Report presents an overstated and biased assessment of the number of donors at a maximum or near-maximum level. The races analyzed in the Report appear to have been strategically selected, containing more than the average number of donor-transactions at the maximum level. Even taking into account the number of maximum-level donor transactions in the selected campaigns, the number of donors affected by contribution limits is still well-below 10 percent when small-

donor estimates are included. Similarly, PACs and Political Party Committees constitute an extremely small percentage of donors who hit contribution limits. The Bensen Report also fails to address that payment by political parties for compensation of persons who provide personal services rendered to a campaign or political committee are not considered contributions, which is a significant difference between PACs and Political Party Committees.

The Bensen Report appears to rely exclusively on data from reports posted online by the Commissioner of Political Practices. This data is incomplete and not always reliable because, in part, amended reports are not posted online. The Commissioner's website includes the following language: "*Disclaimer: This service offers a view of the original report only. Contact our office for amended versions of the reports.*" (emphasis in original). To the extent that any Plaintiff responded to discovery requesting identification of each document relating to this matter provided to, reviewed by, or relied upon by Plaintiffs' expert, the response was: "All such data is easily obtainable by Defendants from public records maintained by the Commissioner, namely the Commissioner's webpage." The Bensen Report itself indicates there were limitations on the data as provided, and reliance upon the "Commissioner's webpage" is not reasonable because of the disclaimer and my experience with analyzing all the data available from the Commissioner (including paper hardcopies of amended reports). The data from the webpage is incomplete.

The "near-maximum" data category is contrived and illusory. Consideration of the "near-maximum" contribution offers nothing substantial to the analysis of whether contribution limits prevent candidates from mounting effective campaigns. The "near-maximum" contributors are far less significant than the number of contributors who do not reach the \$35 reporting threshold. These under-threshold contributors were engaged enough to contribute to a campaign and offer an extremely important untapped resource of potential contribution revenue, which has been ignored by the Bensen Report.

The Bensen Report's discussions of "hypothetical lost revenues" are founded on unsupported assumptions, and do not usefully assess the impact of contribution limits. In order to arrive at its conclusions about lost revenues due to contribution limits, the Report must assume that: (1) candidates have received all that they can receive from existing donor pools, including the below \$35 donor pool; and (2) candidates have explored the potential donor pool represented by the total voting age population in a district less the known donor pool in that district. As the data indicates, the Bensen Report cannot make these assumptions. See Chart

at page 25. The pool of under \$35 donors in these campaigns and potential untapped donors in the general voting age population offers a very substantial opportunity for candidates to significantly increase contribution revenues within current contribution limits. The Bensen Report itself recognizes the distinction between contribution limits as a real bar to effective campaigning, and simple laziness: "It is more cost-effective to ask a known-giver to provide more money to meet the maximum than it is to find new donors: prospecting is an expensive operation that requires planning and time. Likewise, events that produce small-dollar donations require planning and operational considerations." Bensen Report, at 11. In other words, it is easier to raise lots of money from a few donors, than small amounts of money from many donors – therefore, contribution limits should be raised. This contradicts the Bensen Report's argument that the resources are not available and limits need to be raised.

The Bensen Report also assumes that when a campaign spends more than it raises, or when candidates donate to their own campaigns, there is a problem with contribution limits impeding their efforts. These assumptions are erroneous. These concerns about candidates donating to their own campaign do not indicate any problem with contribution limits. In my experience and study of Montana campaigns, this is not an indication that contribution limits are limiting candidate resources. Candidates often donate or borrow from themselves at the beginning of a campaign to get the campaign going. Candidates donating to their own campaigns has nothing to do with running into contribution limits later in the campaign. There are no limits on Candidates contributing to their own campaigns.

A closer analysis of the selected races in the Benson Report follows:

House Races Since 2004

The Bensen Report analyzed 9 percent of the possible Montana house campaigns, ignoring 112 primary candidates. Our analysis of the campaigns he analyzed shows just 16 percent of the individual donors reaching the contribution limits, and 76 percent contributing below the limit. Just 3 percent of the non-individual donors hit the limit while 4 percent donated below the limit. More than 16,670 donor transactions are accounted for in this analysis, with donors under the reporting threshold accounting for thousands more (\$35 cutoff equals 2,361 additional donors; \$5 cutoff equals an additional 16,529.) The actual number of donors is likely less since a donor can give at the maximum to one candidate, below the maximum to another candidate, and below the maximum to still another candidate.

A broader analysis eliminates the distortions produced by the 73 hand-picked House races. The 91 percent of campaigns left unexamined by the Plaintiffs tell a different story, with 14 percent of individual campaign donors hitting the maximum and 74 percent giving below the maximum; and 4 percent of the non-individual donors hitting the contribution limit and 7 percent giving below the limit. Small, non-itemized donors below the reporting threshold range between 14,495 when divided by the \$35 cutoff and 101,470 when divided by \$5. Additionally, the Bensen Report appears to have selected campaigns to analyze strategically. The 73 campaigns analyzed averaged 19 donor-transactions at the maximum level, whereas the remaining 753 campaigns averaged just seven donors at the maximum level.

The Bensen Report did not analyze data from candidates who did not prevail in primary races. The absence of primary losers is significant. In the 2004 and 2008 House races, no donor to a primary loser hit the limit; just four donors hit the limit in 2006; and in 2010, a very contentious election year, just 24 hit the limit. In the four election cycles, just four non-individuals hit the limit and 51 gave below the limit. Clearly, the contribution limits are not a significant influence on primary-campaign losers, so their absence from any limits analysis skews that analysis significantly.

Senate Races Since 2004

An analysis of Bensen Report's selected Senate campaigns reveals trends similar to those seen in the House analyses. Perhaps most important, the 27 campaigns examined saw an average 49 donors at the maximum level, where the remaining 191 campaigns saw an average of half that, 13. So race selection plays an important role in overstating the effect of contribution limits.

Individual donors who hit the limit represented 20 percent of the total in the selected states, where 74 percent of the donors did not hit the limit; non-individuals that hit the limit represent 2 percent of the donors, and 3 percent did not hit the limit. In the 191 unexamined campaigns, individual donors at the limit represented 16 percent of the donations, with individuals not at the limit representing 75 percent. Non-individuals at the limit represented 3 percent of the donor total and those not at the limit represent 5 percent.

Donors under the reporting threshold in the selected races would represent another 1,446 (\$35 cutoff) to 10,125 (\$5 cutoff) donors, greatly reducing the

overall percentage of donors at the maximum level. The other races' numbers are even higher, 4,313 (\$35) to 30,191 (\$5).

Statewide Races Since 2004

Statewide races selected for analysis in the Bensen Report also appear to be strategic. In the 19 races analyzed, we found an average of 25 donors per campaign hitting the contribution limit, while the 42 races not examined averaged half that, just 13 donors at the maximum. Donors at the maximum level represented just 4 percent of the donor transactions, with 94 percent under the maximum, ½ percent for non-individuals at the maximum and 1 percent for non-individuals below the maximum.

Gubernatorial Races Since 2004

An analysis of the gubernatorial campaigns, 2004-2010, reveals patterns seen in other analyses presented here. An analysis of the Bensen Report's race selections shows just 2 percent hit the contribution limit in 2004, an contentious, open contest, with more than 97 percent giving below the threshold. Between 419 (\$35) and 2,937 (\$5) additional donors gave, greatly reducing the percentage of donors affected by a contribution limit and increasing the number who gave to candidates in the race.

Analyses of the other gubernatorial campaigns not examined reinforces these findings: Less than 2 percent of donors reached the contribution threshold, more than 98 percent did not. Unitemized donors represented another 1,050 (\$35) to 7,355 donors.

Political Party Committees

In the Charts at pages 21-24, examining political-party donations to candidates reveals minor fluctuations in the percentage received by races analyzed by the Bensen Report (P) and those unexamined (N), with the former trending lower than the larger group. Overall, these figures illustrate the consistent role political parties play in donations to house and senate candidates, over time.

Senate

As for the impact of aggregate contribution limits, 2004-2006 senate races in the general election revealed:

No races at the two-election maximum of \$2,100
13 races above the one-election maximum of \$1,050;
14 races at the \$1,050 one-election maximum;
40 races below the \$1,050 maximum, and;
27 races with no donations from party committees.

2008-2010 senate races in the general election revealed:

Two races near the two-election maximum of \$2,600
Three races above the one-election maximum of \$1,300;
Six races at the \$1,300 one-election maximum;
42 races below the \$1,300 maximum, and;
36 races with no donations from party committees.

Clearly, the aggregate contribution limits for party committees has not been burdensome in state senate general elections, especially since the amount at or near the limit went down when the limit went up. In fact, the number of races receiving no or little from party committees represents the overwhelming majority.

House

2004-2006 House races in the general election revealed:

Four races at the two-election maximum of \$1,300
46 races above the one-election maximum of \$650;
64 races at the \$650 one-election maximum;
150 races below the \$650 maximum, and;
131 races with no donations from party committees.

2008-2010 House races in the general election revealed:

Two races at the two-election maximum of \$1,600
17 races above the one-election maximum of \$800;
81 races at the \$800 one-election maximum;
143 races below the \$800 maximum, and;
131 races with no donations from party committees.

With few races reaching the maximum in aggregate donations from party committees in state House races, and a vast majority receiving well under the

maximum or no contributions, the limits do on aggregate donations to candidates by party committees do not appear to be a major factor in Montana elections.

Summary

Montana's political system is healthy compared to other states, with competitive statewide, regional office, and legislative races. Candidates in Montana can raise sufficient funds to run competitive races as incumbents, challengers, or as candidates for open seats. To the extent that any candidate believes contributions are too low to mount an effective campaign, the candidate has the opportunity to raise sufficient funds by expending more effort to reach out to the electorate and thereby expand the contributor pool, at least to the extent that the demographics and preferences of the electorate allow a reasonable opportunity for success. Based upon my review of the Bensen Report and the data relied upon in the Bensen Report, the data and my experience in observing and evaluating Montana elections, the Bensen Report does not support any conclusions that individuals, PACs and political party committees lack any substantial ability to be heard in Montana elections under current contribution limits established by Montana Code Annotated Sections 13-37-216(1), (3), and (5). While contribution data varies somewhat from election to election, the ability of individuals, PACs and political party committees to be heard in Montana elections has not meaningfully decreased since the Eddleman case was decided.

D. Qualifications.

My C.V. is attached to my previous disclosure (May 29, 2012), which lists my experience and publications during the past 10 years, and is incorporated by reference. I have not testified as an expert witness within the last four years. I charge \$125 per hour for all work in this matter, including study and testimony.

I declare under penalty of perjury that the foregoing is true and correct.

DATED this 14th day of June, 2012.



Edwin Bender

House Races

73 candidates analyzed; 37 general losers, 36 winners

No. of Candidates	Year Code	Num OfIndi v At Max	TotalIndiv AtMax	NumOfIndi vBelow Max	TotalIndiv BelowMax	NumOf NonInd ivAt Max	TotalNonI ndiv AtMax	NumOf NonInd ivBelo wMax	TotalNonIndiv BelowMax	Total Unitemized
10	2004	54	\$7,150	297	\$20,926	38	\$4,940	50	\$4,540	\$10,462
9	2006	281	\$36,800	842	\$61,193	37	\$4,940	60	\$5,391	\$20,816
27	2008	543	\$91,500	2843	\$215,429	81	\$13,800	153	\$15,463	\$27,420
27	2010	499	\$83,700	2401	\$179,433	71	\$11,890	88	\$7,692	\$23,949
73		1377	\$219,150	6383	\$476,981	227	\$35,570	351	\$33,086	\$82,647

House Races

753 candidates not analyzed; 112 primary losers, 273 general losers, 360 general winners, 8 withdrew

No. of Candidates	YearCo de	NumO fndiv AtMax	TotalIndiv AtMax	NumOfindi vBelowMa x	TotalIndiv BelowMax	NumOf NonInd ivAtMa x	TotalNonl ndivAtMa x	NumOf NonInd ivBelo wMax	TotalNonIndiv BelowMax	Total Unitemized
194	2004	1146	\$156,195	6510	\$466,498	448	\$59,420	744	\$62,394	\$144,006
204	2006	2356	\$320,935	8466	\$623,838	632	\$88,835	777	\$65,910	\$166,862
179	2008	1028	\$174,756	7754	\$648,527	344	\$62,096	778	\$82,074	\$103,473
176	2010	1261	\$222,372	7159	\$594,567	398	\$70,670	559	\$61,522	\$93,011
753		5791	\$874,258	29889	\$2,333,430	1822	\$281,021	2858	\$271,900	\$507,353

House Races – Primary losers

112 primary losers not examined by plaintiff's expert

StateCode	YearCode	Num OfIndi vAtM ax	TotalIndiv AtMax	NumOfIndi vBelowMa x	TotalIndiv BelowMax	NumOf NonInd ivAtMa x	TotalNonI ndivAtMa x	NumOf NonInd ivBelo wMax	TotalNonIndiv BelowMax	Total Unitemized
25	2004	0	\$00	504	\$41,261	0	\$00	21	\$2,365	\$9,881
22	2006	4	\$1,040	632	\$58,546	2	\$2,207	33	\$3,167	\$12,344
29	2008	0	\$00	992	\$92,908	1	\$390	51	\$7,252	\$9,929
36	2010	24	\$7,680	927	\$93,001	1	\$2,400	35	\$4,992	\$8,927
112		28	\$8,720	3055	\$285,717	4	\$4,997	140	\$17,776	\$41,081

Senate Races

27 candidates analyzed: 14 general losers, 13 general winners

No of Candidates	Year Code	Num OfIndi vAtM ax	TotalIndiv AtMax	NumOfIndi vBelowMa x	TotalIndiv BelowMax	NumOf NonInd ivAtMa x	TotalNonI ndivAtMa x	NumOf NonInd ivBelo wMax	TotalNonIndiv BelowMax	Total Unitemized
8	2004	221	\$29,270	641	\$43,302	33	\$4,366	63	\$6,020	\$9,153
4	2006	390	\$50,865	954	\$63,385	24	\$3,220	21	\$1,813	\$8,285
11	2008	229	\$38,150	2036	\$189,484	40	\$8,482	123	\$14,692	\$20,218
4	2010	478	\$87,595	1218	\$118,751	26	\$4,820	14	\$1,648	\$12,971
27		1318	\$205,880	4849	\$414,922	123	\$20,888	221	\$24,173	\$50,627

Senate Races

191 candidates not analyzed; 45 primary losers, 56 general losers, 87 general winners, 2 withdrew, 1 other (DNR)

No. of Candidates	Year Code	NumO fIndiv AtMax	TotalIndiv AtMax	NumOfIndi vBelowMa x	TotalIndiv BelowMax	NumOf NonInd ivAtMa x	TotalNonI ndivAtMa x	NumOf NonInd ivBelo wMax	TotalNonIndiv BelowMax	Total Unitemized
45	2004	453	\$69,220	2497	\$193,303	106	\$14,500	197	\$17,303	\$41,870
48	2006	773	\$106,228	2703	\$209,518	191	\$25,810	243	\$22,274	\$36,426
42	2008	371	\$60,725	2734	\$227,398	110	\$18,962	155	\$17,490	\$26,177
56	2010	886	\$155,447	3692	\$323,430	129	\$21,945	242	\$28,390	\$46,486
191		2483	\$391,620	11626	\$953,648	536	\$81,217	837	\$85,457	\$150,959

Senate Races – Primary losers
45 losers not examined by plaintiff's expert

No. of Candidates	Year Code	NumOf flndiv AtMax	TotalIndiv AtMax	NumOfIndi vBelowMa x	TotalIndiv BelowMax	NumOf NonInd ivAtMa x	TotalNonI ndivAtMa x	NumOf NonInd ivBelo wMax	TotalNonIndiv BelowMax	Total Unitemized
11	2004	11	\$2,860	301	\$25,720	0	\$00	14	\$1,521	\$5,248
5	2006	21	\$5,460	296	\$28,647	0	\$00	6	\$760	\$887
13	2008	1	\$320	495	\$44,021	0	\$00	13	\$1,685	\$7,500
16	2010	1	\$320	540	\$52,491	0	\$00	10	\$55	\$4,220
45		34	\$8,960	1632	\$150,879	0	\$00	43	\$4,021	\$17,854

Statewide Races

19 candidates analyzed: 9 general losers, 10 general winners

No. of Candidates	Year Code	NumO fndiv AtMax	TotalIndiv AtMax	NumOfndi vBelowMa x	TotalIndiv BelowMax	NumOf NonInd ivAtMa x	TotalNonI ndivAtMa x	NumOf NonInd ivBelo wMax	TotalNonIndiv BelowMax	Total Unitemized
6	2004	33	\$17,350	1835	\$192,115	6	\$3,725	49	\$8,465	\$40,765
2	2006	7	\$2,050	942	\$76,675	0	\$00	11	\$280	\$14,606
11	2008	447	\$182,600	9242	\$1,035,420	50	\$20,140	120	\$26,563	\$104,257
19		487	\$202,000	12019	\$1,304,209	56	\$23,865	180	\$35,308	\$159,628

Statewide Races

42 candidates not analyzed: 21 primary losers, 9 general losers, 9 general winners, 3 other (DNR)

No. of Candidates	Year Code	NumO fndiv AtMax	TotalIndiv AtMax	NumOfndi vBelowMa x	TotalIndiv BelowMax	NumOf NonInd ivAtMa x	TotalNonI ndivAtMa x	NumOf NonInd ivBelo wMax	TotalNonIndiv BelowMax	Total Unitimized
14	2004	467	\$122,659	4012	\$386,191	37	\$10,250	54	\$8,368	\$64,120
8	2006	1	\$7,000	297	\$35,033	1	\$500	6	\$798	\$2,289
11	2008	4	\$2,520	2383	\$268,739	1	\$900	22	\$4,050	\$31,597
9	2010	77	\$32,770	1625	\$144,477	10	\$4,320	18	\$2,770	\$14,431
42		549	\$164,949	8317	\$834,439	49	\$15,970	100	\$15,985	\$112,437

Gubernatorial Races

2 candidates analyzed: 1 general loser, 1 general winner

No. of Candidates	Year Code	NumOf fIndiv AtMax	TotalIndiv AtMax	NumOfIndi vBelowMa x	TotalIndiv BelowMax	NumOf NonInd ivAtMa x	TotalNonl ndivAtMa x	NumOf NonInd ivBelo wMax	TotalNonIndiv BelowMax	Total Unitemized
2	2004	389	\$398,548	17173	\$2,023,64 4	0	\$00	37	\$11,995	\$14,687

Gubernatorial Races

14 candidates not analyzed: 7 primary losers, 4 general losers, 1 general winner, 2 other (DNR)

No. of Candidates	Year Code	NumO fndiv AtMax	TotalIndiv AtMax	NumOfndi vBelowMa x	TotalIndiv BelowMax	NumOf NonInd ivAtMa x	TotalNonI ndivAtMa x	NumOf NonInd ivBelo wMax	TotalNonIndiv BelowMax	Total Unitemized
6	2004	4	\$4,000	2370	\$534,247	0	\$00	6	\$1,309	\$15,704
1	2006	68	\$34,500	1226	\$55,859	0	\$00	0	\$00	\$00
6	2008	200	\$254,380	12138	\$2,107,810	1	\$1,868	3	\$730	\$21,075
1	2010	1	\$630	14	\$3,720	0	\$00	0	\$00	\$00
14		273	\$293,510	15748	\$2,701,636	1	\$1,868	9	\$2,039	\$36,779

Party Committee Contributions to Candidates

(P = Plaintiff's Expert's Selections; N = Other Non-Selected Races)

2004 Races

Year of Election	Plaintiff	Recipient	H S	Raised from Party	Total Raised	Percent
2004	N	222	H	\$53,854	\$1,153,999	4.7%
2004	N	49	S	\$15,456	\$454,553	3.4%
2004	N	271		\$69,310	\$1,608,552	4.3%
2004	P	15	H	\$4,454	\$105,988	4.2%
2004	P	8	S	\$4,530	\$142,577	3.2%
2004	P	23		\$8,984	\$248,565	3.6%
2004	P	294	Total	\$78,294	\$1,857,117	4.2%

2006 Races

Year of Election	Plaintiff	Recipient	H S	Raised from Party	Total Raised	Percent
2006	N	225	H	\$62,026	\$1,558,079	4.0%
2006	N	57	S	\$22,977	\$530,306	4.3%
2006	N	282		\$85,003	\$2,088,385	4.1%
2006	P	15	H	\$7,910	\$232,393	3.4%
2006	P	5	S	\$4,790	\$156,411	3.1%
2006	P	20		\$12,700	\$388,804	3.3%
2006	P	302	Total	\$97,703	\$2,477,189	3.9%

2008 Races

Year of Election	Plaintiff	Recipient	H S	Raised from Party	Total Raised	Percent
2008	N	215	H	\$69,354	\$1,449,870	4.8%
2008	N	44	S	\$9,248	\$393,630	2.3%
2008	N	259		\$78,602	\$1,843,500	4.3%
2008	P	23	H	\$11,630	\$336,575	3.5%
2008	P	12	S	\$11,866	\$350,670	3.4%
2008	P	35		\$23,496	\$687,245	3.4%
2008	P	294	Total	\$102,098	\$2,530,745	4.0%

2010 Races

Year of Election	Plaintiff	Recipient	H S	Raised from Party	Total Raised	Percent
2010	N	208	H	\$43,124	\$1,236,650	3.5%
2010	N	64	S	\$20,873	\$708,389	2.9%
2010	N	272		\$63,997	\$1,945,039	3.3%
2010	P	29	H	\$15,668	\$425,177	3.7%
2010	P	6	S	\$4,930	\$281,294	1.8%
2010	P	35		\$20,598	\$706,471	2.9%
2010	P	307	Total	\$84,595	\$2,651,510	3.2%

Race	Candidate	# of Indiv Donors	# of Indivs + Unitemized at \$35 ea	# of Indivs + Unitemized at \$15 ea	# of Indivs + Unitemized at \$5 ea	# of Indivs who Maxed	Voting-Age Population*	Total Population*
SD 39 (2006)	Cohenour	258	267	279	320	32		
SD 39 (2006)	Murphy	207	279	374	708	73		
Race Total		465	546	653	1028	105	15,417	20,393
HD 63 (2008)	Burnett	214	267	338	586	98		
HD 63 (2008)	Pomnichowski	243	330	445	850	62		
HD 63 (2008)		457	597	783	1436	160	8,268	10,738
Race Total								

* 2010 Figures

Race	SD 39 (2006)	Unitemized Total	# of Donors @ \$35 ea	# of Donors @ \$15 ea	# of Donors @ \$5 ea
SD 39 (2006)	Cohenour	\$310	9	21	62
SD 39 (2006)	Murphy	\$2,503	72	167	501
SD 39 (2006)		\$2,813	80	188	563
HD 63 (2008)	Burnett	\$1,861	53	124	372
HD 63 (2008)	Pomnichowski	\$3,036	87	202	607
HD 63 (2008)		\$4,897	140	326	979