

THE MORAL LIBERAL

The Parents of Super PACS Speak Out

PAUL SHERMAN

Monday February 13th 2012



In the world of public interest law, nothing is possible without clients who are willing to stand up for their rights against overwhelming odds. The Institute for Justice and the Center for Competitive Politics were privileged to have two such clients in Edward Crane and David Keating.

Crane and Keating have a long history of fighting for free speech against burdensome campaign finance laws. Crane, the president of the Cato Institute, was one of the plaintiffs in *Buckley v. Valeo*, the seminal 1976 decision that struck down major portions of the Federal Election Campaign Act. And Keating, who has long had to navigate campaign finance laws as executive director of the Club for Growth, has recently been named president of the Center for Competitive Politics.

Back in 2008, Crane, Keating and others teamed up to form SpeechNow.org, a group that wanted to raise and spend money to promote or oppose candidates based on their support for the First Amendment. Federal law prohibited them from doing so, so SpeechNow.org and its donors—represented by IJ and CCP—filed suit against the Federal Election Commission. The result was *SpeechNow.org v. FEC*, in which the D.C. Circuit Court of Appeals unanimously held that individuals and groups have a First Amendment right to pool unlimited amounts of money to spend on independent political speech. That ruling led directly to the creation of so-called “Super PACs.”

Now, [writing](#) in *The Wall Street Journal*, Crane and Keating are stepping up to defend the results of that decision and the power it gives to grassroots groups to educate voters:

[I]n *Buckley [v. Valeo]* the court ruled that individuals could spend unlimited amounts to support a federal candidate if those expenditures were not coordinated with the candidate’s campaign. SpeechNow.org went further. It held that the First Amendment allows two, or four, or 400 or more individuals to pool their resources and exercise the same right to make independent expenditures that one individual could make under *Buckley*. Hence, Super PACs.

Money is a proxy for information in campaigns. Yet Americans spend as much on potato chips as they do on all federal elections (\$3.6 billion in 2010). Maybe that partly explains why most Americans cannot name their congressman, much less say where he or she stands on the issues.

That's why we believe Super PACs are a good thing. In the recent Republican South Carolina primary, Super PACs reportedly outspent the candidates' campaigns by two to one. That means more information was available on the candidates and more interest in the campaigns has been generated. It could be argued that Super PACS are the reason the GOP primary campaign this year is a horse race and not a coronation.