



**Testimony of Bradley A. Smith before the
Committee on Oversight & Government Reform**

Politicizing Procurement:

Will President Obama's Proposal

Curb Free Speech & Hurt Small Business?

Thursday, May 12, 2011

1:30 p.m.

Center for Competitive Politics

124 S. West St., Suite 201

Alexandria, VA 22314

<http://www.campaignfreedom.org>

Introduction

Mr. Chairman, Ranking Member, and members of the committee.

My name is Bradley Smith. I am the Josiah H. Blackmore II/Shirley M. Nault Professor of Law at Capital University in Columbus, Ohio, founder and Chairman of the Center for Competitive Politics, a non-profit education organization based in Alexandria, and a former Commissioner and Chairman at the Federal Election Commission.

Thank you for inviting me here today to address a proposed executive order requiring bidders on government contracts to disclose their political spending, and that of certain employees, to the government prior to bidding on contracts. Such an order is, in my mind, ill-advised and represents an attempted power grab by the Obama administration on campaign finance issues. In short, it has three major flaws:

- It imposes junk disclosure requirements that serve no good purpose
- It chills protected political activity
- It seems motivated by simple partisan politics

The main purpose of the order is to force disclosure of donations made to independent groups that engage in any electioneering communications—ads mentioning candidates that air near elections—or independent expenditures—ads advocating for the election or defeat of candidates but made independently of candidates. Historically, this information has not been subject to disclosure under federal campaign finance laws, and in the last congress an effort to require disclosure of this information was defeated. This proposed Executive Order will interject into the contracting process political information that is illegitimate to the award of government contracts. Today, we enjoy an acquisition system that is, with rare exception, free of political pressure. Should the draft Executive Order be implemented, those days will be gone. This type of disclosure will dramatically reduce the transaction costs for those few procurement officials who may find it attractive to engage in pay-to-play activity. The Order will create one-stop shopping for everything the rare dishonest federal acquisition official might want to know.

The draft order would also duplicate existing disclosure laws by requiring contractors to submit records of the political donations made by the company, top employees, subsidiaries and affiliates. Recall

that existing law already requires that all contributions to candidates, party committees and other political committees be reported. Once any donor contributes \$200 to such an effort, that person's name, address, occupation and employer become part of the public record. The spending of all these entities is also itemized at the \$200 level. Contributions to so-called "527" groups are disclosed in similar reports filed with the IRS. Moreover, direct contributions by federal contractors, both incorporated and unincorporated, are flatly prohibited. These contractors, like businesses generally, may establish political action committees, but all contributions and expenditures in excess of \$200 by political action committees are publicly disclosed under the Federal Election Campaign Act. Similarly, all independent expenditures and electioneering communications, by any group, are already disclosed under the Federal Election Campaign Act and the Bipartisan Campaign Reform Act of 2002, as are all donations to any group that is specifically for the purpose of airing such ads. Thus, what we are talking about here, really, is requiring the disclosure of spending by individuals and businesses that goes to groups that then spend the money, often without the knowledge and almost always without the specific approval of the donors, to further their agenda.

Limits to Disclosure

We hear in some quarters that such disclosure requirements are benign. "It's just disclosure – what do you have to hide?" is a theme repeated when more intrusive disclosure requirements are being advocated. Make no mistake, there are limits to the government's power to mandate disclosure. The government cannot require individuals to divulge information without good reason. In the political law arena, disclosure requirements must be justified by some government interest in fighting corruption, and calibrated to reveal activity germane to that interest.

There is good reason for this. Over the years, the Supreme Court has struck down as unconstitutional laws requiring civil rights organizations to disclose their membership lists to the government; laws requiring socialist groups to disclose their donors, and laws requiring union organizers, organizers of boycotts and picketing, leafletters and pamphleteers, and citizens passing door to door, to disclose their identities where no anti-corruption or other compelling government interest was served. Moreover, the Supreme Court has required that even campaign finance disclosure requirements must not be vague, so that speakers may know what they may say without having the government infringe on their privacy.

What does the Executive Order require that has not already been covered by existing law? It take a bold step away from this vision of tailored and calibrated disclosure, by demanding disclosure of fees, contributions, donations or other transfers to independent non-profit entities that, among other activities, make electioneering communications or independent expenditures. It requires such information looking back two years before the entity submits a contracting offer.

Not to put too fine a point on it, but this is junk disclosure. It captures all payments, not just those ultimately used for political speech. No connection need be shown between the payment and the use of the funds. The two-year look back period will capture transactions that lack any connection to political activity, and are far removed from any subsequent use of the money. As a result, individuals and entities will be associated with issues and political speech they do not share. This will give the public (and contracting officials) inaccurate and confusing information. A rule ostensibly designed to inform will create disinformation. Only in an Orwellian vision of participatory democracy could this result be tolerated.

Vague Requirements Lead to Chilled Speech

The Executive Order furthermore imposes its dictates using vague and amorphous terms. It is not evident what donors might be included in the group of “affiliates or subsidiaries” whose activity is brought into this disclosure regime. What constitutes a “reasonable expectation” that money will be “used” for “independent expenditures or electioneering communications?” Vague requirement chill protected speech, by causing individuals and groups to steer wide of the mark so as not to trigger a violation. Vague rules also present a trap for the unwary, which in this case might not know they will be considered an “affiliate” or “subsidiary.”

Another Example of “Reform’s” Dark Side

Considering the timing of this executive order, as President Obama prepares for re-election, the motive seems to be about politics, rather than good government or rooting out corruption. White House-allied organizations that support the executive order openly admit that the intent of the order is to target business groups, singling out the U.S. Chamber of Commerce. As *The Hill* newspaper reported,

Fred Wertheimer, president of Democracy 21, said that if the order had been in place during the last election, government contractors who contributed to the \$33 million that the Chamber spent on

electioneering communications would have been disclosed. “That, in a nutshell, is the reason,” Wertheimer said.¹

There is no present justification for this Order. Since late 2007, companies have been able to spend money on electioneering communications. That year, the Supreme Court ruled in *Federal Election Commission v. Wisconsin Right to Life* that the government, via McCain-Feingold, could not prohibit a nonprofit group from airing an ad that happened to mention a candidate in a window before Election Day. *Citizens United v. FEC*, in early 2010, expanded on that decision and held that the government could not prohibit companies, unions and advocacy groups from airing independent expenditures.

Yet, the Obama administration waited until April 2011 to draft this executive order. If a grave problem of corruption within the federal contracting process and political donations exists, why hasn't President Obama addressed this problem since he took office? Indeed, this action comes only after the administration and its allies have failed in Congress and at the FEC, and now must try to impose this provision by fiat.

First, the Obama administration urged congressional action. Democrats proposed the DISCLOSE Act, which would have banned the political speech of many government contractors. The bill also contained myriad new disclosure and disclaimer regulations. It failed to pass Congress.

Next, the administration turned to the FEC. Rather than allowing the agency to simply remove the unconstitutional regulations invalidated by *Citizens United*, three commissioners allied with the president's party refused, insisting on including broad new disclosure regulations not authorized by Congress. That process has stalled as the other three commissioners objected.

In closing skepticism is called for when government begins to regulate political speech. This is because of how incumbent governments, politics, and the enforcement process work. The history of “reform” is in part a history of efforts to silence or cripple political opponents. This current initiative seems no different.

¹ *The Hill*, “Watchdogs urge action on White House's contractor donation disclosure order,” May 4, 2011 <http://thehill.com/business-a-lobbying/159353-watchdogs-urge-action-on-donation-disclosure-order>

Committee on Oversight and Government Reform
Witness Disclosure Requirement – "Truth in Testimony"
Required by House Rule XI, Clause 2(g)(5)

Name: BRADLEY A SMITH

1. Please list any federal grants or contracts (including subgrants or subcontracts) you have received since October 1, 2008. Include the source and amount of each grant or contract.

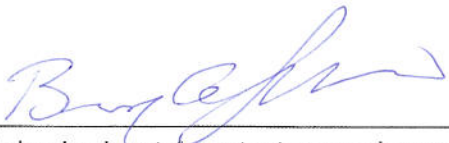
NONE

2. Please list any entity you are testifying on behalf of and briefly describe your relationship with these entities.

CENTER FOR COMPETITIVE POLITICS, CHAIRMAN

3. Please list any federal grants or contracts (including subgrants or subcontracts) received since October 1, 2008, by the entity(ies) you listed above. Include the source and amount of each grant or contract.

NONE



12/10/11

I certify that the above information is true and correct.
Signature:

Date:

Bradley A. Smith

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A. Employment

Law Teaching & Research

Capital University Law School, Columbus, Ohio.

Josiah H. Blackmore II/Shirley M. Nault Designated Professor of Law, 2009- Present;
Professor of Law 1999-2009; Associate Professor, 1996-1999; Assistant
Professor, 1994-1996; Visiting Assistant Professor, 1993-94.

Courses Taught: Administrative Law; Election Law; Jurisprudence; Law & Economics;
Civil Procedure; Comparative Electoral Systems.

Director, Capital University Law School Summer Program in Greece, 1997-98.

Co-Director, Moot Court Program, Capital University Law School, 1994-2000.

Bowling Green State University, Social Philosophy & Policy Center, Bowling Green,
Ohio. Visiting Scholar, 2007.

George Mason University School of Law, Arlington, Virginia.

Adjunct Professor, 2002-2004.

Course Taught: Federal Election Law

Other Legal Employment

Vorys, Sater, Seymour & Pease, Columbus Ohio & Washington, D.C.

Of Counsel, 2005 – 2008; Associate, 1990-1993. Admitted to practice before all Ohio
state courts; United States District Court for the Southern District of Ohio, United
States; Courts of Appeals for the District of Columbia and Sixth Circuits.

Chairman and Commissioner, Federal Election Commission, Washington, D.C.

Nominated by President Clinton, February 9, 2000; Confirmed by Senate, May 2000,

Served June 26, 2000 through August 21, 2005.

Chair, 2004.

Vice Chair, 2003.

Significant Non-Legal Employment

VHA Consulting Services, Dallas, Texas

Senior Healthcare Consultant, 1986-87.

IBA Health & Life Assurance Co., Kalamazoo, Michigan

Assistant Vice President & Director of Marketing, 1983-1985.

United States Department of State, Washington, D.C., and Guayaquil, Ecuador

Foreign Service Officer; Vice Consul, U.S. Consulate General, Guayaquil, 1981-83.

Small Business Association of Michigan, Kalamazoo, Michigan

General Manager, 1980-81.

Director, Political & Legislative Affairs, 1980; Legislative Analyst, 1979-80.

B. Education

Harvard Law School

J.D., *cum laude*, 1990.

Senior Editor, Harvard Journal of Law & Public Policy.

Kalamazoo College

B.A., *cum laude*, 1980.

Majors in Political Science (with Honors) and Economics. Recipient, Howard Prize for Outstanding Work in Political Science.

C. Publications

Books

Voting Rights & Election Law (with Michael Dimino, Jr. and Michael Solimine)
(Lexis Press 2010)

Unfree Speech: The Folly of Campaign Finance Reform (Princeton University
Press, 2001) (paperback ed., 2003).

Book Chapters

Plebescites and Minority Rights: A Contrarian View, in “The United States Supreme Court and the Political Process: Perspectives and Commentaries on Contemporary Cases,” (David K. Ryden, ed.) (Georgetown University Press, 2000).

Law Review Articles and Essays

- The Caperton Caper and the Kennedy Conundrum*, 8 Cato S. Ct. Rev. 319 (2009) (with Stephen Hoersting).
- Vanity of Vanities: National Popular Vote and the Electoral College*, 7 Election L. J. 196 (2008)
- The John Roberts Salvage Company: After McConnell, A New Court Looks to Repair the Constitution*, 68 Ohio St. L. J. 891 (2007)
- Boundary Based Restrictions in Unbounded Broadcast Media Markets: McConnell's Underinclusive Overbreadth Analysis*, 18 Stan. L. & Pol'y Rev. 240 (2007) (with Jason R. Owen).
- Broken Windows and Voting Rights*, 156 U. Penn. L. Rev. PENNumbra 241 (2007).
- A Moderate, Modern Campaign Finance Reform Agenda*, 12 Nexus J. Op. 3 (2007).
- Don't Shoot the Messenger: the FEC, Political Committees, and the Limits of Administrative Law*, 4 Election L. J. 82 (2005) (with Allison Hayward).
- McConnell v. Federal Election Commission: Ideology Trumps Reality, Pragmatism*, 3 Election. L. J. 345 (2004).
- Campaign Finance Reform: Looking for Corruption in all the Wrong Places*, 2 Cato S. Ct. Rev. 187 (2003).
- A Toothless Anaconda: Innovation, Impotence, and Over-enforcement at the Federal Election Commission*, 1 Election L. J. 145 (2002) (with Stephen Hoersting).
- Selecting Judges in the Twenty-First Century*, 30 Capital U. L. Rev. 437 (2002).
- Hamilton at Wit's End: The Lost Discipline of the Spending Clause vs. the False Discipline of Campaign Finance Reform*, 4 Chapman U. L. Rev. 117 (2001).
- Regulation and the Decline of Grassroots Politics*, 50 Catholic U. L. Rev. 1 (2000).
- Some Problems With Taxpayer Funded Political Campaigns*, 148 U. Penn. L. Rev. 591(1999).
- A Most Uncommon Cause: Thoughts on Campaign Finance Reform and a Response to Professor Paul*, 30 Conn. L. Rev. 831 (1998).
- Soft Money, Hard Realities: The Constitutional Prohibition on a Soft Money Ban*, 24 J. Legis. 179 (1998).
- Money Talks: Speech, Corruption, Equality, and Campaign Finance*, 86 Georgetown. L. J. 45 (1997).
- The Sirens' Song: Campaign Finance Reform and the First Amendment*, 6 J. L. & Pol'y 1 (1997).
- Faulty Assumptions and Undemocratic Consequences of Campaign Finance Reform*, 105 Yale L. J. 1049 (1996).
- The Limits of Compulsory Professionalism: How the Unified Bar Harms the Legal Profession*, 22 Fla. St. U. L. Rev. 36 (1994).
- Judicial Protection of Ballot Access Rights*, 28 Harvard J. Legis. 167 (1991).

Academic Book Reviews

The Legislative Process: Lost in the Labyrinth, H-Pol; H-Net Reviews (Aug. 2001)(<http://www.h-net.org/reviews/showrev.cgi?path=22178997903585>) (reviewing Diana Dwyre and Victoria Farrar-Myers, *Legislative Labyrinth: Congress and Campaign Finance Reform* (2001)).

Real and Imagined Reform of Campaign Corruption, 6 *Cornell J. L. & Pub. Pol'y* 141 (1996) (reviewing Larry J. Sabato and Glenn R. Simpson, *Dirty Little Secrets: The Persistence of Corruption in American Politics* (1996)).

Encyclopedia Entries

Freedom of Petition, *Encyclopedia of the Supreme Court* (David S. Tanenhaus, ed., 2009).

McConnell v. FEC, *Encyclopedia of the Supreme Court* (David S. Tanenhaus, ed., 2009).

Campaign Finance, in *The Encyclopedia of Libertarianism* (Ronald Hamowy, ed., 2008).

Financing Political Speech, in *The Oxford Companion to the Supreme Court of the United States* (Kermit L. Hall, ed., 2005).

The Meaning of Article I, Section 2, in *The Heritage Guide to the Constitution* (David F. Forte, ed., 2005).

Electoral Process and the First Amendment, in *Supplement II: Encyclopedia of the American Constitution* (Leonard W. Levy et al. eds., 1999).

Professional and Policy Journals

The Myth of Campaign Finance Reform, 2 *Journal of National Affairs* 75, Winter 2010.

In Defense of Political Anonymity, 20 *City Journal* 74, Winter 2010.

If That's a Politician, We Must be in ... Church? *Columbus Bar Lawyer's Quarterly* 9, Summer 2008.

Campaign Finance Reform's War on Political Freedom, *City Journal*, July 2007.

Is McCain-Feingold Unconstitutional as Applied to Certain 'Issue Advertisements'?, 34 *Preview of U.S. Sup. Ct. Cases* 402 (2007).

Campaigns, Elections and Campaign Finance Reform, *ABA Focus on Law Studies*, Spring 2006, p. 1.

Book Review: Enlightened Democracy: The Case for the Electoral College, by Tara Ross, 6 *Engage* 153 (2005).

Caveat Emptor: Good Government Group Polls on Campaign Reform Questions Are Suspicious, *Political Finance & Lobby Reporter*, Dec. 24, 1997, p. 1.

Why Healthcare Reform May Unleash A New Litigation Explosion, *Postgraduate Medicine*, Nov. 15, 1994, p. 91.

Studies and Reports

- Policy Primer: Grassroots Lobbying Proposals Seem Not to Further Congress' Interest in Correcting Lobbying Abuses* (with Stephen M. Hoersting) (Center for Competitive Politics 2006).
- Restrictions on Political Speech*, in *Cato Handbook for Congress* (Cato Inst. 1997, 1999).
- Campaign Finance Reform: Faulty Assumptions, Undemocratic Consequences*, (Cato Institute, Sept. 1995).
- Medical Savings Accounts and 'Real World' Health Care Economics in Ohio*, (with Sam Staley) (Buckeye Institute for Public Policy Solutions, June 1994).
- Does a Unified Bar Make Sense for Michigan*, (Mackinac Ctr. for Pub. Pol'y, May 1994).
- Do We Really Want an Army of Health Police? in Dangerous Medicine, A Critical Study of the Clinton Health Plan* (Mackinac Center for Public Policy, April 1994).

Dozens of popular magazine and newspaper columns published in *Wall Street Journal*, *Washington Post*, *Los Angeles Times*, *Chicago Tribune*, *New York Post*, *Newsday*, *Rocky Mountain News*, *USA Today*, and other major dailies.

Blog regularly on campaign finance issues at www.campaignfreedom.org.

Notable Legal Cases

- SpeechNow.org v. Federal Election Commission*, 599 F. 3d 686 (D.C. Cir. 2010), plaintiff counsel.
- Citizens United v. Federal Election Commission*, 130 S. Ct. 876 (2010), amicus.
- Caperton v. Massey Coal*, 129 S. Ct. 2252 (2009), amicus.
- Norman v. Reed*, 502 U.S. 279 (1992), amicus.

D. Presentations and Appearances

Academic Conferences

- Colloquium: Law, Technology, and American Constitutional Government: Curing the Mischiefs of Faction in the 21st Century*, Alexander Hamilton Institute, Apr. 15-16, 2011.
- Citizens United and Corporate Personhood*, Southeast Association of Law Schools, July 30, 2010.
- Election Administration and Competitiveness in Elections*, UCLA School of Law, Jan. 29, 2010.
- Future of Campaign Finance Reform*, Midwest Political Science Assn., Mar. 2008
- Election Law Reform: Theory, Law, Practice*, Amer. Political Science Assn, Aug. 2007.
- A Moderate, Modern Campaign Finance Reform Agenda*, Chapman Law School, Feb. 20, 2007.
- The John Roberts Salvage Company*, Moritz Law School at The Ohio State University, Sep. 28, 2006.

Presentations and Appearances

Academic Conferences (Cont.)

The Supreme Court and the Political Process: McConnell v. FEC, Princeton University, Woodrow Wilson School of Government, May 27, 2004.

The Ethics of Campaign Finance Reform, Assn. of Private Enterprise Education, Apr. 2, 2004.

In Search of the Perfect Election, University of Pennsylvania School of Law, Feb. 2004.

Campaign Finance Laws: Compliance and Enforcement, Election Law Summit, Washington, D.C., June 24, 2003.

Symposium on Judicial Elections, Capital University Law School, Jan. 31, 2001.

Spending Clause Symposium, Chapman University School of Law, Jan. 18, 2001.

Symposium on Election Law, Catholic University School of Law, Sept. 2000.

Symposium on Campaign Finance Reform, Notre Dame Law School, Nov. 14, 1997.

Symposium on Money & the First Amendment: Campaign Finance and Free Speech, Center for First Amendment Rights, Univ. of Connecticut Law School, May 1997.

David G. Trager Public Policy Symposium, Brooklyn Law School, Mar. 7, 1997.

Symposium XXIX, "Choosing A President: How We Elect A President - The Case for Change - The Rush to Fix the Process - To What End?", Institute for American Values, Nichols College, Dudley MA, Oct. 15, 1996.

Symposium: Money in Politics: Undue Influence, Center for New Democracy, Franklin Pierce Law School, Concord, NH, Jan. 20, 1996.

Congressional & Legislative Testimony

United States Senate, Judiciary Committee, "We the People: Citizens United and the Future of American Democracy," Mar. 10, 2010.

United States House of Representatives, Commission on House Administration, "Fair Elections Now Act," July 30, 2009.

Illinois Reform Commission, "Campaign Finance and 'Pay to Play,'" Feb. 23, 2009.

United State House of Representatives, Judiciary Committee, Sub-Committee on the Constitution, "Lobbying Revision," Mar. 1, 2007.

United State House of Representatives, Judiciary Committee, Sub-Committee on the Constitution, "Grassroots Lobbying Reform," Mar. 2006.

United States House of Representatives, Committee on House Administration, "Regulation of the Internet," Sep. 2005.

United States Senate, Committee on Rules and Government Affairs, "Regulation of Independent 527s Under BCRA," July, 2004.

United States House of Representatives, Committee on House Administration, Enforcement Procedures at the Federal Election Committee, Oct. 2003.

Florida House of Representatives, Election Reform Committee, Hearing on Campaign Finance Reform, Mar. 17, 1999.

United States Senate, Committee on the Judiciary, Subcommittee on the Constitution, Federalism, and Property Rights, "Term Limits or Campaign Finance Reform: Which Provides Real Reform?," Feb. 24, 1998.

***Presentations and Appearances
Congressional & Legislative Testimony (Cont.)***

United States House of Representatives, Committee on the Judiciary, Subcommittee on the Constitution, “Constitutionality of Restrictions on Issue Advocacy,” Sept. 18, 1997.

United States Senate, Committee on Rules and Government Affairs, “Soft money in Presidential Elections,” May 14, 1997.

United States House of Representatives, Committee on the Judiciary, Subcommittee on the Constitution, “Free Speech & Campaign Finance Reform,” Feb. 27, 1997.

United States Senate, Committee on Rules and Government Affairs, “McCain-Feingold “Campaign Finance Reform Bill,” Feb. 1, 1996.

Partial List of representative public speaking engagements:

Colleges & Universities: American University (Center for Presidential and Congressional Studies), Ashland University (Robert E. Henderson Lecture); Augustana (Ill.) College (Commencement Speaker); Benedictine College (President’s Sesquicentennial Speaker Series); Brown University (Janus Lecture); University of Chicago (Dept. of Political Science); Cornell (Dept. of Political Science); Dartmouth College (Dept. of Government), Duke (Dept. of Political Science); Harvard University (Dept. of Government); Hillsdale College; Kalamazoo College; Kentucky Wesleyan (Constitution Day Speaker); University of Louisville (McConnell Center), University of North Carolina (School of Journalism), Oberlin College, Rose-Hulman College (Constitution Day Speaker); Yale University Political Union, others.

Law Schools: Harvard (Traphagen Distinguished Alumnus), Yale, Notre Dame, University of Pennsylvania, Ohio State, Brooklyn, Chapman, University of Wisconsin, George Washington, University of Connecticut, American University, University of Virginia, University of Toledo (Stranahan Lecture), Kent, North Carolina, others.

Law School Student Groups: Harvard, Yale, Stanford, University of Michigan, University of Chicago, NYU, Columbia, University of Virginia, Georgetown, Minnesota, George Mason, Ohio State, Pepperdine, Washington & Lee, Wisconsin, Iowa, North Carolina, Duke, Loyola (L.A.), Kansas, Case-Western, others.

National Organizations and Conventions: American Constitution Society, Federalist Society, Aspen Institute, Association of Capitol Reporters & Editors, Public Affairs Council, AFL-CIO Leadership Conference, Republican National Lawyers Assn., California Political Attorneys Assn., National Association of Business PACs, others.

Think Tanks and Foundations: Brookings Institute, Cato Institute, Fund for American Studies, Goldwater Institute, Heritage Foundation, Institute for Humane Studies, Reason Foundation, Urban League (Campaign Finance Task Force), others.

Partial List of Broadcast Appearances

<i>ABC News</i>	<i>Hannity & Colmes</i> (Fox)
<i>NBC News</i>	<i>Uncommon Knowledge</i> (PBS)
<i>PBS News Hour with Jim Lehrer</i>	<i>Washington Journal</i> (C-Span)
<i>Bill Moyers Internight</i> (MSNBC)	<i>Closing Bell</i> (CNBC)
<i>Early Today with Contessa Brewer</i> (MSNBC)	<i>C-Span Book Forum</i>
<i>Hardball</i> (MSNBC)	National Public Radio <i>Morning Edition</i>
<i>Fox News w/ Britt Hume</i>	Wisconsin Public Radio
<i>O'Reilly Factor</i> (Fox)	Minnesota Public Radio
Dan Rather Reports	<i>Janet Parshalls</i>
	<i>Diane Rehm</i>

Other network shows and dozens of appearances on local TV and radio in major markets.

F. Awards & Honors

Bradley Prize, The Lynde & Harry Bradley Foundation, 2010.
Honorary Doctorate in Humane Letters, Augustana College, May 2004
Traphagen Distinguished Alumnus, Harvard Law School, 2000
Mackinac Center for Public Policy, *Lives, Fortunes and Sacred Honor Award*, 2000.
Professor of the Year, Capital University Law School, 2000.
Honorary Member (first ever), Hispanic Republican Coalition of Central Ohio, 1999.
Simson Award for Outstanding Faculty Scholarship), Capital Univ. Law School, 1996.
Student-Faculty Relations Award, Student Bar Assn., Capital Univ. Law School, 1995.
Salvatori Fellow, The Heritage Foundation, 1994-95.
Lambe Fellow, Institute for Humane Studies, 1989-90.

G. Academic Service (not including home university service)

Advisory Board, Institute for Politics, University of Minnesota Law School, 2007-present.
Editorial Advisory Board, *Election Law Journal*, 2002 – present.
Board of Advisors, *Harvard Journal of Law & Public Policy*, 2000- present.
Referee and Peer Review for *Election Law Journal*, University of Chicago Press; Aspen Publishing, Eagleton Center at Rutgers University, Wolters-Kluwer.

I. Legal & Professional Memberships & Affiliations

Member, Board of Zoning & Building Appeals, Village of Granville, OH 2009-present.

Chairman, 1851 Center for Constitutional Law, 2010-present.

Center for Competitive Politics, Founder & Chairman of the Board, 2005- Present.

Board of Trustees, Buckeye Institute for Public Policy Solutions, 1996-2000; 2006-present; Board of Academic Advisors, 1994- 2000.

Senior Fellow, Goldwater Institute, Phoenix, AZ 2005- Present.

Board of Scholars, Mackinac Center for Public Policy, 1993-2000, 2005- present.

Federalist Society, Free Speech and Election Law Practice Group Executive Committee, 1999-2000; 2005- present.

American Bar Association, Advisory Committee to Standing Committee on Election Law, 2001- 2005.

Adjunct Scholar, Cato Institute, 1996-2000.

Ohio State Bar Association, member, 1990-2000; 2005-present.

Columbus Bar Association, member. 1990-94; 2005-present. Administrative Law Committee, 2009-11; Law School Liaison Committee, 1992-93.

Columbus Legal Aid Society Referral Panel, 1992-1995.

American Immigration Lawyers Association, 1992-1995.