PETITION FOR DECLARATORY JUDGEMENT AND INJUNCTIVE RELIEF

Introduction

1. The Supreme Court's decision in *Citizens United v. Federal Election Commission*, 558 U.S. 310 (2010), marks a pivotal shift in the interpretation of corporate speech rights under the First Amendment, fundamentally altering the landscape of campaign finance laws and democratic governance. The decision departed significantly from established precedents such as *Austin v. Michigan Chamber of Commerce*, 494 U.S. 652 (1990), and *McConnell v. Federal Election Commission*, 540 U.S. 93 (2003), disrupting the principle of stare decisis that promotes stability, continuity, and predictability in the law. By granting corporations the right to spend unlimited amounts in political campaigns, the Court empowered a single voice—the voice of corporate wealth—to dominate political discourse, effectively drowning out the voices of individual citizens.

Analogy Illustrating the Overpowering Effect of Broad Corporate Free Speech

2. To understand the impact of the *Citizens United* decision, consider an analogy: it is like empowering a single voice with an unlimited volume in a crowded room. Although all participants are theoretically free to speak, the one with the capacity to amplify their voice the loudest inevitably dominates the conversation. This unchecked amplification does not merely allow that voice to be heard; it effectively silences others, preventing alternative perspectives from emerging and undermining the very foundation of free speech—the equal opportunity to participate in democratic discourse.
3. This analogy illustrates how the broad interpretation of corporate free speech rights granted in *Citizens United* defeats the end goal of the First Amendment itself. The purpose of free speech is not just to protect expression but to ensure a robust, balanced exchange of ideas essential for a functioning democracy. When one voice, enabled by immense corporate wealth, overpowers all others, the democratic process is compromised. The principle of political equality—where each citizen's voice should carry equal weight—is undermined. Thus, unrestricted corporate speech rights do not protect free speech; they distort it, turning it into a tool for amplifying the interests of the few over the many, contrary to the Constitution's intent to "establish Justice" and "promote the general Welfare."

Challenging Citizens United: Departures from Precedent, Disruption of Democratic Principles, and the Need for Reconsideration

4. *Citizens United* represents a significant departure from earlier Supreme Court rulings that recognized the government's interest in limiting corporate influence to protect democratic integrity. Both *Austin* and *McConnell* upheld restrictions on corporate political spending to prevent corruption and maintain democratic fairness. By overturning these decisions, the Court disregarded established standards for overturning precedent, including the requirement to demonstrate that the previous decisions were egregiously wrong or had become unworkable.

5. The decision's failure to justify this dramatic shift and its disregard for reliance interests have disrupted established regulatory frameworks, undermining political equality and public trust. Empirical evidence shows an increase in corporate influence in elections and widespread public disapproval, contradicting the Constitution's commitment to political equality and the general welfare.
6. The framers of the Constitution, particularly James Madison, emphasized the need to control the effects of factions, especially those driven by concentrated wealth, through a republican government that protects against undue influence. By allowing unrestricted corporate spending, *Citizens United* undermines this original intent and the foundational principle of democratic governance "by the people."
7. In conclusion, *Citizens United* has empowered an overwhelming corporate voice in American democracy, subverting the First Amendment's purpose of equal participation. Reconsidering this broad interpretation of corporate speech rights is essential to restoring constitutional balance, protecting democratic integrity, and upholding justice and equality.

Citizens United's Departure from Stare Decisis Principles

I. Citizens United Overturned Established Precedents

8. The Supreme Court's decision in *Citizens United v. Federal Election Commission*, 558 U.S. 310 (2010), represents a significant departure from the doctrine of *stare decisis*, which requires courts to adhere to established precedents to promote legal stability, continuity, and predictability. By overturning or significantly altering key precedents related to corporate speech rights and campaign finance, *Citizens United* undermined the traditional reliance on precedent in ways that were neither justified nor consistent with the Court's prior practices.

9. **Overruling of Austin v. Michigan Chamber of Commerce, 494 U.S. 652 (1990):**
    A. In *Austin v. Michigan Chamber of Commerce*, the Supreme Court upheld a Michigan law restricting corporate political spending, recognizing the state's compelling interest in preventing "the corrosive and distorting effects of immense aggregations of wealth" accumulated through the corporate form. *Austin* reflected a commitment to protecting the integrity of democratic processes from disproportionate corporate influence. See *Austin v. Mich. Chamber of Com.*, 494 U.S. 652, 660 (1990).
    B. However, in *Citizens United*, the Court explicitly overruled *Austin*, rejecting the notion that preventing distortion in the political process was a sufficient justification for limiting corporate political expenditures. *Citizens United* marked a sharp departure from precedent, disregarding the state's recognized interest in limiting corporate influence over elections and undermining the Court's prior commitment to maintaining balanced political participation. *Citizens United*, 558 U.S. at 365–66.

10. **Invalidation of McConnell v. Federal Election Commission, 540 U.S. 93 (2003):**

A. In *McConnell v. Federal Election Commission*, the Supreme Court upheld key provisions of the Bipartisan Campaign Reform Act (BCRA), including restrictions on "electioneering communications" funded by corporations and unions. The Court in *McConnell* emphasized the government's compelling interest in preventing both actual corruption and the appearance of corruption in electoral processes. See *McConnell v. FEC*, 540 U.S. 93, 115 (2003).

B. By contrast, *Citizens United* invalidated portions of the BCRA that restricted corporate political spending, effectively overturning critical aspects of the *McConnell* decision. This reversal occurred despite the fact that *McConnell* had been decided only seven years earlier, and without demonstrating substantial changes in law or factual circumstances that would justify such a drastic departure from the principles of *stare decisis*. *Citizens United*, 558 U.S. at 365–66.

II. Citizens United's Deviation from Established Stare Decisis Principles

The Supreme Court's decision in *Citizens United* deviated from its own established standards for when it is appropriate to overturn precedent, as articulated in prior cases such as *Planned Parenthood v. Casey*, 505 U.S. 833 (1992).

11. **Lack of Justification for Overturning Precedent:**
    A. The Court typically considers multiple factors when deciding whether to overturn a precedent, including whether the prior decision was egregiously wrong, unworkable, affected by significant changes in factual or legal circumstances, or if reliance interests are at stake. *Planned Parenthood of Se. Pa. v. Casey*, 505 U.S. 833, 854–55 (1992).
    B. *Citizens United* failed to provide a compelling justification for overturning *Austin* and *McConnell*. The Court did not demonstrate that these precedents were unworkable or that there had been significant changes in factual or legal circumstances to warrant a departure from established precedent. Instead, the decision seemed driven more by a change in the Court's composition and judicial philosophy rather than by substantive new evidence or compelling changes in circumstances. *Citizens United*, 558 U.S. at 364.

12. **Disregard for Reliance Interests:**
    A. The doctrine of *stare decisis* also takes into account whether overturning a precedent would disrupt reliance interests. Individuals, businesses, and governments often rely on established legal principles to plan their actions and structure their policies. See *Casey*, 505 U.S. at 854.
    B. By overturning *Austin* and parts of *McConnell*, *Citizens United* disrupted significant reliance interests, particularly in how federal and state governments regulate campaign finance. This shift undermined a well-established regulatory framework based on the principles upheld in those earlier decisions, disregarding the traditional factors considered under *stare decisis*. *Citizens United*, 558 U.S. at 365–66.

III. Citizens United Demonstrates Flexibility in the Application of Stare Decisis

13. **Precedent for Overturning Established Decisions:**
    A. By overturning or significantly altering *Austin* and *McConnell*, *Citizens United* demonstrates that the Supreme Court is willing to depart from precedent when it believes a prior decision was wrongly decided or does not align with its current interpretation of constitutional principles. *Citizens United*, 558 U.S. at 365–66.
    B. If *Citizens United* itself departed from the doctrine of *stare decisis*, this sets a significant precedent for future challenges to the decision. The Court's readiness to overturn prior rulings, particularly without demonstrating the requisite compelling reasons—such as unworkability or substantial changes in legal or factual contexts—suggests that *Citizens United* lacks the enduring stability typically associated with Supreme Court precedents. This willingness to depart from precedent, as demonstrated in *Citizens United*, invites re-evaluation of the decision, especially if new, compelling arguments or evidence are presented that reveal its detrimental impact on democratic governance, political equality, or the integrity of the electoral process. Additionally, the Court has historically reconsidered prior rulings when it recognized that those decisions were not only wrongly decided but also when they conflicted with fundamental constitutional values, as seen in landmark cases such as *Brown v. Board of Education*, 347 U.S. 483 (1954), which overturned *Plessy v. Ferguson*, 163 U.S. 537 (1896). Similarly, if it can be demonstrated that *Citizens United* has undermined the foundational principles of democracy by fostering systemic corruption and eroding political equality, the decision's departure from *stare decisis* principles could justify its reconsideration in favor of a narrower interpretation that better aligns with constitutional objectives of fairness, equality, and protection against undue influence in political processes.
14. **Precedents Supporting Flexible Application of Stare Decisis:**
    A. Historical precedents, such as *Brown v. Board of Education*, 347 U.S. 483 (1954), demonstrate that the Court can and does overturn precedent when societal values, empirical evidence, or understandings of constitutional principles evolve. *Brown* overturned *Plessy v. Ferguson*, 163 U.S. 537 (1896), and its doctrine of "separate but equal," recognizing that the prior decision was fundamentally inconsistent with constitutional values of equality and justice. *Brown*, 347 U.S. at 494–95.
    B. If the Court could overturn the deeply entrenched doctrine of "separate but equal" due to its conflict with core constitutional values, it can similarly reconsider *Citizens United* if it is shown that the decision undermines democratic integrity, political equality, and the general welfare.

IV. Stare Decisis in Favor of Narrower Interpretations of Corporate Speech Rights

15. **Argument for Returning to Narrower Interpretations:**
    Stare decisis should favor returning to earlier interpretations that support a narrower understanding of corporate speech rights, as reflected in *Austin* and *McConnell*. By

arguing that *Citizens United* defied this principle without sufficient justification, there is a compelling case for returning to those precedents that better align with democratic values and constitutional objectives.

16. **In conclusion,** the significant departure from established precedent in *Citizens United*, without adequate justification or consideration of reliance interests, undermines the decision's credibility as a binding precedent. By highlighting how *Citizens United* itself departed from the doctrine of *stare decisis*, this petition effectively neutralizes arguments for upholding the decision solely on the grounds of precedent. The demonstrated inconsistency with *stare decisis* principles supports the need for a return to a narrower interpretation of corporate speech rights, more consistent with the Constitution's intended objectives of political equality, prevention of corruption, and protection of democratic integrity.

IV. The Departure from Stare Decisis in Citizens United v. FEC

A. How Citizens United Overturned Established Precedents

17. The Supreme Court's decision in *Citizens United v. FEC*, 558 U.S. 310 (2010), marked a significant departure from established precedents regarding corporate speech rights and campaign finance laws, thereby deviating from the doctrine of stare decisis. Two key precedents that were overturned or significantly altered by *Citizens United* include:

18. **Austin v. Michigan Chamber of Commerce, 494 U.S. 652 (1990):**
In *Austin*, the Supreme Court upheld a Michigan law that restricted corporate spending on political campaigns, recognizing the state's compelling interest in preventing the "corrosive and distorting effects of immense aggregations of wealth" accumulated through the corporate form. This decision established that corporate spending in elections could be limited to prevent undue influence over the political process. However, *Citizens United* explicitly overruled *Austin*, rejecting the idea that preventing distortion of political processes by corporate wealth was a sufficient justification for limiting corporate political expenditures. This reversal represents a profound shift away from prior rulings that recognized the state's interest in limiting corporate influence over elections.
19. **McConnell v. Federal Election Commission, 540 U.S. 93 (2003):**
McConnell upheld most provisions of the Bipartisan Campaign Reform Act (BCRA), including restrictions on "electioneering communications" funded by corporations and unions. The Court acknowledged the government's compelling interest in preventing corruption and the appearance of corruption. However, *Citizens United* invalidated portions of the BCRA that restricted corporate political spending, effectively overturning parts of the *McConnell* decision. This showed a lack of adherence to stare decisis, especially considering that *McConnell* had been decided only seven years before *Citizens United*.

B. Deviation from Stare Decisis Principles

The decision in *Citizens United* can be argued to have violated the Court's own standards for when it is appropriate to overturn precedent, as outlined in previous cases:

20. **Factors for Overturning Precedent**
The Supreme Court typically considers several factors when deciding whether to overturn precedent, including whether the prior decision was egregiously wrong, whether it has proven to be unworkable, whether there have been changes in factual or legal circumstances, and whether reliance interests are at stake (*Planned Parenthood v. Casey*, 505 U.S. 833, 854 (1992)). In *Citizens United*, however, the Court did not provide a compelling justification for why the precedents set by *Austin* and *McConnell* should be overturned. The Court failed to demonstrate that these earlier decisions were unworkable or that significant factual changes had occurred to warrant a departure from established precedent. The decision seemed more driven by a change in the Court's composition and judicial philosophy rather than by new evidence or compelling changes in circumstances.
21. **Disregarding Reliance Interests**
The doctrine of stare decisis also considers whether overturning a precedent would disrupt reliance interests, which are the expectations that individuals, businesses, and governments develop based on established legal principles. By overturning *Austin* and parts of *McConnell*, *Citizens United* disrupted significant reliance interests, particularly concerning how federal and state governments regulate campaign finance. This shift undermined a well-established regulatory framework that had been built around the principles upheld in those earlier decisions, disregarding the traditional factors considered under stare decisis.

C. Citizens United Demonstrates Flexibility in Stare Decisis

22. **Precedent for Overturning Precedent**
By overturning or significantly altering *Austin* and *McConnell*, *Citizens United* demonstrates that the Supreme Court is willing to depart from precedent when it believes a prior decision was wrongly decided or does not align with its current interpretation of constitutional principles. This sets a precedent for future challenges to the decision. The Court's willingness to overturn prior decisions opens the door for reconsideration of *Citizens United*, particularly if new and compelling arguments or evidence emerge that highlight the decision's detrimental impact on democratic governance and political equality.
23. **Flexible Application of Stare Decisis in Other Cases**
Other cases, such as *Brown v. Board of Education*, 347 U.S. 483 (1954), demonstrate that the Court can and does overturn precedent when societal values, empirical evidence, or the understanding of constitutional principles have evolved. *Brown* overturned *Plessy v. Ferguson* and its doctrine of "separate but equal," showing that the Court may reconsider even long-standing precedents when justified. If the Court could overturn the deeply entrenched doctrine of "separate but equal" due to its conflict with constitutional values of equality and justice, it can similarly reconsider *Citizens United* if it is shown that the decision undermines democratic integrity, political equality, and the general welfare.

D. Utilizing the Doctrine of Stare Decisis to Argue Against Citizens United

24. **Favoring Narrower Interpretations**
Stare decisis should favor returning to earlier interpretations that support a narrower understanding of corporate speech rights, as seen in *Austin* and *McConnell*. By arguing that *Citizens United* defied this principle without sufficient justification, there is a compelling case for returning to those precedents that better align with democratic values and constitutional objectives.
25. **In conclusion,** by demonstrating how *Citizens United* itself departed from the doctrine of stare decisis without adequate justification, it effectively neutralizes the argument that the decision should be upheld solely because it is precedent. The decision's disregard for established precedent opens the door for further reconsideration, particularly given its significant implications for political equality, prevention of corruption, and the general welfare. This approach supports a compelling case for returning to a narrower interpretation of corporate speech rights in line with the Constitution's intended objectives.

Balancing Competing Interests in Narrow and Broad Interpretations of Corporate Speech Rights

26. This section examines the competing interests between narrow and broad interpretations of corporate speech rights under the First Amendment. It assesses when constitutional values serve as means to the ends set forth by the Preamble, and when these values are ends in themselves. This framework aims to provide guidance on how to prioritize such values based on their constitutional objectivity.

A. Narrow Interpretation of Corporate Speech Rights

27. A narrow interpretation of corporate speech rights focuses on limiting corporate influence in political processes to protect political equality, prevent corruption, and safeguard democratic integrity. Key precedents supporting a narrow interpretation include:

28. Political Equality and Fair Participation:
   a. The Constitution's commitment to “establish Justice” and “promote the general Welfare” in the Preamble suggests a democratic society should ensure fair political participation for all citizens. A narrower interpretation of corporate speech rights limits corporate influence, ensuring that individuals' voices are not overshadowed by the financial power of corporations, thereby promoting equality in political discourse.
   b. This perspective aligns with the Fourteenth Amendment’s Equal Protection Clause, which suggests that each person should have an equal say in the democratic process (*Buckley v. Valeo*, 424 U.S. 1 (1976)). By limiting corporate spending rights, the Court can prevent wealth from distorting this fundamental principle, aligning the interpretation with the Preamble’s directive to promote justice and general welfare.

29. Preventing Corruption and Safeguarding Democratic Integrity:

a. The government has a compelling interest in preventing corruption or the appearance of corruption, as recognized in cases like *Austin v. Michigan Chamber of Commerce*, 494 U.S. 652 (1990). By limiting corporate influence in elections, a narrow interpretation helps maintain public trust in democratic institutions, aligning with the Preamble's call to "insure domestic Tranquility" and "promote the general Welfare."

b. Reducing corporate dominance in political processes helps maintain a democratic system that reflects the will of the people rather than being unduly influenced by concentrated wealth (*McConnell v. Federal Election Commission*, 540 U.S. 93 (2003)).

30. Promoting the General Welfare:

a. The objective to "promote the general Welfare" suggests that laws and constitutional interpretations should benefit society as a whole. Limiting corporate political speech helps prevent policy outcomes that disproportionately favor corporate interests over the needs and rights of the broader population. This approach guards against oligarchy, preventing the concentration of power among a small number of wealthy corporate entities that could undermine democratic principles (*Austin v. Michigan Chamber of Commerce*, 494 U.S. 652 (1990)).

31. Securing Liberty and Justice for All:

a. The Preamble's goal of "securing the Blessings of Liberty" can be interpreted to mean that liberty should be preserved for individual citizens, not extended uncritically to artificial entities like corporations. Limiting corporate speech rights ensures that the democratic freedoms of natural persons are protected by ensuring their voices are heard equally in the political process. This interpretation aligns with the commitment to "establish Justice" by preventing corporate wealth from distorting elections.

B. Broad Interpretation of Corporate Speech Rights

32. A broad interpretation of corporate speech rights, as seen in *Citizens United v. FEC*, 558 U.S. 310 (2010), emphasizes the protection of free speech under the First Amendment, extending this protection broadly to all entities, including corporations. This perspective is grounded in several constitutional values:

33. Freedom of Speech and Expression:

The First Amendment explicitly protects freedom of speech, which is viewed as an absolute value that should extend to all entities, including corporations (*Citizens United v. FEC*, 558 U.S. 310 (2010)). A broad interpretation ensures that all voices, including those of corporate entities, are included in public discourse, reflecting a commitment to free expression. Preventing government censorship is a key principle here; restricting corporate speech could be seen as a dangerous precedent allowing the government to regulate or limit speech based on the speaker's identity or content, contrary to the First Amendment's purpose of protecting against government control over speech.

34. Liberty and Autonomy:

The Preamble's goal of "securing the Blessings of Liberty" can be interpreted to mean protecting the freedom of all entities, including corporations, to participate in political processes without undue restriction. This perspective aligns with a libertarian view that maximizes freedom by minimizing government interference. Corporations can be seen as associations of individuals who have pooled resources to amplify their collective voice. Restricting corporate speech rights could infringe on the rights of individuals to associate and express their views collectively, thus undermining liberty (*NAACP v. Alabama*, 357 U.S. 449 (1958)).

35. Promoting the General Welfare Through Diverse Information:
A broad interpretation supports the First Amendment's role in ensuring a free marketplace of ideas, where all voices can be heard, and truth can emerge from public debate. Allowing corporate entities to contribute their perspectives enriches public discourse and promotes the general welfare by ensuring a well-informed electorate (*First Nat'l Bank of Boston v. Bellotti*, 435 U.S. 765 (1978)).

36. Justice Through Neutral Government Regulation:
Ensuring that the government does not impose arbitrary or biased restrictions on speech is a fundamental aspect of justice. A broad interpretation of corporate speech rights is consistent with the Preamble's commitment to "establish Justice" by ensuring that the government remains neutral regarding who can participate in public discourse (*Citizens United v. FEC*, 558 U.S. 310 (2010)).

C. When Constitutional Values Are Means Versus Ends

37. The Constitution's Preamble articulates the foundational purposes of the document: to "form a more perfect Union," "establish Justice," "insure domestic Tranquility," "provide for the common defense," "promote the general Welfare," and "secure the Blessings of Liberty." These goals provide the ends toward which the Constitution's various provisions are directed. Understanding when constitutional values are means or ends is critical in resolving conflicts between them:

38. Values as Means:
When constitutional values, such as freedom of speech, are viewed as instrumental, they serve as means to achieve broader constitutional goals. For instance, freedom of speech is considered a means to ensure democratic governance, political equality, and the

promotion of general welfare. In this context, the right to free speech is not an absolute end but a tool to facilitate public discourse, prevent government tyranny, and ensure a government accountable to the people (*Whitney v. California*, 274 U.S. 357 (1927), Brandeis, J., concurring).

39. Values as Ends:
Other constitutional values, such as political equality and preventing corruption, can be considered ends in themselves, directly tied to the Constitution's goals of "establishing Justice" and "promoting the general Welfare." These values aim to create a fair and just society and prevent the concentration of power that undermines democratic integrity. Ensuring political equality and preventing corruption are not merely tools for achieving other goals but are foundational principles that define the nature of American democracy (*Reynolds v. Sims*, 377 U.S. 533 (1964)).

D. Prioritizing Competing Values Based on Constitutional Objectivity

40. To prioritize competing values, courts should consider which values directly advance the Constitution's objectives and which serve as means to those ends. Values that are ends in themselves, such as political equality and preventing corruption, should be given greater weight when they conflict with values that are means, such as unrestricted corporate speech. This approach aligns with a purposive interpretation of the Constitution that prioritizes democratic integrity, equality, and the general welfare over absolute freedoms that could undermine these objectives.

41. The prioritization of values should focus on their role in achieving the Constitution’s primary goals. When unrestricted corporate speech threatens political equality, increases the risk of corruption, or undermines democratic integrity, limitations become necessary to protect the broader constitutional values enshrined in the Preamble. This reasoning supports a narrower interpretation of corporate speech rights that balances the First Amendment against the Constitution’s broader commitment to justice, democracy, and equality (*Buckley v. Valeo*, 424 U.S. 1 (1976); *Austin v. Michigan Chamber of Commerce*, 494 U.S. 652 (1990)).

Arguing Against Broad Corporate Speech Rights

I. Corporations as Artificial Entities: Recognizing Their Limited Constitutional Rights

42. Corporations, as creations of state law, lack the inherent qualities of natural persons, such as moral agency and autonomy, which justify constitutional rights. The Supreme Court has acknowledged these distinctions by limiting corporate rights in several contexts, such as the lack of Fifth Amendment protections against self-incrimination (*Hale v. Henkel*, 201 U.S. 43, 74 (1906)) and reduced privacy rights under the Fourth Amendment (*California Bankers Ass'n v. Shultz*, 416 U.S. 21 (1974)). Similarly, the First Amendment should not afford corporations unrestricted rights to political speech that can undermine democratic values like equality and fairness. Instead, corporate rights should be interpreted more narrowly, in line with their function as economic entities rather than participants in democratic self-governance.

II. Challenging the Concept of Corporate Personhood

43. The notion of "corporate personhood," used to justify broad corporate rights, lacks a firm foundation in constitutional text. Corporations are not mentioned in the Constitution, nor does it grant them personhood equivalent to natural persons. The Court's decision in *Citizens United* expanded corporate rights beyond what was constitutionally intended. Revisiting the scope of corporate personhood would ensure that corporations do not possess the same political rights as individuals, preserving the Constitution's intent to protect democratic governance against undue influence from concentrated economic power.

III. Expanding the Definition of Corruption to Include Systemic and Structural Issues

44. The Court's narrow definition of corruption in *Citizens United*, limited to quid pro quo arrangements, fails to account for broader systemic corruption. This narrow view disregards the significant influence that corporations exert over the political process through substantial financial contributions, undermining the democratic integrity that the Constitution seeks to protect. A more comprehensive definition, as suggested by *Buckley v. Valeo* (424 U.S. 1, 26-27 (1976)), should encompass undue influence and structural corruption, where the political system is disproportionately swayed by corporate wealth, distorting public trust and equal representation.

IV. Distinguishing Corporate Rights Based on Function

45. A nuanced approach should differentiate corporate entities based on their societal roles. While media corporations may require certain First Amendment protections due to their role in public discourse, non-media corporations, whose primary purpose is economic, should not receive the same latitude in political spending. This distinction allows for reasonable campaign finance regulations that limit corporate influence while protecting the freedom of speech for entities that contribute directly to public debate, aligning with constitutional objectives of fair and equitable elections.

V. Citizens United's Precedent and Flexibility in Applying Stare Decisis

46. *Citizens United* itself demonstrates the Court's flexibility in applying stare decisis. It overturned established precedents, such as *Austin v. Michigan Chamber of Commerce* (494 U.S. 652 (1990)), which upheld restrictions on corporate political spending to prevent the "corrosive and distorting effects" of corporate wealth. It also reversed parts of *McConnell v. FEC* (540 U.S. 93 (2003)), which supported the Bipartisan Campaign Reform Act's restrictions to prevent corruption. This deviation from stare decisis without demonstrating that the previous decisions were "egregiously wrong" or "unworkable," and without considering reliance interests, suggests that a return to a narrower interpretation is both appropriate and necessary to align with constitutional principles.

47. **In conclusion,** this section advocates for a reconsideration of corporate political rights by asserting that broad interpretations undermine constitutional values, including equality, fairness, and democratic integrity. The Constitution does not afford corporations the same rights as individuals, particularly where those rights distort the political process. A narrower interpretation, consistent with constitutional objectives, would restore balance, prioritize democratic governance, and align with the framers' intent to ensure a government accountable to the people rather than to concentrated wealth.

Demonstrating the Detrimental Impact of Citizens United on Democratic Governance and Political Equality

48. **Citizens United's Departure from Stare Decisis Principles** *Citizens United* overturned or significantly altered several key precedents related to corporate speech rights and campaign finance, demonstrating a deviation from the doctrine of stare decisis. The decision explicitly overruled *Austin v. Michigan Chamber of Commerce* (1990), where the Supreme Court had upheld restrictions on corporate spending in political campaigns to prevent the "corrosive and distorting effects of immense aggregations of wealth" accumulated through the corporate form. Additionally, it partially overturned *McConnell v. FEC* (2003), which recognized the government's compelling interest in preventing corruption and maintaining the integrity of democratic processes. This departure from established precedent calls into question the justification for granting corporate entities the same First Amendment rights as individuals when such a decision undermines the Constitution's intent to promote equality and democratic governance (Brennan Center for Justice).

49. **Empirical Evidence of Increased Corporate Influence and Public Disapproval** Following the *Citizens United* decision, there has been a demonstrable increase in the influence of corporate money in American elections. Corporations, nonprofits, and unions, leveraging their substantial financial resources, have dramatically increased spending on political campaigns. The removal of restrictions on independent political expenditures by corporations has led to an influx of corporate money that has reshaped the political landscape, creating an environment where corporate interests can overshadow the political voices of individual citizens (Brennan Center for Justice).

    The decision has been met with substantial public opposition, reflecting a widespread perception that it has eroded democratic values. Polls conducted by Washington Post–ABC News, Common Cause, People for the American Way, and Pew Research Center shortly after the decision consistently found that a significant majority of Americans—across the political spectrum—disapproved of the ruling. Approximately 80% of respondents opposed the decision, with 65% expressing "strong" opposition. These findings underscore a shared public sentiment that corporate influence in politics is already excessive and should be curtailed to protect the integrity of democratic processes (Brennan Center for Justice).

50. **Erosion of Democratic Values and Political Equality** The *Citizens United* ruling has been criticized for undermining the democratic principle of political equality by prioritizing corporate speech rights over those of individuals. By permitting unlimited corporate spending in political campaigns, the decision has facilitated a political environment where corporate entities, with their substantial financial resources, exert disproportionate influence over elections and policymaking. This reality contradicts the Constitution's commitment to "establish Justice" and "promote the general Welfare" as articulated in the Preamble (Brennan Center for Justice).
51. The *Brennan Center for Justice* argues that *Citizens United* effectively reordered the priorities in American democracy, centering special interest dollars rather than the voices of individual voters. This reordering has diminished the role of the electorate in democratic processes, allowing wealthy corporations to dominate the political discourse and decisions. Such a trend not only violates the principle of "one person, one vote" but also erodes public trust in democratic institutions, which is essential for a healthy and functioning democracy (Brennan Center for Justice).
52. **Compelling Government Interest in Preventing Corruption and Maintaining Democratic Integrity** The government has a compelling interest in preventing both actual corruption and the appearance of corruption in democratic processes. Empirical data suggests that corporate spending leads to perceived and actual corruption, which in turn erodes public trust in governance. Allowing unlimited corporate expenditures fosters an environment where policymakers may become more responsive to wealthy corporate donors than to their constituents, thus perpetuating systemic corruption and weakening the democratic fabric of the nation. This aligns with the government's recognized interest, as articulated in previous cases like *Austin* and *McConnell*, to maintain a democratic system that reflects the will of the people rather than being unduly influenced by concentrated wealth (Brennan Center for Justice).

The Need for Reconsideration

53. Given the substantial empirical evidence of the negative impact of *Citizens United* on democratic governance and political equality, along with its departure from established precedents, there is a compelling case for the Court to reconsider or narrow the interpretation of corporate speech rights under the First Amendment. The decision has resulted in significant adverse consequences for the democratic process and public trust, undermining the constitutional values it purports to protect. Reconsideration is necessary to restore the integrity of democratic governance and uphold the Constitution's intended objectives.

Leveraging the Original Intent of the Constitution

54. **Argument:** The framers of the Constitution, particularly James Madison, articulated a vision for a government that would protect against both the tyranny of the majority and the undue influence of powerful minorities, including those driven by economic interests. In *Federalist No. 10*, Madison highlighted the inherent dangers posed by factions—groups united by a common interest adverse to the rights of others or the overall good of

the community. He acknowledged that the root causes of faction, such as the unequal distribution of property, were inevitable in a free society. The challenge, therefore, was not to eliminate factions—an impossible task without abolishing liberty itself—but to control their effects through a republican form of government that could refine and enlarge the public views and prevent any single faction from dominating the political process (*The Federalist No. 10* (James Madison), *Constitution Center*).

55. Madison argued that in a large republic, a diversity of interests would make it more difficult for any one faction to gain control, thus promoting stability and protecting individual rights. He emphasized that "the most common and durable source of factions has been the various and unequal distribution of property," thereby recognizing the dangers of concentrated economic power in influencing governance. This understanding aligns with the framers' intention to protect democratic integrity by preventing factions, particularly those with significant economic power, from subverting the political process (*The Federalist No. 10*).

56. Support from Modern Academic Interpretations: Contemporary scholars have built on this originalist perspective, arguing for a constitutional interpretation that evolves to meet present-day challenges. John Hart Ely, in *Democracy and Distrust*, argues that the framers did not intend for the Constitution to be interpreted rigidly; rather, they designed it with broad principles meant to adapt to future needs. Ely contends that the Constitution's primary purpose is to ensure a government accountable to the people, which necessitates a flexible interpretation that prevents any faction, including economically powerful entities like corporations, from undermining democratic processes (*John Hart Ely, Democracy and Distrust: A Theory of Judicial Review*).

57. Philip Bobbitt, in *Constitutional Fate*, emphasizes that the Constitution should be understood as a living framework for governance that adapts with societal changes. He argues that the framers intended for the Constitution to be applied in a way that protects the public good and evolves to address new challenges. Similarly, Cass Sunstein, in *The Partial Constitution*, warns that adhering strictly to the framers' original meaning might fail to protect minority rights and respond adequately to modern political realities. Sunstein advocates for a constitutional interpretation that actively works to prevent any single faction—such as corporate entities with disproportionate influence from decisions like *Citizens United*—from distorting democratic governance (*Philip Bobbitt, Constitutional Fate: Theory of the Constitution; Cass R. Sunstein, The Partial Constitution*).

58. In conclusion, by invoking the original intent of the Constitution's framers, this petition argues for a reconsideration of the corporate speech rights established in *Citizens United v. FEC*. The framers aimed to prevent factions, particularly those fueled by economic interests, from subverting democratic processes. Restricting corporate political spending aligns with this vision by preserving the integrity of a government intended to be "by the people" and ensuring that no single faction can dominate the political landscape. This interpretation is supported by both Madison's original arguments in the *Federalist Papers* and modern academic scholarship, which emphasize the need for a dynamic understanding of constitutional principles that responds to contemporary economic and political realities.

Historical Precedents Viewing Freedom of Speech as Instrumental

59. The Supreme Court has historically treated freedom of speech as an instrumental right—valuable but not absolute. The Court has consistently upheld that speech may be limited when it conflicts with essential democratic values or public interests, such as public safety, preventing corruption, and maintaining political equality. This approach balances the right to free expression with the broader goals of democratic governance.

Key Precedents Illustrating the Instrumental Nature of Free Speech

60. **Schenck v. United States, 249 U.S. 47 (1919)**: In *Schenck*, the Court upheld Charles Schenck's conviction under the Espionage Act for distributing anti-draft leaflets during World War I. Justice Oliver Wendell Holmes, Jr., introduced the "clear and present danger" test, arguing that freedom of speech does not protect expressions that pose a substantial threat to public safety or national security. Holmes famously stated, "The most stringent protection of free speech would not protect a man in falsely shouting fire in a theatre and causing a panic." This case underscores that speech is instrumental—it may be restricted to prevent imminent harm, reflecting the Court's recognition of limits when other democratic values are at stake.

61. **Chaplinsky v. New Hampshire, 315 U.S. 568 (1942)**: The Court upheld the conviction of a man for uttering "fighting words," defined as speech that by its very utterance inflicts injury or incites an immediate breach of the peace. The Court declared, "Such utterances are no essential part of any exposition of ideas, and are of such slight social value... that any benefit that may be derived from them is clearly outweighed by the social interest in order and morality." This case illustrates that freedom of speech is protected when it contributes to public discourse but may be limited when it merely incites violence or disorder.

62. **Dennis v. United States, 341 U.S. 494 (1951)**: In *Dennis*, the Court upheld the conviction of Communist Party leaders under the Smith Act for advocating the violent overthrow of the government. The Court applied a balancing test, weighing the government's interest in national security against free speech rights. When speech poses a substantial threat to national security, it may be curtailed. This ruling exemplifies the instrumental nature of speech, recognizing that it is not absolute when national security is at risk.

63. **New York Times Co. v. United States, 403 U.S. 713 (1971) (Pentagon Papers Case)**: Although the Court ruled in favor of the New York Times and Washington Post, allowing them to publish the Pentagon Papers, it acknowledged potential circumstances where

speech might be limited to protect national security. Justice Potter Stewart emphasized that freedom of the press is instrumental in "enlightening the public" and ensuring a "responsible government," suggesting that free speech could be restricted in situations of direct, imminent threat to national security.

64. **Whitney v. California, 274 U.S. 357 (1927)**: While the Court upheld the conviction of a woman advocating the overthrow of the government, Justice Louis Brandeis, in his concurring opinion, argued that free speech is essential for democratic governance because it enables open discussion and prevents tyranny. However, Brandeis also acknowledged that speech could be curtailed when it poses a "clear and present danger," reinforcing the instrumental view of free speech in serving broader democratic ends.

65. These precedents demonstrate the Supreme Court's long-standing practice of treating freedom of speech as instrumental rather than absolute. The Court has consistently recognized that free speech can and should be limited when it conflicts with other fundamental democratic values, such as public safety, national security, and political equality. Thus, the unrestricted amplification of corporate voices, as permitted by *Citizens United v. FEC*, should be reconsidered in light of this tradition.

Distinguishing Citizens United from Precedents Protecting Free Speech as an Absolute Right

66. While the Supreme Court has upheld freedom of speech as an absolute or nearly absolute right in various precedents, these decisions have not threatened the fundamental purpose of free speech—namely, equality in democratic discourse—as *Citizens United* does. The core purpose of the First Amendment is to ensure a robust, open, and fair democratic discourse in which all voices have an equal opportunity to be heard. This principle underlies the Court's strong protection of free speech rights in cases where speech is treated as nearly absolute.

The Ends of Free Speech: Equality in Democratic Participation

67. The primary end of the First Amendment is to safeguard the marketplace of ideas, promote vibrant public discourse, prevent government tyranny, and ensure that all individuals have an equal opportunity to participate in the democratic process. This understanding is reflected in the Court's historical decisions, which protect speech to prevent government suppression of ideas, maintain political equality, and promote an informed citizenry.

Precedents That Protect Free Speech Without Threatening Equality

70. Unlike *Citizens United*, previous cases that treat freedom of speech as absolute or nearly absolute do so to protect individual expression and ensure equal participation in democratic discourse:

71. **Brandenburg v. Ohio, 395 U.S. 444 (1969)**: The Court held that the government could not prohibit speech advocating illegal activity unless it is "directed to inciting or producing imminent lawless action and is likely to incite or produce such action." This decision protects even the most marginalized or radical voices to ensure they can participate equally in the public debate.

72. **Texas v. Johnson, 491 U.S. 397 (1989)**: The Court ruled that burning the American flag as a form of political protest is protected speech. This decision protects dissenting voices and political protesters, ensuring that all individuals, regardless of the popularity of their views, have the freedom to express their opinions in the political sphere.

73. **New York Times Co. v. Sullivan, 376 U.S. 254 (1964)**: The Court established a high standard for public officials to claim defamation, protecting critical speech to maintain an "uninhibited, robust, and wide-open" public debate. This ruling prevents those in power from silencing criticism, ensuring all voices can contribute to public discourse.

74. **Cohen v. California, 403 U.S. 15 (1971)**: The Court overturned the conviction of a man for wearing a jacket with offensive language, affirming that the government cannot prohibit speech based on its content, even if offensive. This decision reinforces the principle that all speech, regardless of how distasteful, deserves protection to preserve equality in the marketplace of ideas.

75. **Snyder v. Phelps, 562 U.S. 443 (2011)**: The Court protected highly offensive speech at a military funeral, emphasizing that speech on public issues, even if emotionally distressing, is essential to self-government. This ruling underscores the need to protect even the most controversial voices to ensure a broad public debate.

None of These Precedents Permit Disproportionate Amplification of Certain Voices

76. These precedents collectively protect free speech to prevent the government from controlling or suppressing ideas, but they do not grant an unequal right to free speech where wealthier or more powerful actors can dominate public discourse based on economic power. In each of these cases, the Court's decisions protect individual expression to ensure equal participation in democratic discourse. None of these cases allows a single class of speakers to drown out others by virtue of their financial resources or economic power.

Citizens United Creates Systemic Inequality in Free Speech

77. In contrast, *Citizens United* permits unlimited corporate political spending, inherently giving wealthier entities—corporations and wealthy individuals—a disproportionately louder voice in the political process than average citizens. This disparity fundamentally distorts the democratic process, creating significant inequality in political influence and undermining the intended purpose of free speech as a means of equal participation.

78. By granting corporations the right to spend unlimited amounts in political campaigns, *Citizens United* effectively elevates corporate speech over that of individuals, creating a scenario where financial power equates to political power. This outcome undermines the First Amendment's purpose of facilitating democratic governance by skewing political debate in favor of the wealthiest actors. In doing so, *Citizens United* departs from the principles that protect free speech to achieve its democratic end—ensuring equal participation in public discourse.

The Need to Reaffirm the Instrumental Purpose of Free Speech

79. The precedents treating free speech as nearly absolute have done so to protect the democratic purpose of the First Amendment—ensuring equality in public discourse, preventing government suppression, and maintaining a fair marketplace of ideas. *Citizens United* undermines this purpose by allowing financial inequality to dictate political influence, creating a privileged class of speakers who can unduly shape elections, legislation, and public policy. This concentration of influence is contrary to the constitutional goal of political equality and fair representation.

Real-World Examples of Citizens United's Impact on Democratic Governance

80. The *Citizens United* decision has profoundly impacted American politics, allowing wealthy individuals and corporations to exert disproportionate influence over political outcomes. This shift has undermined the fundamental democratic principle of equal participation in public discourse. The following examples illustrate how financial power, rather than the merit of ideas or the will of the people, increasingly determines political influence:

81. **Senator Kyrsten Sinema**: Senator Sinema's political career began with strong opposition to corporate campaign contributions. In 2017, she voted against corporate tax cuts. However, by 2021, after receiving over $2.5 million from corporate Political Action Committees (PACs), primarily from the pharmaceutical and financial sectors, her positions shifted significantly. She opposed increasing taxes on corporations and wealthy individuals and reducing prescription drug costs for Medicare recipients. This change suggests that corporate money can directly influenceHere's a continuation of the redrafted section with all specific examples included, further refined for organization and style:

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83. **Senator Kyrsten Sinema**:
Senator Sinema began her career with a strong opposition to corporate campaign

contributions and, in 2017, voted against corporate tax cuts. However, by 2021, after receiving over $2.5 million from corporate PACs, primarily from the pharmaceutical and financial sectors, her positions shifted significantly. She opposed increasing taxes on corporations and wealthy individuals and reducing prescription drug costs for Medicare recipients. This shift suggests that corporate money can directly influence legislative behavior, undermining democratic representation and the principle of equal speech under the First Amendment.

84. **Senator Joe Manchin**:
Similarly, Senator Joe Manchin, while denying that his decisions are influenced by campaign contributions, received over $1 million from the oil and gas industry in 2022, up from $63,700 in 2020. His votes have been critical in blocking legislation that would raise taxes on the wealthy and support green energy initiatives, aligning with the interests of his corporate donors. This example illustrates how substantial contributions from specific industries can shape legislative outcomes, distorting democratic principles by favoring the interests of wealthy donors over constituents.

85. **Senator Susan Collins**:
Senator Collins's voting record on environmental issues shifted after she began receiving increased financial support from the oil and gas industry. While she once co-sponsored legislation to cap carbon emissions and opposed drilling in protected areas, her recent votes have favored expanding fossil fuel projects. Her contributions from this sector rose from $85,000 in 2016 to $377,000 by the 2020 election cycle. This example highlights how corporate donations can lead to policy reversals, challenging the integrity of democratic representation.

86. **Senator Mitch McConnell**:
Senator Mitch McConnell's use of a super PAC, the Senate Leadership Fund, and a secretive dark money group, One Nation, demonstrates the influence of anonymous donations. These entities raised over $172 million in 2020 alone from undisclosed sources, using these funds to influence elections nationwide. Such practices undermine transparency and accountability, fundamental elements of democratic governance, by allowing a few wealthy entities to shape political outcomes without public scrutiny.

87. **Former President Donald Trump**:
Since leaving office, former President Donald Trump has used donations to his PACs, including the Make America Great Again (MAGA) PAC and Save America PAC, to cover over $100 million in legal expenses for various lawsuits and investigations, including those unrelated to his presidency or campaign activities. By exploiting legal loopholes and weak enforcement of campaign finance laws, Trump has been able to use funds originally raised for political campaigns to pay for personal legal matters, testing the boundaries of existing regulations. This example highlights how political figures can leverage PACs and dark money groups to deflect personal costs, further distorting democratic governance.

88. **Impact of Non-Party Groups and Dark Money**:
Spending by non-party groups has surged post-*Citizens United*, reaching approximately $4.5 billion in the decade following the decision—compared to $750 million in the two decades prior. These groups often outspend the candidates themselves, overshadowing voter voices. Concurrently, dark money—political spending by nonprofits that do not disclose donors—rose from $129 million to $963 million in the same period. Many of these contributions come from corporations, some with indirect foreign funding, further complicating transparency and accountability in elections.

89. **Link Between Spending and Election Outcomes**:
Data shows a direct correlation between money spent and election success: candidates with the most financial backing have won 92.34% of the time in the House and 74% of the time in the Senate since the 2000 election cycle. This trend emphasizes how financial power increasingly determines electoral success, marginalizing less-funded candidates and undermining democratic fairness.

90. **Super PACs and Megadonors**:
Super PACs, which can raise and spend unlimited funds, have concentrated financial power in the hands of a few wealthy donors. The top ten super PAC donors alone have contributed approximately $1.1 billion since *Citizens United*. This concentration of influence allows a small group to exert outsized impact over political decisions, narrowing the scope of public debate and policy choices available to elected officials.

91. **State-Level and Local Impact**:
The effects of *Citizens United* are not confined to federal elections. For example, in Montana, corporate money surged into state elections after a century-old ban on corporate spending was overturned. In California, independent expenditures in state races increased by over 6,000% within six years. These trends demonstrate how corporate and outside money can heavily influence state and local elections, often at the expense of grassroots candidates and community-driven policies.

The Urgent Need to Reconsider Citizens United

92. These examples reveal how *Citizens United* has allowed a small number of wealthy individuals and corporations to exert disproportionate influence over political outcomes, distorting democratic processes and undermining the principle of equal speech that the First Amendment was designed to protect. To restore integrity to democratic governance, it is essential to limit corporate political spending and realign campaign finance laws with the foundational principles of equality and fair representation.

93. By reconsidering *Citizens United*, the Court would not be abandoning free speech but rather aligning with a long-standing tradition of balancing this fundamental right against other critical democratic values. The decision should acknowledge that corporate speech rights, like other forms of speech, may be justifiably limited when they threaten the essential goals of democratic governance, public integrity, and equality under the law.

Petition Conclusion

94. Given the foregoing arguments, this petition respectfully requests that the Court issue a declaratory judgment stating that the decision in *Citizens United v. Federal Election Commission*, 558 U.S. 310 (2010), is inconsistent with the Constitution's intended objectives and grant injunctive relief to limit corporate political expenditures. This will help preserve the foundational democratic values embedded in our constitutional framework.

95. This petition has demonstrated that *Citizens United* represents an unjustified departure from the principle of stare decisis, disregarding established precedents such as *Austin v. Michigan Chamber of Commerce*, 494 U.S. 652 (1990), and *McConnell v. Federal Election Commission*, 540 U.S. 93 (2003). These precedents acknowledged the government's compelling interest in limiting corporate influence over elections to protect democratic integrity and political equality. By overturning these decisions without adequate justification and disregarding reliance interests, *Citizens United* undermined the consistency and predictability that stare decisis is meant to safeguard.

96. Moreover, this petition has applied a rigorous framework for prioritizing competing constitutional values, distinguishing between those that serve as means (such as freedom of speech) and those that are ends in themselves (such as political equality and preventing corruption). When these values conflict, greater weight must be given to those that directly serve as constitutional ends, as these are integral to achieving the core objectives of "establishing Justice" and "promoting the general Welfare." Therefore, when unrestricted corporate speech threatens political equality or fosters corruption, limitations become necessary to protect the broader constitutional values enshrined in the Preamble.

97. To further illustrate, the broad interpretation of corporate free speech rights under *Citizens United* is akin to empowering a single voice with unlimited volume in a crowded room. Although everyone theoretically has the right to speak, the voice with the greatest amplification dominates, effectively drowning out others and silencing diverse perspectives. This unchecked amplification distorts the foundational purpose of free speech: ensuring an equal and fair opportunity for all to participate in democratic discourse. By reconsidering *Citizens United*, the Court would effectively return the "volume" of corporate speech to a level conducive to the true ends of free speech, where all individuals have an equal opportunity to be heard, thus preserving the democratic process as intended by the framers.

98. Reconsideration is necessary to restore the integrity of democratic governance, uphold the Constitution's intended objectives, and realign corporate speech rights with the democratic principle that every citizen's voice should have equal weight in public discourse. This action will prevent any single interest from overpowering the democratic process, ensuring that the Constitution's values of equality, integrity, and public trust remain at the core of our political system.

99. Reconsidering *Citizens United* is thus not only a constitutional necessity but also a moral imperative—ensuring that the democratic process remains accessible and fair to all citizens, not just those with the most significant financial resources.

Citations:

Primary Legal Citations:

1. **Citizens United v. Federal Election Commission, 558 U.S. 310 (2010).**
    - This Supreme Court decision overturned previous rulings limiting corporate political expenditures and expanded corporate speech rights under the First Amendment.
2. **Austin v. Michigan Chamber of Commerce, 494 U.S. 652 (1990).**
    - This decision upheld a Michigan law restricting corporate political spending, recognizing the state's interest in preventing the distorting effects of corporate wealth on politics.
3. **McConnell v. Federal Election Commission, 540 U.S. 93 (2003).**
    - This ruling upheld key provisions of the Bipartisan Campaign Reform Act (BCRA), recognizing the government's interest in preventing corruption or its appearance in electoral processes.
4. **Planned Parenthood of Southeastern Pennsylvania v. Casey, 505 U.S. 833 (1992).**
    - This case discussed the principles governing when the Supreme Court may overturn its own precedents, such as the criteria for "egregiously wrong" decisions or reliance interests.
5. **Brown v. Board of Education, 347 U.S. 483 (1954).**
    - This landmark decision overturned *Plessy v. Ferguson* and demonstrated the Court's willingness to depart from established precedent when societal values or constitutional principles evolve.
6. **Plessy v. Ferguson, 163 U.S. 537 (1896).**
    - This decision established the "separate but equal" doctrine, which was later overturned by *Brown v. Board of Education*.
7. **Buckley v. Valeo, 424 U.S. 1 (1976).**
    - This ruling established that spending money in elections is a form of protected speech under the First Amendment, but allowed for certain restrictions to prevent corruption.
8. **First Nat'l Bank of Boston v. Bellotti, 435 U.S. 765 (1978).**
    - This decision recognized that corporations have certain free speech rights but did not extend to the unlimited political spending permitted by *Citizens United*.
9. **NAACP v. Alabama, 357 U.S. 449 (1958).**
    - This case recognized the right of association as protected by the First Amendment, which has been argued as relevant to corporate speech rights.
10. **Reynolds v. Sims, 377 U.S. 533 (1964).**

- This ruling established the principle of "one person, one vote," emphasizing political equality in democratic governance.

11. **Whitney v. California, 274 U.S. 357 (1927).**

- Justice Brandeis' concurrence in this case is often cited for its articulation of the value of free speech as a means to democratic governance.

12. **Hale v. Henkel, 201 U.S. 43, 74 (1906).**

- This decision acknowledged that corporations do not have the same rights as individuals in certain contexts, such as protections against self-incrimination.

13. **California Bankers Ass'n v. Shultz, 416 U.S. 21 (1974).**

- This ruling recognized that corporations have reduced privacy rights compared to individuals under the Fourth Amendment.

14. **Schenck v. United States, 249 U.S. 47 (1919).**

- This case established the "clear and present danger" test, illustrating that free speech can be limited when it poses a significant threat to public safety or national security.

15. **Chaplinsky v. New Hampshire, 315 U.S. 568 (1942).**

- This case recognized that certain types of speech, such as "fighting words," do not receive First Amendment protection due to their lack of contribution to democratic discourse.

16. **Dennis v. United States, 341 U.S. 494 (1951).**

- This decision upheld the conviction of Communist Party leaders under the Smith Act, balancing free speech against national security concerns.

17. **New York Times Co. v. United States, 403 U.S. 713 (1971).**

- The *Pentagon Papers* case highlighted the instrumental role of free speech in promoting government accountability, while suggesting that it might be limited under certain conditions to protect national security.

18. **Brandenburg v. Ohio, 395 U.S. 444 (1969).**

- This case established that speech advocating illegal activity is protected under the First Amendment unless it is "directed to inciting or producing imminent lawless action and is likely to incite or produce such action," demonstrating a near-absolute view of free speech.

19. **Texas v. Johnson, 491 U.S. 397 (1989).**

- This decision held that flag burning constitutes protected speech under the First Amendment, emphasizing that the government cannot prohibit expression simply because it is offensive or disagreeable.

20. **New York Times Co. v. Sullivan, 376 U.S. 254 (1964).**

- This ruling established a high standard for defamation claims by public officials, protecting robust debate on public issues, and reinforcing a nearly absolute protection for free speech in the context of criticizing government officials.

21. **Cohen v. California, 403 U.S. 15 (1971).**

- This decision protected offensive speech, underscoring that the government cannot regulate speech based on content, even if it is vulgar or distasteful.

22. **Snyder v. Phelps, 562 U.S. 443 (2011).**

- This case protected offensive speech at a public demonstration, affirming that speech on public issues is protected under the First Amendment, even if it causes emotional distress.

23. **R.A.V. v. City of St. Paul, 505 U.S. 377 (1992).**

- This ruling struck down a hate speech ordinance, emphasizing that the government cannot impose content-based restrictions on speech or expressive conduct due to disagreement with the ideas expressed.

Secondary Sources and Scholarly Citations:

24. **The Federalist No. 10 (James Madison).**

- Madison discusses the dangers posed by factions and the need to control their effects to protect democratic governance.

25. **John Hart Ely, Democracy and Distrust: A Theory of Judicial Review.**

- Ely argues for a flexible constitutional interpretation that adapts to prevent powerful entities from undermining democratic processes.

26. **Philip Bobbitt, Constitutional Fate: Theory of the Constitution.**

- Bobbitt emphasizes the Constitution as a living framework that adapts to societal changes to protect the public good.

27. **Cass R. Sunstein, The Partial Constitution.**

- Sunstein warns against a rigid interpretation of the Constitution that might fail to protect minority rights and adequately respond to modern political realities.

28. **Brennan Center for Justice, "The Impact of Citizens United on American Democracy."**

- This source provides empirical evidence on the increased corporate influence in elections, the resulting public disapproval following *Citizens United*, and details of former President Trump's use of PACs to pay legal expenses.

Public Sentiment and Empirical Evidence:

29. **Washington Post–ABC News Poll, Common Cause, People for the American Way, Pew Research Center.**

- These sources provide public opinion data showing substantial disapproval of the *Citizens United* decision and its perceived erosion of democratic values.

30. **Legal Research Club, "The Ongoing Consequences of Citizens United v. FEC and Influence of Money in Elections."**

- Discusses the rise of dark money, increased spending by non-party groups, and the correlation between spending and electoral success, demonstrating the profound influence of money in post-*Citizens United* elections (Legal Research Club).

31. **Open Secrets, "More money, less transparency: A decade under Citizens United."**

- Analyzes the impact of *Citizens United* on campaign finance transparency and the surge in dark money influencing U.S. elections (Brennan Center for Justice).

Drafted July 2024 by Joseph Kirchner