

Federal Court Permanently Enjoins Pennsylvania Prohibitions on Corporate Super PAC Contributions

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A federal court recently permanently enjoined a provision of Pennsylvania's campaign finance laws that effectively prohibited corporations from making contributions to super political action committees (PACs). The decision, which followed a preliminary injunction of the same provision earlier this year, was notable for the state's concession that the law was unconstitutional; the only disagreement between the parties was over how far the court's decision should go in setting forth the legal parameters for super PACs to operate in Pennsylvania.

Super PACs have been in existence since shortly after the U.S. Supreme Court's decision in *Citizens United* in 2010, when a federal court in Washington, DC ruled that the federal limits on individual contributions to political committees could no longer be enforced against those committees that make only independent expenditures, and do not make direct contributions to candidates. The Federal Election Commission subsequently concluded in a pair of advisory opinions that the federal prohibitions against corporate and labor union contributions to such committees also were no longer constitutionally enforceable.

Many states did not immediately apply the developments in the federal campaign finance law to their own laws, however. For example, the Pennsylvania decision discusses cases in which courts had to strike down laws effectively prohibiting super PACs in New Mexico, New York, Texas, Wisconsin, and California after state regulators initially opposed the expansion of super PACs to those states. In New York, a federal district court only enjoined the state's laws limiting corporate contributions to super PACs this past July, after another district court had enjoined the state's limits on individual contributions to super PACs in April.

In Pennsylvania, the state law had prohibited corporations from making "a contribution or expenditure in connection with the election of any candidate or for any political purpose whatever except in connection with" ballot measures. Pennsylvania conceded the prohibition was unconstitutional with respect to corporate contributions to state super PACs, but asked the federal court to (1) "expressly note" that groups formed to elect or defeat candidates are still required to comply with the other requirements applicable to political committees in Pennsylvania, and (2) to create a new category of "independent political committees" and to set forth the legal requirements for such entities. The court declined the state's request, explaining that it is a

task better left to the state General Assembly and the Bureau of Commissions, Elections, and Legislation.

The Pennsylvania case was *General Majority PAC v. Aichelle*.