

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

Representative Christopher Shays and)	
Representative Martin Meehan,)	
)	
Plaintiffs,)	
v.)	Civil Action No. 04-1597 (EGS)
Federal Election Commission,)	
)	
Defendant.)	
)	

PLAINTIFFS' MOTION FOR FURTHER RELIEF

1. Plaintiffs Shays and Meehan, by their respective undersigned counsel, respectfully move this Court to rule that the Federal Election Commission (“FEC”) remains in violation of the Administrative Procedure Act (“APA”), 5 U.S.C. § 706(2)(A), because the FEC has failed to issue a rule governing when section 527 groups must register as “political committees” under the Federal Election Campaign Act (“FECA”).

2. Plaintiffs previously filed a Motion for Summary Judgment, which the Court granted on March 29, 2006. In its Memorandum Opinion, *Shays v. FEC*, 424 F. Supp. 2d 100 (D.D.C. 2006), this Court found that the FEC’s November 23, 2004 “Explanation and Justification” (“E&J I”) had failed to provide a reasoned explanation of the FEC’s decision favoring *ad hoc* adjudication over rulemaking to address the rampant section 527 soft money abuses reflected in the record, and required the FEC either to promulgate a rule or to provide a new E&J that answered questions posed by the Court and that otherwise satisfied the APA. *Id.* at 115-16. The FEC issued a Supplemental Explanation and Justification on February 2, 2007, 72 Fed. Reg. 5595 (“E&J II”). As explained in more detail in the accompanying Memorandum, E&J II failed to address specific deficiencies identified by the Court in E&J I and is premised on a

misinterpretation of the FECA. Accordingly, it is “arbitrary and capricious” and “not in accordance with law” under the APA.

WHEREFORE, Plaintiffs pray that this Court issue an order declaring that, notwithstanding the FEC’s issuance of E&J II, the FEC is still in violation of the APA and must issue an appropriate regulation focused on 527 groups no later than 90 days after issuance of the Court’s Order.

Respectfully submitted,

/s/ Roger M. Witten

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