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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

Robert Griffin, Allen Vezey, Trevor Shaw, Families of the Last Frontier, and Alaska Free Market Coalition,	
Plaintiffs,	
v.	Case No.: 3:22-cv-00077-SLG
Richard Stillie, Jr., in his official capacity as chair of the Alaska Public Offices Commission, *et al.*,	**STATE DEFENDANTS' OPPOSITION TO PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT**
Defendants,	
and	
Alaskans for Better Elections, Inc.,	
Intervenor-Defendant.	

I. Introduction

Unable to satisfy the legal standard for a facial challenge, the plaintiffs ignore that standard entirely. Unable to identify real flaws in the challenged laws—which they refer to collectively, in imprecise shorthand, as "Ballot Measure 2" (BM2)[1]—the plaintiffs misstate the challenged laws. Unable to produce evidence of a substantially disproportionate number of unconstitutional applications (or indeed, any actual problems beyond some people's dislike of the laws), the plaintiffs mischaracterize the evidence. And unable to prove what they actually pled, the plaintiffs add several new eleventh-hour claims that appear nowhere in their complaint.

The plaintiffs fail to sustain their facial challenge. Alaska's campaign finance transparency laws are consistent with established precedent recognizing that voters have a strong interest in knowing the sources of money spent to influence their votes and that revealing that information does not prevent anyone from speaking.

The Court should deny the plaintiffs' motion for summary judgment and grant the State's motion for summary judgment on all claims.

II. Response to the plaintiffs' "summary of the facts"

The plaintiffs' "summary of the facts" is a mishmash of misstatements of law and mischaracterizations of the evidence they present. A few examples are illustrative.

[1] As explained in the State's motion, this lawsuit concerns only parts of BM2 and some of the challenged laws long predate BM2. [Dkt. 131 at 4-9]

The plaintiffs assert that "BM2 requires every piece of political messaging from an independent expenditure (IE) group to include an extensive disclaimer" and that "[t]his requirement applies to both audio and visual ads ..." [Dkt. 157[2] at 1-2] But in fact, most of the disclaimer requirements existed for years before BM2 became law; and AS 15.13.090 requires a different—much shorter—disclaimer in "in a communication transmitted through radio or other audio media."[3] Contrary to the plaintiffs' assertions, BM2's "out-of-state" contribution disclaimer is not required in a radio ad.[4]

The plaintiffs similarly misread the laws governing expedited hearings. A request for expedited consideration does not mean that APOC is "legally obligated to hold a hearing on expediting the complaint within twenty-four hours." [Dkt. 157 at 2] Instead, AS 15.13.380(c) provides that "[t]he commission shall grant or deny the request [for expedited consideration] within two days after receiving it;" and AS 15.13.380(d) requires that if APOC decides to expedite consideration, it "shall hold a hearing on the complaint within two days after granting expedited consideration." APOC's executive

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2 Citations to "Dkt. 157" refer to the plaintiffs' memorandum in support of their motion for summary judgment; the large series of exhibits filed under seal has made the ECF docket numbers difficult to understand.

3 *See* AS 15.13.090(d) (providing that a radio ad must include the following disclaimer: "This communication was paid for by (person's name). The top contributors of (person's name) are (the name of the largest contributors to the person under AS 15.13.090(a)(2)(C)).").

4 *Id.* The out-of-state disclaimer is found in AS 15.13.090(g) and is only necessary "[t]o satisfy the requirements of (a)(1) of this section and, if applicable, (a)(2)(C) of this section." AS 15.13.090(d) substitutes its disclaimer requirement for that of .090(a). ("Notwithstanding the requirements of (a) of this section, in a communication transmitted through radio or other audio media…the following statements must be read…").

director confirmed these timelines at her deposition. [Dkt. 112-4 at 20 (Tr. 69)] She also explained that parties only have to pay for hearing transcripts if they request such transcripts, contrary to the plaintiffs' assertion that APOC "charged the person whom the complaint was filed against for a transcript even if they were found not to have violated the law." [Compare Dkt. 112-4 at 29 (Tr. 103) with Dkt. 157 at 9]

The plaintiffs are also wrong to imply that one man's reliance on APOC staff's mistaken advice "led to an onerous investigation and, eventually, over $156,000 in fines." [Dkt. 157 at 13] In truth, neither that man nor the various campaign groups he controlled were assessed any fines whatsoever for failing to register and report during the few months before the mistaken staff advice was corrected.[5] This is clear from the documents that the plaintiffs themselves cite: their Exhibit 64 is the February 23, 2023 email from APOC informing the man that the advice he had been given was not accurate; and their Exhibit 57—an extract from an APOC order with a table showing assessed fines adding

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[5] *See* Alaska Public Offices Commission, Final Order at 13, *Alaskans for Better Elections v. Alaskans for Honest Elections et al.*, Case No. 23-01-CD (Jan. 3, 2024), *available at* https://aws.state.ak.us/ApocReports/Paper/Download.aspx?ID=25547 at 3-4 (explaining that the mistaken staff advice about registration and reporting was given in November 2022 and corrected in February 2023) 11-18 (explaining that penalties against the respondents were either not assessed due to first-time filer status or mitigated entirely for the failures to register and report during the period of mistaken advice), 31 (summarizing the assessed penalties, which did not include registration or reporting penalties during the period of mistaken advice).

up to $156,950—clearly shows that the fines were assessed for violations that began on *February 2, 2024*, nearly a year after the corrected advice.[6]

As a full review of the two relevant APOC decisions makes clear, the eventual large fines reflected in Exhibit 57 were not assessed for innocent mistakes but rather for a variety of "egregious and widespread"[7] reporting violations by a cast of characters who "prove[d] themselves shockingly poor at complying with their reporting obligations" long after having been correctly informed of those obligations.[8]

The plaintiffs' unreliable characterization of APOC actions is also apparent from their citation to Exhibit 67, which they claim shows that "[t]he Commission would fine even the smallest groups for violating campaign finance regulations, even as it acknowledged that the groups did not intend to be non-compliant." [Dkt. 157 at 13] The cited order makes no such "acknowledge[ment]" (and the fine was just $12.50). [Plaintiffs' Ex. 67] Similarly, the plaintiffs' claim that APOC "demanded to see the name of tithers to a church because it had rented a room to an IE group" is simply not supported by any of the five exhibits they cite. [Dkt. 157 at 14, citing Exs. 70-74][9]

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6 *Compare* Plaintiffs' Exhibit 57 *with* Plaintiffs' Exhibit 64. Because exhibits to the plaintiffs' motion for summary judgment [Dkt. 157] were filed under seal, the defendants are unable to cite docket numbers for these exhibits. Citations to "Plaintiffs' Exhibits" refer to the exhibits to their Motion for Summary Judgment. [Dkt. 157]

7 Alaska Public Offices Commission, Final Order at 9, *Alaskans for Better Elections v. Alaskans for Honest Elections et al.*, Case No. 24-03-CD (Jan. 27, 2025), *available at* https://aws.state.ak.us/ApocReports/Paper/Download.aspx?ID=26553.

8 *Id*. at 8.

9 *See infra* n. 19.

Nor do the plaintiffs' exhibits show that the intervenors have been "directing" APOC's enforcement of the laws. [Dkt. 157 at 14] Anyone (including the intervenors) can file complaints and express views about what APOC should do. The plaintiffs produce no evidence that APOC has ever deferred to the intervenors' views.

In sum, the plaintiffs' recitation of "facts" is belied by their actual evidence. Neither the plaintiffs' mischaracterizations nor the evidence itself creates any "genuine dispute of material fact"[10] that could defeat the State's motion for summary judgment.

III. Argument

A. Strict scrutiny does not apply here.

The Ninth Circuit has already held that exacting scrutiny is the proper standard for these plaintiffs' claims.[11] The plaintiffs' new arguments for strict scrutiny fail. [Dkt. 157 at 16-24]

1. The challenged laws are not "invidious discrimination" or "content-based regulations of speech."

The Ninth Circuit panel opinion undergirding the plaintiffs' new invidious discrimination theory—*Moving Oxnard Forward v. Ascension*,[12]—has been replaced by a controlling en banc opinion soundly rejecting their position.[13] The en banc Ninth Circuit

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10 Fed. R. Civ. P. 56(a).

11 *Smith v. Helzer*, 95 F.4th 1207, 1214-15 (9th Cir. 2024); *see also No on E v. Chiu*, 85 F.4th 493, 503 (9th Cir. 2023) (applying exacting scrutiny).

12 124 F.4th 605 (9th Cir. 2024).

13 *Moving Oxnard Forward, Inc. v. Lopez*, --- F.4th ---, 2026 WL 1088792 (9th Cir. Apr. 22, 2026).

recognized the "familiar principle" that courts "will not strike down an otherwise constitutional statute on the basis of an alleged illicit legislative motive" given that such inquiries are "long disfavored" and "a hazardous matter."[14] The en banc court further noted that "[i]f any motive was relevant" in the context of a voter-passed law (like the one here), "it would be the motive of the voters," not the drafters; and the court declined to attribute the drafters' allegedly discriminatory motives to the voters.[15]

Not only that, but *Moving Oxnard Forward* also shows that the plaintiffs' brand new invidious discrimination theory is being raised too late in this litigation. The plaintiffs here—like the plaintiffs there—did not raise any equal protection or improper motive claim in their complaint.[16] [Dkt. 40] The en banc court observed that the new, unpled legal theory was not properly before the court on summary judgment.[17]

And even the vacated panel opinion in *Moving Oxnard Forward* did not endorse a broad, vague discrimination theory like the plaintiffs present here. That case involved allegations that a law targeted a specific candidate who had disfavored views.[18] Here, by contrast, the plaintiffs do not clearly identify the alleged target of BM2's drafters. [Dkt. 157 at 16-22] They first suggest that the target was the drafters' "political

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14 *Id*. (quoting *United States v. O'Brien*, 391 U.S. 367, 383 (1968) and *Dobbs v. Jackson Women's Health Org*., 597 U.S. 215, 253 (2022)).

15 *Id*. at *14.

16 *Id*. at *15.

17 *Id*.

18 *See Moving Oxnard Forward*, 124 F.4th at 615.

opponents," but they do not explain who that is. [*Id*. at 19] They then suggest that the target is either non-Alaskans or people not "of indigenous ethnicity," thereby pinpointing most of the world population rather than any discrete minority or group with an identifiable viewpoint that could ground a coherent invidious discrimination theory. [*Id*. at 20-21] As for alleged "religious discrimination," the plaintiffs' cited evidence is irrelevant to BM2's purported motives because it post-dates BM2, and seeking political disclosures does not become religious discrimination just because political activity involves a church.[19] [Dkt. 147 at 21]

The plaintiffs also mischaracterize the evidence they use to impugn the motives of BM2's drafters. [Dkt. 157 at 20] They ignore the crucial fact that BM2 encompassed two other major election-related reforms: open, nonpartisan primary elections and ranked-choice voting in the general election. Thus, for example, the cited opinion piece about the voting power of Alaska Natives is obviously referring to those other election reforms, not disclosure laws. [*See* Plaintiffs' Ex. 37] The evidence they cite could not support finding

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19 The cited incident involved seeking disclosures from nonprofits campaigning against ranked-choice voting that were connected to churches. Art Mathias helped create the "Ranked Choice Education Association," a Washington nonprofit religious corporation that was an "auxiliary" of Wellspring Fellowship, a church formed and controlled by Mr. Mathias. Alaskans for Honest Elections, another organization that Mr. Mathias helped create to oppose ranked-choice voting, held a political fundraiser in a gymnasium owned by Wellspring Ministries, a nonprofit of which Mr. Mathias was president. *See* Alaska Public Office Commission, Final Order at 3-6, *Alaskans for Better Elections v. Alaskans for Honest Elections et al*., Case No. 23-01-CD (Jan. 3, 2024), *available at* https://aws.state.ak.us/ApocReports/Paper/Download.aspx?ID=25547. Attempting to understand these political activities and enforce applicable campaign disclosures is not "attack[ing] the religion" of anyone. [Dkt. 157 at 21]

that the thousands of voters who passed BM2 favored the transparency laws challenged here out of a desire to harm specific groups or viewpoints.

The transparency laws challenged here are content-neutral and do not discriminate based on speaker identity. They are akin to the disclosure and disclaimer laws that were *upheld* in *Citizens United v. FEC*, not to the corporate expenditure ban that was struck down because it discriminated against corporate speakers.[20] They are subject to the same exacting scrutiny that was applied to disclosures and disclaimers in *Citizens United*.[21] The plaintiffs' "invidious discrimination" theory gets them nowhere.

2. The challenged laws do not "ban" categories of speech.

The plaintiffs likewise cannot invoke strict scrutiny on the theory that the challenged disclaimer law "is a functional ban on 30-second radio ads." [Dkt. 157 at 22] Any political disclaimer law could be relabeled as "a functional ban" on ads lacking the required disclaimer (or ads shorter or smaller than the required disclaimer). This is no more successful than relabeling disclaimers as "compelled speech," which failed in *Citizens United*.[22] The Ninth Circuit recognizes *Citizens United*—which applied exacting scrutiny to disclaimers[23]—as controlling on the standard of scrutiny.[24]

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20 *See* 558 U.S. 310, 366-71 (2010).

21 *See id*. at 366.

22 *See* Br. for Appellant 43-44, *Citizens United*, 558 U.S. 310 (No. 08-205), 2009 WL 61467 (arguing that "oral and written disclaimers" are "content-based restrictions on political speech" and "compelled speech" subject to strict scrutiny).

23 *See Yamada*, 786 F.3d at 1202.

24 *Smith*, 95 F.4th at 1214-15 & 1220; *No on E*, 85 F.4th at 503.

Moreover, the plaintiffs brought only a facial challenge, not a challenge to the disclaimer law as applied to 30-second radio ads or to any actual group that cannot afford longer ads.[25] [*See* Dkt. 39 at 18 (stating that "[t]his is a facial challenge," "not an as-applied challenge")] They cannot win a facial challenge by pointing at a small subset of applications of the law—they must show that "a substantial number of the applications" "are unconstitutional in relation to the law's 'plainly legitimate sweep.'"[26] On top of that, as explained above, they misread the law on the radio disclaimer.[27]

B. The challenged provisions facially satisfy exacting scrutiny.

The plaintiffs next argue that even if exacting scrutiny applies, "BM2 still fails." [Dkt. 157 at 24] "Exacting scrutiny" requires (1) a "sufficiently important governmental interest" and (2) that the "requirement be narrowly tailored to the interest it promotes."[28] In *Citizens United*, the Court described this as calling for "a 'substantial relation' between

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25 The plaintiffs suggest that the disclaimer law functions as a "'No Speech for Paupers' policy" which "must be even more unacceptable" than restricting the speech of the wealthy, but the reality that most people cannot afford to buy political ads is scarcely a product of Alaska's disclaimer requirement. [*See* Dkt. 157 at 24] The plaintiffs produce no actual evidence of anyone who would have otherwise purchased political ad space if not for extra costs created by disclaimers.

26 *Smith*, 95 F.4th at 1218 (cleaned up); *United States v. Hansen*, 599 U.S. 762, 770 (2023) ("To justify facial invalidation, a law's unconstitutional applications must be realistic, not fanciful, and their number must be substantially disproportionate to the statute's lawful sweep.").

27 *See supra* at page 3.

28 *AFPF*, 594 U.S. at 611; *No on E v. Chiu*, 85 F.4th 493, 503 (9th Cir. 2023) (applying exacting scrutiny to disclosures and disclaimers).

the disclosure requirement and [the government] interest."[29] Alaska's disclosure and disclaimer requirements comfortably pass exacting scrutiny.

As an initial matter, the plaintiffs appear to concede that the State has a sufficiently important governmental interest at stake here by skipping over that part of the analysis. And, indeed, Ninth Circuit precedent establishes that the State's interest in an informed electorate satisfies the first element of exacting scrutiny.[30]

The plaintiffs instead focus on the tailoring of specific aspects of the disclosure and disclaimer laws. But their arguments misconstrue both the governmental interest at stake and the requirements of the challenged statutes, and rest on the thinnest imaginable evidence—evidence that is plainly insufficient to support their claim that the law lacks a plainly legitimate sweep and is therefore facially unconstitutional.

1. The donor disclosure requirement survives exacting scrutiny.

The plaintiffs first argue that the requirement that both the donor and the recipient report contributions over $2,000 "is entirely redundant," and they complain that neither the State nor the intervenors have "produced any evidence that this redundant requirement stops fraud." [Dkt. 157 at 26, 28] These arguments lack merit for two reasons. First, the state interest supporting disclosure laws is the interest in an informed electorate, so the law must be narrowly tailored to serve *that* informational interest.

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29 558 U.S. at 366-67.

30 *Smith*, 95 F.4th at 1215; *see also Buckley*, 424 U.S. at 14-15 ("In a republic where the people are sovereign, the ability of the citizenry to make informed choices among candidates for office is essential."). *See also* Dkt. 131 at 12.

Disclosure appropriately sheds light on legitimate campaign activity as well as nefarious activity. Whether disclosure operates to "stop fraud" is not the point.

Second, the plaintiffs demand impossible evidence as if that were required to support the law: "a campaign finance crime" that was "prevented by double-reporting" or an "instance of pre-BM2 campaign finance fraud that double reporting would have caught." [Dkt. 157 at 26] It is far from clear what sort of "campaign finance crime[s]" or "fraud" the plaintiffs are talking about, but evidence of things *that didn't happen* is obviously hard to come by. And it would be almost as difficult to identify "pre-BM2 campaign finance fraud that double reporting would have caught." [*Id*.] But regardless of whether such evidence could even be gathered, the State's primary interest is not in preventing fraud, so it need not prove that it is successfully doing so.

Requiring both donor and recipient disclosures helps ensure that disclosures are accurate regardless of whether any "fraud" would occur otherwise. Donors are clearly the ones in the best position to report, and certify the truth of, the "true sources" of their funds. Requiring them to do so not only helps assure the State and the public that the correct information is being disclosed, but it also helps recipients discharge their duty to report the true sources of the funds they use for their campaign expenditures.

In any event, the requirement is a minor burden. The plaintiffs assert "disastrous consequences for ordinary citizens" from the donor-side reporting requirement, but the four pieces of evidence they point to show no such thing. [Dkt. 157 at 27]

First, they cite a declaration from Cheryl Frasca that explains how she has assisted donors to complete APOC forms. [Plaintiffs' Ex. 84 at 2-3] This declaration does not identify a single negative consequence experienced by any person; instead, it describes how she has successfully helped others complete forms. [*Id.*] Ms. Frasca's other statements are either pure speculation—about how many donors understand their compliance obligations and the potential fines that donors might have faced without her assistance[31]—or simply do not say what the plaintiffs assert. For example, the plaintiffs claim that Ms. Frasca "described the struggle of trying to get a submission in for a donor in her nineties who lacked internet access." [Dkt. 157 at 27, citing Plaintiffs' Ex. 84 at ¶ 6] But what Ms. Frasca actually said was that she "recall[s] one donor aged in her nineties who was deeply troubled at having to log a donation within 24 hours because she did not have internet service." [Plaintiffs' Ex. 84 at ¶ 6] She did not say that this unidentified donor "struggle[d]," much less that she failed to timely report.

Second, the plaintiffs cite the declaration of Bob Griffin, suggesting that he "gave up much of his political giving because of his concerns of running afoul of the 24-hour rule, especially given his work as a pilot where internet services can be spotty." [Dkt. 157 at 27, citing Plaintiffs' Ex. 85 at ¶ 14] But Mr. Griffin's declaration fails to explain why it would be particularly difficult, complicated, or burdensome to make his political

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31 Ms. Frasca's declaration speculates that donors would be "liable for crippling fines for inadvertent mistakes in completing the APOC disclosure forms," [Plaintiffs' Ex. 84 at ¶ 6], but notably the plaintiffs have not identified a single instance where APOC has imposed a "crippling" fine for an "inadvertent mistake," even though the law has now been in effect for over five years.

donations when he has internet access as opposed to when flying in remote areas—indeed, just as reporting would be easier in town, effectuating a donation would be easier as well.[32] All regulations impose some level of burden on those who must comply with them, and a regulation that simply requires a donor to engage in some minimal planning in the timing of donations easily passes constitutional muster.

Third, the plaintiffs cite the declaration of Trevor Shaw, one of the named plaintiffs and an officer of plaintiff Alaska Free Market Coalition (AFMC), asserting that he "put the AFMC on ice" because of "the risk of a donor forgetting to file" disclosure forms on time. [Dkt. 157 at 27] But Mr. Shaw testified at his deposition that AFMC's only donors prior to BM2 were himself and his own company Connect Solutions—they had no external "donors" to worry about. [Plaintiffs' Ex. 79 at 4, 7, 9 (Tr. 10-11, 20, 25, 26)] And even if they had other donors, preemptively closing up shop rather than just reminding the donors to fill out an easy online form is an unnecessarily extreme reaction. Plaintiffs cannot prove that a law is too burdensome by voluntarily increasing the burden through their own unnecessary choices.

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32 Mr. Griffin has not made a political donation to an independent expenditure group of over $2,000 that would have required the additional BM2-mandated disclosures challenged in this lawsuit since BM2 was enacted. [Dkt. 131-5 at 5; Plaintiffs' Ex. 85 at ¶ 3] His claim about turning to Ms. Frasca for help with reporting forms thus appears to concern his reporting under a non-BM2 provision not challenged here, which requires donors to report their donations to groups organized to promote ballot initiatives. *See* AS 15.13.040(k) ("Every individual . . . contributing a total of $500 or more to a group organized for the principal purpose of influencing the outcome of a proposition . . . shall report the contribution or contributions on a form prescribed by the commission not later than 30 days after the contribution that requires the contributor to report under this subsection is made."). [Plaintiffs' Ex. 85 at ¶ 13]

Finally, the plaintiffs point to testimony from the intervenors' witnesses that they assert shows "harm to free speech." [Dkt. 157 at 27] But the fact that several witnesses noted that they have had to "teach donors how to create a myAlaska account" is not evidence of harm to free speech. Creating a myAlaska account is a simple process that takes a few minutes. [Dkt. 130 at 2-3] And Ms. Hays's testimony does not support the plaintiffs' assertions regarding the late reporting of a donation over Christmas 2023. [Dkt. 157 at 27-28] The plaintiffs assert that the donation "accidentally triggered over $10,000 in fines," without acknowledging Ms. Hays's testimony that the fine imposed on her organization was reduced to $300 and that the donor was not penalized at all. [Plaintiffs' Ex. 80 at 8, 12 (Tr. 21, 37)]

In sum, the plaintiffs' evidence does not support their claim of "disastrous consequences" resulting from the donor reporting requirement. The minimal inconveniences they have identified do not establish that the law is not narrowly tailored to advance the State's important interest in providing voters with relevant, timely, and accurate information about the sources of campaign financing.

2. The plaintiffs' complaints about the disclaimer requirement are misplaced and they exaggerate the evidence that it creates even a minimal burden.

The plaintiffs assert a variety of complaints about "BM2's disclaimer" that fail to recognize that the disclaimer requirement predated BM2. The ballot measure made only two changes to the pre-existing top-three donor disclaimer: it required disclaimers to remain "onscreen throughout the entirety of" any "broadcast, cable, satellite, internet or other digital communication,"[33] and it required that an ad by an entity receiving most of its funding from outside Alaska declare that fact if the communication is in print or video.[34] Both the preexisting disclaimer and the BM2 changes satisfy exacting scrutiny.

To begin with, the plaintiffs misreport what disclaimers are required. Contrary to their assertions, the out-of-state disclaimer does not apply to audio-only ads like radio.[35] [Dkt. 157 at 22] The plaintiffs are likewise incorrect to complain that the top-donor disclaimers "need to be updated based on the day-to-day ratio of who is the top fourth versus the top third donor." [Dkt. 157 at 31] APOC interprets the statute to require a "look back" from the date of dissemination of the communication.[36] And although different rounds of a similar mailer might require updates, the plaintiffs have offered no evidence to support their claim that updating a reprint "would impose substantial monetary costs." [Dkt. 157 at 31]

The plaintiffs complain that the disclaimers are "redundant," but the primary claimed redundancy is that the information is "in the mandatory reports available on the Commission's website." [Dkt. 157 at 28] The Ninth Circuit has already rejected this argument, observing that "[c]ase law and scholarly research support the proposition that,

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33 *See* AS 15.13.090(c); Alaska's Better Elections Initiative at § 11, available at https://www.elections.alaska.gov/petitions/19AKBE/19AKBE-TheBill.pdf.

34 *See* AS 15.13.090(g); Alaska's Better Elections Initiative at § 12, available at https://www.elections.alaska.gov/petitions/19AKBE/19AKBE-TheBill.pdf.

35 *See* AS 15.13.090(d); *supra* page 3.

36 *See* Alaska Public Offices Commission, Emergency Order, *Yes on 2 for Better Elec. v. Defend AK Elec Voter No on 2*, Case No. 20-68-CD (Oct. 8, 2020), *available at* https://aws.state.ak.us/ApocReports/Paper/Download.aspx?ID=22027.

because of its instant accessibility, an on-advertisement disclaimer is a more effective method of informing voters than a disclosure that voters must seek out."[37]

The plaintiffs also complain that the law requires "some pieces of information (such as the name of the speaker and, in some cases, specific donors' locations) to be repeated twice." [Dkt. 157 at 28] But the plaintiffs do not explain what circumstances would ever require repeating a donor's location. [*Id.*] As for repeating the speaker's name, this is essential to communicating two distinct pieces of information: the identity of the speaker and the identities of the top contributors *to the speaker.*[38] This is a very minor burden that is narrowly tailored to the goal of clearly communicating the required information. Narrow tailoring does not require revising the required language to say something more convoluted (and comparably long) just to avoid repeating the speaker's name, like "paid for by (person's name and city and state of principal place of business), the top contributors of which are…."

The plaintiffs also suggest that the disclaimer requires "superfluous information," but their only example of this—that voters likely don't "need to be reminded that Fairbanks is in the state of Alaska"—ignores both that Alaska is not the only state in the country with a community called Fairbanks[39] and that there are plenty of other common

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[37] *No on E v. Chiu*, 85 F.4th at 509.

[38] For example, AS 15.13.090(c) requires a disclaimer that says: "This communication was paid for by (person's name and city and state of principal place of business). The top contributors of (person's name) are…."

[39] *See e.g.*, Fairbanks, Florida (northeast of Gainesville) and Fairbanks, Louisiana (north of Monroe) among others.

names among U.S. towns and cities. [Dkt. 157 at 28-29] Thus, including the city *and state* of residence is not superfluous at all.

The plaintiffs attempt to challenge well-established caselaw[40] by proffering their expert witness, David Primo, in support of their claim that "disclaimers" are "unhelpful to voters." [Dkt. 157 at 29] They cannot conjure a fact issue, much less obtain summary judgment in their favor, by producing a political scientist who disagrees with precedent. In any event, the parts of Professor Primo's report that they cite for this relate to campaign finance disclosures generally, not to on-ad disclaimers, and the report's conclusions rely heavily on flawed experimental studies that do not even directly address the relevant question: whether voters learn important information from disclaimers and disclosures. [Ex. M at 14-17]

As the expert report of Professor Abby Wood shows, political science research hardly provides uniform support for Professor Primo's view. [Ex. M at 17- 27] Professor Primo's view is also counter to the common-sense intuition that voters rely on information in forming their political views and deciding how to vote, including information about who supports candidates and policies.[41] The mixed findings of political scientists trying to measure the potential impact of disclosures and disclaimers do not

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40 *See* Dkt. 131 at 25-30.

41 *See e.g.*, *California Pro-Life Council, Inc. v. Getman*, 328 F.3d 1088, 1106 n.25 (9th Cir. 2003) (describing trial evidence "demonstrating that voters will cast their vote based upon the identify of those supporting or opposing a ballot measure").

provide a sufficient basis to reject decades of legal precedent holding that these kinds of regulations promote an important informational interest.

The requirement to identify the top-three donors to an entity making a campaign communication long predates BM2, which is why it doesn't specify listing the top three "true sources." [Dkt. 157 at 29] The plaintiffs complain that the top-three cut-off is "arbitrary," and wonder why it wouldn't be important for voters to know the fourth or fifth biggest contributor. [*Id.*] This rings hollow in light of their complaint that the disclaimer is already too long. [Dkt. 157 at 23] Any regulatory regime involves balancing competing interests and the use of a top-three rather than a top-four or five donor identification requirement shows that the disclaimer law is narrowly tailored, not that it is unconstitutionally underinclusive.

The plaintiffs' evidence of the alleged chilling effect of the top-three disclaimer makes no sense given the law's actual timeline. Mr. Shaw's assertion that he "shut down" AFMC "because of his alarm that donors would be harassed due to having their names highlighted" is scarcely credible given that AFMC was founded in 2017 when the top-three donor disclaimer requirement had already been in effect for years. [Dkt. 157 at 30; Plaintiffs' Ex. 79 at 4 (Tr. 6)] BM2 did nothing to change whether or how AFMC's top (and only) two donors—Mr. Shaw and his business[42]—might be publicly identified. Similarly, the plaintiffs' complaint that the disclaimer "increases the risk that a donor would be associated with an ad campaign that he or she did not support," has nothing to

[42] *See* Plaintiffs' Ex. 79 at 9, 12 (Tr. 25-26, 47-48).

do with BM2 and is a reality of *any disclaimer regime*. [Dkt. 157 at 31] Donors remain in control of this alleged risk: the law does not prevent donors from insisting that recipients limit how their donations are used or declining to donate to organizations that might use the money to advance arguments the donors don't support.

The plaintiffs' other evidence is not evidence of a chilling effect at all. The fact that people complain to APOC about possible violations of the disclaimer law and that APOC investigates possible violations does nothing to support the claim that the law discourages speech in the first place. [*See* Dkt. 157 at 30-31]

3. The out-of-state disclaimer survives exacting scrutiny.

Doubtless recognizing that Ninth Circuit precedent does not support a claim that the out-of-state disclaimer is facially unconstitutional,[43] the plaintiffs launch a collateral attack on the requirement, relying heavily on the statements of a handful of BM2's supporters—often taken out of context—to project "hostility to outsiders" onto all Alaska voters. [Dkt. 157 at 33-34] This is misplaced. Alaska is not the only state whose citizens may be concerned about the role of outside money in their elections,[44] nor is it somehow suspect for citizens of a body politic to look with skepticism on attempts by outsiders to

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[43] *See Smith v. Helzer*, 95 F.4th at 1220 (noting that disclaimer does not restrict out-of-state speech and quoting *No on E* for the proposition that "when 'disclosures are permissible…we are not persuaded that a law requiring those same donors to be named in an on-advertisement disclaimer is insufficiently tailored'" to the government's informational interest. *No on E*, 85 F.4th at 511)

[44] *See e.g.*, *Family PAC v. McKenna*, 685 F.3d 800, 810 (9th Cir. 2012) (noting that voters might use geographical information "to determine, for example, whether statewide ballot measures are financed by out-of-state contributors, or to determine whether county-wide ballot measures are financed by out-of-county interests."); *SD Voice v. Noem*

influence their governance. After all, the United States *bans* campaign contributions by foreigners.[45] BM 2's disclaimer requirement imposes a much lesser burden which is amply justified by the State's informational interest.

The plaintiffs cannot credibly characterize this interest in information about outside money as "inherently intertwined with racial animus." [Dkt. 157 at 34] "Non-Alaskan" is not a racial group as the plaintiffs at times seem to imply. [*Id*.] All racial groups are represented both within and outside the population of Alaska.

Finally, the plaintiffs argue that the out-of-state disclaimer is not narrowly tailored because it "applies only based on where the majority of contributions come from, not where the group's roots are." [Dkt. 157 at 34] On the contrary, because the purpose of campaign finance disclosures and disclaimers is to inform voters about the money that is funding political causes and candidates, requiring disclosures about the sources of funds (rather than just about who is using those funds) shows that the measure *is* narrowly tailored to the government's interest.

C. The plaintiffs' new, unpled claims are untimely and meritless.

The last four sections of the plaintiffs' motion concern new allegations that the Court should reject as not pled in the complaint. [Dkt. 157 at 37-42] "Rule 8's pleading standard is 'liberal,' but still requires that the defendant receives notice as to what is at

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45 *See Bluman v. FEC*, 565 U.S. 1104 (2012) (summarily affirming decision of D.C. Circuit upholding ban on foreign contributions).

issue in the case."[46] "Summary judgment is not 'a procedural second chance to flesh out inadequate pleadings.'"[47] "After having focused on [one theory] in their complaint and during discovery, [plaintiffs] cannot turn around and surprise the [defendant] at the summary judgment stage' with a completely different theory."[48] Even setting this aside, the plaintiffs mischaracterize the evidence and ignore that this is a facial challenge.

1. The belated vagueness claim fails.

The plaintiffs argue that "the 24-hour true source requirement…fails exacting scrutiny because it is far too vague and ambiguous to pass constitutional muster." [Dkt. 157 at 35] But the amended complaint does not clearly allege that the law is either vague or ambiguous—the only time the word "vague" appears is in paragraph 86 which contains a statement of law, not a factual allegation related to BM2. [Dkt. 40 at 17] The Court should reject this new claim as not fairly encompassed within the complaint.

The claim also fails on the merits. The plaintiffs do not explain why the definition of "true source" is either vague or ambiguous—they complain that it contains "a lot of

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[46] *Earth Island Inst. v. United States Forest Serv.*, 87 F.4th 1054, 1071 (9th Cir. 2023); *see also Pickern v. Pier 1 Imports (U.S.), Inc.*, 457 F.3d 963, 968 (9th Cir. 2006) (holding that a complaint did not satisfy the rule because it "gave the [defendants] no notice of the specific factual allegations presented for the first time in [the plaintiff's] opposition to summary judgment").

[47] *Hartzell v. Marana Unified Sch. Dist.*, 130 F.4th 722, 745 (9th Cir.), *cert. denied*, 146 S. Ct. 298 (2025) (quoting *Wasco Prods., Inc. v. Southwall Techs., Inc.*, 435 F.3d 989, 992 (9th Cir. 2006)).

[48] *Hartzell*, 130 F.4th at 745 (quoting *Coleman v. Quaker Oats Co.*, 232 F.3d 1271, 1292-93 (9th Cir. 2000), alterations by *Hartzell* court).

words but it leaves a lot of grey area on what is and what is not included," but without actually identifying any alleged "grey area." [Dkt. 157 at 35]

Indeed, their only example of the alleged ambiguity rests on their complete misreading of an email from APOC staff to Cheryl Frasca. [Dkt. 157 at 35-36; Plaintiffs' Ex. 7 at) 2-3] The plaintiffs claim that this email "advisory" allows "some groups [to] count federal (but not state) PACs as a 'true source,' thereby creating a giant loophole for sophisticated donors to avoid the requirement altogether." [Dkt. 157 at 36] That is not at all what the email says. Instead, the email confirms that a ballot measure group that receives money from a federal PAC must identify the true sources of the received money, and that the donating federal PAC "must file a report and *identify the true sources of funds* because it is serving as an intermediary." [Plaintiff's Ex. 87 at 3 (emphasis added)] It is only the donors *to the federal PAC* who do not have to file any disclosure reports of their own (i.e., "do not ordinarily have an independent reporting requirement"). [*Id*.] This reading is confirmed by the plaintiffs' source for the email—Ms. Frasca—who explained when she forwarded the email that APOC was confirming "that *donors to* the Federal PAC would not have to file [a disclosure form], given the campaign *has reported the true sources of funds to the Federal PAC*." [*Id*. at 2 (emphasis added)] This email thus reveals no "loophole," much less any ambiguity in the definition of "true source."

The plaintiffs' real complaint appears to be that true sources must be reported within 24 hours, because in their view "there would be little harm in allowing donors extra time to understand this provision's requirements (twenty-five hours, perhaps?)"

[Dkt. 157 at 36] But this makes no sense. Intermediary donors can just figure out their reporting obligations *before making donations*, so the alleged complexity of the requirement does not demand a longer reporting window.

The plaintiffs' goal seems to be to lean into the dissent's concern in *Smith v. Helzer*, that "[e]ven assuming that prompt disclosure is helpful to voters *during an election cycle*, why a 24-hour filing deadline is needed in the lulls between active elections is a mystery."[49] [Dkt. 157 at 36] But reporting requirements need deadlines and the 24-hour deadline makes sense in the election context, so that voters can be informed about last-minute influxes of cash before they cast their ballots. While the law could extend the reporting window for donations made farther in time from an election, a law with shifting deadlines would be *more complicated*, not less.

"Narrow tailoring does not mean perfect tailoring, a goal that is often impossible."[50] Here, the law appropriately balances the need for prompt disclosure of the true source of donations to inform voters with a simple procedure that the plaintiffs have failed to demonstrate is either difficult or burdensome for donors. Indeed, their motion is notably lacking in the many examples of punitive fines for inadvertent or understandable mistakes that would be necessary to establish that the law is facially unconstitutional because it is too ambiguous or complicated to follow.

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49 *Smith v. Helzer*, 95 F.4th at 1233 (Forrest, J. dissenting) (emphasis in original).

50 *Delgado v. Swearingen*, 375 F.Supp.3d 1251, 1258 (N.D. Fla 2018) (citing *Williams-Yulee v. Fla. Bar*, 575 U.S. 433, 435 (2015)).

2. The belated procedural claim fails.

The plaintiffs argue that "[BM2]'s expedited hearing requirement fails exacting scrutiny," but their complaint does not give fair notice of this claim. [Dkt. 157 at 37] The complaint says nothing at all about the hearing process—it contains neither the word "hearing," nor "expedited," nor "process." [Dkt. 40] It does not cite (much less ask the Court to invalidate) the statute on expedited hearings, which is AS 15.13.380, nor the related APOC hearing regulation, 2 AAC 50.888. [*Id.*] The Court should reject this new challenge to these provisions because the complaint does not even hint at it.

Not only that, but the plaintiffs misunderstand APOC's hearing process. The expedited option was not created (or amended) by BM2 as they imply. [Dkt. 157 at 37] Nor is APOC "legally obligated to hold a hearing on a complaint within twenty-four hours" whenever a complainant requests expedited consideration. [*Id.*] Rather, APOC must decide within two days *whether to expedite*.[51] Alaska Statute 15.13.380 (which the plaintiffs do not even cite in their motion, much less their complaint) lays out the criteria, including whether the alleged violation "could materially affect the outcome of an election." Having this expedited option is necessary given the time-sensitive nature of elections. Any such option would be useless if APOC did not promptly decide *whether to expedite*. The mere existence of an expedited option is not a First Amendment violation. The plaintiffs produce no evidence that APOC frequently expedites, expedites when unwarranted, or denies respondents adequate process.

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[51] AS 15.13.380(c).

The plaintiffs misreport what happened with the complaint that they use as an example. [Dkt. 157 at 37] They do not show that FLF was unable to defend itself or wrongly penalized. The prompt hearing they criticize was not on the merits, but just on whether to expedite.[52] Once APOC decided to expedite, a merits hearing was held six days later.[53] APOC then remanded the issues to its staff to consider under a normal timeframe.[54] As for FLF's speech being "precleared," only a formal advisory opinion provides a legal safe harbor,[55] not informal staff advice like the plaintiffs cite here. [Dkt. 157 at 37] In any event, this is a facial challenge, not an as-applied one.

3. The belated excessive fines claim fails.

The plaintiffs argue that "[BM2]'s penalties are far too high and subjective," but again, their complaint does not even hint at such a claim. [Dkt. 157 at 38] The complaint does not contain the word "fine" nor "penalty," nor "high," nor "subjective." [Dkt. 40] It does not even cite, much less challenge, the penalty statute, AS 15.13.390, or the related

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52 *See* Alaska Public Offices Commission, Minutes – Special Commission Meeting (Oct. 24, 2024), *available at* https://aws.state.ak.us/ApocReports/Paper/Download.aspx?ID=26883 (noting that "the purpose of the special meeting is to address two items" including "a request for expedited consideration of complaint 24-08-CD").

53 *See* Alaska Public Offices Commission, Notice of Hearing, *907 Initiative v. Families of the Last Frontier*, Case No. 24-08-CD, *available at* https://aws.state.ak.us/ApocReports/Paper/Download.aspx?ID=26387 (setting a merits hearing on complaint 24-08-CD for October 30).

54 *See* Alaska Public Offices Commission, Emergency Order, *907 Initiative v. Families of the Last Frontier*, Case No. 24-08-CD (Oct. 31, 2024), *available at* https://aws.state.ak.us/ApocReports/Paper/Download.aspx?ID=26404.

55 *See* AS 15.13.374.

APOC regulations, 2 AAC 50.855-.865. [*Id.*] The Court should reject this new challenge to these provisions as not fairly encompassed within the complaint.

The penalty provisions do not violate the First Amendment, and the plaintiffs misunderstand them in asserting that they are impermissibly standardless. [Dkt. 157 at 38-39] In fact, APOC's regulations contain extensive rules about how penalties will be reduced or waived based on factors like filer inexperience or technical problems.[56] This has not been explored in this case because the complaint did not challenge the penalty provisions set forth in Alaska statutes and regulations.

Alaska law also contains structural safeguards against possible bias in imposing penalties: the governor appoints two commissioners each from the two most successful political parties and the fifth commissioner is appointed after nomination by a majority of the others.[57] To avoid even the appearance of bias, the commissioners may not engage in political activities or hold elective office while serving, and must withdraw from a matter if they have a conflict of interest or cannot be fair.[58]

And again, the plaintiffs misreport what happened in their sole example. APOC did not "knowingly fine[] someone for a donation they knew he did not make." [Dkt. 157 at 39] In fact, the donor gave $90,000 to an association whose bank account he controlled, and he then facilitated the transfer of that same amount from the association to

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[56] *See* 2 AAC 50.855-.865.

[57] AS 15.13.020(b)–(c).

[58] AS 15.13.020(e); AS 44.62.450(c); 2 AAC 50.835.

the recipient.[59] Thus, APOC found that he was the true source of $90,000 that went to the recipient, and the specific way the money travelled—check or cash—did not change that.[60] That case is still on appeal before the Alaska Supreme Court.[61] In any event, this is a facial challenge, not an as-applied challenge by this donor who is not a party.

4. The belated strict liability claim fails.

Finally, the plaintiffs argue that "[BM2] fails exacting scrutiny because it imposes strict liability for core political speech," but once again their complaint contains no whiff of this theory. [Dkt. 157 at 40] It does not contain the words "strict liability," nor "mens rea," nor "inadvertent," nor "accident," nor "mistake." The Court should reject this new theory as not fairly encompassed within the complaint.

This new theory is meritless anyway. These are all civil laws, so it is of no matter that "[s]trict liability is generally disfavored in criminal law." [Dkt. 157 at 40] The plaintiffs do not argue (or apply the high standard for asserting) that these laws are actually criminal.[62] [*Id.*] Most of the cases they cite, including their D.C. Circuit and

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59 *See* Alaska Public Offices Commission, Final Order at 9-10, 18, 22-23, 27-29, *Alaskans for Better Elections v. Alaskans for Honest Elections et al.*, Case No. 23-01-CD (Jan. 3, 2024).

60 *See id*.

61 *See Alaskans for Better Elections, Inc. v. Alaskans for Honest Elections et al.*, Alaska Supreme Court Case No. S-19221/19201, *docket available at* https://appellate-records.courts.alaska.gov/CMSPublic/Case/General?q=w6sobc/DATcqp/e70sm2YQ==%27.

62 *See Hudson v. United States*, 522 U.S. 93, 100 (1997) ('[O]nly the clearest proof' will suffice to override legislative intent and transform what has been denominated a civil remedy into a criminal penalty.") (quoting *United States v. Ward*, 448 U.S. 242, 249 (1980)).

Ninth Circuit examples, were criminal cases.[63] And the civil cases they cite do not support their theory either. [Dkt. 157 at 40] The Ohio court did not "str[ike] down" a "strict liability regime," it narrowly construed a provision to avoid imposing "absolute liability for the actions of third persons."[64] The Colorado court similarly held that a provision "was not intended to impose strict liability."[65] None of this would support declaring any Alaska law facially unconstitutional even if this claim had been pled.

IV. Conclusion

Because the plaintiffs have failed to offer any real evidence to support their claim that Alaska's disclosure and disclaimer laws are facially unconstitutional, this Court should deny their motion for summary judgment.

DATED: May 29, 2026.

CORI MILLS
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63 *See United States v. Sheehan*, 512 F.3d 621, 629 (D.C. Cir. 2008); *United States v. Pasillas-Gaytan*, 192 F.3d 864, 868 (9th Cir. 1999).

64 *In re Jud. Campaign Complaint Against Stormer*, 1 N.E.3d 317, 322 (Ohio 2013).

65 *Dallman v. Ritter*, 225 P.3d 610, 629 n.30 (Colo. 2010).

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I certify that on May 29, 2026, the foregoing **State's Opposition to Plaintiffs' Motion for Summary Judgment** was served electronically on:

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Rebuttal Report

Submitted by **Abby K. Wood, Ph.D.**

Smith et al v. Stillie et al
Case No. 3:22-cv-00077-SLG
U.S. District Court for the District of Alaska

December 5, 2025

I. **Summary**

Counsel for Alaska asked me to respond to the expert reports by Professor Primo and Mr. Hackney.

The Supreme Court has said for over 50 years that campaign finance disclosure can inform voters. The court is correct, as several scholars have shown. Voters learn campaign finance information from intermediaries. Scholars have long studied voter decision-making and have systematically categorized modes of decision-making, one of which is the use of heuristics. Professor Primo argues that disclosures and disclaimers don't "meaningfully improve voter knowledge," but his evidence for this is based on memory tests of survey respondents, rather than seeing how providing campaign finance information changes voters' choices. Along the way, Professor Primo ignores or misinterprets solid, peer-reviewed studies in the literature related to voter learning. Voters do not need to be able to have perfect recall about interest group names to be able to use information about key supporters to vote in a way that aligns with their preferences. Voters use campaign finance information as a heuristic, or informational shortcut. Theories of voter behavior explain that there are several modes of voter decisionmaking, including subtypes of heuristics, like a "deal-breaker heuristic."

Professor Primo also writes that the informational benefits of campaign finance disclosure disappear in the presence of party cues. He relies heavily on a study by Robinson, which has some difficulties, which I explain, after describing his study more fully. Robinson's study was built upon two additional studies that go against Professor Primo's argument. I describe and explain them.

Professor Primo and Mr. Hackney are concerned about chilling of donations due to regulation in Alaska. Professor Primo argues that disclosures will dissuade contributors "due to the costs – pecuniary and otherwise – these rules impose on them." While it seems possible that such chilling could occur, evidence of chilling is extremely limited. Scholars have also observed evidence of "thawing." Moreover, we do not observe evidence of chilling in the Alaska context, particularly for out-of-state donors.

Mr. Hackney raised concerns about compliance struggles due to campaign finance requirements. This area is understudied, but there are strategies that regulators use to reduce compliance costs.

II. **Campaign finance information can improve voter knowledge, and voters usually learn it via intermediaries**

A good deal of peer-reviewed, social science research finds that campaign finance disclosures (1) contain useful information, and (2) can help inform voters. Campaign finance disclosures are perhaps most informative in the aggregate. Professor Bonica, through the Database on Ideology, Money in Politics, and Elections (DIME) at Stanford University, has shown that donor information allows scholars to place candidates on the left-to-right political spectrum.[1] Indeed, in a 2018 paper, Bonica used campaign finance information to estimate roll call votes with a very

[1] Adam Bonica, Mapping the Ideological Marketplace, 58 Am. J. Pol. Sci. 367, 367– 87 (2013).

high degree of precision.[2] This is especially useful when it comes to challengers. Prior to the DIME dataset and Bonica's ideology scores derived from campaign finance information, voters could learn about *incumbents* using DW-NOMINATE scores, which are built from legislative votes. But no one had a consistent, apples-to-apples measure of candidate ideology for *challengers* before Bonica created his measures using campaign finance data.

As a series of scholarly articles discussed below show, voters who have information about campaign financing tend to learn from it. We know this because they express different vote choices compared to voters who lack it. One plausible explanation for the way they use campaign finance information to inform their votes is as a heuristic, or informational shortcut.

A. Heuristics are a helpful framework for voter learning, and Professor Primo's objections ignore the role of intermediaries.

Professor Primo's first claim is that Professor Lupia's 1994 study[3] does not test whether voters learned information about who supports which side of a ballot initiative campaign through campaign disclosures, specifically, or because the parties "made their views publicly known (or had activists like Nader making their views known for them)."[4] I describe Lupia's study, then explain that Professor Primo's challenge is unlikely to matter due to the ubiquity of funding information available to voters for the ballot measure Lupia studied.

Professor Lupia was interested in how relatively uninformed voters can still manage to cast the same votes they would cast if fully informed. He used the 1988 elections in California as a testing ground. The ballot that year contained five competing ballot initiatives about auto insurance. Professor Lupia and his students conducted exit polls to learn about voters' general level of political information, the information they had about the competing initiatives, and their reported vote choices on those ballot initiatives.

Professor Lupia and the students he trained to conduct surveys do not ask voters *how* they know what they know. Professor Primo is correct about that. They simply test voters' knowledge about which entity—trial lawyers, the insurance industry, or Ralph Nader—"support" which of the ballot initiatives. "Support" for ballot initiatives includes everything from gathering signatures to running ads—both costly endeavors requiring financial support—to endorsing, which may not include financial exchange (though I found financial support behind "support" studied by Lupia in all but one case).[5]

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[2] Adam Bonica, "Inferring Roll Call Scores from Campaign Contributions Using Supervised Machine Learning," 62 Am. J. Pol. Sci. 830 (2018).
[3] Arthur Lupia, Shortcuts versus Encyclopedias: Information and Voting Behavior in California Insurance Reform Elections, 88 American Political Science Review, 1 (March 1994),p. 64.
[4] Primo report, p. 5.
[5] We know that Ralph Nader was the spokesperson for the only proposition that passed, but we do not know whether he was also a donor, and I didn't have time to file a records request to see his donations in California in 1988, if any. We know that members of the insurance industry were centrally important donors for three of the other propositions, none of which passed, and that the trial lawyers were the primary funder of Prop. 100, which also did not pass. Interestingly, the results in Lupia's study are statistically significant for knowledge of insurance- and lawyer-sponsored propositions, but not for the Nader proposition (where we don't know whether he actually donated).

The following list summarizes the insurance-reform propositions California voters faced on the ballot in 1988, which were at issue in Professor Lupia's study.[6]

- Proposition 103 was sponsored by a consumer group (Voter Revolt). Ralph Nader was the primary spokesman for the group. It won, with 51.1% of the vote.
- Proposition 100 was sponsored by the California Trial Lawyers Association. It received 40.9% of the vote.
- Proposition 104 was a no-fault initiative, which was sponsored by the insurance industry, and was their favored proposition "as evidenced by the fact that the insurance industry spent much more to promote this proposition than it did to promote the others." It was approved by 25.4% of the voters.
- Proposition 101 was sponsored primarily by one insurance company and received 13.3% of the vote. It called for a temporary reduction of the bodily injury portion of insurance premiums.
- Proposition 106 was also sponsored by the insurance industry. It received 46.9% of the vote. It placed limits on attorney contingency fees in tort cases.

Opponents of campaign finance disclosure often write about the supposedly overwhelming amount of information available to voters. They tend to claim that voters don't access those data, that it's too much information for anyone to process, and that we might find such raw materials to be confusing (Primo Report at 7, calling it a "flood of information"). But voters do not have to access the campaign finance information directly to learn who supports various ballot initiatives or candidate campaigns – even though sometimes the media, including in Alaska, puts out how-to guides on doing so.[7] News reporters, government watchdogs, and political and policy opponents have professional and/or political incentives to comb through campaign finance data and distill it for the public. In the academic literature, we call these people "information intermediaries." Information intermediaries distill many kinds of mandated reporting for the public, not just campaign finance disclosures. For example, Guidestar.com contains information from nonprofit organizations' IRS 990s so potential donors don't have to read them; consumer websites recommend cars based on data that the manufacturers disclose to the EPA;[8] and news sources like The Weather Channel rely on government data to inform us about weather without having to digest raw data.[9] OpenSecrets gathers and digests political contribution and spending data to make it available for public use.[10] And, having served on the board of OpenSecrets, I can also attest to the fact that the organization works with journalists, who serve as additional intermediaries for the public.

The same was true in the 1988 election that Professor Lupia studied. In deciding between insurance-related ballot initiatives, voters were not required to individually access actual

[6] I am paraphrasing and sometimes directly quoting the study in the list here, but I only include quotation marks for longer quotes.

[7] James Brooks, "Here's How to Track Campaign Cash in Alaska Elections," Alaska Public Media, Sept 29, 2022, https://alaskapublic.org/news/2022-09-30/heres-how-to-track-campaign-cash-in-alaska-elections

[8] GuideStar's website is https://www.guidestar.org; Car and Driver's Rankings on Gas Mileage are available at https://www.caranddriver.com/rankings/best-sedans/gas-mileage.

[9] https://www.npr.org/2025/05/19/nx-s1-5389593/weather-forecast-radar-satellites-storms-noaa

[10] OpenSecrets' website is https://www.opensecrets.org. I have served on the boards of both OpenSecrets and the state-data predecessor, National Institute for Money In Politics.

campaign finance records to know who supported which initiatives, including financially. In California, the Secretary of State sends information to every registered voter before statewide elections. So voters simply had to read the 1998 California Ballot Pamphlet,[11] which was a 160-page booklet mailed by the California Secretary of State to all registered voters, as well as to libraries and schools. As required by statute, the Ballot Pamphlet contained information about each ballot initiative, with opportunities to argue for and against them, and to rebut the arguments given. The groups doing the arguing are an example of information intermediaries. Figure 1 illustrates.

> Some insurance companies disagree with "no fault," so they're financing Proposition 101, which claims to make the biggest cut in auto insurance. But the big cut they boast about affects only one portion of your auto insurance—they could raise premiums for the rest of your coverage as much as they want. In return, Proposition 101 allows insurance companies to avoid full payment for accidents. It, too, cancels many of the auto insurance reforms in Proposition 103.
>
> Insurance companies are also financing Proposition 106, which restricts your right to quality legal counsel. The insurance companies claim Proposition 106 will cut their costs. In fact, it will limit your ability to make the insurance companies pay up.
>
> Proposition 100, which is paid for by trial lawyers and bankers, simply does not go far enough to protect consumers' interests. Unlike Proposition 103, it does not automatically and immediately cut insurance rates. Nor does it enable consumers to permanently unite to fight against insurance abuse, as Voter Revolt's Proposition 103 does.
>
> Proposition 103 is the only initiative written and paid for exclusively by consumers. It will save you the most money.

Caption: Excerpt from the Arguments in Favor of Proposition 103, the only proposition to receive more than 50% of the vote. This arrived via mail to every household in California where a registered voter lived. The financing behind each of the propositions under consideration is mentioned here (Prop 104's funding is in the prior column, not shown, but it says that the insurance companies "are spending tens of millions of dollars to advertise that [Prop 104] is better for consumers than Proposition 103.") See Appendix for more.

I quote the Ballot Pamphlet's mentions of campaign financing for the Propositions in Lupia's study in Table 1. The relevant pages are in the appendix to this report.

[11] It is now called the Voter Information Guide.

Source	Claims re: financial support for "Source" Proposition
Prop. 103 (the only proposition to pass)	The Argument in Favor discussed campaign financing of all competing propositions: "Proposition 103 is the only initiative written and paid for exclusively by consumers." "Proposition 100, which is paid for by trial lawyers and bankers, …." "Some insurance companies disagree with "no fault," so they're financing Proposition 101…" "Because the polls showed that the insurance industry could not defeat Voter Revolt's 103 directly, the insurance companies came up with a plan to defeat it indirectly. They are pushing Proposition 104 – the so-called "no fault" proposition – and are spending tens of millions of dollars to advertise that it is better for consumers than Proposition 103." "Insurance companies are also financing Proposition 106…" - All from Argument in Favor, p. 100
Prop 100:	"Proposition 100 is supported by MADD, Consumer Federation of America, Insurance Consumer Action Network, National Insurance Consumer Organization, Congress of California Seniors and Common Cause" - Argument in Favor, p. 88 "PROP 100, written and primarily funded by lawyers, is a special-interest initiative designed to protect the substantial income trial lawyers make from litigation." – Rebuttal to Argument in Favor, p. 88 "DON'T BE FOOLED BY THE LAWYERS' INITIATIVE." – Argument Against, p. 89 "Proposition 100 is supported by the most diverse coalition of any insurance reform measure on your ballot, including: CALIFORNIA MOTHERS AGAINST DRUNK DRIVING (MADD), Congress of California Senators, Common Cause, LEAGUE OF CALIFORNIA CITIES, Consumer Federation of America, National Insurance Consumer Organization. And, for the first time in California history, consumer organizations have been joined by financially equipped allies, like bankers and lawyers, who provide the resources necessary to fight the insurance industry's $30 campaign warchest!" [sic] – Rebuttal to Argument Against, p. 89
Prop 101	"Proposition 101 was drafted and is supported by insurance companies. Official records of the California Secretary of State show that as of July more than $1.7 million, over 92% of Proposition 101's budget, was contributed by one insurance company and its holding company." - Rebuttal to Argument in Favor, p. 92
Prop 104	"Proposition 104 was written, and is being paid for, by the insurance companies…. Because the insurers were afraid they would be unable to defeat 103, they decided to spend $23 million to pass 104…. Where will the $23 million come from? According to the Los Angeles Times (July 8, 1988), $2.3 million will come from State Farm, $2.1 million from Farmers, $1.4 million from Allstate, and the rest from other insurance companies." - Rebuttal to Argument in favor, p. 104

	"The insurance industry is spending millions of advertising dollars to say "Trust us…. Don't be misled by the insurance industry's advertising campaign." – Argument Against, p. 105
Prop. 106	"Don't let insurance companies trick you. They wrote and financed Proposition 106…" – Rebuttal to Argument in Favor, p. 112 "Proposition 106 is the most insidious insurance industry-sponsored initiative on this ballot…. Why are insurance companies behind Proposition 106? Because the insurers who are bankrolling this initiative …" – Argument Against, p. 113

Table 1: Examples of campaign finance language received by every registered voter in California, related to the ballot initiatives studied by Professor Lupia, who finds that low information voters who know who supports ballot initiatives can make the choice that aligns with their preferences better than low information voters who do not know who supports those initiatives.

Every household with a registered voter in California received this information about campaign financing. The Ballot Pamphlets were also sent directly to schools and libraries. And, of course, newspapers also covered these initiatives and the three main players ran ads – a lot of them. As Professor Lupia explains, "Together, these three groups [(the insurance industry, the California Trial Lawyers Association, and consumer activists)] spent more than $82 million on the campaign…. After reading through the campaign receipt and expenditure documents that were filed with the state, I can confidently assert that there did not exist an organization for which this classification (of campaign organizations' primary sources of funding) was not obvious."[12] I include his expenditure table below.

TABLE 1

Campaign Expenditure by Organization

CONTESTANT ORGANIZATION	RECOMMENDED VOTE	EXPENDITURE ($)
Insurance Industry		
Citizens for No Fault	yes on 104 and 106, no on 100 and 103	$41,402,392
Californians against Unfair Rate Increases	no on 100 and 103	14,951,162
Consumers for Lower Auto Insurance Rates	yes on 101	5,401,934
Committee for Fair Lawyers Insurance Fees	yes on 106	2,523,599
American Insurance Association	yes on 104	730,575
Committee for Fair Auto Insurance Ratings	no on 100 and 103	39,323
Total		$65,048,985
Trial lawyers		
Good Driver Initiative	yes on 103	$13,786,653
No on 106	no on 106	624,449
Consumer Coalition against 106	no on 106	401,704
No on Proposition 106 Committee	no on 106	172,737
Consumer/Legal Equal Justice Committee	no on 106	20,000
Total		$15,005,543
Consumer activists		
Voter Revolt for Lower Insurance Rates	yes on 103	$ 1,932,902
Californians for Honest Insurance	no on 101,104, and 106	24,005
Friends of Motorcycling	yes on 100, no on 101, 104, and 106	22,500
Santa Cruz Committee for Consumer Justice	yes on 100, no on 104	6,117
		$ 1,985,524
Total	—	$82,040,052

Table 2: Professor Lupia's table of expenditures in the 1988 California ballot initiative campaigns.[13]

[12] Lupia, supra n. 3 at 65.
[13] Professor Lupia also points out that the names of these organizations were chosen to "attempt to represent themselves, and their initiative, as "proconsumer" regardless of their source of financial support," because "the

Professor Primo's apparent willingness to disregard Professor Lupia's study is misplaced. The California voters in the study had campaign finance information available to them, in their homes, 24 hours a day, for at least 10 days before the elections. This information is not in fleeting advertisements. It is information about who supports—financially and otherwise—each of these ballot initiatives. The voters could use the "who supports" information as a shortcut. In such an information-saturated environment, it would be absurd to claim that campaign finance information is the <u>only</u> information these voters used. But it is equally absurd to suggest that they did *not* use it to answer Professor Lupia's team's questions, given how important campaign financing is in the Arguments For, Arguments Against, and Rebuttals provided to every registered voter in California in the weeks leading up to the election.

A more recent study about heuristics might also be of interest to the court. Professor Daneri's recent *Political Behavior* article shows that when voters—in his case, self-identifying Democrats—are told that a major player in the labor or business side of the political divide supports one or the other side of a ballot initiative, the mere fact of their support can have statistically significant impacts on the voters' choices.[14] It can cause them to abandon positions they had previously expressed, especially if public opinion hasn't crystallized.

In the battle around California's Proposition 22, business and unions spent $224 million to influence voter opinion around whether rideshare drivers should be classified as independent contractors and not employees. In Colorado's Proposition 118, $10 million were spent supporting and opposing mandatory parental leave for workers in Colorado – an idea around which public opinion had crystallized. Professor Daneri approximated that experience in a survey experiment for the low-crystallization issue (California's independent contractors) and the issue with firmer public opinion (Colorado's paid parental leave). He surveyed Democrats, randomizing them into three treatment conditions: control (ballot language only), ballot language + logos (union or corporate logos with a statement that these groups oppose [unions] or support [corporations] the policy), and ballot language + logos + arguments in favor.

For the union logo treatment, the language said "Please carefully review some more information about the policy you just read about. The following organizations, among others, have come out *against* this legislation: American Federation of Labor & Congress of Industrial Organizations, Service Employees International Union, Teamsters Union, UNITE HERE, United Food and Commercial Workers," and each organization name had its corresponding logo beneath it. The prompt went on: "Now, thinking again about the legislation you read about, do you support it?" And the respondents could choose "Yes, I support this legislation" or "No, I do not support this legislation." The corporate treatment was the same, but instead of unions, it featured Uber, Lyft, U.S. Chamber of Commerce, Business Roundtable, and Instacart, with their logos, "in *support* of this legislation."

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insurance industry and trial lawyers did not want to be used as reference groups by the voters." This is a concern that is also raised by Broockman, et al. We will return to it later.

[14] Daniel R. Daneri, Labor vs. Big Business: Interest Groups, Cue-Taking, and Voting Behavior, Political Behavior (2025); https://doi.org/10.1007/s11109-025-10010-0.

After each piece of information was received by respondents in the ballot language + logos and ballot language + logos + arguments treatments, they were asked whether they supported the ballot proposition. Political scientists often do not ask people about support of a policy or candidate both before and after treatment, since answers given pre-treatment can anchor respondents' opinions and make them more likely to give the same answer post-treatment. It limits our ability to show an effect from treatment. However, Professor Daneri finds that his treatments cause respondents to answer differently, despite potential anchoring effects. When informed of support from either labor unions or businesses, some voters used the fact of that support as a heuristic and changed their votes, toward unions and away from corporations. Even without having the argument before them, the respondents used the *fact of the groups' support* as a heuristic.

Of course, the words "against" or "in support of" do not automatically mean that the groups have spent money to support or oppose the policy. But I found contributions by state, local, and national-level organizations as they advertised their positions for either Prop 22 in California, Prop 118 in Colorado, or both.[15] (Professor Daneri probably listed national-level organizations because he was surveying respondents outside of California and Colorado, the two states where voters had prior exposure to the language in the survey via their own ballot initiatives.) Table 3 summarizes the data, as reported by OpenSecrets, Ballotpedia, and the CAL-ACCESS database.

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[15] The information used here is from the following sources:
https://www.opensecrets.org/ballot-measures/CA/2020/50168797/summary;
https://ballotpedia.org/California_Proposition_22,_App-Based_Drivers_as_Contractors_and_Labor_Policies_Initiative_(2020)#:~:text=Brandon%20Castillo%2C%20a%20spokesperson%20for,(not%20adjusted%20for%20inflation);
https://ballotpedia.org/California_Proposition_22,_App-Based_Drivers_as_Contractors_and_Labor_Policies_Initiative_(2020)#Opposition;
https://www.powersearch.sos.ca.gov;
https://www.opensecrets.org/ballot-measures/committees/colorado-families-first/50871683/2020;
https://www.opensecrets.org/ballot-measures/committees/not-now-colorado/50871684/2020.

There were two organizations I could not find reported contributions from in the Colorado data that were involved in ways that implicated spending money: Colorado's Business Roundtable and the Colorado Chamber of Commerce created a podcast and a YouTube video to oppose Prop 118. Business Roundtable has a Colorado branch that hosted a podcast called "Vote No on Proposition 118 featuring Kristi Pollard" and posted the link on their website. (They did not report this on their Form 990 for that year, but it seems like the kind of thing that might be regulated at the state level, if not also the federal level. https://www.cobrt.com/vote-no-on-proposition-118-featuring-kristi-pollard/) The other organization was the U.S. Chamber of Commerce. However, the Colorado Chamber of Commerce did post a video opposing the proposition on their YouTube channel.
https://www.youtube.com/watch?v=HeODZR_zxE4.

Ballot Measure Committee Name	Position	Amount - California	Amount - Colorado
Teamsters – various Councils and locals	Oppose	$ 932,802	
SEIU – various (State Council and Locals)	Oppose	$5,120,404	$108,535
Unite Here - various	Oppose	$ 770,000	
American Federation of Labor & Congress of Industrial Organizations	Oppose	$ 250,000	
United Food and Commercial Workers – various	Oppose	$4,225,000	
Uber	Support (to committee)	$59,449,969	
Lyft Inc.	Support (to committee)	$48,646,083	
Maplebear Inc DBA Instacart	Support (to committee)	$31,578,025	

Table 3: Donations from corporations in California and Colorado, to show that "Support" in the logo treatment is tied to financial support for one or both of the initiatives.

As the Lupia and Daneri studies demonstrate, campaign finance information is used by voters—perhaps as a heuristic—to help inform their electoral choices.

B. The Supreme Court's argument about disclosure informing voters is about how voters can better understand candidate positions for the purpose of voting. Professor Primo asks a different question, about memory. But perfect recall is neither necessary nor sufficient for voters to use campaign finance information to inform their votes.

According to the *Buckley* majority, the information disclosed pursuant to campaign finance disclosure regulations "allows *voters* to place each candidate in the political spectrum more precisely than is often possible solely on the basis of party labels and campaign speeches" (emphasis added).[16] The majority said, "[t]he sources of a candidate's financial support also alert the *voter* to the interests to which a candidate is most likely to be responsive and thus facilitate predictions of future performance in office" (emphasis added).[17] The Court writes about citizens in their capacity as *voters* and is clearly interested in campaign finance information supporting voter decision-making at the ballot box. Nowhere does the Court assume that campaign finance information must give voters an encyclopedic knowledge of how vaguely named interest groups spend their money to have informational benefits for voters. Yet Professor Primo raises this issue in his report, discussing his own research and in response to Ridout, et al.'s work. In this subsection, I focus on the limitations of Professor Primo's 2013 article.

[16] *Buckley v. Valeo*, 424 U.S. 1, 67 (1976) (per curiam).
[17] *Buckley v. Valeo*, 424 U.S. 1, 67 (1976) (per curiam).

In his report, Professor Primo claims that his 2013 study "show[s] that survey respondents with access to disclosure information did no better than respondents without such information in identifying the positions of interest groups on a ballot measure." While the "memory test" outcome of the article is not central to our jurisprudence, Professor Primo relies heavily on this article in his report. I will explain his study, and then I will explain weaknesses in his research design as well as the poor fit between his study and the jurisprudence.

Professor Primo conducted a survey experiment on Florida voters as part of his work as an expert witness. The study was funded by Institute of Justice, his client, which was engaged in litigation to challenge campaign finance laws in Florida and Mississippi. The study randomly assigns Floridians to one of three treatment groups: A, B, and C. All groups are provided with the following prompt:

> "Voters in Florida are able to vote directly on issues that appear on election ballots, in what are referred to as ballot issues. (These ballot issues are also referred to as initiatives and referenda.) Please read the following text of a ballot issue that could be considered in Florida, as it has been in other states.
>
> "Shall state taxes be increased one hundred fifty thousand dollars annually by an amendment to the Florida constitution that eliminates a state income tax benefit for a business that pays an unauthorized alien to perform labor services, and, in connection therewith, prohibits certain wages or remuneration paid to an unauthorized alien for labor services from being claimed as a deductible business expense for state income tax purposes if, at the time the business hired the unauthorized alien, the business knew of the unauthorized status of the alien unless specified exceptions apply and, to the extent such a payment was claimed as a deduction in determining the business' federal income tax liability, requires an amount equal to the prohibited deduction to be added to the business' federal taxable income for the purpose of determining state income tax liability?"

Group A, the control group, is then asked how they would vote on the ballot issue (yes, no, unsure).

Groups B and C are next shown the following:

> Before being asked how you would vote on this issue if it were on the ballot in Florida, you will be given the opportunity to review information regarding the ballot issue. You can review as much or as little of it as you would like. Once you have finished reviewing this information, please click the forward arrow button below. You will then be asked how you would vote on this measure if it were on the ballot in Florida.

Groups B and C are then presented with a page with links to 13-15 items:

- Newspaper articles and editorials: Respondents assigned to Groups B and C are given links to ten articles that do *not* contain campaign finance information but do contain other information; Group C gets two additional articles that contain campaign finance information. However, importantly, only one of those additional articles is obviously about campaign finance, based on its headline ("Elite Donors Fuel Ballot Initiatives").

- A voter guide
- Two campaign ads (one for each side)

Professor Primo does not provide screenshots of the links presented to Groups B and C, though he does say that the newspaper links were presented in a random order. Only 1 out of 15 items for Group C was obviously about campaign finance information, making this an extremely weak treatment. Table 4, below, is from the paper and shows the headlines that Professor Primo provided. While we do not have a screenshot of what respondents saw, it is safe to assume that he did not provide the bold subheadings in Table 4 to the respondents and that those were only provided to the journal.

	Group B (N=*347)*	*Group C* (N=*345)*
Newspaper Articles and Editorials		
Floridians to Determine Fate of Wage Deduction for Illegal Aliens	13.7%	16.8%
Amendment 32 Targets Illegal Employers	20.5%	10.8%
Endorsements: Statewide Initiatives	15.0%	13.2%
Focus on IDs Questioned	16.3%	13.0%
Yes on 32: Voters Can Send a Message on Immigration	13.5%	17.4%
Amendment 32 May Sound Good but It Is Full of Loopholes	16.6%	12.7%
Approval Urged on Immigration Issue	15.3%	10.5%
Ballot Issues Can Mislead	17.5%	15.3%
Amendment 32 Called Gesture	12.6%	14.9%
Overview of Miami Herald Positions on Statewide Issues	17.8%	11.3%
Articles with Campaign Finance Information		
Elite Donors Fuel Ballot Initiatives	n/a	6.9%
Immigration Measures Make Ballot	n/a	7.7%
Voter Guide		
Voter Guide	32.2%	31.8%
Campaign Ads		
Yes on 32 (Defend Florida Now)	26.5%	26.8%
No on 32 (Color of Justice)	28.4%	25.6%

Notes: Group B was provided access to no campaign finance information. Group C had access to this information. Figures are the percentage of respondents in each group who viewed a given item. Calculations are based on weighted figures.

Table 4: Primo, 2013, Table 4. It shows over a dozen links provided to respondents in his treatment groups. Group B was not given the two articles that contained campaign finance information (one with "donors" in the title and one with a title that did not hint that it contained campaign finance information). Group C was given those two articles. In the caption, Primo claims that Group B was provided access to no campaign finance information, but as I explain below, I think this is likely incorrect and that Group B members could easily infer financial support from the descriptive website at the bottom line of the ads provided.

Groups B and C were then prompted to vote on the ballot issue. Professor Primo does not report whether Groups B and C, who had access to additional information, made a different vote choice on the ballot issue than Group A.[18] After giving their vote choice, respondents from all groups were then prompted as follows:

> Below is a list of groups that have taken or could take a position on this ballot issue. Based on your existing knowledge of the issue, as well as any information obtained during this survey, please assess the likely position of each group on this ballot issue.

The list contained 13 groups.

Finally, respondents were asked "a series of basic demographic questions, questions about party affiliation, and seven informational questions designed to assess their political sophistication by testing their knowledge about basic political facts."

There are several problems with this research design.

First, it is important to understand why experiments are a good way to test whether X causes Y. A well-designed experiment helps us establish causation. It is high in *internal* validity and allows us to say with confidence that X causes Y. Without internal validity, we cannot say whether X does or does not cause Y.[19] Among other requirements, to have internal validity, a treatment must (1) be similar enough to the other (control) conditions that we can say that they were equivalent but for *one* difference—the treatment, and (2) be of a strong enough dose to cause an observable effect if one exists.

Internal validity is threatened when the control and treatment groups differ in more than one way. Consider an experiment about blood pressure medication. In a well-designed experiment, everyone in a treatment group will take the same number of pills. There may be multiple treatment groups, as well: one that takes one pill, one that takes two pills, and one that takes three pills. The pills will look identical to each other and will contain the medication under examination and only that medication. The control group may also take a pill—a placebo pill that lacks the active ingredient. Assuming other experimental requirements are met, then when control and treatment conditions are as identical as possible in all respects except for the variable being studied, any observed differences in outcome (Y) can be attributed to the treatment itself (X). We can say that X caused Y.

Researchers go to great lengths to make treatment conditions extremely similar. One example follows in the next subsection, in which I describe the study conducted by Ridout et al. Those scholars provided text to respondents in Conditions 3 and 4; the prompts had nearly identical opening sentences. Only the final sentences—containing the treatment information—were

[18] This is a strange choice. Professor Primo does not seem to have pre-registered his hypotheses, so we can't know whether he analyzed but decided not to report out the results. The fact that he includes these questions in the survey—and reports to the reader that he asked the question—suggests that he thought that, at the time of survey design, it seemed an important hypothesis to test. Indeed, to be in conversation with scholars such as Lupia, analyzing and reporting out these data Professor Primo gathered would be crucial.

[19] Experiments may be low in *external* validity, or our ability to say that people out in the world would behave the same as the people in experimental conditions. Researchers choosing to run experiments often accept that tradeoff, in an effort to at least establish causation, even though the outside world is outside of experimental control.

substantively different from each other. Moreover, the texts were similar in length: Condition 4 had only 23 words more than Condition 3.

The Primo study's design does not control information tightly enough for us to learn from it. The control condition (Group A) contains only 137 words. The treatment conditions contain over 4800 (Group B) and over 5700 (Group C) words, *all optional*.[20] Every member of Groups B and C self-selects into some level of treatment. No treatment dose is randomly assigned and controlled in the study. If this were a blood pressure experiment, the control group may be told to take one (sugar) pill, and other groups would be told to take as many pills as they want of 13 (Group B) or 15 (Group C) differently sized and shaped pills, all at their discretion. Among the pills offered to Group C, only 2 would have the medicine being studied—the campaign finance information—but only one of those "true treatment" pills would show on its face that it contains the medicine (has "Donors" in the article's title). Campaign finance information is a needle in a haystack—or a hard-to-find pill in a bottle—for the group under study (Group C).

Relatedly, when it comes to analysis, I cannot find evidence of Professor Primo controlling for dosage, or the level of comprehensiveness in the respondents' information searches. He divides respondents by the type of information they viewed (none, voter guide only, "news/ads," voter guide + "news/ads" and, for Group C, whether the "news/ads" contained campaign finance information. As best I can tell, his Group B and Group C categories for "news/ads only" lump together the following types of respondents:

[20] To be clear, offering over 5700 words of reading in an online survey is far beyond anything that survey researchers do, especially without compensation for respondents. It is crucial to keep studies short, as research suffers from attrition if the survey is too long. Galesic and Bosnjak, "Effects of Questionnaire Length on Participation and Indicators of Response Quality in a Web Survey," 73 Pub. Opinion. Q, 349 (2009). Here, the Primo study risks attrition from Groups B and C but not A. Primo does not establish that differential attrition did not happen among his respondents.

In an experiment in which respondents are given choice to read more, they will usually not take it, especially as the survey progresses. Pew caps its American Trends Panel surveys at 15 minutes, based on peer reviewed research that says that online surveys should be ideally between 10-15 minutes (Nick Hatley and Courtney Kennecy, "How We Keep our Online Surveys from Running too Long," Pew Research Center December 8, 2022, available at https://www.pewresearch.org/decoded/2022/12/08/how-we-keep-our-online-surveys-from-running-too-long/, citing to Revilla and Höhne, "How long do respondents think online surveys should be? New evidence from two online panels in Germany," 62 Int'l J. Market Rsch, Issue 15, https://doi.org/10.1177/1470785320943049.) Pew and other reputable survey organizations estimate time by assigning points to questions. For a 15-minute survey—the high end of the optimal survey length range—Pew budgets 85 points. Qualtrics reports that surveys longer than 12 minutes (9 minutes on mobile) see substantial attrition. (Qualtrics, "Survey Methodology & Compliance Best Practices," available at https://www.qualtrics.com/support/survey-platform/survey-module/survey-checker/survey-methodology-compliance-best-practices/#PredictedDuration) Qualtrics does not use a points system for its platform, but 12 minutes would be 68 points on Pew, and 9 minutes would be 51 points. Using Pew's point system, Primo 2013 would be within Pew's point limit for the control group, but far beyond it – as much as double – for Groups A and B if they were to click through all the links. See also Johnny Blair, Ronald F. Czaja & Edward A. Blair, "Data Collection I : Selecting a Method," in *Designing Surveys: A Guide to Decisions and Procedures*, https://doi.org/10.4135/9781071909904.n4 ("Internet surveys share several characteristics of mail surveys that can make them less effective than interviewer-administered surveys. First, online questionnaires must be relatively short. To avoid high rates of nonresponse, item nonresponse, and break-offs, researchers who have experimented with varying questionnaire lengths have found that online questionnaires should take no longer than 15 minutes to complete and a maximum length of 10 minutes is much preferable.").

- Someone who viewed one ad only
- Someone who viewed one news report only
- Someone who viewed both ads and all 13 news reports
- Someone who spent 45 minutes on the survey and someone who spent 3 minutes on the survey

I would argue that the people described above are all getting different doses of treatment. This noisy measure of the treatment introduces measurement error to the analysis. Measurement error biases the results toward a null finding, which could be a false negative. In most experiments, when we are trying to detect an effect, biasing against our ability to do that is permissible and tends to make our findings more convincing. But where a study contains measurement error, if a null finding results, readers cannot know whether the null finding is because of a true null effect in the world, or because of a false negative result introduced by the measurement error.[21]

Professor Primo is interested in the *marginal* effect of information on the memory task, and his most important reference group for Group C is Group B. But that leads to another fundamental problem with the design. Group B can also view information that they can easily assume to be about campaign financing. About a quarter of respondents in Groups B and C chose to view the ads. Professor Primo writes that among the ads, only the Group C ads contain the campaign finance information treatment ("Paid for by Color of Justice" and "Paid for by Defend Florida Now"). But the Group B ads are identical to the ads shown to Group C and contain—in the same location and in the same font and font size as the paid for disclaimers seen by Group C—website links to the ad sponsor ("www.ColorofJustice.net" and "www.DefendFloridaNow.com"). This is important: the FEC acknowledges that links to ad sponsors can substitute for longer disclaimers in some forms of online political advertising! Those links, which contained the sponsoring groups' names, would allow the Group B viewer to learn more *about the group that distributed (paid for) the ad*.[22] Indeed, in a footnote, Professor Primo calls this "a distinction without a difference, and it was imposed simply to eliminate any reference to campaign finance for group B." So even Professor Primo believes that Group B and Group C ads, while distinct, are not different. This choice alone may explain the small, statistically insignificant differences that Professor Primo observes between the two groups. I am including the ads the Group B and Group C respondents saw in my appendix.

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[21] Another way to explain this is that measurement error reduces the statistical power of our experiments. A handy explainer for measurement error is Tara Slough, 10 Things to Know about Measurement in Experiments, written for Evidence in Governance and Policy (EGAP), one of the main pre-registration sites. It's available at https://egap.org/resource/10-things-to-know-about-measurement-in-experiments/.

[22] See FEC Advisory Opinion 2002-09, which was in place at the time that Professor Primo ran his experiment for one example. The commission does not require, but encourages, the requestor to do as it proposed, which is to "allow recipients to ascertain the identity of the sponsors of political messages (a telephone or website reference)," in ads that are character-limited (see FN 3 at FEC Advisory Opinion 2002-09, at https://www.fec.gov/files/legal/aos/2002-09/2002-09.pdf.) Currently, 11 CFR 110(g)(1)(iii) allows hyperlinks to landing pages with the full disclaimer information to be used as "Adapted disclaimers" in online advertising. Around the time that Professor Primo's experiment was published, Google, Facebook, and others had requested the FEC for Advisory Opinions to use the "small item exemption" to the disclaimer requirements for online political advertising. This was a known issue at the time, and Google, at least, had an exemption via a splintered advisory opinion (see FEC Advisory Opinion 2010-19, at https://www.fec.gov/files/legal/aos/2010-19/AO-2010-19.pdf).

Even accepting that the Primo study's memory test is relevant to the jurisprudence, the study does not conduct the right comparison between groups. This is because anyone viewing ads in Group B *or* Group C saw information about campaign financing or that could be interpreted as being about campaign finance. But Professor Primo only examines "News/Ads" viewers together, so the Group B News/Ads Only group and the Group C News/Ads (No CFR) group have the same amount of information, from the bottom line of the ad. Therefore, we should not expect them to behave differently. To test the hypothesis that campaign finance informs voters over-and-above other information they have access to, the only way to conduct he comparison is to compare the Group B respondents who opened the Voter Guide only to the Group C respondents who opened the Voter Guide + News/Ads (with CFR).[23] This is still not ideal, because some members of Group C will have read almost all (or all) of the "news/ads," and others may have only seen one item, which contained campaign finance information. Within Group C, respondents may have wildly different doses of information.

At any rate, comparing Group B, Voter Guide Only to Group C, Voter Guide + News/Ads (with CFR) gives a different result. Respondents who viewed campaign finance information performed better on the memory test than respondents who didn't. The overall performance with campaign finance information is identifying the positions of 7.44 out of 13 groups, on average, compared to 6.41 out of 13 without—a 16% improvement. When looking at subsets of the groups, the respondents with access to campaign finance information again outperformed those without it—3.94 out of 7 compared to 3.67 out of 7 without – a 7.9% improvement. Nevertheless, the group with access to campaign finance information has smaller variance in responses than the group without. I include Professor Primo's Table 5 below, in my Table 5. (The estimates I gave in this paragraph are reached by adding the constant (Group A's performance) to the coefficients for Gr. B, Voter Guide Only and Gr. C, VG + News/Ads (with CFR).)

[23] I do not include the Group C, Voter Guide Only respondents here because they could see the headline about "Elite Donors Fuel Ballot Initiatives," which primes respondents to think about campaign finance matters.

Table 5. At the Margin, Disclosure-Related Articles Do Not Help Respondents Identify the Positions of Interest Groups on Ballot Issues

	Dependent Variable											
	ALLGROUPS				*CFRGROUPS*				*CFRONLYGROUPS*			
	(1)		(2)		(3)		(4)		(5)		(6)	
Constant	4.82***	(.28)	4.82***	(.28)	2.68***	(.15)	2.68***	(.15)	1.96***	(.11)	1.96***	(.11)
Gr. B, No View	−1.27**	(.49)	−1.27**	(.49)	−.69**	(.27)	−.69**	(.27)	−.51**	(.20)	−.51**	(.20)
Gr. B, Voter Guide Only	1.59	(1.10)	1.59	(1.10)	.93	(.57)	.93	(.57)	.65	(.42)	.65	(.42)
Gr. B, VG + News/Ads	1.22**	(.61)	1.22**	(.61)	.42	(.35)	.42	(.35)	.17	(.24)	.17	(.24)
Gr. B, News/Ads Only	.34	(.63)	.34	(.63)	.24	(.33)	.24	(.33)	.056	(.25)	.056	(.25)
Gr. C, No View	−.35	(.48)	−.35	(.48)	−.21	(.26)	−.21	(.26)	−.14	(.20)	−.14	(.20)
Gr. C, Voter Guide Only	2.58**	(1.05)	2.58**	(1.06)	1.49**	(.58)	1.49**	(.59)	1.06**	(.44)	1.06**	(.44)
Gr. C, VG + News/Ads	2.48***	(.51)	–		1.44***	(.30)	–		.91***	(.24)	–	
Gr. C, News/Ads Only	.74	(.59)	–		.39	(.30)	–		.18	(.22)	–	
Gr. C, VG + News/Ads (with CFR)	–		2.62***	(.80)	–		1.26***	(.43)	–		.64*	(.33)
Gr. C, VG + News/Ads (no CFR)	–		2.43***	(.60)	–		1.50***	(.36)	–		1.01***	(.28)
Gr. C, News/Ads Only (with CFR)	–		.69	(1.27)	–		.43	(.73)	–		.06	(.49)
Gr. C, News/Ads Only (no CFR)	–		.74	(.62)	–		.39	(.32)	–		.19	(.24)
R^2	.06		.06		.06		.06		.05		.05	

Notes: OLS regression results with robust standard errors in parentheses. Dependent variable is a count of interest groups correctly identified. See text for further description of dependent variables. The constant term reflects the number of groups correctly identified by group A members. Coefficients for other respondents represent the marginal differences between them and Group A respondents. *p < .10, **p < .05, ***p < .01 in two-tailed t-tests. N = 1,066.

Table 5: Primo, 2013, results table. The numbers reported in the prior paragraph explain the levels, not the change. For example, in column 2, left hand side, to get the level for Gr. B, Voter Guide Only, we add the constant (Group A's number correct), 4.82 and the coefficient for Gr. B, Voter Guide Only (1.59 additional correct, over Group A) to get 6.41 correct. And for Gr. C, VG + News/Ads (with CFR), we add 2.62 to the Group A number of 4.82 to get 7.44.

To summarize, given the challenges with the design in the Primo 2013 study, we simply cannot know the marginal effect of campaign finance information over and above the voter guide and other news articles by comparing Groups B and C. Using the cleanest comparison, there seems to be a marginal effect, as just described. That said, it is my opinion that we should not base public policy on a finding that comes from this research design, unless it is replicated in studies with better controlled and more consistent sets of treatment conditions.

C. Campaign disclosure can inform voters even where they cannot perfectly recall the name or position of a vaguely named group.

Professor Primo directs our attention to survey respondent memory tasks, rather than differences in voter opinion and behavior from campaign finance information that scholars take to be evidence of learning in information experiments. To that end, he takes issue with a memory check in a campaign finance study by Ridout, et al. The Ridout, et al. study is part of a literature showing that voters can change opinion and behavior when presented with information about campaign financing. I will briefly explain their study and then explain why Professor Primo's concerns do not undermine their findings.

As they explain their project, Professor Ridout and his coauthors "use data from a survey experiment that exposed participants to a fictional campaign ad. Treatments varied the ad's sponsor (candidate vs. group), the group's donor base (small donor vs. large donors), and the format of the donor disclosure (news reports vs. disclaimers in the ads). [The authors] find that ads sponsored by unknown groups are more effective than candidate-sponsored ads, but disclosure of donors reduces the influence of group advertising, leveling the playing field such that candidate- and group-sponsored attacks become equally effective. Increased disclosure does not, however, advantage small-donor groups over large-donor groups."

To explain a bit more, these scholars of political communications created an attack ad in which Todd Zink attacked Sean Hanna. Respondents read the following about the race:

> Incumbent State Sen. Sean Hanna and candidate Todd Zink will face off this fall in the campaign for the state's 27th Senate District. The election is being waged over a range of issues, including the economy, taxes, and the size of government. This election is being closely watched statewide because the race is expected to be very competitive. Both candidates are working to convince voters that they can improve the state's economy, which has suffered in recent years. Hanna has accused Zink of having too little experience. Zink is a local dentist who has never held elected office, and Hanna argues that experience in setting budgets is critical right now. Hanna has a record of working across the aisle, and he has emphasized that in his speeches. Zink, however, was motivated to run because of the state's high debt, and he argues that incumbents have done too little to contain spending. Zink argues on the stump that fresh voices are needed in the state's capitol.

The respondents then rank the candidates on a favorability scale ranging from 0-100. After that, respondents watched an ad or read a newspaper article, depending on their experimental condition. The experimental conditions were as follows:

1. Candidate ad condition: attack ad with a text disclaimer stating, "Paid for by Friends of Todd Zink." It also included a voiceover that stated, "I'm Todd Zink and I approve this message."
2. "Interest group – no disclosure" condition: attack ad with a text disclaimer stating, "Center for American Democracy is responsible for the content of this advertising. Paid for by Center for American Democracy. Not authorized by any candidate or any candidate's committee." It also included a voiceover that stated, "Center for American Democracy is responsible for the content of this advertising."
3. "News-small" condition: read a small donor news report and watch the attack ad as presented in condition 2 (Interest group – no disclosure).
    a. The news report contained the following text: "There have been a number of ads in the race for the senate seat. One recent ad was sponsored by the Center for American Democracy. According to the group and state campaign finance records, the Center was newly formed in 2010 and is primarily funded by small donors. It has a growing membership of over 800,000 citizens across the country motivated to elect candidates who fight for fiscal discipline."

4. "News-large" condition: read a large donor news report and watch the attack ad as presented in condition 2 (Interest group – no disclosure)
    a. The news report contained the following text: "There have been a number of ads in the race for the senate seat. One ad was sponsored by the Center for American Democracy. According to the group and state campaign finance records, the Center was newly formed in 2010 and is primarily funded by wealthy donors, including other non-profit groups. Many of these non-profits do not themselves disclose their donor base, leaving voters with very little knowledge as to what interests are behind the group's larger agenda. Critics have argued that the group is merely a front for larger special interests."
5. "IG-small" condition: ad with the text: "Center for American Democracy is responsible for the content of this advertising. Paid for by Center for American Democracy and the 800,000 small donations from our nationwide membership of interested and passionate citizens. Not authorized by any candidate or any candidate's committee." The voiceover stated, "Center for American Democracy is responsible for the content of this advertising, which was paid for by the 800,000 small donations from our nationwide membership."
6. "IG-large" or "top 4 donors" condition: ad designed to align with proposed legislation in Congress. The text reads, Center for American Democracy is responsible for the content of this advertising. Paid for by Center for American Democracy and funded in part by: WMP Technologies, Inc. ($750,000); James Johnson, Jr. ($500,000); the Free Market Alliance ($450,000); the Citizens for Better Governments ($100,000). Not authorized by any candidate or any candidate's committee. The voiceover announcer stated, "Center for American Democracy is responsible for the content of this advertising, which was paid for by WMP Technologies Incorporated, James Johnson Junior, The Free Market Alliance, and Citizens for Better Government."

After watching the advertisement and reading the newspaper article (if in Condition 3 or 4), the respondents did a series of ratings on favorability, credibility, and vote choice.

Condition 6, the "IG-large" or "top 4 donors" condition, is most similar to the regulation of political advertisements in Alaska, as I understand them. Among other expectations, the researchers hypothesized that Condition 2, the interest group disclaimer without underlying disclosure, would be more effective (in terms of favorability, credibility, and vote choice) than Condition 6, because if voters understood more about the money behind the interest group, they would be less inclined to find its messaging credible.

The authors find some support for their hypothesis: the no-disclosure group ad resulted in higher levels of sponsor credibility, and respondents expressed a higher likelihood of voting for the attacking candidate (Zink). There were not statistically significant differences between the two groups for sponsor trustworthiness or candidate favorability. They describe this as leveling the playing field between dark money ads (Condition 2) and ads with more donor disclosure (like Condition 6).

I turn now to Professor Primo's concern. Professor Primo explains that Ridout, et al. "note that one-third of respondents in their experiment with donor disclaimers could not correctly recall the primary sponsor of the ad, leading the authors to write, 'The nontrivial number of respondents who mistakenly identified the sponsor or could not recall is an important reminder that voters may not pay close attention to the details of an ad.'" Here is the full context on respondents' performance on the recall question, which came at the end of the survey, after they'd answered several other questions:

> Our validation check suggests that respondents were fairly accurate in their recall, but with some important exceptions. In the candidate-sponsored condition (Condition 1), for example, 60 percent of the respondents correctly identified Todd Zink as the sponsor. Thirty-two percent, however, reported not knowing. In the other five conditions, between 8 and 17 percent reported not being able to recall the sponsor, but correct attribution of the sponsor was higher than in the candidate-sponsored case: 66 percent for Conditions 5 and 6 (the small- and large-donor disclaimer conditions, respectively), 74 percent in Condition 2 (the nondisclosure condition), 82 percent in Condition 3, and 85 percent in Condition 4 (the news conditions).
>
> The nontrivial number of respondents who mistakenly identified the sponsor or could not recall is an important reminder that voters may not pay close attention to the finer details of an ad. This ad was directly in front of viewers on their computer screens, but citizens generally experience ads on their television, while often doing other things. The message of the ad, coming packaged with slick visuals and music, may resonate, but the quickly disappearing disclaimers and paid-for-by lines may escape notice. At first glance, then, this may suggest possible limits to donor disclosure effects through disclaimers.

I downloaded Ridout et al.'s replication file and checked the distribution of these correct and incorrect answers. The researchers wrote this up quite conservatively, because compared to other aspects of political knowledge, their respondents did quite well. Overall, 74.04% answered correctly, a result that's even more impressive considering the difficulty of the question. Their test of respondents' recall of the sponsoring group contained very difficult "red herring" answer choices. It also came late in the survey. Respondents:

1. read an overview of the state senate race between two candidates;
2. rated each candidate on favorability,
   a. About 40% of respondents, who were in treatment conditions 3 or 4, also received additional text prior to seeing the ads, to reflect the reality that major political ad launches are sometimes accompanied by media coverage of the ads, and voters may read the coverage before they see the ad.
3. **watched the attack ad, where they saw an on-ad disclaimer,**
4. rated the attacking candidate (Zink),
5. rated the attacked candidate (Hanna),
6. rated trustworthiness of the ad sponsor,
7. rated the credibility of the ad sponsor,
8. rated the ad in terms of persuasiveness,
9. rated the ad in terms of fairness,
10. rated the ad itself in terms of negativity, and

11. responded to a question asking them if they remember the ad's sponsor.

After competing 11 or 12 tasks (depending on whether they were in conditions 3 or 4 with the additional text mentioned in item 2a, above), and with 7 tasks after the ad, they encountered their recall question. The study had 5 conditions but only two sponsors for the ads (presented in different ways). The actual sponsors were "Friends of Todd Zink" and "Center for American Democracy." In the recall question, respondents were given those correct choices as well as two similar ones, each sharing a key word or name with the correct answers: "Zink for America PAC" and "Project for a Better America." They were also allowed to say they didn't know.

This was a very difficult task, both in terms of the amount of time and distraction between the ad and the recall question, and in terms of the "red herring" options provided. And, in the context of questions about political knowledge, the respondents performed well. A lot of Americans simply don't pay much attention to politics, and baseline political knowledge in America is perhaps lower than one might expect. I downloaded a survey run by the same survey vendor Ridout, et al. used (YouGov) for a part of their paper that Professor Primo doesn't discuss.[24] I chose to use the 2013 data gathered by YouGov, because that's when Ridout et al. ran the survey experiment that Professor Primo wrote about.

Source	Knowledge question	Percent correct	Percent incorrect	Percent don't know
CCES 2013	Which party is your House incumbent in?	62.41	6.82	30.76
CCES 2013	Which party has a majority in the Senate?	64.01	14.3	21.69
CCES 2013	Which party has a majority in the House?	65.41	13.16	21.43
CCES 2013	Which party is [name of respondent's Senator] in?	68.32	6.59	25.08
CCES 2013	Which party is [name of respondent's other Senator] in?	70.44	6.74	22.83
Ridout et al. (replication file)	*Do you remember who paid for the ad? (Ridout et al)*	*74.04*	*8.68*	*17.28*
CCES 2013	Which party is your governor incumbent in?	80.74	6.09	19.26

Table 6: Ridout et al.'s recall question (in italics) compared to CCES 2013 knowledge questions.

The survey contains several questions about political knowledge. I have included them in Table 6, sorted lowest to highest percent correct. I also included Ridout et al.'s question, so readers can compare. Of course, recalling an ad sponsor is not the same task as knowing which political

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[24] Ansolabehere, Stephen; Pettigrew, Stephen, 2014, "Cumulative CCES Common Content (older version, 2006-2012)", https://doi.org/10.7910/DVN/26451, Harvard Dataverse, V5, UNF:5:rXSA73aoDi28uu+IOg7DEg== [fileUNF]. CCES is the Cooperative Congressional Election Study, which is run by YouGov for political scientists every fall. I analyzed only the 2012 survey responses. The portion of their paper that Professor Primo covers is a survey run on Amazon's MTurk platform.

party holds a majority in the Senate. But it is somewhat comparable – these data are from the same year, the same political vendor, and featured political content. Ridout et al.'s respondents outperformed respondents on a similar study for all but one political knowledge question – the party of their governor.

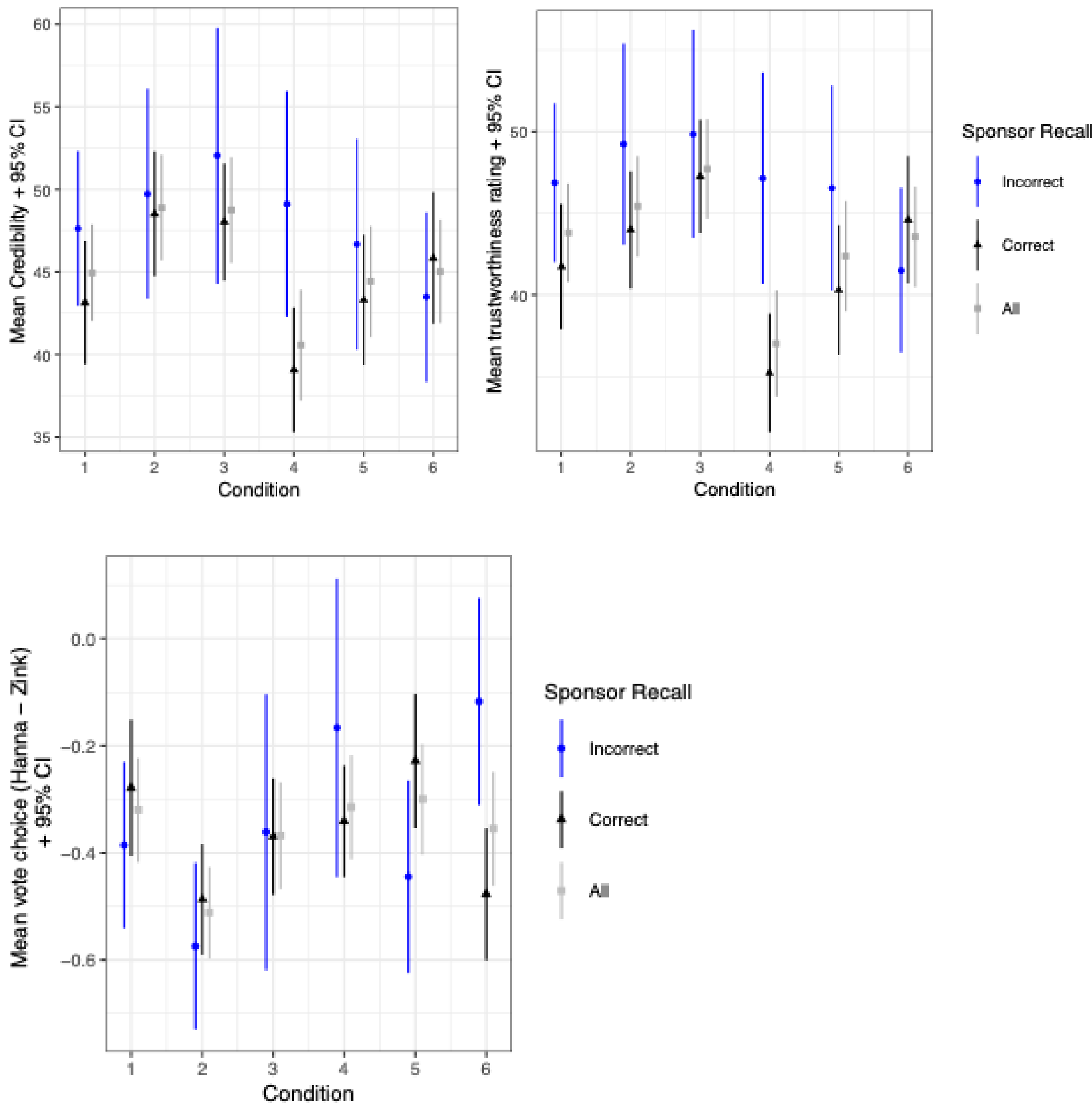

Figure 2. Mean credibility, trustworthiness, and vote choice ratings, by condition, with 95% confidence intervals. The circle, triangle, and square show the point estimates – the mean response from people in the relevant conditions. The lines emanating from those points capture 95% of the data in repeated trials. I replicate the Ridout et al. study in gray – the gray squares and confidence intervals are presented in their published article. I also split the sample into the 26% of respondents who could not correctly recall the sponsor (blue circles, labeled "incorrect") and the 74% who could (black triangles, labeled "correct").

Professor Primo says that Ridout, et al.'s results are of "dubious informational value," but he does not explain why he thinks that this (fairly high!) level of sponsor recall means anything relevant to the informational value of the results for those who use the information to shape their opinions or the jurisprudence more broadly. As a matter of fact, when I re-ran the Ridout data using only the people who correctly answered who the sponsor was, the estimates were similar to those reported in Ridout et al.'s Table 4. See Figure 2 and Table 4. The results are quite similar across the "perfect recall" subset and the overall sample studied by Ridout et al., and all Grand Means are within 1.21 percentage points of the overall sample.

In Figure 2, I estimate the results separately for the full sample (gray squares, replicating Ridout, et al.'s study), and for the respondents who recalled correctly (triangles) or incorrectly (circles) the name of the sponsor. For the most part, the estimates and confidence intervals (lines) are similar across treatment groups regardless of whether the respondents were correct about the precise name of the sponsor. The average estimate is sometimes more positive among the respondents who incorrectly chose a red herring option rather than the correct option. For example, see the mean credibility and trustworthiness estimates for condition 4, the respondents who read a news article about large donors to the group. Those incorrect respondents found the ad's sponsor to be more credible and trustworthy than respondents who could recall the name of the sponsor with precision. And in condition 6—which is similar to the Alaska on-ad disclosures—we also see respondents with incorrect and correct name recall behaving differently when it comes to vote choice. The respondents with correct recall are *more* punishing of the *attacked* candidate (they found the ad to be as persuasive as a dark money ad—compare the black triangle estimate in condition 2) while respondents with incorrect recall are less punishing of the attacked candidate (finding the ad not to be persuasive). Respondents who could recall or could not recall correctly did not answer differently for questions about credibility and trustworthiness.

The top table in Table 7 replicates the Ridout, et al. project and shows the data underlying the "correct" estimates in Figure 2. The bottom half of Table 7 displays Ridout et al.'s Table 4, which contains the data underlying the "All" estimates in Figure 2. Condition 6, which is most similar to the Alaska disclaimer rules, is highlighted in both tables, so readers can see the small differences between the overall estimates and the estimates for respondents with "correct" recall.

The Supreme Court and scholars studying heuristics focus on voters' ability to make the correct choice for themselves, not a memory test about what side of a ballot initiative or candidate campaign that particular interest groups support. Most studies agree that campaign finance is a useful heuristic for making a vote choice and that the Supreme Court was correct in *Buckley v. Valeo* and its progeny that campaign finance disclosure informs voters. No study that Professor Primo cites in favor of his argument suggests otherwise. Nor does Professor Primo's report undermine Bonica's foundational work using campaign finance information to estimate candidate ideology and legislative floor votes; indeed, Professor Primo does not even mention Professor Bonica's work in his report.

Condition	Credibility	Trustworthy	Change in Hanna Fav	Change in Zinke Fav	Vote Choice
1 (candidate ad)	43.12	41.13	-14.98	0.39	-0.289
2 (IG no disclose)	48.51	43.99	-17.10	1.66	-0.487
3 (IG news small group)	48.02	47.26	-17.48	3.21	-0.370
4 (IG news large group)	39.06	35.23	-14.79	1.2	-0.341
5 (IG ad small group)	43.30	40.30	-15.79	0.20	-0.228
6 (IG ad large group)	**45.83**	**44.60**	**-17.42**	**2.58**	**-0.477**
Grand Mean	44.65	42.13	-16.28	1.61	-0.363
ANOVA F test	3.80	5.51	0.58	0.76	3.02
P	0.002	0.0001	0.715	0.58	0.01

Table 4. Condition Means and Analysis of Variance.

Condition	Credibility	Trustworthy	Change in Hanna Fav	Change in Zink Fav	Vote choice
1. (Candidate ad)	44.94	43.81	−14.17	1.17	−0.320
2. (IG no disclose)	48.89	45.42	−17.35	1.83	−0.512
3. (IG news small group)	48.74	47.72	−17.08	2.11	−0.368
4. (IG news large group)	40.57	37.02	−15.12	1.18	−0.315
5. (IG ad small group)	44.42	42.37	−16.96	1.63	−0.300
6. (IG ad large group)	45.03	43.55	−14.52	2.36	−0.355
Grand Mean	45.47	43.34	−15.86	1.71	−0.363
ANOVA *F* test	3.68	5.10	1.04	.170	2.50
P	.003	<.001	.392	.975	.029

First four measures range between 0 and 100. Favorability scores are the difference between pre- and posttreatment. For vote choice, −1 = Zink; 0 = DK; 1 = Hanna. ANOVA = analysis of variance.

Table 7: Replication (top panel) of Ridout, et al's Table 4 (bottom panel), using a subset of their data. I analyze only the respondents who had correct recall of the sponsor (compared to those who either answered incorrectly or said they did not know). There are not major substantive differences using just the subset of the 870 who were correct, compared to the original table, which had 1204 respondents (870 with correct recall, combined with the 203 who answered, "I don't know," and the 131 who answered incorrectly).

D. *Professor Primo's focus on "heuristic projection" ignores a long literature on voter decision-making. Heuristic projection merely adds "noise" to voters' decisions.*

Voter decision-making is a subject that scholars have studied for decades, and the literature is far too vast to include in this already lengthy report. Scholars have identified many voter decision-making strategies. Lau and coauthors use factor analysis on survey data to identify five basic strategies: rational choice, confirmatory, fast and frugal, heuristic-based, and going with your gut.[25] Lupia's and Daneri's projects, discussed above, are examples of heuristic-based voter decision-making strategies. And subtypes of the heuristic-based voter decision-making category, like Bernhard and Freeder's "deal breaker heuristic," also exist.

Professor Primo claims that disclosure "might actually harm voters." Yet no study has shown that disclosure "harms" voters. An ideal disclosure regime would reveal the true, human sources of the money in our campaigns, rather than vaguely named groups like we see in Professor Lupia's Table 2, with misleading names that hide the sources of their financing. Figuring out what vaguely named groups are really doing can be challenging, and most voters need

[25] See generally, Richard R. Lau et al, "Measuring Voter Decision Strategies in Political Behavior and Public Opinion Research," 82 Pub. Opinion. Q. (2018) 911-936.

intermediary help to navigate that thicket. But Alaska has begun to tackle this problem: Alaska voters approved true source disclosure requirements so they can look beyond misleading names. In other words, Alaska voters have better disclosures under their new law than the ones in the studies relied upon by Professor Primo. Those studies do not support his broad conclusion anywhere, but certainly not in Alaska.

Professor Primo argues that the information provided to voters via disclaimers "undermines" the ads' messages. But this argument undermines his other arguments—that voters do not learn from campaign finance information (Primo 2013), that voters are overwhelmed by information (ignoring the role of intermediaries), and there is a path to them learning "the wrong things" from campaign finance transparency (extending Broockman et al). Professor Primo and his clients cannot have it both ways. If the ads' messages are "undermined," then that means that the information provided to voters via disclaimers *informs* the voters. A simpler path through all of this is to simply acknowledge that there are conditions under which voters learn from campaign finance transparency, and that one of them is in the advertising on-ad disclosure context. That is why survey respondents who are provided with information via advertising disclaimer make different candidate choices than respondents who simply see the advertisement without a disclaimer or are provided different types of information in the disclaimers. It is similar to a choice a parent might make in the cereal aisle of the grocery store after reading the nutrition label. We learn from information provided to us.

That is the entire reason for regulation via information provision. Policymakers use it to inform the public about salient attributes so we can make informed choices. We do this when we put nutrition facts on cereal boxes, when we put miles-per-gallon stickers on cars at dealerships, and when we put surgeon general warnings on cigarettes. Reasonable people can disagree about which parts of our public lives should provide informational labels, as well as about what information the labels should contain. But to pretend that disclosed information does not inform people (as professor Primo does in his first argument) but can still be used to change minds and "undermine" an ad's message defies logic.

Professor Primo briefly references several studies. I will explain them. First, he references a throwaway sentence in Ridout et al., 2015 about campaign finance reformers using disclosure to influence the persuasiveness of group-sponsored advertising "to reduce the attractiveness of funneling large campaign contributions through outside groups." That a handful of political scientists think that policy actors might use disclaimers "to reduce the attractiveness of funneling large campaign contributions through outside groups" does not undermine a key takeaway of the study: people learn from these disclaimers. Professor Primo then moves to the main heuristic project argument, from Broockman et al.

Professor Broockman and his coauthors try to measure how difficult it is to really know who is behind the innocuous, vague, or even misleadingly named interest groups that fund political ads. We see examples of these vague group names in 1988 Ballot initiative campaign studied by Professor Lupia, described in detail above: "Californians Against Unfair Rate Increases" and "Committee for Fair Auto Insurance Ratings" were both misleadingly named groups backed by the insurance industry. In the Ridout et al. paper, which was about a candidate campaign, rather than a ballot initiative, respondents saw "Center for American Democracy" as their fictional, but plausibly (and vaguely) named outside group. But this is the key point: in almost all of the results from my replication of the Ridout et al paper, voters who could not recall the precise name of the group reacted similarly to those who could.

I include Broockman, et al.'s Figure 2 below, for the court to review. It does show a high level of ignorance of special interest groups (the gray bars). It also shows that people are best at identifying the groups that align with their ideology. This suggests that something else is going on, and it's something that Professor Lupia figured out in 1994: voters just need to know about <u>one</u> supporter or opponent that they're familiar with to help guide their decision. They don't need to know every detail about every group out there; they need to know what a group they know about (e.g., National Rifle Association, Sierra Club, Chamber of Commerce, League of Women Voters, the "insurance industry," "trial lawyers," etc.) thinks about an issue, and they'll use that fact to help inform their votes as they choose to vote with or against the group they can identify.

Voters don't need encyclopedic knowledge of the entire interest group space. And this is something that Broockman, et al., discuss in their conclusion:

> "[A]lthough we did show respondents actual ratings of their actual representatives, it may be that, in the real world, citizens seek out information about SIG endorsements from SIGs they are familiar with, cases in which we would expect heuristic projection to be more muted. Research could also examine whether citizens are better able to draw the appropriate inferences from interest group endorsements in real-world contexts such as in television ads or candidate profiles in voter guides. Next, to what extent might SIG strategy contribute to heuristic projection? For example, do SIGs often name and ambiguously advertise themselves to frustrate citizens' ability to use their cues as negative signals? Our research was not well-positioned to understand why SIGs choose their names or what effects their names might have on voter perceptions, but these are fruitful areas for future research."

Bernhard and Freeder's research on information search supports Professor Broockman and his coauthors' intuition. As voters seek out information (including about SIG endorsements, like unions), they employ a "deal breaker" heuristic. In this heuristic, voters seek out information and use it to quickly eliminate candidates when information searches turn up "disappointing" information.[26]

[26] Rachel Bernhard and Sean Freeder, "The More You Know: Voter Heuristics and the Information Search," 42 Pol. Beh.603 (2020) at 617-619.

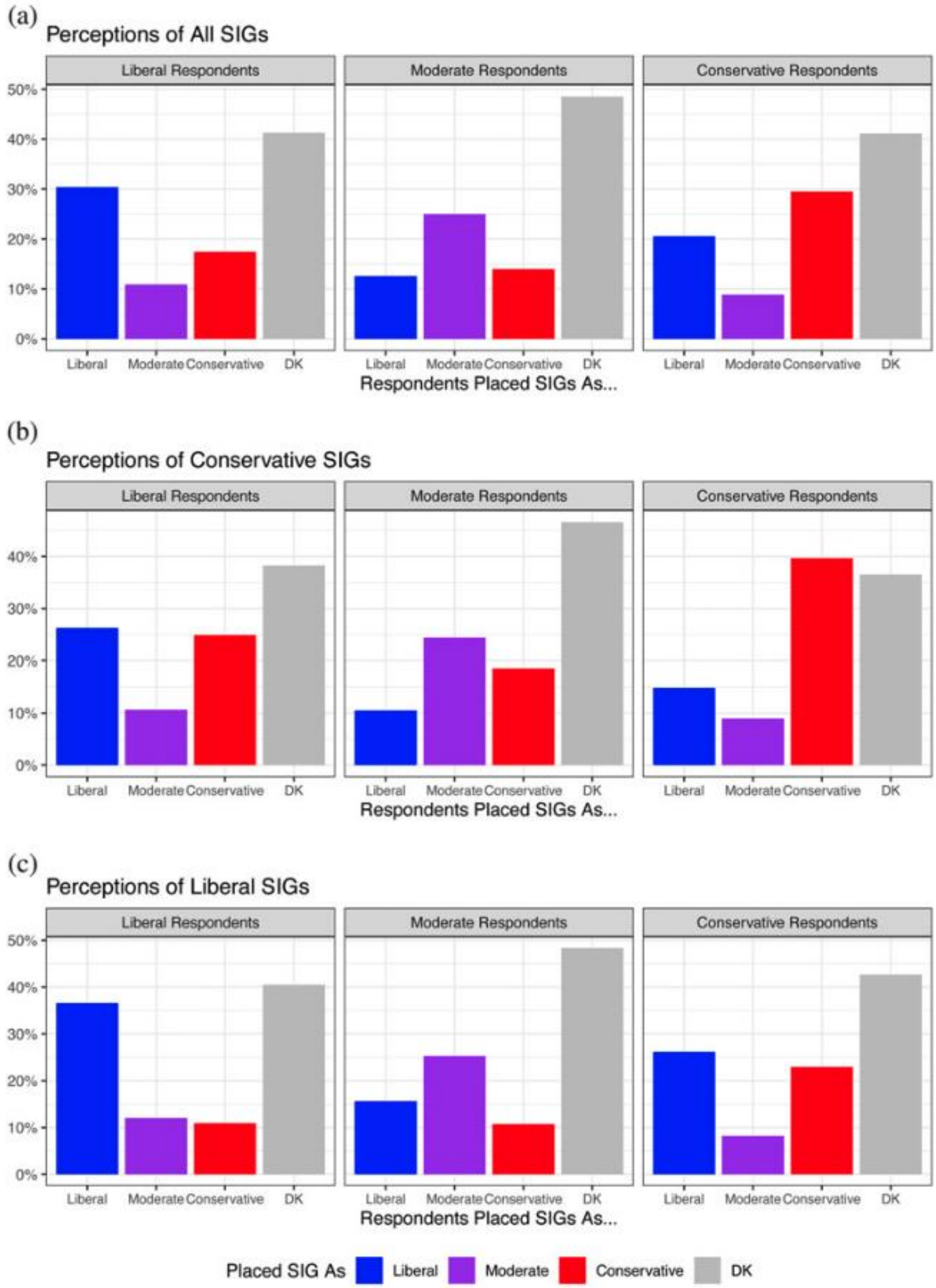

Figure 3: Broockman, et al.'s Figure 2, showing that, while there's quite a bit of ignorance (DK responses, gray) around interest groups, conservative respondents are best at identifying the ideology of conservative groups (row (b), panel 3), and liberal respondents are best at identifying liberal groups (row (c), panel 1).

A focus on "heuristic projection" at the exclusion of a vast literature on how voters actually make decisions is insufficiently informative for the court. Heuristic projection—to the extent that it is relevant to the jurisprudence—identifies a source of error in using heuristics to make decisions. But other methods of voter decision-making can contain errors, too, such as "going with gut" when the "gut" is wrong, or "rational choice" with an incomplete information search. No method of decision is perfect; but the literature on heuristic projection is *far* from establishing that it is a real problem that erases the benefits of campaign finance disclosure.

III. Many choices on the ballot don't have a party cue available; studies of voter learning from campaign finance information when a party cue is available are mixed.

As best I can tell, the organizations trying to eliminate campaign finance disclosure are doing so in the service of wealthy, national-level donors. See, e.g., *Americans For Prosperity Foundation v. Bonta*, where the foundation arm of Americans For Prosperity, a Koch Brothers-backed organization, sued the state of California to challenge a disclosure-related reporting requirement. But for most voters, the choices that dominate the ballot aren't about national-level politics. If these well-funded groups win their battle against informing the public about the sources of the money they use to flood the media with ads, the biggest losers will be voters who really need that information to better understand the choices on their ballots.

A. Most ballot choices don't have a party cue available as a heuristic.

For most voters, including those in Alaska, *the majority of choices on the ballot do not have party label attached*.[27] According to the data and civic-engagement platform company BallotReady, there were "over 70,000 'nonpartisan' open seats in 2025," as illustrated in Figure 4.[28]

[27] Party label is also largely irrelevant in closed party primaries and in general elections that lack party cues because they are for non-partisan seats. Only 5 states use party labels on their ballots for school board positions, with another 5 states seemingly deferring more to local control and having various levels of adoption at the district level (e.g., 2/66 use party labels in South Carolina, compared to 71/180 in Georgia). https://ballotpedia.org/Nonpartisan_elections. Only 9 states have partisan elections for trial court judges, though Kansas and Missouri use them in some districts, and New Mexico uses them for retention elections only (not initial or interim selections, for which they use binding lists from nominating commissions combined with gubernatorial appointments). Only 7 states have partisan elections for their court of last resort. Brennan Ctr. for Justice, *Judicial Selection: An Interactive Map*, https://brennancenter.org/judicial-selection-map.

[28] Source: https://organizations.ballotready.org/research/nonpartisan-races . Because this is a non-academic source, I double checked both the Alaska Division of Elections sample ballots for 2025 (available here: https://www.elections.alaska.gov/sample-ballots/ballot/24reaa2/) and the sample ballots for the top three cities in Alaska to confirm that those ballots lacked a party cue. None of them had a party cue on any choice voters were asked to make. Anchorage sample ballots are available here: https://www.muni.org/Departments/Assembly/Clerk/Elections/Election%20Results/Samples/2025%20Regular%20Sample%20Ballots.pdf . Fairbanks sample ballot is available here: https://files.aptuitivcdn.com/K9gxWNkmZ2-1856/docs/city_of_fairbanks_sample_ballot_2025_.pdf. Juneau's sample ballot is here: https://juneau.org/wp-content/uploads/2025/08/2025-SAMPLE-Ballot.pdf.

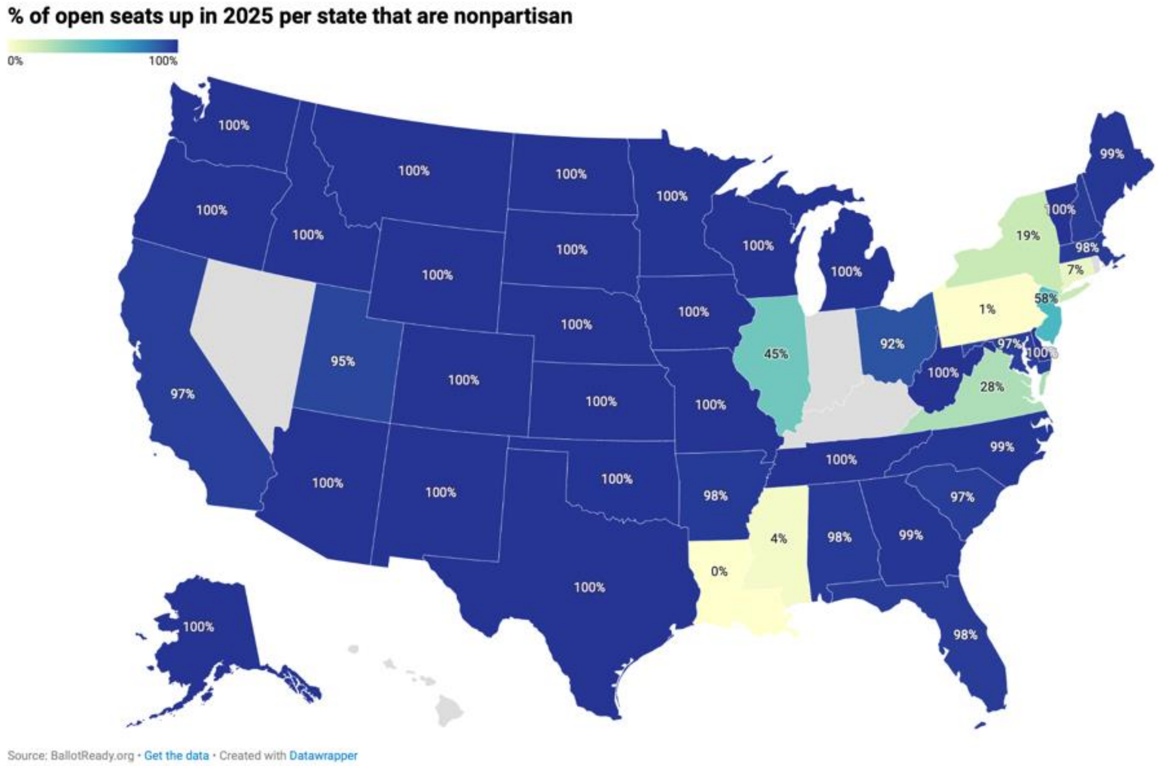

Figure 4. Ballotready.org's estimate of the percent of open seats that were up in fall 2025.

Because Figure 4 shows a year with an especially heavy share of non-partisan elections (2025), I also analyzed the choices voters in Anchorage had before them in four different rounds of balloting in 2024. I use various subsets of Anchorage to illustrate, and I refer to District 12 for continuity in my description.

1. In April, voters were faced with nine ballot propositions and choices on several seats: mayor, three School Board seats, and – in some precincts (like Precinct 105) – two Service Area seats, too. The entire ballot was 13-15 choices, none of which had a party cue attached.[29] **(13-15, no party labels)**
2. One month later, there was a runoff election for Mayor, and again, there was no party label on the ballot. **(1 seat, no party label)**
3. In August 2024, voters returned to the polls to select candidates for various seats in a top 4 primary. These races did have party labels, but there were multiple candidates from the same political party, reducing the help offered by party labels. Anchorage's State District 12 selected candidates for the House of Representatives (among five registered Republicans running for the seat) as well as for State Senator for District F (one of two registered Republicans running for the seat) and for State Representative for District 12

[29] Sample ballots are available here: https://www.muni.org/Departments/Assembly/Clerk/Elections/Election%20Results/Samples/2024%20Regular%20Sample%20Ballots.pdf

(a competition between a registered Republican and a candidate listed as "nonpartisan").[30] **(3 seats, only 1 without multiple candidates from the same party)**

4. Finally, in November, Anchorage voters went to the polls again.[31] I continue with the example of District 12 to illustrate. In District 12, voters chose a candidate for U.S. President (8 options from 8 parties), a U.S. Representative (two Democrats, one Republican, and one Independent), a state senator (two Republicans and one other), and a State Representative (one Republican and one nonpartisan, as before). But the ballot had 17 more questions on it. There were two ballot initiatives and 15 state-level judicial retention elections, none of which had party attached. **(21 ballot choices, only 2 without multiple candidates from the same party)**

In sum, in 2025, BallotReady suggests that Alaska voters seemed to have no party signifiers on the ballot in the three largest cities or the Regional Educational Attendance Area races. In 2024, the voters in District 12 in Alaska—who did not have a service area on their ballot, so had 13 choices in April—faced 38 choices. Among those choices, 35 had either no party cue—31 local, judicial, and ballot propositions, 81.6% of the decisions the voters were asked to make—or had at least two candidates from the same major party—4, or 10.5% of voters' decisions. Indeed, only 3 out of 38, or 7.9%, of the choices voters were asked to make featured both party cues and only one candidate per major party, such that party labels could be informative without additional information.[32] Voters made 92% of their choices in a context in which party label is not available or not unambiguous. In those contexts, campaign finance information is *particularly* helpful.[33]

Understanding how few party cues are on the ballot helps to put Professor Primo's claims in context. He cites Professor Robinson's 2023 article to say that "There is little evidence that campaign finance information has a distinct impact on vote choice conditional on other highly salient cues [such as party ID]." Even if this is true—and studies are mixed on that fact, as I will explain next—any "swamping" of disclosure information by party cues would be relevant 0% of the ballot choices made in the top 3 cities in Alaska in 2025 as well as the REAA elections, and for only 7.9% of the 2024 choices described above.

B. Studies using party labels and disclosure together have somewhat mixed results, but the weight of the evidence so far suggests that the informational benefits of campaign finance persist even where candidate party cues are revealed.

Professor Primo's declaration that he has "shown, theoretically and empirically, why disclosure has fewer benefits than its proponents claim" is based on an incomplete survey of the literature. He leans heavily on Professor Robinson's study, but Robinson's study builds on, and cites to, two previous studies that are not mentioned by Professor Primo. Both of those studies suggest

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30 Sample Ballot, 2024 election for House District 12, https://www.elections.alaska.gov/election/2024/Primary/SampleBallots/HD12.pdf.

31 Sample Ballot, 2024 election for House District 12 and Judicial District 3, https://www.elections.alaska.gov/election/2024/General/SampleBallots/HD12-JD3.pdf

32 The three choices with unambiguous party ID on the ballot were: general election for U.S. President and primary and general election for State Representative.

33 *See generally*, Abby K. Wood, "Voters Use Campaign Finance Transparency and Compliance Information," 45 Political Behavior (4), p. 1553, February 10, 2022; https://doi.org/10.1007/s11109-022-09776-4.

that disclosure information *does* inform voters, even where partisan cues are present. The evidence that party cues "swamp" disclosure information is (1) mixed, and (2) irrelevant in the vast majority of ballot choices voters make.

Professor Robinson uses a conjoint study, where 390 respondents are provided randomly populated traits for candidates and then asked to choose between them. Each respondent then repeats the exercise with a different set of randomly populated traits related to four initiative policy proposals. Robinson presents respondents with either "low" or "high" information. The voters provided with "low information" see information about:

- whether the majority of donors are from within or out of state,
- the proportion of funding from the largest donor (10%, 50%, 90%),
- the type of donor the largest donor is (Private Individual, Advocacy Group, Union, Corporation, or not disclosed),
- the total donations received by the candidate ($100,000-$200,000; $1 million - $10 million; $70 million - $90 million), and
- the average donation amount ($75; $10,000; $1 million).

The "high information" group receives all the information above, along with candidate-specific information:

- Elected to previous office (No prior office; state office; federal office)
- Ideological Distance (from respondent)
- Party: Different (from respondent)[34]

Professor Robinson's main results are in his Figures 4 and 5, shown here as Figure 5. The estimates are presented as Average Marginal Component Effects, or AMCEs. In this Figure, the AMCE is measured along the horizontal axis. The AMCE is the average influence that each factor has on the respondents' vote choice. As before, the estimate is shown with a shape – here, a circle – and the confidence intervals are shown with lines originating from that point estimate. If the point and its confidence intervals are to the right of the dashed vertical line, that factor increases the respondents' likelihood of voting for a candidate with that characteristic, and we call that effect statistically significant. If the estimate and confidence intervals are to the left of the line, that factor decreases the likelihood respondents voted for the candidate, and we call that effect statistically significant.

In the typical conjoint presentation, the components are shown in color clusters so that the reader can see with a glance which components were randomly inserted to describe which features of a candidate's profile. So, for example, the proportion of the campaign's financing covered by the largest donor ("Proportion: 10%," "Proportion: 50%" and "Proportion: 90%") are all turquoise. Those components were presented with equal probability to respondents. The estimates for Proportion: 90% and Proportion: 10% are presented as estimated against Proportion: 50%. We

[34] He also conducts a similar exercise for four different ballot initiatives, though it's quite under-powered (not enough observations to show a statistically significant effect) and results are unstable when he separates them out by initiative topic. See his Figure 7 and text surrounding.

know this because the "estimate" for Proportion: 50% appears as a dot on the vertical line (rather than an estimated effect, with a confidence interval).

As the reader can observe, in the left panel, where respondents viewed only campaign finance related information, respondents do react to information that could be made public via campaign finance reporting requirements. Seen visually, many estimates are cleanly to the right or left of the vertical line.

Respondents with only campaign finance information preferred candidates with a majority of voters from the state, who had labor union funding, and whose average contribution was $75. They also preferred candidates whose largest donor gave 10% of funding for the candidate, but that result is not quite statistically significant. They disfavored candidates who got 90% of their funding from their largest donor, whose largest donor was a corporation or trade association, and whose average contribution was $1 million. They also disfavored candidates with the largest amount of funds raised -- $70-90 million – though that result is not statistically significant.

In the right panel, we see that when Professor Robinson includes the additional information, many of the disclosure-related results are no longer statistically significant – their confidence intervals, the horizontal lines on either side of the point estimates – cross the vertical dotted line. The main exception is respondents' continued preference for candidates who receive the majority of their contributions from donors inside the state. In other words, one of the disclosure requirements at issue in this case provides information that seems to be important to respondents, even when they have party information available. As discussed above, Alaska voters only rarely have party information on the ballot, but Robinson's study shows that even in the rare cases that they do, they still use some campaign finance information to inform their votes.

I question some of Professor Robinson's choices, and if I were a reviewer on the piece, I would have raised many of these critiques. I question the construction of the conjoint itself and his inclusion of highly unlikely amounts in the campaign finance information. I also question his lack of pre-analysis plan and statistical power analysis. I further question the post-hoc power analysis presented only for his control group, when obviously the treatment group would—according to his hypothesis—require more power to show effects. Finally, I question the generalizability of these results, given how unrepresentative the sample was—and its (likely inadvertent) exclusion of Alaska. I take these questions in turn.

First, and most importantly, in exploring Professor Robinson's data, I saw that respondents may have encountered some incomplete rounds in the conjoint. For each respondent, the data should contain six rounds for two candidates or two ballot initiative groups; however, in about 10% of the data, there are 0 or 1 columns presented to the respondents for a given round. I re-ran the results without the "unmatched" candidates, and the coefficients change modestly but not substantively. Nevertheless, the fact that such a high percentage of his data have problems is a sign that something didn't work in Professor Robinson's research design, and he seems not to have caught it when analyzing the data.

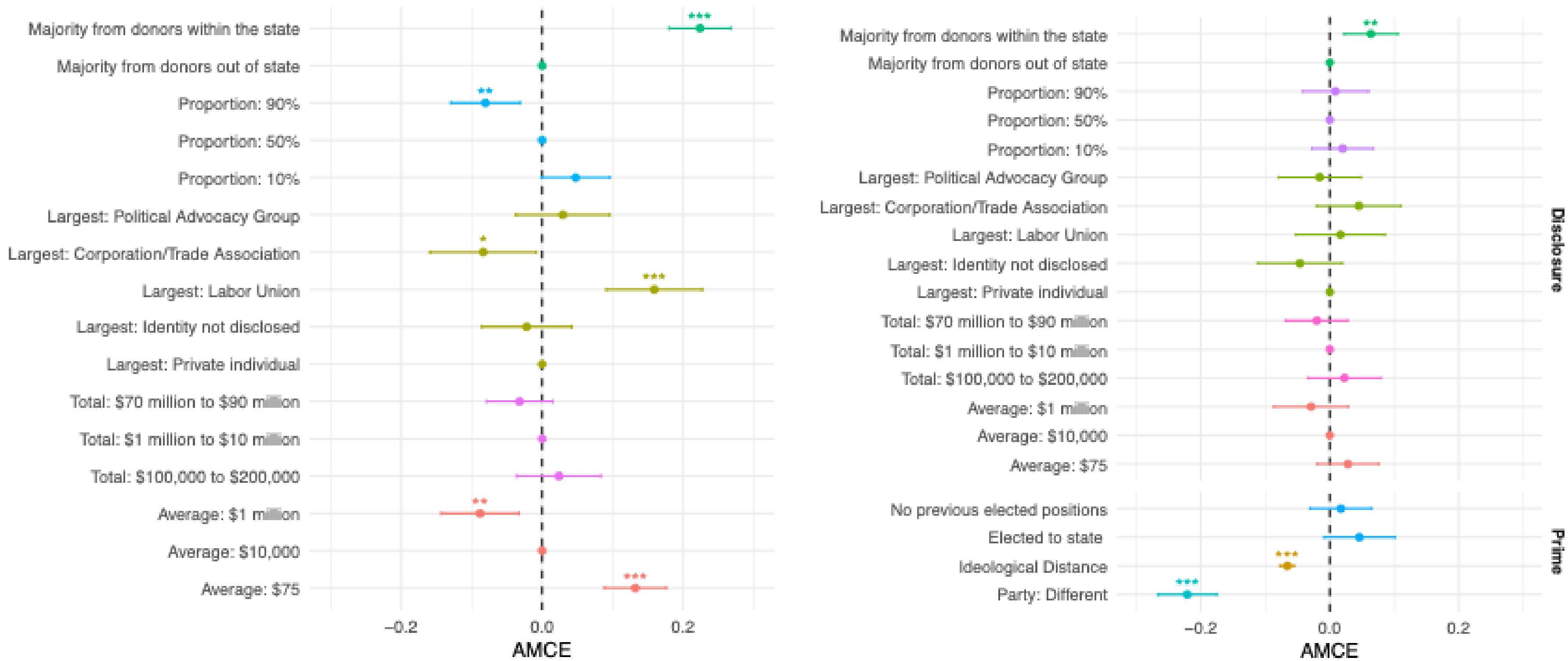

Figure 5: Robinson's main results. Campaign finance only respondents are in the left panel, and respondents who got the campaign finance only information plus additional political information (including Party ID) are on the right.

The estimates are presented as an Average Marginal Component Effect, or AMCE. It is measured along the horizontal axis. The AMCE is the average influence that each factor has on the respondents' vote choice. As before, the estimate is shown with a shape – here, a circle – and the confidence intervals are shown with lines emanating from that estimated point. If the point and its confidence intervals are to the right of the dashed vertical line, that factor increases the respondents' likelihood of voting for a candidate with that characteristic. If the estimate and confidence intervals are to the left of the line, that factor decreases the likelihood respondents voted for the candidate.

Second, many of the candidate descriptions were not credible. I would have chosen differently for the amounts used for total donations, the average contribution, and providing "independent" as a party choice for a gubernatorial candidate. (I also would not have included independent candidates, (despite knowing that Alaska recently had an independent governor). It is just too rare in practice, but Robinson included more independent candidates than candidates from either party.) I address these matters below.

- Robinson offers absurdly low and extremely high total fundraising numbers with equal probability. But no state gubernatorial candidate can be competitive with a total fundraising haul of $100,000-$200,000, and very few gubernatorial candidates would raise $70-90 million in donations. On the low end, gubernatorial elections in Alaska are not very expensive, but of the nine candidacies for the last three general gubernatorial elections, only one was inside that range: Charlie Pierce, who received 6.6% of the vote in 2022. The others ranged from $813,427 to over $2.75 million.[35] On the high end, just looking at the top candidates from each major party in ten of the states that Robinson analyzed (Washington, Missouri, Montana, Utah, Mississippi, California, Florida, Texas, Illinois, and Arizona), only 3 raised over $70 million in their most recent elections.[36] Most people responding to the survey live in a state in which only one of the three possible fundraising amounts is feasible in their state.
- Relatedly, no gubernatorial candidate will have an *average* contribution of $10,000 or $1,000,000. Over the last three gubernatorial election cycles, the average aggregate contribution to an Alaska gubernatorial candidate was $360 in 2014, $353 in 2018, and $729 in 2022.[37]
- An additional problem is that respondents saw a candidate that was "Independent" more often than they saw a Democratic or Republican candidate. Each of the 390 respondents did 6 rounds of the candidate experiment, and Independent was displayed 763 times, Republican 697 times, and Democrat 629 times. This high frequency of independent gubernatorial candidates is unrealistic.
- Relatedly, Robinson treats "Independent" the same as the other parties when he codes whether respondents are from a "different party" than the hypothetical candidates they are evaluating. For a Republican respondent, for example, an "Independent" and a

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[35] Based on my calculations from cleaned APOC data after a conversation with APOC staff to guide me in which files to download, here are the estimated fundraising hauls for the campaigns. The winning candidate is denoted with an asterisk (*).

2014	
Bill Walker*	$1,216,879.90
Sean Parnell	$1,191,295.40
2018	
Bill Walker	$1,026,553.90
Mark Begich	$ 813,427.40
Michael J. Dunleavy*	$ 881,159.60
2022	
Bill Walker	$2,444,751.60
Charlie Pierce	$ 165,357.80
Les Gara	$2,321,864.60
Michael J. Dunleavy*	$2,758,283.00

[36] They were: Ron Desantis in the Florida race (a record-breaking $200 million, and also outside of the $70-100 million in the Robinson paper; https://www.cnn.com/2022/11/08/politics/ron-desantis-charlie-crist-florida-governor-results/), Greg Abbott and Beto O'Rourke in the Texas race $78.5M and 81.6M, respectively, see https://www.texastribune.org/2022/07/19/abbott-beto-fundraising-governor-2022/).

[37] Source: Analysis of APOC data, filtered for Office = "Governor" or "Governor/Lt. Governor."

"Democratic" candidate would both be coded as "different party." He also treated people who said they "prefer not to say" their party as "Different" from all candidates presented (Republican, Democratic, or Independent). Again, this choice does not affect his results in a substantive way (I checked), but it brings into question his familiarity with the literature on U.S. political behavior, in which these are not typical measurement strategies and research design choices.

Third, Professor Robinson did not pre-register this study. Publicly pre-registering one's hypotheses, planned data collection, power analysis, and methodology is considered by most scholars to be a best practice for experimental research. By the time he published this, pre-registration had become the norm among political science researchers using experiments to study American politics.[38]

Relatedly, Professor Robinson is dividing only 390 respondents into treatment groups. The study may be underpowered to detect differences if they exist. When a result is underpowered, researchers risk a false negative, or being unable to detect a difference between treatment and control where one exists. A false negative can occur when (1) the treatment is weak (as hypothesized here), (2) the measure is noisy, or (3) the research does not have a sufficient number of observations (here, survey respondents). Power analysis helps us avoid these pitfalls. Robinson hypothesized that his treatment would be quite weak in the face of a partisan cue, which means he should have had a fairly high number of observations (and done all he could do to reduce measurement error). A power analysis would have helped him to think systematically about his observations. In his supplemental appendix, probably in response to a reviewer complaining about this problem, Robinson conducts post-hoc power simulations for his disclosure-only (control) results, *but not for his high information (treatment) results*, which is where power problems were most likely to occur. Recall that Robinson expected disclosure to have a smaller effect when partisan cues were present – that means a result would be harder to detect. When we anticipate small effects, we should recruit a large sample of respondents to detect them. Had he pre-registered, he would have conducted a power analysis as part of the pre-registration to help him choose an appropriate sample size to detect differences.[39]

Fourth, generalizability of Professor Robinson's results is limited. In addition to the strong bias toward Democrats in his sample, Professor Robinson's sample is comprised primarily of

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[38] For example, the Journal of Politics, one of the "top three" journals in political science, has required pre-registration for its articles since 2021. See Journal of Politics, Instructions to Authors, available from the Internet Archive at https://web.archive.org/web/20211001110258/https://www.journals.uchicago.edu/journals/jop/instruct ("Pre-registration: authors who want to submit manuscripts containing original experimental work, including laboratory, field, and survey experiments are required to submit proof of study/design pre-registration with one of the available research registries (e.g. EGAP, RCT, Open Science). Pre-registration of other types of research design is very much encouraged. The submission of unregistered laboratory, field, and survey experiments will not be accepted. This policy will be phased in: For manuscripts submitted in 2021, authors need to justify in a letter to the editor why the study was not or could not be pre-registered. When submitting your manuscript, please include information on your pre-analysis plan and the link to the pre-registration page in the letter to the editor. In the anonymized version of the ms. for the reviewers, please indicate in the first footnote that the study was pre-registered without including the identifying link. In addition, please add the anonymized version of the pre-analysis plan to the appendix or supporting information. Please also check the JOP guidelines on how to prepare a PAP.") Similar language is still on the site. https://www.journals.uchicago.edu/journals/jop/instruct.

[39] To learn more about power analysis in the context of pre-registration, *see* Alex Coppock, Ten Things to Know about Statistical Power, at Evidence in Governance and Politics (EGAP), *available at* https://egap.org/resource/10-things-to-know-about-statistical-power/.

respondents from four states: California, Florida, Ohio, and Illinois. Only one respondent is in Texas, the second most populous state in the country. No respondents are in Alaska, despite his claim to have invited respondents from all states with ballot initiatives. (He included Alabama initially, but they do not have ballot initiatives, so he removed those 13 respondents from the sample.)

I will next briefly describe the other two studies upon which Robinson builds, neither of which are addressed by Professor Primo, and both of which suggest that campaign finance information still matters to voters who have party information before them.

Robinson's study comes on the heels of Rhodes, et al., which finds that, while slightly diminished in the presence of a partisan cue, campaign finance disclosure does still cause voters to evaluate candidates differently than they do in its absence.[40] Rhodes and his coauthors use a survey experiment to prompt voters with information about a dark money group that supports fictional candidate Tom Parrish in a tight race with fictional candidate Eldon Stewart. Respondents were given the candidates' platforms ("Parrish is running on improving economic growth and reforming Social Security while Stewart is concentrating on improving access to higher education and reducing crime."). Treatment groups were then provided additional information: "The [Republican/Democratic] group, Americans for the Future, has been supportive of Tom Parrish," "The [Republican/Democratic] dark money group, Americans for the Future, which does not disclose its donors, has been supportive of Tom Parish," or "The [Republican/Democratic] dark money group, Americans for the Future, which has secret donors, has been supportive of Tom Parish." (The "Republican/Democratic" in square brackets means that respondents in the treatment group saw either "Republican" or "Democratic" there.)[41]

The authors find that even in the presence of partisan cues, the effect of disclosure information remains. The effect is driven by Democratic and Independent respondents. I include key results from their article below as Figure 6. This figure shows their results for candidate favorability, with the effect size being the treatment – control difference. The effect size is shown as a vertical bar stretching above or below the 0.00 line. At the 0 line, the treatment – control difference is 0, meaning the treatment had no effect. Where the effect is positive, treatment favorability was greater than control favorability. Where it is negative, treatment favorability was less than control favorability. Here, the treatment is learning about dark money, so the authors expected lower favorability for the treatment group. That means that the treatment effect, measured as treatment – control, is expected to be negative.

[40] Samuel C. Rhodes, Michael M. Franz, Erika Franklin Fowler & Travis N. Ridout, The Role of Dark Money Disclosure on Candidate Evaluations and Viability, 18 Election L.J. 175 (June 2019).
[41] Because the two dark money wording variations, "dark money" and "secret donors," performed similarly, the authors combine them for their analysis.

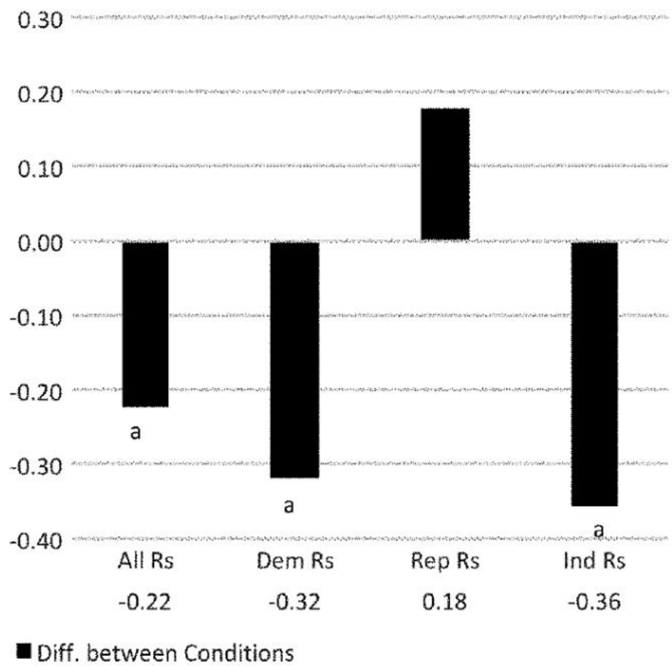

FIG. 5. Impact of dark money disclosure on candidate favorability in partisan context (Experiment 2). $n = 1{,}856$ (excludes control); *a* indicates significant differences between the group support condition and the group support + dark money conditions ($p < 0.05$).

Figure 6. Rhodes et al summary results showing statistically significant effects of dark money and disclosure among Democrats, Independents, and all respondents pooled together.

The first set of results, "All Rs," shows all respondents pooled together. Those results are then disaggregated into Democratic, Republican, and Independent respondents (Dem Rs, Rep Rs, Ind Rs). The Democrats and Independents have strong negative reactions. And the All Rs, Dem Rs, and Ind Rs all have a small "a" under them, which the authors used to denote a statistically significant difference between the condition announcing group support and the treatment condition that included the mention of dark money. (Both treatments included a partisan mention.) Rep Rs have a positive and non-statistically significant effect.

In terms of the sizes of the effects, the authors use the overall treatment effect to explain their results. Those who saw group support + dark money expressed favorability ratings -0.22 lower than those who only saw the group support treatment. The effect is measured on a scale that ranges from 0 to 6. This translates to a 3.6 percent decrease in favorability (0.17 standard deviations). The authors are quick to point out that while percentage change is smaller than the effect observed in a prior experiment, which did not use partisan cues (5.6 percent), the effect size is approximately the same number of standard deviations (0.19). In other words, while the means are slightly different, the distributional effects of campaign finance information are approximately the same with and without the partisan cue. The scholars "urge caution in interpreting these findings." In other words, we should not over-interpret these results as substantively different from results in studies without party cues.

Robinson's study also built on Dowling and Miller (2016).[42] In their article, Dowling and Miller used two survey experiments to test whether voters respond differently to candidates based on their funding sources. Their second experiment is of particular interest to this study. It is a vignette study, where the information in brackets is a randomly assigned treatment:

> Below is a short biography of a candidate for Congress. We would like you to evaluate this candidate based on the short biography. Please read carefully, and then answer the questions about the candidate that appear on this page and the next page.
>
> {NAME DELETED} is a [Party treatment: Democratic / Republican] candidate for an open seat (that is, there is no incumbent running for reelection) to the U.S. Congress. {NAME DELETED} is positioning himself as a political outsider who can change the way things are run in Washington. {NAME DELETED} has raised about $1.3 million for his campaign.
>
> [Funding Source treatment: NONE / $700,000 of {NAME DELETED}'s campaign funding comes from his own money. / $700,000 of {NAME DELETED}'s campaign funding comes from contributions from interest groups. / $700,000 of {NAME DELETED}'s campaign funding comes from contributions from individual citizens. / {NAME DELETED}'s campaign is funded with a mixture of individual contributions, contributions from interest groups, and his own money.]
>
> [Extra Information treatment: NONE / {NAME DELETED} is a college graduate and small business owner. He has focused his campaign on economic issues such as growing the economy and reducing unemployment. He is married and has two children.]
>
> Outcomes: Based on what you know about this candidate, how likely do you think you would be to vote for him? (Response options: Very unlikely, Unlikely, Somewhat unlikely, Somewhat likely, Likely, Very likely.)

The authors find that the informational benefits of disclosure persist even in the presence of partisan cues. Interestingly, additional information about the candidate's background and family somewhat muted the effect of the disclosure information for same-party respondents. However, a preference for self-funding and against interest group funding is still present where the candidate is in the party the respondent is not a member of. Results are shown in Figure 7. In this Figure (which is Figure 2 in the published article), the vertical axis is a measure of the question "how likely are you to vote for the candidate" with the seven options as shown above (Outcomes) "not very likely" is coded as -3 and "very likely" is coded 3. Here, we again have the results shown vertically, with the estimate as the circle, and the confidence intervals as the lines on either side of the circles (point estimates).[43] In the Figure, the "None" category only saw the first paragraph, ending with "has raised about $1.3 million for his campaign." The rest received a treatment related to where $700,000 of the campaign funding came from: Individuals, Interest Groups, Self

[42] Conor M. Dowling and Michael G. Miller, Experimental Evidence on the Relationship Between Candidate Funding Sources and Voter Evaluations, *Journal of Experimental Political Science* 3 (2016) 152–163 doi:10.1017/XPS.2016.5

[43] The confidence intervals are quite small here, suggesting high statistical power and low variance in treatment group answers.

Funding, or a mix. The interesting comparisons will be each of those treatment categories, compared to the “None” category.

As we see in the Figure, respondents consistently disfavor candidates with large interest group support. For the same party, in the absence of extra information, respondents like candidates with individual funding. And for the other party, respondents like self-funded candidates, although that result seems to go away in the presence of additional information.

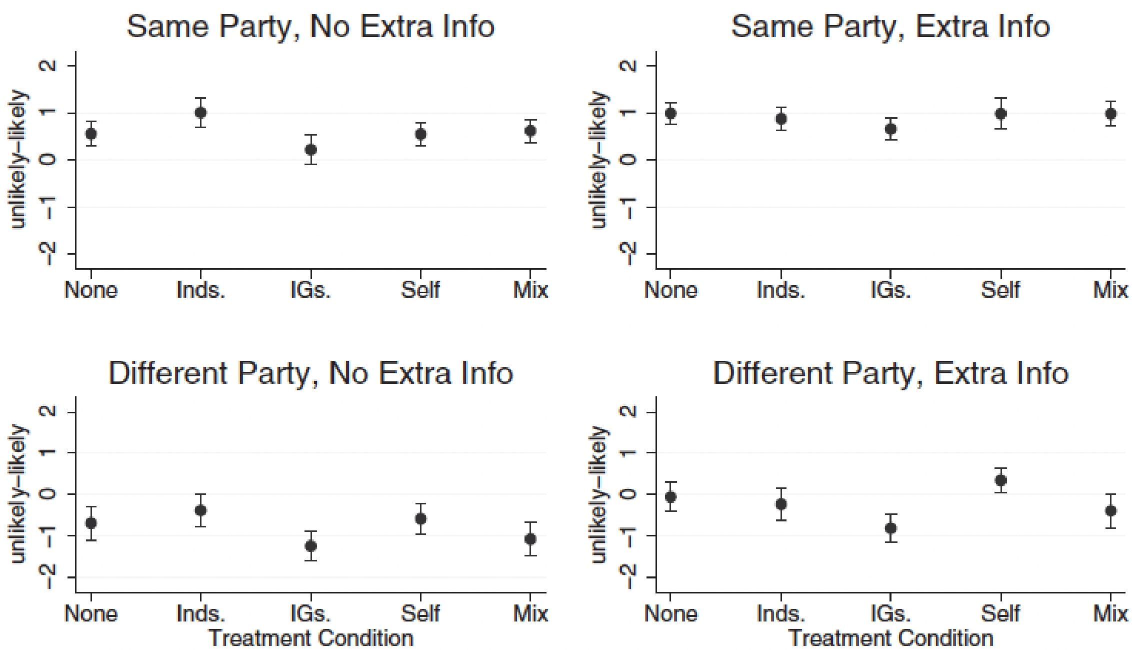

Figure 2

Effect of Funding Sources on Vote Intent (MTurk Experiment).

Notes: Means with 95% confidence intervals. Treatment Conditions: None = control group; Inds. = individual citizens; IGs. = interest groups; Self = own money; Mix = mixture of three sources. Source: 2012 MTurk. See Table 1 for complete question wording.

Figure 7. Dowling and Miller main effects. They suggest that, particularly in the absence of other information, voters respond to campaign finance information about the source of a candidate’s financial support. But when other information is introduced, the effect sizes decrease some.

In sum, voters in Alaska have unambiguously informative party cues on the ballot in less than 10% of their ballot choices. We know from political science that party is a strong heuristic, but that *even in the face of party information*, campaign finance information can still inform voters. In some studies, it seems more informative than in others, but in no study has the importance of campaign finance information vanished entirely in the face of party cues. And even if it did, that is largely irrelevant to most choices that voters in Alaska make. As discussed above, on Alaska ballots, most races are non-partisan, lack party cues, or have more than one candidate from each party. When there is more than one candidate from each party, party cues may help voters to eliminate out-party candidates, but voters still need additional information to make a choice that aligns with their preferences.

IV. Concerns about donor or candidate chilling are not well supported in the data.

Professor Primo and Mr. Hackney both are concerned about chilling—via fear of harassment, presumably, for Professor Primo, and via compliance struggles for Mr. Hackney. I discuss them in order.

A. Scholarly data does not support donor chilling via risk of harassment

Professor Primo cites to Professor La Raja's 2014 work on donor chilling to support his claim that donors may fear harassment and therefore choose not to donate, or not to donate as much. I recently summarized La Raja's study for the Oxford Handbook on Election Law[44] this way:

> Because of the difficulty of measuring chilling observationally, some scholars have attempted to measure it in a more controlled environment, using survey experiments. Still, no study has documented it consistently. La Raja randomly assigned survey respondents to various mandatory disclosure thresholds and asked them how much they would donate under each regime.[45] At a $50 disclosure threshold, the disclosure did seem to reduce the amount subjects were willing to donate, but only among some groups, and not among those experiencing the most cross-pressure. However, the same effect was not observed with $1 or $100 thresholds. We would expect the $1 threshold to be the most "chilling" and that the biggest negative effects would be observed among the people experiencing the most cross-pressure. La Raja's experimental design is important, but the indeterminacy of the results makes it difficult to draw firm conclusions about chilling.

Professor Primo also cites to his own work with Professor Milyo, surveying respondents about their opinions on disclosure, and showing that their support for disclosure is reduced when they're asked whether their own contributions should be disclosed. While I am sure that's what the data show, I also know how few people actually donate in our elections. For most of the respondents, questions about "their own contributions" are purely hypothetical. Around 35% of Americans cannot even handle a $400 emergency,[46] so the number of people with money to contribute to political candidates or groups is not large. Campaign finance regulation is truly a concern of only a few, but the information about it helps everyone. At any rate, back-of-the-envelope calculations using APOC data suggest that 3% of Alaskans gave to state and local candidates in the 2024 elections, with the median contribution being $100.

What's more, documented cases of harassment are few and far between. I again return to my recent Oxford Handbook chapter:

> Objective and subjective perceptions of risk of harassment may lead to chilling, too. In objective terms, the actual risk of harassment for a donor or ballot initiative signatory is extremely small. Millions of people donate and their donations all become public each

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[44] Abby K. Wood, Disclosure, Oxford Handbook on Election Law, 22 October 2024, pp. 923-946, https://doi.org/10.1093/oxfordhb/9780197547922.013.9

[45] Raymond J. La Raja, Political Participation and Civic Courage: The Negative Effect of Transparency on Making Small Campaign Contributions, 36 Pol. Behav. 753, 753– 76 (2014).

[46] Report on the Economic Well-Being of U.S. Households in 2018, Bd. of Governors of the Fed. Res. Sys. 2 (2019), https://www.federalreserve.gov/publications/2019-economic-well-being-of-us-households-in-2018-dealing-with-unexpected-expenses.htm.

election cycle in federal and state elections.[47] Yet there is "virtually no record of harassment" outside of a small handful of incidents around "hot-button social issues," "and even there, much of the evidence is weak."[48] Moreover, it is weak even though the cost of obtaining donor information is near zero in the age of the internet. In a study of signatories to ballot initiatives prepared for the litigation in *Doe v. Reed*, scholars who study direct democracy examined hundreds of state ballot initiatives from 1906 to 2009 and concluded that "it is difficult to identify any case of intimidation or harassment of a petition signer occurring during the entire previous century," and indeed they pointed to a failure of the petitioners to identify any petition signer— over the 2,299 ballot initiatives and 302 ballot referenda they identified— "who has alleged any instance of harassment or intimidation."[49]

> Subjectively, those bringing challenges to disclosure laws seem to overestimate their actual risk of harassment. This should come as no surprise, since humans are not known to be good at calculating risk, especially where risks are very small.[50]

Chilling from disclosure is difficult to study, and in my most recent attempts with my coauthors). I found evidence that speech we had expected to be chilled was instead "thawed." Returning one more time to the Oxford Handbook:

> It is difficult to design an observational study that would allow scholars to observe a causal inference regarding chilling in the "real world." Wood and Spencer compared states that improved their disclosure regimes over a four-year period to states that did not, and observed attrition from the donor pool over that time. This study found a negligible chilling effect of approximately 0.85 donors per district. However, it is hard to know whether those donations simply moved into the shadows and were made anonymously after transparency was increased at the state level. Moreover, the effects in the study were unstable: in some specifications, there were groups that seemed to participate more under strengthened disclosure, suggesting that disclosure can thaw speech for some contributors.[51] Because Wood and Spencer were unable to hold everything constant at the state level and have all "treatment" states improve disclosure in the same way and amount, their findings were a starting point but left plenty of room for improvement in terms of research design.
>
> Another study, by Wood, Elmendorf, Spencer, and Napolio, measured the chilling effect of ideological distance from one's neighbors, based on Seattle's campaign finance voucher program, which requires the source of every voucher to be disclosed, despite

[47] My sources for this claim consist of my original analysis of the Database on Ideology, Money, and Elections from 2010, 2012 and 2014, which lists 7,142,937 unique donors to candidates from those years. This undercounts individual donors nationwide, as local election data are hard or impossible to obtain in many states. See Adam Bonica, Database on Ideology, Money in Politics, and Elections (DIME) (2015), https://dataverse.harv ard.edu/dataset.xhtml?persistentId= doi:10.7910/ DVN/ O5P X0B.
[48] Richard Hasen, Chill Out: A Qualified Defense of Disclosure, 27 J. L. & Pol. 557, 559 (2012).
[49] Brief for Direct Democracy Scholars as Amici Curiae Supporting Respondents, *Doe v. Reed*, 586 F.3d 671 (9th Cir. 2010) (No. 09- 559), 2010 WL 1256467, at *10– 12.
[50] Daniel Kahneman & Amos Tversky, Prospect Theory: An Analysis of Decision Under Risk, 47 Econometrica 263, 263– 91 (1979).
[51] Abby K. Wood & Douglas M. Spencer, In the Shadows of Sunlight: The Effects of Transparency on State Political Campaigns, 15 Election L.J. 302, 302– 29 (2016).

each only being a $25 donation.[52] One of the Court's assumptions is that people who might be described as ideological outliers could be chilled in their speech by disclosure requirements. This study defined ideological outliers as those whose ideology is different from the average person in their ZIP code. Political scientists refer to these voters as "cross-pressured." Cross-pressured voters were more likely to use their vouchers than voters who are not cross-pressured, and the effect was biggest for cross-pressured voters who were more conservative than the typical person in their ZIP code. This effect is particularly surprising, since the groups challenging disclosure laws tend to be conservative. In Seattle, there was also an effect that could be interpreted as "thawing." Some donors who were ideological outliers in their ZIP codes gave to candidates who were more politically extreme than the donor's measured ideology. In other words, conditional on the choice to give, these donors did not shade their donations toward their neighbors."

In our study of Seattle vouchers, we explained our results this way: "Results from both designs are similar and do not support the hypothesis that neighborhood-level cross pressure causes local political outliers to participate less in public (vouchering) relative to private (voting) political activity. The observed effects of neighborhood-level dissonance on voting and vouchering are both very small and, if anything, local political outliers are less likely to vote but more likely to voucher than otherwise similar registered voters who are not local outliers. **This cuts against the conventional wisdom about the supposed chilling effect of disclosure.** We replicated our design on data from the 2019 election and find similar results for vouchering among politically cross pressured voters, when compared to population matches who were not cross pressured."

B. Donor chilling seems unlikely to have happened in Alaska.

Now that the disclaimer rules include whether candidates and groups have large numbers of supporters from out-of-state, plaintiffs may think that donations from out of state will slow. But in before-and-after comparisons of state and local-level shares of out-of-state funding, we generally don't see a decrease in the share of out-of-state contributions, dollars, or contributors.[53] In many cases, we see increases, some dramatic. Figure 8 illustrates.

[52] Abby K. Wood et al., Mind the (Participation) Gap: Vouchers, Voting, and Visibility, 50 Am. Pol. Res. 623 (2022).

[53] Before-and-after comparisons are a fairly weak design for causal inference, because they do not establish a counterfactual trendline against which to compare what we observe. However, examining the actual data in Alaska helps us to understand that the actual observed shares of out-of-state donors are generally not lower after Ballot Measure 2 was adopted, and in some cases are *much* larger. To argue that the figures show "chilling" of out-of-state speech would require showing that we should have expected larger increases in the share of out-of-state participation than we observe. Neither expert for the plaintiffs makes that argument.

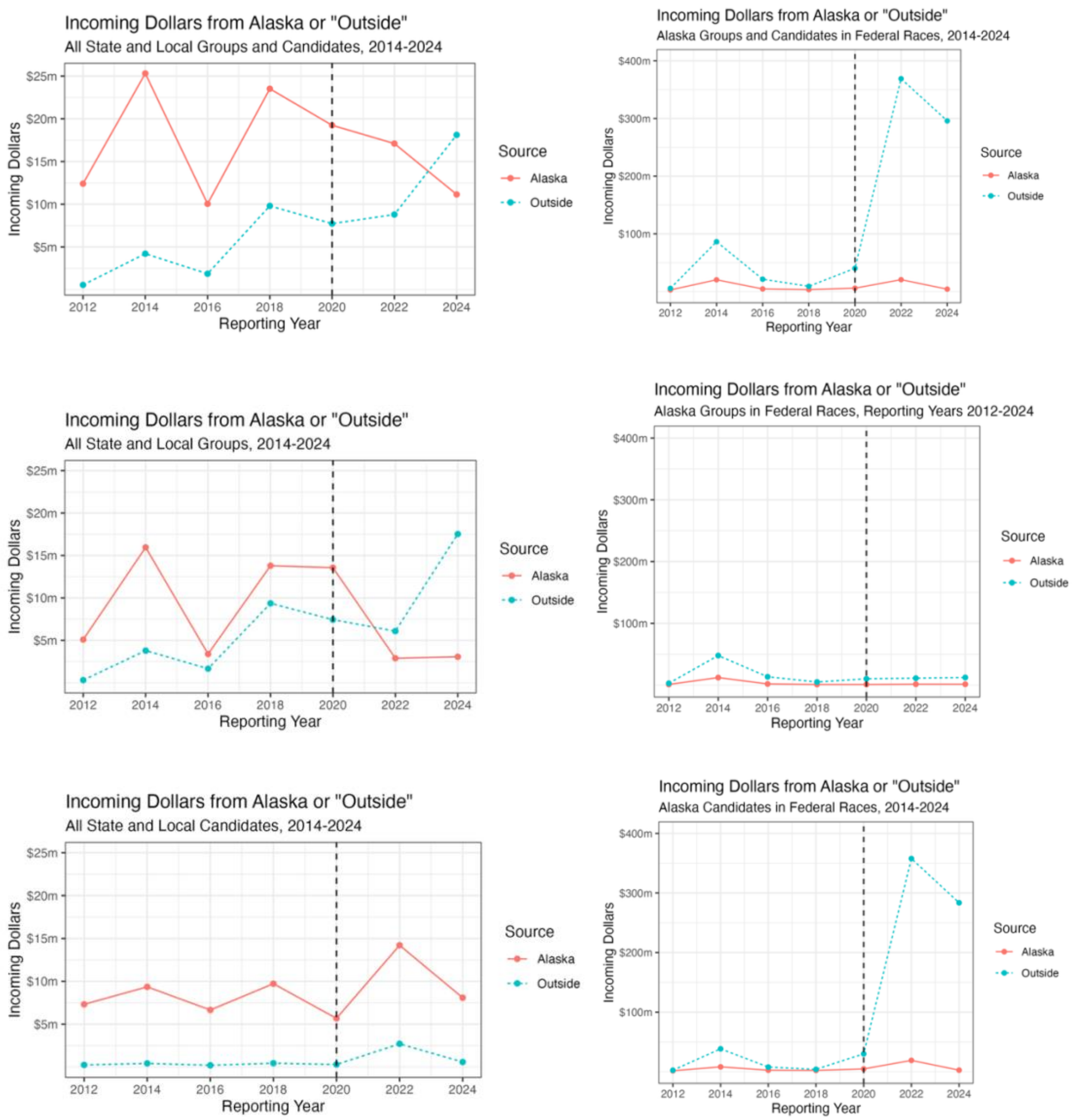

Figure 8: Contributions to candidates for state and local office in Alaska (left column) or running to represent Alaskans in Washington, D.C. (right column), and the groups that support them. Contributors in Alaska are shown with a solid orange line and contributors from Outside Alaska are shown with a dotted teal line. Rows are aggregate contributions to both groups and candidates (top), groups only (middle) and candidates only (bottom). Dashed vertical line shows 2020, the year Ballot Measure 2 passed. Data sources: APOC (left column), and Database on Ideology, Money in Politics, and Elections, or DIME data (right column).[54]

In Figure 8, we see the total amount donated from 2012-2024 to state and local groups and candidates by Alaskans and people from "Outside" (left column). The right column of the Figure shows donations to federal groups and candidates (right column).[55] Each row presents a different

[54] At the time of download, 2024 state-level data was not available in the DIME dataset.

[55] These data are from APOC's Campaign Finance – Income dataset. I downloaded year start, 30-day, 7-day, 105-day, year-end, and first-fourth quarterly reports from 1/1/12 to 12/31/24 twice – once for All Complete, Not Amended reports, then for Amended Only reports. The quarterly reports begin in 2015, so I omit them. Only a small subset of groups are required to submit quarterly reports. DIME data are the contribDB datasets for the 2014 – 2024 electoral cycles for recipients tied to federal campaigns for Alaska (U.S. House or Senate).

subset of the data. The top row shows all data. Row 2 shows Groups only, and Row 3 shows Candidates only.

If we thought that people from Outside might be dissuaded from participating by the out-of-state disclaimer, then one observational implication would be that the blue dotted line – the "Outside" line, would be sloping downwards after 2020, or at least sloping upward less than it did before Ballot Measure 2. We don't observe that. Instead, we can see that after 2020, donors from Outside do not seem dissuaded from donating – if anything, they seem to donate more money in 2022, 2024, or both.[56] This is true in almost all panels, though the data are, of course, fairly high variance. Some years are gubernatorial years (2014, 2018, 2022), some years are Senate election years (2014 – Sullivan flipped seat, beating incumbent, 2016 – Murkowski won as incumbent, 2020 – Sullivan won as incumbent, 2022 - Murkowski won as incumbent), some years are both (2014, 2022), and 2012 was neither. In only one case does Outside spending decrease between 2020 and 2022, and that's group contributions from outside of Alaska in 2022; however, it surges to new heights in 2024, nearly doubling its previous high, from 2018.

In Figure 9, I repeat the exercise in Figure 8 with two differences. First, I subset only to donors who gave $2,000 or above to at least one candidate campaign or group in a given reporting year (Alaska) or election cycle (federal data). Second, I include a new row counting those large donors over time—that is the top row of Figure 9. As before, the results are not consistent with the hypothesis that the passage of Ballot Measure 2 chilled political donations, especially for donors from the Outside. These are donors who might be thought by the plaintiffs to be especially sensitive to a donor disclosure rule. The only way to show otherwise would be to establish a counterfactual that in the absence of Ballot Measure 2, donations would have been even higher, donors would have been even more plentiful, or both.

[56] To truly know whether Ballot Measure 2 *caused* chilling, we would need an appropriate counterfactual state, but to my knowledge, plaintiffs and their experts have not presented data from recipients in Alaska or other states that could serve as counterfactuals for Alaska.

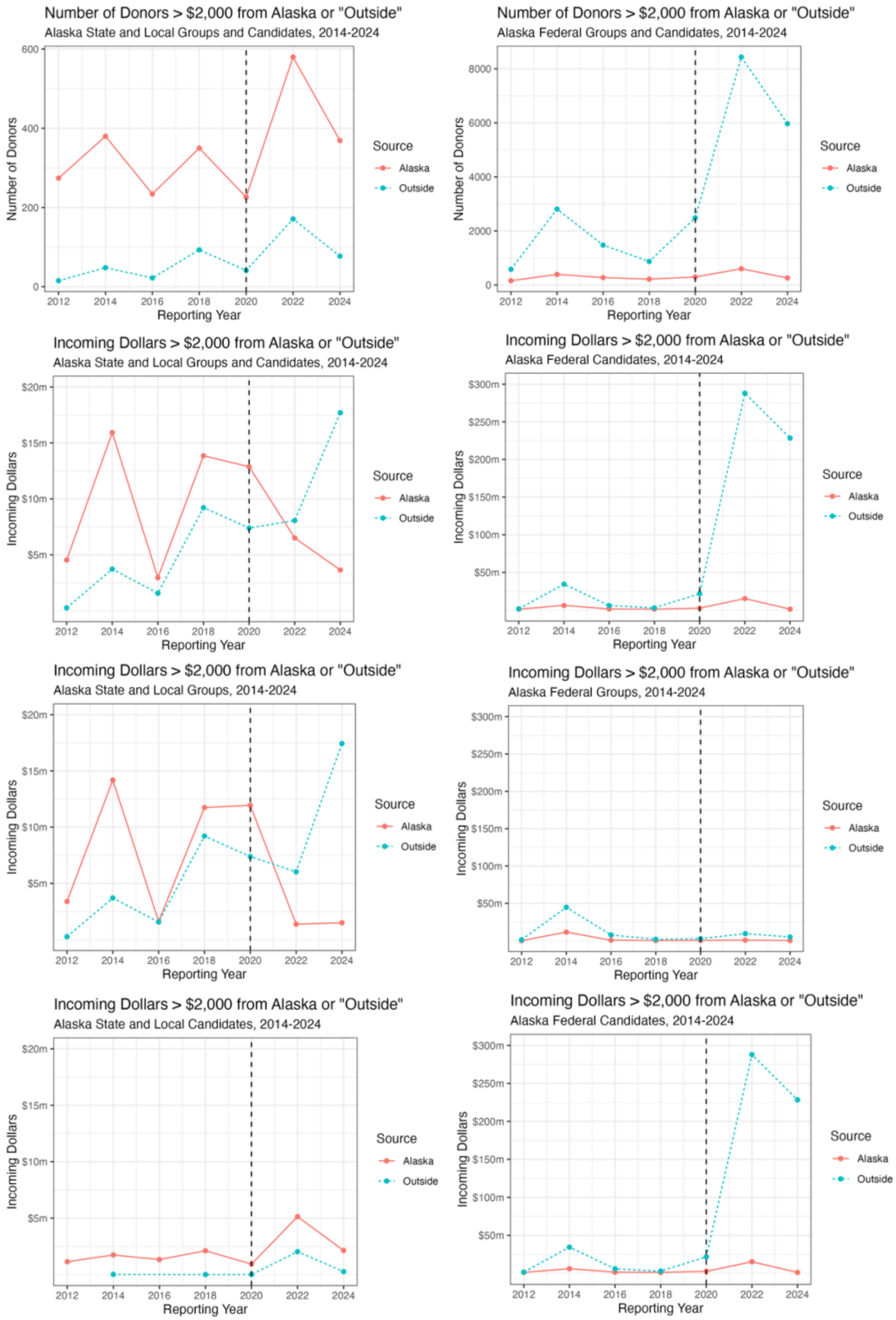

Figure 9: Contributions to candidates for state and local office in Alaska (left column) or running to represent Alaskans in Washington, D.C. (right column), and the groups that support them, among donor-recipient pairs in which the donor gave at least $2000 to the recipient in a given reporting year or election cycle. Contributors in Alaska are shown with a solid orange line and contributors from Outside Alaska are shown with a dotted teal line. Rows are aggregate contributions to both groups and candidates (top), groups only (middle) and candidates only (bottom). Dashed vertical line shows 2020, the year Ballot Measure 2 passed. Data sources: APOC (left column), and Database on Ideology, Money in Politics, and Elections, or DIME data (right column).

C. Concerns about chilling candidacies or candidates' speech from regulatory compliance challenges are not well-studied by academics but should be reduced by administrative efforts to ease compliance.

To engage in public life, we necessarily submit to some rules. Of course, which rules are appropriate or overly aggressive or violate our freedoms is the subject of constant public conversation and negotiation. Nevertheless, the Supreme Court has never supported a completely de-regulated disclosure regime.

As Mr. Hackney explains in his expert report, and as I witnessed as a commissioner on California's FPPC, many candidates are unsophisticated. Lack of candidate sophistication is not a reason to deregulate, but it is a reason for regulatory agencies to assist the candidates and their campaigns in learning how to comply in this regulatory world that may be new to them. To that end, regulatory bodies that enforce ethics and campaign finance rules, like APOC, conduct education campaigns and post training videos,[57] provide help via telephone or email,[58] exercise prosecutorial discretion, and issue advisory opinions that provide a safe harbor for the requestor and others engaged in similar activities.[59]

These regulatory and compliance strategies should reduce compliance costs and any chilling of candidates who would otherwise run for office, as long as the candidates avail themselves of them by taking the trainings, staying in contact about any questions that arise, and requesting advisory opinions if necessary. Indeed, at the FPPC, evidence that a candidate had taken those steps was considered a mitigating factor in negotiated fines.

V. Conclusion

It is my opinion that plaintiffs' experts have failed to establish that campaign finance disclosure is ineffective or might even harm voters. The vast majority of studies find that campaign finance information does help to inform voters about their choices on the ballot.

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[57] See Self-Paced Training – Candidate Campaigns and Self-Paced Training for Group Campaigns by the Alaska Public Offices Commission's website, https://apoc.doa.alaska.gov/training/campaign-disclosure/.
[58] See the Alaska Public Offices Commission's Contact Us page at https://apoc.doa.alaska.gov/about/contact-us/ ("If you can't find the information you need on our website, please write, call or email us. Office Hours of Operation: 8am to 5pm (Alaska time)")
[59] See, e.g., Final Order Modifying and Approving Advisory Opinion, AO No. 24-04-CD, In Re: Request for Advisory Opinion by the 907 Initiative, September 9, 2024, available at https://aws.state.ak.us/ApocReports/Paper/Download.aspx?ID=26260.

VI. Qualifications and Background

I am the George T. and Harriet E. Pfleger Chair in Law and Professor of Law, Political Science, and Public Policy at the University of Southern California Gould School of Law. I have also taught at the University of Chicago Law School. Before (and during) these current positions, I served in several other relevant positions: Commissioner on the California Fair Political Practices Commission (FPPC), California's campaign finance regulator; Law Clerk for the Late Hon. John T. Noonan for the U.S. Court of Appeals for the Ninth Circuit; member of the Federal Bipartisan Campaign Finance Task Force, and member of the FPPC's Digital Transparency Task Force.

I have been researching campaign finance, malfeasance by government actors, political scandal, and political transparency since 2009. Most of my research over the past decade analyzes constitutional, policy, and behavioral questions related to campaign finance. It appears or is forthcoming in *American Journal of Political Science*, *Journal of Empirical Legal Studies, Political Behavior, Election Law Journal, Journal of Public Administration Research and Theory, Political Research Quarterly, Public Choice, Annual Review of Law and Social Science*, several law reviews, such as *New York University Law Review, Emory Law Review, and Southern California Law Review*, and edited volumes, such as the *Oxford Handbook on Election Law* (Eugene Mazo, ed.) and *Money, Politics, and the First Amendment* (Lee Bollinger and Geoffrey Stone, eds.). I have published articles about how donors react to changing amounts of campaign finance transparency, voter opinions about campaign finance transparency and compliance, the informational benefits of campaign finance transparency, the racial implications of deregulated campaign finance, transparency for online political advertising, the effects of *Citizens United v. FEC*, and next directions in campaign finance research. I have also written about political corruption and scandals more broadly, including campaign finance-related scandals, accountability for corruption and campaign finance violations, state capture, rule of law for political elites, and voter opinions about campaign finance compliance. My other research is about executive politics, with publications on the Freedom of Information Act, politicization of administrative agencies, and agency use of randomization. While USC Gould provides generous support for my research, my work has also been funded by several grants, including from the National Science Foundation and Hewlett Foundation.

I currently teach Administrative Law, Analytical Methods for Lawyers (research design, statistics, game theory, economics, and finance), and Money in Politics. I have also taught International Law, International Human Rights Law. My curriculum vitae is appended to this report.

I hold a J.D. from Harvard, a Ph.D. in Political Science from University of California, Berkeley, and an M.A.L.D. (M.A. in Law and Diplomacy) from the Fletcher School of Law and Diplomacy at Tufts University. Before beginning my work in academia, I worked on corruption and good governance projects for the United Nations Development Program, U.S. Agency for International Development, National Democratic Institute for International Affairs, and World Bank.

I am being compensated for my work on this case by the Alaska Department of Law at the rate of $475 per hour.

VII. Acknowledgment

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge. My compensation is not contingent on my opinions in, nor the outcome of, this case.

Date: December 5, 2025

Abby K. Wood, Ph.D.
George T. and Harriet E. Pfleger
Chair in Law
Professor of Law, Political Science,
and Public Policy
University of Southern California

VIII. Appendix

Table of Contents

1988

Voter Information Guide for 1988, General Election

California BALLOT PAMPHLET

AVISO

Una traducción al español de este folleto de la balota puede obtenerse si completa y nos envía la tarjeta con porte pagado que encontrará entre las páginas 80 y 81. Escriba su nombre y dirección en la tarjeta en LETRA DE MOLDE y regrésela a más tardar el 24 de octubre de 1988.

General Election

NOVEMBER 8, 1988

CERTIFICATE OF SECRETARY OF STATE

I, March Fong Eu, Secretary of State of the State of California, do hereby certify that the foregoing measures will be submitted to the electors of the State of California at the GENERAL ELECTION to be held throughout the State on November 8, 1988, and that this pamphlet has been correctly prepared in accordance with law.

Witness my hand and the Great Seal of the State in Sacramento, California, this 18th day of August 1988.

March Fong Eu

MARCH FONG EU
Secretary of State

Secretary of State

SACRAMENTO 95814

Dear Fellow Californians:

This is your California Ballot Pamphlet for the November 8, 1988, General Election. It contains the ballot title, a short summary, the Legislative Analyst's analysis, the pro and con arguments and rebuttals, and the complete text of each proposition. It also contains the legislative vote cast for and against each measure proposed by the Legislature.

This pamphlet also contains a statement from each of California's five qualified political parties, summarizing its policies and principles. These are provided in the extra space available in this pamphlet to give you, the voters, a clearer understanding of the philosophies of the parties and the candidates who represent them.

Many rights and responsibilities go along with citizenship. Voting is one of the most important, as it is the foundation on which our democratic system is built. Read carefully all of the measures and information about them contained in this pamphlet. Legislative propositions and citizen-sponsored initiatives are designed specifically to give you, the electorate, the opportunity to influence the laws which regulate us all.

Take advantage of this opportunity and exercise your rights by voting on November 8, 1988.

SECRETARY OF STATE

Please note that Proposition 78 is the first proposition for this election. To avoid confusion with past measures Legislature passed a law which requires propositions to be numbered consecutively starting with the next nu after those used in the November 1982 General Election. This numbering scheme runs in twenty-year cycles.

100 Insurance Rates, Regulation. Initiative Statute

Argument in Favor of Proposition 100

This is the year for insurance reform.

Confused about which of the five propositions to support?

Don't be confused. *PROPOSITION 100 GUARANTEES REAL, LONG-TERM REFORM AND RATE REDUCTION.*

Two initiatives give reductions to drunk drivers!

Three initiatives were written by the insurance companies!

PROPOSITION 100 WAS WRITTEN BY CONSUMERS.

Proposition 100 is supported by MADD, Consumer Federation of America, Insurance Consumer Action Network, National Insurance Consumer Organization, Congress of California Seniors and Common Cause.

And only one initiative—Proposition 100—will make sure that good drivers, NOT RECKLESS and DRUNK DRIVERS, get the reductions they deserve.

ONLY PROPOSITION 100:

- *Guarantees "good drivers" an immediate 20% reduction and future 20% discounts in insurance rates.* Premiums will be based on your driving record. How you drive is more important than where you live, or on which side of the street.
- *Eliminates the unique special-interest exemption from the anti-trust law for insurance companies.* They will be governed by the same anti-trust laws that now apply to other major industries. Competition will increase by permitting banks to sell insurance.
- *Cracks down on unscrupulous practices in the sale and advertising of senior health care (medigap) insurance.* California seniors will no longer be prey to abusive and fraudulent sales tactics.
- *Mandates insurance companies provide law enforcement with the funds necessary to investigate and prosecute fraudulent auto claims.* Rather than deal with the problem, insurance companies are content to pass these costs on to consumers. Proposition 100 will force them to help in this crackdown.
- *Protects consumers, schools, local governments, small businesses, child care centers and nonprofit organizations against unjustified rate increases in auto, health, homeowner, liability and other types of insurance.*
- Unlike the other insurance initiatives, *Proposition 100 will assure that drunk and reckless drivers will not be allowed to escape responsibility for the tragedies they cause.* It preserves, unchanged, the rights of victims and their families to contract freely with the attorney of their choice to ensure that they are fully compensated for their injuries. It also protects a victim's right to full reimbursement for all necessary treatment by all licensed doctors.

PROPOSITION 100 is overdue! Look at the facts:

- Insurance companies in California have been more profitable than insurance companies throughout the entire nation.
- Over the last two years, California auto insurance rates have skyrocketed over 40%! And last year, the *insurance industry made a record net profit of over $13.7 billion* nationwide. In 1986, they made over $12.7 billion and fourteen of the top insurance companies paid absolutely no federal income tax—not one penny!
- Insurance companies are now free to charge whatever the market will bear. It's time to change the rules.

Several "insurance reform" initiatives appear on your ballot *but only Proposition 100 GUARANTEES REAL REFORM of the industry*—without giving premium reductions to drunk or reckless drivers! You have a real choice.

Don't let DRUNK DRIVERS or INSURANCE COMPANIES OFF THE HOOK!

Cut your rates by 20%—vote YES on Proposition 100!

PATRICIA RAMIREZ
State Administrator, Mothers Against Drunk Driving (MADD)

CARL JONES
Director, Congress of California Seniors

JOHN VAN DE KAMP
Attorney General of California

Rebuttal to Argument in Favor of Proposition 100

DON'T BE FOOLED BY PROP 100. IT'S A LAWYER INITIATIVE. PROP 100's REAL PURPOSE IS TO PROTECT ATTORNEY INCOME. VOTE NO ON PROP 100.

Trial attorneys are pushing PROP 100 to block any meaningful reform of our failing auto insurance system—a system that forces hundreds of thousands of minor accidents to be litigated. UNNECESSARY LEGAL COSTS ARE DRIVING UP THE COST OF INSURANCE!

PROP 100, written and primarily funded by lawyers, is a special-interest initiative designed to protect the substantial income trial lawyers make from litigation.

The measure prohibits regulation of attorney contingency fees at this election—which routinely account for 33% to 40% of a victim's award—and bars voters from fundamentally reforming our auto insurance system at this election.

The number of auto accident-related lawsuits filed in California has increased by a staggering 81% in the past five years, according to the Judicial Council of California.

PROP 100 DOES NOT CUT COSTS OUT OF THE SYSTEM, SO ITS PROMISE OF LONG-TERM RATE REDUCTION IS FALSE!

PROP 100 will raise rates for two-thirds of California drivers by 22%. According to a study by the state Department of Insurance of a proposal similar to Proposition 100, rates of two-thirds of drivers will increase by effectively eliminating rating based on the safety record of your neighborhood and forces suburban and rural drivers to subsidize motorists in high-risk areas.

Finally, this measure allows the troubled banking industry to risk your assets by moving into the insurance business. Big banks are the second largest backer of PROP 100.

DON'T LET THE TRIAL LAWYERS TRICK YOU. VOTE NO ON PROP 100.

HENRY J. VOSS
President, California Farm Federation

ED DAVIS
State Senator, 19th District
Vice Chair, Senate Judiciary Committee

BETTY SMITH
Former Chair, California Democratic Party

Insurance Rates, Regulation. Initiative Statute 100

Argument Against Proposition 100

NO ON PROP 100.

DON'T BE FOOLED BY THE LAWYERS' INITIATIVE.

PROP 100's real purpose is to protect trial lawyer income. PROP 100 will not reform California's auto insurance system and it cannot provide long-term rate reductions.

PROP 100, the trial-lawyer initiative, would:

- Cancels provisions in other initiatives on this ballot regulating attorneys fees and prohibits any future regulation of such fees unless approved by the voters or the Legislature.
- Raise insurance premium rates for the majority of California drivers in the long run by effectively forcing insurers to ignore the driving safety record of your neighborhood, and forcing you to subsidize drivers that have the highest insurance losses. A State Department of Insurance study recently predicted that abolishing such rating factors will raise rates for two-thirds of the state's drivers by an average of 22%.
- Bar voters from adopting a No-Fault auto insurance system at this election that would provide more money to injured victims more quickly and efficiently than does the current system—and cut out the need for attorneys in many cases.
- Establish a costly government bureaucracy that does nothing to make insurance more affordable.
- Allow the financially troubled banking industry to endanger your savings by selling insurance.
- Give enormous new authority to a state "insurance czar."

The trial lawyers' initiative does virtually nothing to attack the underlying costs driving up auto insurance rates. Instead, it would create the same type of bloated bureaucracy that has been disastrous in states like New Jersey.

According to the Legislative Analyst, the regulatory bureaucracy mandated in PROP 100 will inflate the Department of Insurance's budget by 33% and add many additional bureaucrats to its staff.

California trial lawyers tell you that PROP 100 will give you rate reductions without reducing the cost of providing auto insurance.

DON'T BE FOOLED BY THE TRIAL LAWYERS' EMPTY PROMISES.

PROP 100's rate reduction is illusory and temporary. Without cost-cutting measures to stabilize rates over the long term, there can be no true reform of California's auto insurance system. The trial lawyers' PROP 100 will only add time, expense—and the need for more lawyers—to the auto insurance system in California.

The only way to bring about long-term stabilization of auto insurance rates is to cut the underlying costs driving up the price of insurance: the cost of insuring against uninsured motorists, rampant fraud, and, *most importantly, soaring legal costs in auto accident cases.*

PROP 100 DOES NOT REDUCE THE COST OF PROVIDING INSURANCE.

PROP 100 PROMOTES THE PRIVATE AGENDA OF TRIAL ATTORNEYS AT THE EXPENSE OF CALIFORNIA DRIVERS AND TAXPAYERS.

DON'T BE FOOLED.

WE URGE YOU TO VOTE NO ON PROP 100.

HENRY J. VOSS
President, California Farm Federation

ED DAVIS
State Senator, 19th District
Vice Chair, Senate Judiciary Committee

BETTY SMITH
Former Chair, California Democratic Party

Rebuttal to Argument Against Proposition 100

Proposition 100 gives *good drivers* a 20% discount, requires premiums be based on YOUR driving record and repeals the insurance industry's unfair exemption from antitrust laws.

Written by leaders of the insurance reform struggle in California—Insurance Consumer Action Network, Attorney General John Van de Kamp and Assemblyman Lloyd Connelly *—Proposition 100 is supported by the most diverse coalition of any insurance reform measure on your ballot,* including:

CALIFORNIA MOTHERS AGAINST DRUNK DRIVING (MADD)
Congress of California Seniors
Common Cause
LEAGUE OF CALIFORNIA CITIES
Consumer Federation of America
National Insurance Consumer Organization

And, for the first time in California history, consumer organizations have been joined by financially equipped allies, like bankers and lawyers, who provide the resources necessary to fight the insurance industry's $30 million campaign warchest!

Proposition 100 means genuine insurance reform:

GUARANTEES an immediate 20% reduction to all good drivers.

- Ensures YOUR auto insurance rates are primarily based on YOUR driving record.
- Eliminates the insurance industry's special interest exemption from antitrust laws. Insurance companies will be subject to the same laws that govern every other major industry.
- Protects seniors from health insurance abuses.
- Holds drunk and reckless drivers accountable for their actions. That's why CALIFORNIA MOTHERS AGAINST DRUNK DRIVING (MADD) *SUPPORTS Proposition 100* and *OPPOSES Propositions 101 and 104.*

To guarantee all the rights, reforms and protections provided in Proposition 100, it must receive more votes than Propositions 101, 103, 104 and 106.

Vote for *real insurance reform.*

YES on PROPOSITION 100!

STEVEN MILLER
President, Insurance Consumer Action Network (ICAN)

J. ROBERT HUNTER, JR.
President, National Insurance Consumer Organization (NICO)

STEPHEN BROBECK
Executive Director, Consumer Federation of America (CFA)

101 Automobile Accident Claims and Insurance Rates. Initiative Statute

Argument in Favor of Proposition 101

Only one auto insurance initiative on this ballot can dramatically reduce your premiums and provide for legal reforms which end trial lawyer-promoted lawsuits and fraudulent insurance claims . . .

PROPOSITION 101.

- Your YES vote on Proposition 101 mandates an insurance premium reduction AVERAGING ONE-THIRD for all California motorists and limits future increases to the cost of living.
- Your YES vote on Proposition 101 means that insurance will be affordable and families with teenage drivers and uninsured motorists will now be able to purchase insurance coverage.
- Your YES vote on Proposition 101 stops the rip-off which occurs when someone yells "whiplash" and sues for megabucks.
- Your YES vote on Proposition 101 stops those greedy individuals who have institutionalized the slogan, *"Hit me—I need the money."*
- Your YES vote on Proposition 101 ensures that all out-of-pocket expenses for medical bills, lost wages (including future loss), lost business opportunity, etc. are paid in full.

Proposition 101 is easy to understand and it is also fair! It mandates a 50% cut in bodily injury and uninsured motorist liability insurance premiums. This means that you will receive a reduction in your premium between 22% and 45% depending on your driving record, type of vehicle driven and the insurance coverage you carry.

Average reductions for California consumers will be about 35%.

Every registered personal *and* commercial on-road vehicle in the state will receive this reduction.

This significant cut in premiums occurs because, when a "fender bender/minor injury" accident happens, Proposition 101 limits claims for noneconomic loss (pain and suffering) to 25% above the real economic loss. According to the California Attorney General, Proposition 101's limitations ARE NOT in effect when an accident involves serious and permanent injuries or survivors' rights when a death occurs.

Proposition 101 also reduces the incentive for those lawyers specializing in "ambulance chasing" from filing meaningless lawsuits by limiting their contingency fees to 25% in those cases.

California consumers can no longer afford to be at the mercy of the "Devil's Duo"—unscrupulous trial lawyers and those insurance companies which prey upon California motorists with high premium increases! Proposition 101 provides significant rate reduction while protecting the rights of honest California motorists.

While the average California consumer will receive an approximate 1/3 cut in auto insurance premiums from Proposition 101, those motorists driving cars with little or no comprehensive or collision insurance may receive rate reductions of almost 50%. This significant reduction is especially helpful to seniors and people driving older cars.

As an added benefit, the reduction Proposition 101 provides is applicable to local and state governments and school districts. This means more funds will be available for programs instead of being paid out for insurance.

FOUR INITIATIVES ON AUTO INSURANCE APPEAR ON THIS BALLOT. NO MATTER HOW YOU VOTE ON THE OTHER INITIATIVES, BE SURE TO VOTE YES ON THE ONE INITIATIVE WHICH WILL CUT YOUR INSURANCE PREMIUM 1/3—PROPOSITION 101.

VOTE YES ON PROPOSITION 101.

Thank you.

RICHARD POLANCO
Member of the Assembly, 55th District
Chair, Consumers for Lower Auto Insurance Rates

JOHN SEYMOUR
State Senator, 35th District
Orange County

MIKE ROOS
Member of the Assembly, 46th District
Assembly Speaker pro Tem
Los Angeles

Rebuttal to Argument in Favor of Proposition 101

LOOK WHO'S TALKING: Proposition 101 was drafted and is supported by insurance companies. Official records of the California Secretary of State show that as of July more than $1.7 million, over 92% of Proposition 101's budget, was contributed by one insurance company and its holding company. That's why Proposition 101 is great for insurance companies and bad for consumers.

If you are hurt in an auto accident Proposition 101 requires you to use all:

- *your* sick leave
- *your* vacation time
- *your* health insurance
- *your* workers' compensation
- *your* state disability

before you get a dime from the insurance company of the person who hit you!

Proposition 101 will cost taxpayers money. Taxpayers, not the at-fault driver's insurance company, will pay the medical costs when a Medi-Cal recipient is injured in an auto accident. Taxpayers pick up the bill, insurance companies get the extra profits.

Drivers with perfect records are treated no better than drunk and reckless drivers. Because general damages would be reduced if you or a family member were injured by a drunk driver, the amount you collect from the driver's insurance would be reduced by as much as 66%. And you may still have to hire a lawyer and go to court to collect.

Proposition 101's promised premium reduction applies only to two portions of your premium. Insurance companies can raise the rest of your premium as much as they want.

Proposition 101 is a windfall for auto insurance companies; it's not real reform. VOTE NO ON PROPOSITION 101.

JOHN VAN DE KAMP
Attorney General, State of California

GLORIA MOLINA
Los Angeles City Councilwoman

EDWARD V. ROBERTS
Former Director, California State Department of Rehabilitation
President, World Institute on Disability

103 Insurance Rates, Regulation, Commissioner. Initiative Statute

Argument in Favor of Proposition 103

There are important differences between the five insurance initiatives on the November ballot which you should be aware of before voting.

Proposition 103—Voter Revolt to Cut Insurance Rates—is the only insurance initiative written and paid for exclusively by consumers. It alone reduces all of your automobile, home and business insurance premiums to November 1987 prices. Then, it alone cuts them another 20%.

Proposition 103 will also end the insurers' exemption from the antimonopoly laws, allow people to elect the Insurance Commissioner, require a special 20% discount for good drivers, and stop unfair price increases in the future. It specifies that a permanent, independent consumer watchdog system will champion the interests of insurance consumers.

Proposition 103 is written in plain language. There are no loopholes or fine print. Unlike the other propositions, nonlawyers can read it.

Because the polls showed that the insurance industry could not defeat Voter Revolt's 103 directly, the insurance companies came up with a plan to defeat it indirectly. They are pushing Proposition 104—the so-called "no-fault" proposition—and are spending tens of millions of dollars to advertise that it is better for consumers than Proposition 103.

Privately, insurance executives have admitted that their Proposition 104 would actually raise auto insurance premiums for many drivers. Worse, Proposition 104 rewrites the entire California Insurance Code to benefit insurance companies. The 24,000 words of obscure legalese in Proposition 104 turn the law into a "your fault" system. Their fine print cancels out every consumer reform in Voter Revolt's Proposition 103.

Some insurance companies disagree with "no fault," so they're financing Proposition 101, which claims to make the biggest cut in auto insurance. But the big cut they boast about affects only one portion of your auto insurance—they could raise premiums for the rest of your coverage as much as they want. In return, Proposition 101 allows insurance companies to avoid full payment for accidents. It, too, cancels many of the auto insurance reforms in Proposition 103.

Insurance companies are also financing Proposition 106, which restricts your right to quality legal counsel. The insurance companies claim Proposition 106 will cut their costs. In fact, it will limit your ability to make the insurance companies pay up.

Proposition 100, which is paid for by trial lawyers and bankers, simply does not go far enough to protect consumers' interests. Unlike Proposition 103, it does not automatically and immediately cut insurance rates. Nor does it enable consumers to permanently unite to fight against insurance abuse, as Voter Revolt's Proposition 103 does.

Proposition 103 is the only initiative written and paid for exclusively by consumers. It will save you the most money.

To guarantee that every reform in Voter Revolt's Proposition 103 becomes law, it must get more "Y " votes than any other proposition. Every vote in favo. another insurance proposition cancels your vote for Pr osition 103. That's why we advise you to vote "Yes" *only* on Proposition 103.

RALPH NADER
Consumer Advocate

HARVEY ROSENFIELD
Chair, Voter Revolt to Cut Insurance Rates/ Proposition 103

Rebuttal to Argument in Favor of Proposition 103

Proponents of PROP 103 claim that their initiative includes no "fine print," but IT'S FULL OF UNINTENDED CONSEQUENCES THAT WILL WIPE OUT ANY BENEFITS IT PROMISES YOU. VOTE NO ON PROP 103.

The most glaring example of this "fine print" allows for massive government intervention into the insurance industry. A GOVERNMENT-RUN INSURANCE SYSTEM IS NOT THE ANSWER.

In New Jersey, where the government intervened in the insurance business under circumstances similar to those mandated in PROP 103, every driver is paying a surcharge to help foot a $2.5-billion deficit racked up by the state-run insurance system.

PROP 103 advocates also tell you their initiative contains no loopholes. Look again. It's loaded with them.

- RATES WILL INCREASE by an average 22% for two-thirds of the state's drivers, according to the State Department of Insurance, because PROP 103 eliminates rating based on the driving safety record of your neighborhood and forces suburban and rural drivers to subsidize motorists in high-risk areas.
- DRUNK DRIVERS who haven't lost their licenses can qualify for "good driver" discounts.

A MASSIVE BUREAUCRACY IS NOT THE SOLUTION. Only fundamental reform of our auto insurance system will hold down insurance premiums. We need to reduce the cost of litigation, fraud and subsidizing uninsured motorists.

PROP 103 DOES NOT REFORM OUR SYSTEM. IT DOES NOT GUARANTEE YOU LONG-TERM RATE REDUCTIONS.

Vote NO on PROP 103.

ALISTER McALISTER
Former Chair, Assembly Finance and Insurance Committee

ED DAVIS
State Senator, 19th District

KIRK WEST
President, California Chamber of Commerce

104 Automobile and Other Insurance. Initiative Statute

Argument in Favor of Proposition 104

NO-FAULT, PROP 104, is the only insurance measure on the ballot that saves consumers money by *truly reforming California's failing auto insurance system.*

PROP 104 is a comprehensive cost-control measure that cuts auto insurance premiums by reducing the costs driving up insurance rates—high legal costs, fraud and the burden of protecting ourselves against uninsured motorists.

This measure enacts a NO-FAULT system, where auto accident victims are guaranteed medical and work-loss benefits from their own insurance company—regardless of fault. By restricting costly lawsuits, except in cases of "serious and permanent" injuries, no-fault saves consumers and taxpayers money now and in the future.

NO-FAULT is fundamental reform that will:

- REDUCE PREMIUMS by requiring all California auto insurers to cut rates for basic personal injury coverage by an average of 20%. This will result in an immediate overall average premium reduction of 7% to 17%.
- PROTECT CONSUMERS by prohibiting insurers from canceling or nonrenewing policies, or increasing rates solely because of a no-fault claim.
- GUARANTEE rapid payment of claims. PROP 104 requires insurers to pay all valid no-fault claims within 30 days of the claim or face a stiff interest penalty.
- SAVE taxpayers and consumers money by reducing court cases. Consider these facts from the Rand Corporation: 43% of civil court cases in California involve auto accidents and the average jury trial for an injury case costs taxpayers $8,300. Other estimates show that 52 cents of every insurance dollar contested in court goes to pay legal expenses, not to compensate victims.
- PRESERVE the right to sue for out-of-pocket expenses that exceed no-fault benefit limits and for "pain and suffering" damages in cases of "serious and permanent" injuries.

PROP 104 requires all drivers to purchase a basic benefits package of $10,000 for medical expenses and $15,000 for work loss. *In 1986, 90% of all auto accident claims would have been fully covered by these basic no-fault benefits.* Drivers who want more coverage can purchase it. Motorists already covered by a health plan, or who don't need wage-replacement coverage, can save even more by purchasing less coverage at lower cost.

PROP 104 creates a new deterrent to driving uninsured because uninsured motorists cannot receive no-fault benefits and cannot sue for compensation unless they are seriously injured.

The U.S. Department of Transportation and numerous consumer organizations have praised the type of no-fault system proposed for California for providing more money to accident victims, more quickly and more efficiently than traditional auto insurance.

Don't be fooled by other initiatives that promise large premium cuts—they either do nothing to cut costs or they don't guarantee that cost reductions will be permanent.

VOTE YES on PROP 104. It is the only responsible, proven auto insurance reform. We urge you to vote for reform by voting YES on PROP 104.

DIANNE FEINSTEIN
Former Mayor of San Francisco

ALFRED F. FEDERICO
President, California State Automobile Association (AAA)

PAT NOLAN
Member of the Assembly, 41st District
Assembly Minority Leader

Rebuttal to Argument in Favor of Proposition 104

Important facts are missing from the statement above.

First, Proposition 104 was written, and is being paid for, by the insurance companies. It will not reduce rates; it will raise them. It will not protect consumers; it will permit further abuse of consumers by the insurance industry.

According to the *Los Angeles Times* (June 24, 1988), at a private meeting of insurance agents on March 14, 1988, that was secretly taped, Donald Stewart, director of the American Agents Alliance and a supporter of 104, admitted that 104 "guarantees no cost savings." Stewart also admitted that insurance companies "can change their rates the day before the election" to offset any rate reductions promised if 104 is approved by the voters.

Finally, Stewart admitted that, under 104, rates could increase by 35% for some drivers.

Second, the statement above fails to mention that there is a hidden section in 104. Its fine print cancels every reform in Voter Revolt's Proposition 103, the initiative backed by Ralph Nader. Because the insurers were afraid they would be unable to defeat 103, they decided to spend $23 million to pass 104, and hide within it regulations that would cancel everything in 103.

Where will the $23 million come from? According to the *Los Angeles Times* (July 8, 1988), $2.3 million will come from State Farm, $2.1 million from Farmers, $1.4 million from Allstate, and the rest from other insurance companies.

Every vote for 104 is a vote against real insurance reform.

Vote NO on 104.

HARVEY ROSENFIELD
Chair, Voter Revolt to Cut Insurance Rates/ Proposition 103

Automobile and Other Insurance. Initiative Statute

Argument Against Proposition 104

The insurance industry is spending millions of advertising dollars to say "Trust us. Our Proposition 104—the 'no fault' initiative—will lower your automobile insurance rates." The insurance companies don't expect you to read Proposition 104's confusing 24,000 words of legal jargon, which turn insurance law into a "your fault" system.

However, we've studied Proposition 104. It contains many traps and pitfalls for consumers.

For example, Proposition 104 allows insurance companies to continue their anticompetitive behavior and exempts them from California's antitrust and consumer protection laws. It allows insurance companies to continue to raise their rates as much as they want, without opening their books to justify them. It prevents consumers form effectively challenging insurance companies when they unfairly raise rates, cancel policies or refuse to pay a claim. It maintains the present laws which prohibit insurance agents from offering discounts. It permits insurers to continue to base rates unfairly on where you live, rather than upon your driving record. And it does nothing to lower rates for homeowner, business and other kinds of insurance. The insurance companies wrote Proposition 104 to defeat genuine insurance reform proposals on this ballot and obstruct future reform efforts.

Second, the insurance industry's Proposition 104 won't save many consumers a penny. Its promised "7–17% ·count" only applies to a portion of your automobile ·licy. The companies will be free to charge you whatever they wish for the rest of the coverage you must buy. Insurance industry representatives themselves have admitted privately that many drivers will pay more under Proposition 104.

Worse, Proposition 104 allows the automobile insurance companies to continue to raise rates through Election Day, before they give drivers the advertised "discount." Many companies have already raised prices between 10% and 20% this year—so the reduction offered by Proposition 104 is already meaningless.

Third, under Proposition 104 it will be even harder for drivers to make insurance companies pay fully for a legitimate claim. And, under their "no fault" plan, you will have to collect from your own insurance company in most cases if someone else strikes you. Under Proposition 104, careful drivers are treated the same as unsafe drivers.

Finally, Proposition 104 will not lower your taxes. In fact, Proposition 104 forces taxpayer-funded programs like Medi-Cal to pay compensation to victims first, before the insurance companies have to pay. This simply means insurance companies will pay less, while taxpayers shoulder the burden of compensation.

Auto insurance "no fault" systems written by insurance companies do not lower rates or protect consumers. A 1985 U.S. government study shows that car insurance rates are up to 40% higher in states with "no fault" systems. That's why Nevada and Pennsylvania have repealed their "no fault" laws in recent years.

Don't be misled by the insurance industry's advertising campaign. Every vote for Proposition 104 is a vote for higher rates and against needed reforms. We advise you to vote "NO" on the insurance industry's Proposition 104.

RALPH NADER
Consumer Advocate

HARVEY ROSENFIELD
Chair, Voter Revolt to Cut Insurance Rates/ Proposition 103

Rebuttal to Argument Against Proposition 104

PROP 104, NO-FAULT, IS THE ONLY INSURANCE MEASURE THAT REDUCES PREMIUMS BY PERMANENTLY CUTTING COSTS OUT OF THE INSURANCE SYSTEM. VOTE YES ON 104.

Proponents of other insurance initiatives promise temporary premium reductions. What they don't tell you is that hidden provisions of their initiatives mandate massive government intervention. They also don't tell you that bureaucracies in other states have failed miserably to hold down premiums.

Consider New Jersey, where government intervention led to an enormous state-run insurance system with a $2.5-billion deficit.

Don't believe no-fault opponents when they promise premium reductions without fundamental reform.

Only Prop 104 enacts comprehensive reform, through no-fault and other cost-control mechanisms, to regulate the costs driving up insurance rates.

PROP 104 *will:*

- GUARANTEE prompt payment of no-fault claims from your own insurance company.
- PROHIBIT insurers from canceling your policy or raising your rates solely because of a no-fault claim.
- REDUCE premiums by requiring all auto insurers to cut rates for basic personal injury coverage by an average of 20%. This will result in an immediate overall average premium reduction of 7% to 17%.

Don't be misled by arguments that lump all no-fault plans together. Some no-fault laws have not worked because they were WATERED DOWN BY TRIAL LAWYERS. PROP 104 is modeled after the most successful no-fault laws nationwide.

ONLY PROP 104 REDUCES RATES IMMEDIATELY AND HOLDS THEM DOWN IN THE FUTURE THROUGH FUNDAMENTAL REFORM.

VOTE YES on PROP 104.

RICHARD U. ROBISON
President, Southern California Auto Club

BETTY SMITH
Former Chair, California Democratic Party

JIM NIELSEN
State Senator, 4th District
Vice Chair, Senate Insurance Claims and Corporations Committee

106 Attorney Fees Limit for Tort Claims. Initiative Statute

Argument in Favor of Proposition 106

VOTE FOR PROP 106 TO LIMIT ATTORNEY CONTINGENCY FEES AND SECURE MORE MONEY FOR VICTIMS.

PROP 106 reforms our legal system by limiting the amount lawyers can take from their clients' award, channeling more money to victims and less to attorneys.

Our current legal system allows lawyers to routinely collect up to 40% of an injured victim's total award. In many cases, attorneys collect much more.

PROP 106 limits attorney contingency fees in all tort cases to:

- no more than 25% of any award up to $50,000.
- no more than 15% of that portion of an award between $50,000 and $100,000.
- no more than 10% of an award above $100,000.

Currently, the State Bar of California, an organization that lobbies for attorney interests, is responsible for managing lawyer conduct and fees.

Under current rules, the State Bar routinely recognizes 40% as an appropriate fee and no fee is too high unless it is "unconscionable." According to the State Bar, an "unconscionable" fee is:

> "so exorbitant and wholly disproportionate to the services performed as to shock the conscience of lawyers of ordinary prudence practicing in the same community."

We wonder just what shocks the conscience of a lawyer of ordinary prudence, since contingency fees of 50% and more are upheld.

PROP 106 WILL RETURN COURT AWARDS TO VICTIMS.

More money should go to compensate accident victims. Less should go toward padding lawyers' wallets. Today, after paying attorney fees, accident victims often don't have enough money left over to pay their medical expenses or rehabilitation costs. We cannot continue to allow lawyers to make outrageous profits at the expense of accident victims.

Compare these facts: In 1987, the Lawyer's Almanac reports the *starting salary* for a law school graduate at top Los Angeles firms was *$52,000.* Don't believe lawyers when they say that they can't work for less money. There are over 106,000 lawyers in California. If we limit attorney contingency fees, every good case will still be presented to the court by competent lawyers; the only difference is that lawyers will be prohibited from charging their clients excessive fees.

The federal government and several other states have recognized the need to cap attorney contingency fees. Nearly 40 years ago the federal government enacted contingency fee limitations in cases where it is a defendant. Florida, New York and California limit contingency fees in medical malpractice cases, and last year Connecticut passed legislation similar to PROP 106.

PROP 106 will reform our wasteful tort system by directing more money to those who need it most: accident victims and other wronged claimants.

PLEASE VOTE TO LIMIT ATTORNEY CONTINGENCY FEES.

VOTE YES on PROP 106.

TOM McCLINTOCK
Member of the Assembly, 36th District
Vice Chairman, Assembly Judiciary Committee

ALAN F. SHUGART
Chairman of the Board and CEO, Seagate Technology

JOHN FLEMING
University of California Law Professor

Rebuttal to Argument in Favor of Proposition 106

Don't let insurance companies trick you. They wrote and financed Proposition 106 to make it harder for you to make them pay up. They plan to *wreck* an effective system that allows seriously injured Americans to pay their lawyers ONLY IF THEY WIN—AND NOTHING IF THEY LOSE!

The negotiable contingent fee permits Californians of modest means to bring wrongdoers to justice *without* having to pay fat hourly lawyers' fees. That's why scholars call the contingent fee the key to the courtroom door for average Americans.

Even a major insurance executive said, in the July 19 *Los Angeles Times,* 106 ". . . will bar public access to the courts."

Proposition 106 deviously stifles your ability to hire the smartest, most determined lawyers for you and your children against drunk drivers and manufacturers of defective cars, cancerous chemicals and dangerous prescription drugs. It will result in more wrongdoers getting off and more insurance companies not paying up.

In the June 2 *San Diego Union,* insurance industry executive George Tye said Proposition 106 *won't reduce insurance rates.*

Notice that 106 doesn't restrict fees that insurance companies pay *their* lawyers to defend wrongdoers. So while they can hire the best lawyers to fight you, you couldn't afford to do the same. *That's the trick of 106.*

The contingent fee allowed thousands of Americans to prevail against drunk drivers, and asbestos, hazardous household products and Pinto fuel tank manufacturers. Such victories make companies pay more attention to their safety obligations toward all Americans.

Vote *NO.*

RALPH NADER
Consumer Advocate

HEATHER BECHTEL MAURER
Executive Director, Asbestos Victims of America

GENE PATTERSON
Executive Director, National Victim Center

Attorney Fees Limit for Tort Claims. Initiative Statute

Argument Against Proposition 106

Don't be misled! Proposition 106 is the most insidious insurance industry-sponsored initiative on this ballot.

The insurance industry wants caps on legal fees.

But whose fees? NOT the fees paid to lawyers who work for insurance companies, NOT manufacturers' lawyers, NOT large corporation lawyers, NOT criminals' lawyers.

The ONLY lawyer whose fees would be limited would be YOURS—the lawyer YOU HIRE to help you recover damages from a drunk driver, an insurance company that won't pay you what it owes you or a shoddy manufacturer.

YOUR lawyer, NOT THEIRS!

Written by insurance company lawyers to confuse California voters and obscure the real issues—insurance reform and accountability—Proposition 106 would cripple the ability of crime and accident victims to retain qualified legal counsel.

Proposition 106 would hurt, among others, drunk driving victims who would be hindered from seeking justice from the offenders.

Proposition 106 is unfair! It cleverly restricts YOUR ability to fight for your rights, but does nothing to limit the amount insurance companies can pay THEIR attorneys to fight you.

Proposition 106 puts a straitjacket on the average Californian's ability to challenge insurance companies [illegible] refuse to pay benefits on legitimate claims. It also [illegible]ws unscrupulous insurance companies' lawyers to bully victims and their families (who use the contingency fee system) through intimidation and delaying tactics.

Why are insurance companies behind Proposition 106? Because the insurers who are bankrolling this initiative know that if they *stack the deck against policyholders by restricting legal challenges, they can increase their profits.* After all, the fewer claims they pay, the higher their profits. In 1987 alone, they made a record $13.7 billion! They should lower your rates without restricting your rights.

If Proposition 106 passes, Californians would lose valuable rights in exchange for empty promises. Don't be taken in by the insurance companies' secret strategy to divert your attention from the real issues—their outrageous premiums and obscene profits—by making the victim's attorney their scapegoat.

Proposition 106 is another "fine-print" insurance scam restricting the rights of policyholders to hold insurance companies accountable—even if those actions involve legitimate claims against drunk or negligent drivers.

Will this initiative save you money? NO! The insurance companies admit it. *But this initiative could cost you money!* If you lack proper recourse in demanding that your insurance company reimburse you fairly for your losses, you may never receive the compensation to which you are entitled. *You may be letting a drunk driver off the hook!*

Proposition 106 is discriminatory and unfair. It stacks the deck in favor of insurance companies AT YOUR EXPENSE by allowing them to hire whatever legal talent they want at whatever fee they want to pay while innocent victims would lose such rights.

If you think the fight against insurance companies is unfair today, just consider what will happen if Proposition 106 passes.

The free-choice system is essential for parents, victims and consumers. Don't put your loved ones and yourself in *needless jeopardy!* Vote *NO* on *PROPOSITION 106.*

JUDITH ROWLAND
Executive Director, California Center on Victimology

TOM BRADLEY
Mayor of Los Angeles

Rebuttal to Argument Against Proposition 106

DON'T BE FOOLED BY THE TRIAL LAWYERS' PLEA TO PROTECT THEIR EXORBITANT CONTINGENCY FEES. VOTE YES ON PROP 106.

Injured victims will have no difficulty finding proper legal representation. PROP 106 protects victims from excessive contingency fees.

Trial lawyers routinely take up to 40% or more of an injured victim's award. PROP 106 will give more money to victims by reducing excessive contingency fees. Vote YES on PROP 106.

Trial lawyers protest that they can't work for less than they make now, but the facts show otherwise.

Don't believe trial lawyers when they claim they cannot work for less money.

California has more than 106,000 attorneys—one out of seven nationwide. And their ranks continue to swell. The [illegible]iber of lawyers licensed to practice in Los Angeles County has multiplied two and a half times since 1970 and has increased by 35% since 1980!

California, New York and Florida already have fee limitations in medical malpractice cases, and injured victims have not gone without representation.

TRIAL LAWYERS ARE BENT ON DEFEATING PROP 106 TO PROTECT THEIR EXCESSIVE FEES—NOT TO SAFEGUARD VICTIMS' RIGHTS. DON'T BE TRICKED.

Please VOTE YES on PROP 106 to ensure that injured victims—not their attorneys—receive compensation. Vote YES on PROP 106.

JERRY EAVES
Member of the Assembly, 66th District

JAMES NIELSEN
State Senator, 4th District

REGIS McKENNA
Chairman of the Board and CEO, Regis McKenna, Inc.

Secretary of State
1230 J STREET
SACRAMENTO, CA 95814

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ELECTION MATERIAL

Aviso Importante para los Votantes

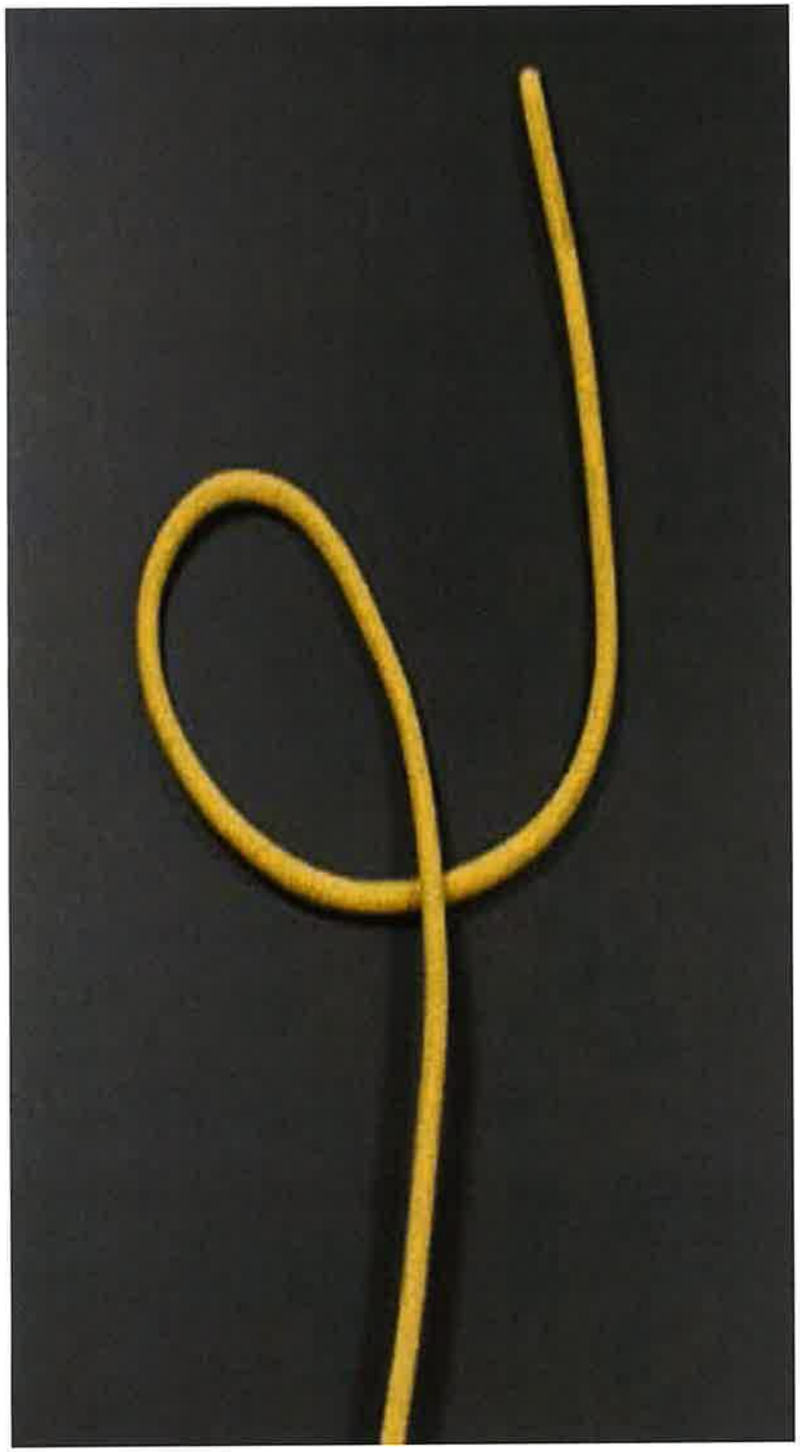
En algunos condados el título de la Proposición 102 impreso en las balotas de muestra por las oficinas de elecciones del condado y en las balotas mismas está incorrectamente escrito. El título correcto debe ser: REPORTAR EXPOSICIÓN AL VIRUS DEL SIDA.

Compiled by the Secretary of State
Analyses by the Legislative Analyst

In an effort to reduce election costs, the State Legislature has authorized the Secretary of State and counties having this capability to mail only one ballot pamphlet to addresses where more than one voter with the same surname resides. If you wish additional copies, you may obtain them by calling or writing to your county clerk or registrar of voters.

App. 13

The 32 Loopholes



Amendment 32 won't solve our immigration "problems."

• Doesn't apply to businesses that pay workers in cash

• Doesn't apply to payments less than $600

• Doesn't apply when workers use fraudulent documents

•Doesn't apply to federal tax breaks

Plenty of loopholes.
No substance.

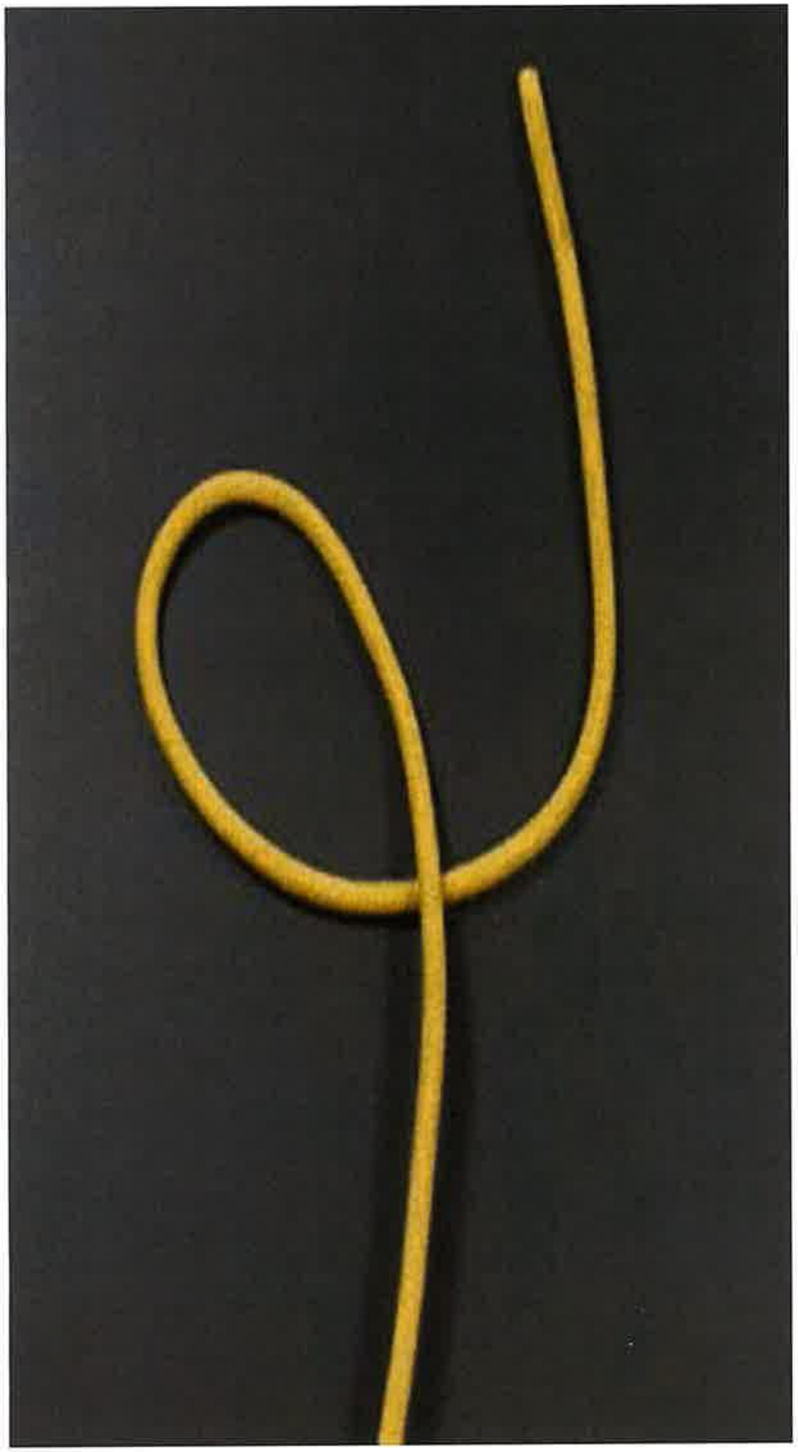
What's the point?

No on 32.

www.ColorofJustice.net

App. 14

The 32 Loopholes



Amendment 32 <u>won't</u> solve our immigration "problems."

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- Doesn't apply when workers use fraudulent documents
- Doesn't apply to federal tax breaks

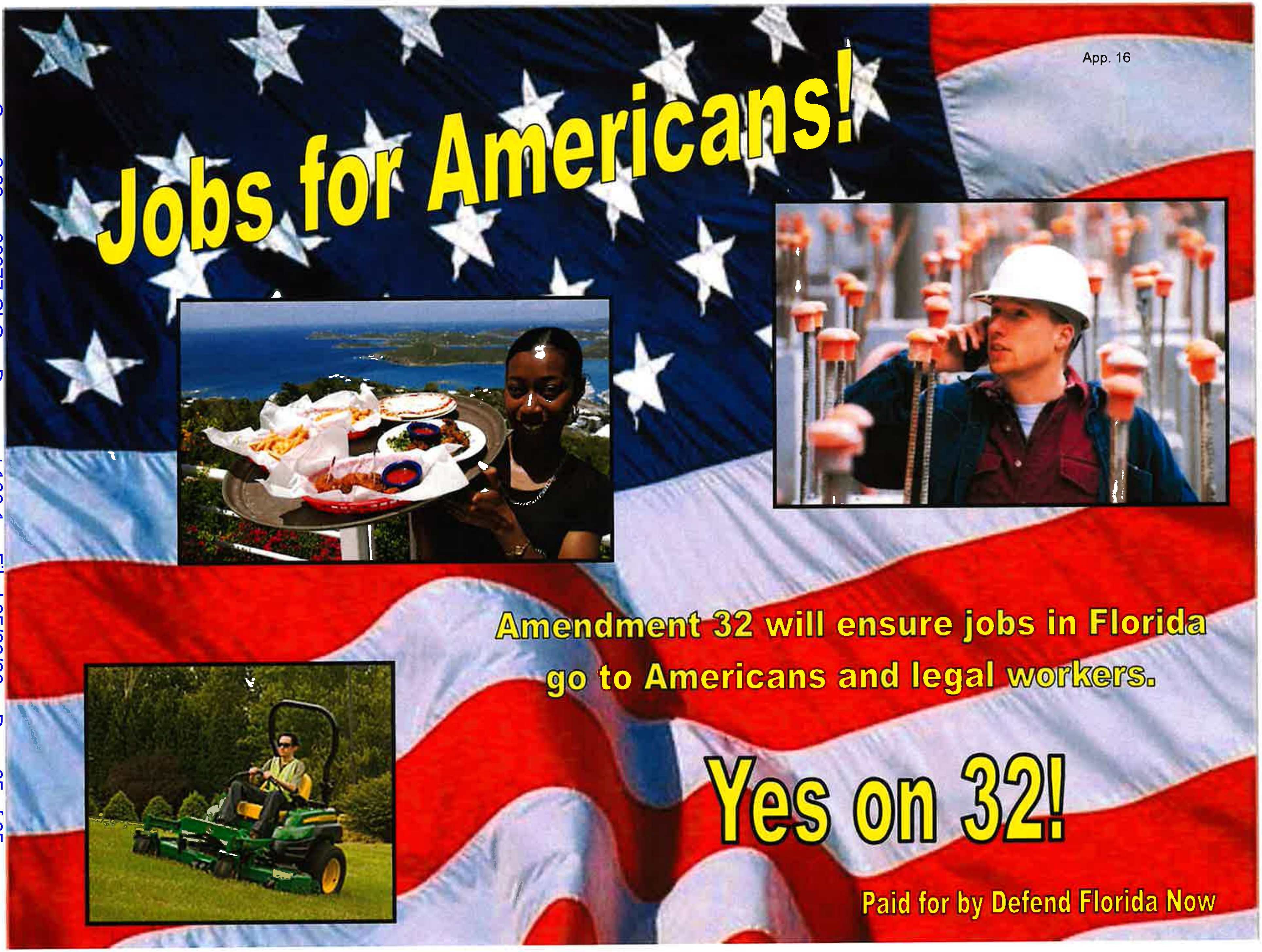
Plenty of loopholes. No substance.

What's the point?

No on 32.

Paid for by Color of Justice


Jobs for Americans!
Amendment 32 will ensure jobs in Florida go to Americans and legal workers.
Yes on 32!
www.DefendFloridaNow.com


Jobs for Americans!
Amendment 32 will ensure jobs in Florida go to Americans and legal workers.
Yes on 32!
Paid for by Defend Florida Now