

# Party-to-Candidate Contribution Limits in San Diego City Elections

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To: Chair and Members of the City of San Diego Ethics Commission  
From: Thad Kousser, Associate Professor of Political Science, UC San Diego  
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**Policy Question:** Should the City of San Diego limit the size of contributions from parties to candidates for city elections? If so, what should the size of these limits be, both in district elections and in citywide contests?

**Summary of Report:** This report reviews the goals of campaign finance limits and the current legal context in which candidates, parties, and the funders of San Diego city elections operate before laying out the pros and cons of enacting a limit on party-to-candidate contributions. Given the distinctive role played by parties in local elections, the many alternative avenues through which parties can help candidates, and the attribution limits already placed on the funds that parties may use to contribute to candidate, a case could be made for leaving these contributions unlimited. There are also compelling reasons to enact limits. If Commissioners wish to do so, this report lays out the constitutional tests that courts are likely to apply to judge them, and provides comparisons with the limits in place in large cities in the rest of the nation as possible benchmarks.

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**I. Competing Goals in Campaign Finance Regulation:** Policymakers and courts have pursued multiple goals in creating campaign finance laws in the United States, and sometimes the pursuit of one goal comes at the cost of another. Here are several commonly espoused goals that Commissioners may wish to keep in mind, along with caveats about how pursuing one might need to be balanced against harming another goal:

- **Preventing Corruption (or the appearance of corruption).** In the landmark *Buckley v. Valeo* (1976) case, the Supreme Court identified this as the compelling governmental interest that could justify curtailing free expression by limiting campaign contributions. Recognizing this points out the tradeoff between preventing corruption and limiting speech, perhaps motivating policymakers to set limits at levels that prevent corruption yet still allow for effective expression and political competition.
- **Freedom of Expression.** The courts have consistently held that campaign spending is necessary for candidates, individuals, interest groups, and parties to exercise their First Amendment rights. While limits on contributions and upon some expenditures made by non-candidates have been upheld, judges and many

policymakers are cautious about imposing burdens on the free speech and associational rights of all actors.<sup>1</sup>

- **Electoral Competitiveness.** Because incumbent officeholders running for reelection have so many electoral advantages – both in their name recognition and their perquisites of office – their opponents need to raise significant funds to challenge them effectively. Tight limits on contributions and laws that discourage expenditures could harm the chances of challengers and lead to less competitive elections.<sup>2</sup>
- **Transparency of Exchanges.** It is important for voters, journalists, and other observers to know where campaign money comes from and where it goes. Direct contributions from parties to candidates are reported quite transparently, but tight limits on these sorts of exchanges could have the perverse effect of pushing contributions away from paths that make the donor-to-recipient relationship clear and toward paths – including independent expenditures by groups that are not as readily identifiable as parties – in which it is obscured from voters. Efforts to curb corruption through tight party-to-candidate limits could motivate donors to pursue these paths and thus reduce transparency. On the other hand, a complete absence of limits on individual-to-party and party-to-candidate contributions could make parties into conduits through which individual-to-candidate contribution limits are circumvented.

**II. Current Law** provides three ways for parties to influence elections for city office:

1. Through direct contributions from parties to candidates for citywide or district offices, which are currently subject to no limits. The funds that parties may draw upon to make these contributions, though, may only be raised in attributed contributions of \$500 or less from individuals (and not from non-individuals such as corporations, labor unions, and other interest groups). This legal regime was set in place by Judge Gonzalez’s January 2012 ruling, which effectively resolved the *Thalheimer v. City of San Diego* case. Commissioners know well the history of San Diego’s regulation of party-to-candidate contributions. Such

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<sup>1</sup> Supreme Court justices focused on the effect of contribution limits on associational rights rather than free speech in the *Buckley* decision and in the majority opinion written by the Court’s more liberal justices in the *Nixon v. Shrink Missouri Government PAC* (2000) case, both of which upheld contribution limits. The limits in question in *Shrink Missouri* applied to contributions from individuals and political committees, ranged from \$250 to \$1000, depending on the level of office, and were adjusted for inflation. In Justice Kennedy’s dissenting opinion in *Shrink Missouri* and in the majority opinion in *Randall v. Sorrell* (2006), which struck down Vermont’s contribution limits as unconstitutionally low, the emphasis shifted from associational rights to the effect of contribution limits on a candidate’s freedom of speech.

<sup>2</sup> My analysis of the correlation between individual contribution limits and city council incumbent reelection rates across the largest California cities found no link between these types of limits and competitiveness (Declaration of Thad Kousser in Support of City’s Reply, *Thalheimer v. City of San Diego*). However, because parties behave differently than individual donors, concentrating their funds on the most competitive seats, a restriction on party contributions may indeed reduce the potential for electoral competitiveness.

contributions had been banned by Section 27.2950 of the San Diego Municipal Election Campaign Control Ordinance (ECCO). After Judge Gonzalez preliminarily enjoined the City from enforcing this ban on February, 2010, the City adopted a \$1000 per election limit on party-to-candidate contributions (ECCO Section 27.2934(b)). Judge Gonzalez overturned this limit in her 2012 ruling, but retained the requirement that parties make these contributions with funds raised only from individuals giving the party \$500 or less.

2. Through communication with party members. Parties may spend unlimited sums communicating with their members – voters who have registered with their party – during the course of an election. Citywide, 252,795 of San Diego’s 626,807 registered voters are Democrats (40.3%), and 176,274 are Republican (28.1%).<sup>3</sup> To make these communications, parties can engage in a broad range of campaigning and grassroots mobilization activities: sending direct mail to their members, calling them, knocking on their doors, and urging them to post lawn signs supporting a candidate. Because parties may raise funds for these purposes from any source and may directly coordinate with candidates on member communications, they energetically exercise this route to advocacy. Combining the city council and mayoral elections held from 2004 to 2010, the Republican Party spent \$2.7 million on member communications and Democrats spent \$1.1 million.<sup>4</sup> A party’s ability to make these communications is protected in state statute (California Government Code 85703), which prevents local governments from banning or limiting such expenditures.
3. Through independent expenditures on behalf of – though not coordinated with – candidates. Applying the *Citizens United v. Federal Elections Commission* (2010) case to San Diego, Judge Gonzalez ruled in 2012 that parties can make unlimited independent expenditures, can raise funds for these expenditures from both individuals and non-individuals (such as corporations, labor unions, and other interest groups), and that parties can solicit unlimited sums for this purpose. While parties may not coordinate this spending with candidates, the fact that parties can coordinate their member communications with candidates gives them a familiarity with candidate messages and strategies that can render this prohibition moot.

**III. Should Contributions from Parties to Candidates be Limited?** Given the many alternate avenues through which parties can influence elections for city office in San Diego, valid arguments could be made to place a tight limit on direct contributions to candidates, or to leave this route entirely unlimited. Here are potential rationales behind each approach.

1. Reasons to leave party-to-candidate contributions unlimited:

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<sup>3</sup> These figures are taken from a March 1, 2012 analysis of registration run by the San Diego County Registrar of Voters.

<sup>4</sup> These totals are calculated from the election-by-election estimates of member communication expenditures provided to me by Ethics Commission Executive Director Stacey Fulhorst.

a. Parties play a distinct role in financing campaigns, contributing in order to help their members win close elections rather than to influence the behavior of incumbents in office. This is clear both in studies of party giving at the state and national level, as well as from recent patterns in San Diego. A quantitative analysis in the leading book on state campaign finance, “demonstrates, once again, that party organizations make contributions in such a way as to gain or maintain a majority in the legislature (i.e., giving mostly to competitive races and nonincumbents), a tendency that sets them apart from other contributors. ... Whereas PACs, corporations, and individuals tend to contribute to the advantage incumbents have in campaign fund raising (see chapter 9), political parties’ contribution patterns make it possible for some challengers to have the money to run in competitive races.”<sup>5</sup> This is similar to the strategy that the federal Democratic Congressional Campaign Committee pursued in the 2006 congressional elections of focusing party money on competitive races.<sup>6</sup> In San Diego, when parties were free to make unlimited contributions during the 2010 general election, both major parties focused their contributions on the competitive, open District 6,<sup>7</sup> but did not make direct contributions in District 8 (which featured a run-off between two Democrats). Because parties direct their contributions to close districts rather than to incumbent officeholders, *limiting party contributions could aid incumbents and reduce electoral competitiveness.*

b. Because of parties’ distinct goals and giving patterns, party contributions are *less likely to bring corruption or its appearance.* Parties represent broader interests than individuals or interest groups do, and since no individual or group may provide more than \$500 of the funding for a party-to-candidate contribution in San Diego, these contributions will necessarily aggregate a broad array of interests. It will be hard to charge that any recipient of these funds has been “bought and sold” by a narrow interest. Additionally, because parties do not focus their funds on current officeholders in the way that other contributors do, their patterns of giving do not appear aimed at influencing incumbents’ policy decisions. Parties try to change election outcomes, rather than to swing a specific city council vote.

c. Party-to-candidate contributions *follow a transparent path that makes a candidate’s allegiances and backers clear.* Journalists and watchdogs can use public records compiled by the City Clerk to see who funds these contributions and where the money goes. Voters know what the “name brand” of a party means, allowing them to learn more about where a candidate stands from a party contribution than they can learn, for example, from contributions by groups such as “Unite

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<sup>5</sup> From Anthony Gierzynski and David A. Breau, 1998, “The Financing Role of Parties,” in Joel A. Thompson and Gary F. Moncrief, *Campaign Finance in State Legislative Elections* (Washington, DC: Congressional Quarterly, Inc.), pp. 200, 204.

<sup>6</sup> See John Sides, Daron Shaw, Matt Grossman, and Keena Lipsitz, 2012, *Campaigns and Elections: Rules, Reality, Strategy, Choice* (New York: W. W. Norton and Company), p. 109.

<sup>7</sup> According to city campaign finance reports, the San Diego County Democratic Party contributed \$17,000 to Howard Wayne’s campaign, while the Republican Party of San Diego County contributed \$20,000 for Lorie Zapf’s campaign.

Here San Diego,” “San Diego Works!,” or “San Diegans for Healthy Neighborhoods and a Strong Economy.”

2. Reasons to limit party-to-candidate contributions:

a. Because parties already have the ability to support their favored candidates through member communications and independent expenditures, *they have plentiful opportunities to exercise their freedom of expression*. If direct contributions were the only way for parties to play a role in elections, then a party could legitimately argue that a tight restriction would reduce its voice to a whisper. Yet city elections in California in the post-*Citizens United* era offer parties two bullhorns to make their voices heard to party registrants and to all voters. The openness of the surrounding legal context means that a reasonable limit on party-to-candidate contributions will not close off opportunities for parties to exercise their freedom of speech and associational rights.

b. Even though parties represent broader interests than a trade association, union, corporation, or single-issue advocacy group, *they still do not represent the broadest possible public interest* and could thus exert undue influence on lawmakers through unlimited contributions.<sup>8</sup> If enormous party contributions become vital to the campaigns of officials running for elections, parties may be able to pressure them to toe the party line while in office by threatening to withhold support from those who govern from the ideological center. If so, the absence of limits could strengthen each major party’s ability to polarize city politics.

A counterargument to this rationale might be that parties already possess the ability to enforce polarization through their control over member communications and party independent expenditures. Yet direct party-to-candidate contributions still play an important role in campaigns, because campaigns are about more than just communications. They are also about crafting a message, designing a campaign strategy, and organizing a volunteer field campaign. All of those activities can be supported by party-to-candidate contributions, but not through other routes of party spending. That makes direct contributions an important source of a party’s clout, and means that a limit on them could be an effective curb on party influence.

c. Those who are worried about the polarizing effect of parties in city elections may be especially concerned that *the party activists who determine endorsements and*

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<sup>8</sup> Whether or not the influence of parties can be deemed “corruption” is a debatable constitutional proposition. In *Nixon v. Shrink Missouri Government PAC* (2000), in which limits applied to individuals and political committees, the majority opinion worried that “the cynical assumption that large donors call the tune could jeopardize the willingness of voters to take part in democratic government,” while Justice Thomas’ dissent argued that corruption and its appearance should only be asserted as compelling state interests when a “‘corruption’ in the narrow *quid pro quo* sense” was at issue. The majority’s reasoning in that case might be extended to make the argument that party contributions could corrupt candidates for San Diego city office, thus providing a state interest in limiting these contributions. Yet under Justice Thomas’ reasoning, a limit on party contributions could only be justified by a concern that candidates were motivated by party contributions to give “official favors” or “act contrary to their obligations of office.”

*contributions are among the most polarized actors in American politics.* National surveys of party activists show that they are generally more ideologically extreme than officeholders, and that California’s Democratic activists are the most left-leaning activist group in the nation while our state’s Republicans activists are among the most right-leaning.<sup>9</sup> California’s local elections, which have been formally non-partisan since the Progressive Era, paradoxically empower party activists through avenues such as party contributions. Because San Diego elections do not feature a public party nomination contest, fights inside of a party organization determine who will win the party’s endorsement and campaign contributions. Rather than empowering voters who register with a party to pick their standard bearer, this gives power to the activists who control endorsements and contributions. Often, they support the candidate who most closely reflects a party’s positions, as in the current mayoral contest. Placing no limits on party contributions accentuates the power – and the potential polarizing influence – of the party activists who control the flow of party money.

#### **IV. If Commissioners Favor a Limit, How Should it be Constructed? If**

Commissioners do wish to enact a limit, they face the dual tasks of constructing one that meets San Diego’s campaign finance policy goals at the same time that it withstands constitutional scrutiny. Balancing competing policy goals requires resolving a debate among competing values: setting a limit that prevents corruption, stops the circumvention of other limits, and preserves the transparency of financial exchanges while at the same time allowing parties to compete with each other and to exercise their First Amendment rights is a tough trick. Withstanding court scrutiny is also a challenge, since courts have upheld some limits on party-to-candidate contributions while striking down others.<sup>10</sup> The courts have, however, provided guidance about the key tradeoff that policymakers must grapple with and the “danger signs” that would cause them to overturn a limit.

**The *Randall v. Sorrell* (2006) Test.** Because contribution limits infringe upon First Amendment speech protections, they must be “closely drawn” to meet their objectives. The 2006 *Randall v. Sorrell* decision provides the clearest articulation of what a closely drawn party-to-candidate contribution limit should look like (or, rather, what they should *not* look like). When the Supreme Court, in a 6-3 opinion written by Justice Breyer, struck down Vermont’s party-to-candidate contribution limits, it applied a fundamental balancing test and noted five danger signs present in Vermont’s limits. This test requires lawmakers to balance between, on the one hand, “the need to allow individuals to participate in the political process by contributing to political parties that help elect candidates,” and, on the other, “the need to prevent the use of political parties ‘to circumvent contribution limits that apply to individuals.’” (*Randall* at 258-59) Judge Gonzalez made multiple references to this balance

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<sup>9</sup> “Party activists” are defined as county party chairs and convention delegates, with figures reported in Robert S. Erikson, Gerald C. Wright, and John P. McIver, 1993, *Statehouse Democracy: Public Opinion and Policy in the American States* (New York: Cambridge University Press), pp. 102-104.

<sup>10</sup> In the *Federal Election Commission v. Colorado Republican Federal Campaign Committee* (2001) case, the Supreme Court upheld a \$5000 limit on party-to-candidate contributions in congressional elections that was coupled with larger (\$33,780 to \$67,560) caps on coordinated expenditures. In *Randall v. Sorrell* (2006), the Court struck down party-to-candidate contribution limits of \$200 to \$400 in Vermont state elections.

when she struck down San Diego's \$1000 per election party-to-candidate contribution limit in 2012. She also compared the size of San Diego's limit to limits in other large U.S. cities, and looked at *Randall's* five danger signs (three of which were present in San Diego's limit).

**Comparison to Limits in Other Cities.** While the courts have not relied exclusively on the size or per capita impact of contribution limits to assess their constitutionality, Supreme Court justices and Judge Gonzalez have considered these relevant factors. Table 1 below report provides three ways to compare San Diego's limits: their amount, their per resident impact, and their per voter impact.<sup>11</sup> All of these comparisons are done at the citywide level rather than in districts.

- A. *Total Amount:* To make an apples-to-apples comparison, I look at total size of the party-to-candidate contribution limits for an entire election cycle (because so many city elections lead to run-offs). San Diego's overturned limits, then, would have imposed a \$2000 per cycle limit. Chicago, Indianapolis, and Columbus impose no limits on party contributions. In the eleven cities that do impose limits, limits range from \$350 per cycle in Austin to \$50,000 in Jacksonville. The mean amount is \$9,198 per cycle and the median<sup>12</sup> is \$4,950.
- B. *Total Amount per Resident:* San Diego is a relatively large city, so dividing each city's contribution limit by the size of the city's population provides a better sense of how to compare the costs of reaching voters through broadcast media in a city. Contribution limits range from \$0.0003 per resident in Los Angeles to \$0.06 in Jacksonville, with a mean of \$0.0084 and a median of \$0.0011. Given San Diego's population, a limit of the same per capita size would be \$11,025 per cycle to match the mean city level and \$1,382 to match the median city.
- C. *Total Amount per Voter:* Even in two cities with the same population, the size of city electorates can vary radically based on the number of ineligible voters living in a city and, critically, the timing of elections. Gathering data on the number of voters in the most recent mayoral contest in other large cities shows that San Diego, which combines its regularly scheduled mayoral races with state and federal contests, has much higher turnout rates than Los Angeles and cities in Texas, which hold mayoral contests off of the even-year electoral cycle. More voters means more costs for campaigns in their direct mail expenses and field organization. Using the per voter size of limits and extrapolating from the size of San Diego's electorate, the city could set a limit on party contributions of

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<sup>11</sup> Supreme Court decisions do not provide crystal clear guidance on whether to make per capita or per voter comparisons. While the majority opinion in *Randall v. Sorrell* (2006) compares the size of Vermont's limits to limits in congressional districts and Missouri limits on a per capita and per citizen basis (using the data sources that it could easily obtain), it considers campaign costs as one of the factors that justify striking down a Vermont limit that was actually *higher*, relative to population size, than the Missouri limit which it had upheld.

<sup>12</sup> The median case provides a better representation of a "typical case" than an arithmetic average does when one or two outlying cases skews the distribution. Since Jacksonville's very high party-to-candidate contribution limits of \$50,000 (nearly five times the next highest limit) is an outlier, medians rather than means provide the most faithful summary of typical patterns across cities.

\$13,362 per cycle to match the mean city contribution limit and \$2,882 to match the median city.

**Party-to-Candidate Limits in the Largest U.S. Cities**

City	Limit (per cycle)	Population (2010)	Limit per Resident	Mayoral Votes Cast	Limit per Voter
New York	\$4,950	8,175,133	\$0.0006	1,154,802	\$0.0043
Los Angeles	\$1,000	3,792,621	\$0.0003	285,658	\$0.0035
Chicago	No Limit	2,695,598		590,357	
Houston	\$10,000	2,099,451	\$0.0048	123,620	\$0.0809
Philadelphia	\$11,500	1,526,006	\$0.0075	180,443	\$0.0637
Phoenix	\$10,880	1,445,632	\$0.0075	169,085	\$0.0643
San Antonio	\$1,000	1,327,407	\$0.0008	76,020	\$0.0132
San Diego	TBD	1,307,402		214,572	
Dallas	\$10,000	1,197,816	\$0.0083	55,711	\$0.1795
San Jose	\$1,000	945,942	\$0.0011	134,320	\$0.0074
Jacksonville	\$50,000	821,784	\$0.0608	192,592	\$0.2596
Indianapolis	No Limit	820,445		180,317	
San Francisco	\$500	805,235	\$0.0006	197,242	\$0.0025
Austin	\$350	790,390	\$0.0004	58,228	\$0.0060
Columbus	No Limit	787,033		179,032	
Mean	\$9,198		\$0.0084		\$0.0623
Median	\$4,950		\$0.0011		\$0.0132

*Sources: Contribution limits taken table produced by Ethics Commission Executive Director Stacey Fulhorst in March, 2012, population figures taken from 2010 Census, and 2009-2011 mayoral votes cast collected from appropriate election administrator websites.*

**Two Levels of Limits?** All of these comparisons are done at the citywide level, but Commissioners may wish to set larger party-to-candidate contribution limits in mayor’s races and other citywide contests than in district races. Running citywide requires candidates to reach out to far more voters and to campaign in a larger geographic area, yet does not open the door to a larger base of party contributors because contributions are likely to come only from a single party. Candidate spending in the last open mayoral contest shows just how expensive a citywide campaign can be, compared with district races. The 2005 special mayoral election featured a total of \$4.7 million in spending by seven candidates, while the

race held at the same time for the open 2<sup>nd</sup> Council District (a competitive seat with a large number of voters) saw approximately \$430,000 in combined spending by ten candidates.<sup>13</sup>

**Potential Danger Signs.** Set forth in *Randall*, these five tests will guide judicial scrutiny of any party-to-candidate contribution limits.

#1. Are the limits so low that they “significantly restrict the amount of funding available for challengers to run competitive campaigns”? (*Randall*, at 253) Because parties typically direct the bulk of their spending to candidates running in closely contested races, this is an important question. In her 2012 ruling, Judge Gonzalez answered it in a surprising way. She noted that when parties were allowed to make unlimited contributions in 2010, the Republican Party made a \$20,000 contribution to a single City Council candidate, greater than the \$1000 limit that was later enacted. It is true that, had the limit been in place, the funds available to this candidate (Lorie Zapf) would have been reduced. But it does not follow that Zapf would have been unable to run a competitive campaign against Howard Wayne, the Democrat contesting this open seat. A \$1000 party limit would have prevented him from receiving \$17,000 from the Democratic Party, a near wash in terms of affecting electoral competition. Perhaps there is another way to judge how large a limit should be in order to give challengers an opportunity to run a competitive election: by comparing how much parties gave in that contest to the total sums spent by each candidate. This is the test performed in *Randall* (at 253). Under this test, if the \$1000 limit had been in effect, it would have reduced Zapf’s expenditures (which totaled \$117,380 in the June election) by 16.2% and Wayne’s (which totaled \$167,050) by 9.6%. Limits could be set so that they lessen this impact, even if they do not give parties to opportunity to give exactly as much as they would wish to give under no limits.

#2. Are the party-to-candidate limits the same size as the limits on contributions from other types contributors, an equivalence that fails to recognize the “constitutional importance of associating in political parties to elect candidates”? (*Randall* at 256) One danger sign for Vermont’s limits on party contributions was that because they were the same as the limits on individual contributions, party members were prevented from associating with one another to help elect candidates. Parties could not effectively combine many small individual contributions and focus them on “whichever candidates the party believes would best advance its ideals and interests.” (*Randall* at 257) Applying this test to San Diego’s \$1000 party limit and comparing it to the \$500 individual-to-candidate contribution limit, Judge Gonzalez observed that, “The City’s limit on contributions is merely twice that of individuals.” To pass muster, then, a party limit must exceed the size of the individual limit by a multiple that is greater than two.

#3. Does the limit count the value of volunteer services in its definition of a contribution? (*Randall* at 259) The overturned \$1000 limit in San Diego did not do so, and Judge Gonzalez noted this in favor of the City’s defense.

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<sup>13</sup> The campaign finance figures in this paragraph and the next paragraph come from campaign finance reports provided to me by Ethics Commission Executive Director Stacey Fulhorst.

#4. Is the limit indexed to inflation? The overturned \$1000 limit in San Diego (ECCO Section 27.2934) was indexed to inflation, and Judge Gonzalez noted this in favor of the City's defense.

#5. Does the record of legislative action to set the limit contain "any special justification that might warrant a contribution limit so low or so restrictive as to bring about the serious associational and expressive problems that we have described"? (*Randall* at 261) Commissioners and the City Council must consider and make explicit the City's legitimate interest in limiting party-to-candidate contributions. Are the City's broad anti-circumvention and anti-corruption interests sufficient here?

First, an anti-circumvention case may be difficult to make under the post-*Citizens United* legal regime. An individual, interest group, corporation, or labor union who wishes to influence San Diego elections is free to spend unlimited amounts on: 1. An independent expenditure on behalf of a candidate, 2. A contribution to a party to make an independent expenditure, and 3. A contribution to a party to communicate with its members in coordination with a candidate. What is left to circumvent? Because party-to-candidate contributions can be funded only by individuals and only in sums of \$500 or less, they do not appear to be a useful conduit for circumvention today.

Second, Judge Gonzalez cast doubt upon the anti-corruption justification, pointing to the special role played by parties. She wrote that, "the Court cannot say, for example, that a Republican politician is necessarily 'corrupt' – or that there is an appearance of corruption – just because that politician votes to pass issues supported by the Republican Party after he or she takes office. To the contrary, that is the exact purpose of our political party system."

Regardless of what limit the Commission wishes to impose upon party-to-candidate contributions, no limit is likely to withstand judicial scrutiny unless the City provides firm justification that balances, "the need to allow individuals to participate in the political process by contributing to political parties that help elect candidates," against "the need to prevent the use of political parties 'to circumvent contribution limits that apply to individuals.'" (*Randall*, at 258-59) After laying out this test, Judge Gonzalez stated in her 2012 ruling that, "At this time, the Court cannot say whether a \$5000 or \$20,000 limit on contributions by political parties would be sufficient to pass the constitutional muster under *Randall*. Whatever the new limit the City decides to enact it would be required to demonstrate that it seriously engaged in the required balancing of the interests set forth above."

**A New Example of Acceptable Limits?** Although the case has not yet been appealed, a February 24, 2012 initial ruling by the U.S. District Court for the District of Montana (*Lair v Murry*) relies on the precedent in *Randall* and draws on *Thalheimer* to uphold limits on aggregate party contributions in Montana state elections of \$18,000 for governor and lieutenant governor, \$2,600 for public service commissioner, \$1,050 for state senators, and \$650 for any other public officer. These limits are adjusted for inflation and between five and 36 times as large as the limits imposed on individuals and political action committees for the same offices. Montana has a population of 989,415, and had a gubernatorial election turnout of 486,734 in 2008.