

Michael Toner Interviewed by Chuck Todd on *MSNBC* Concerning Supreme Court Campaign Finance Case

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Michael E. Toner, co-chair of Wiley Rein's Election Law & Government Ethics Practice, was interviewed by *MSNBC*'s Chuck Todd yesterday about a case before the United States Supreme Court that could ease restrictions on campaign contributions.

The Justices heard oral arguments on October 8 in *McCutcheon v. Federal Election Commission*, which is a constitutional challenge to the individual biennial contribution limit to federal candidates and other federal committees. The plaintiffs in *McCutcheon* are not challenging the law's so-called base contribution limits, which bar an individual from donating more than \$2,600 per election to any one federal candidate. Rather, the plaintiffs are asking the Supreme Court to strike down the aggregate contribution limits to all federal candidates and committees—currently set at \$123,200 per individual for a two-year election cycle—on First Amendment grounds.

Mr. Toner, a former chairman of the Federal Election Commission (FEC), noted that the *McCutcheon* case only pertains to personal contributions that must be fully disclosed to the public. The case does not concern corporate and union contributions and other contributions that are not disclosed to the FEC.

"Right now, candidates in political parties compete against one another for contributions because donors might want to give the maximum, but they bump up against this aggregate limit," Mr. Toner said. If the Court were to strike down the aggregate limit, the national political parties "no longer would have to compete with one

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another or the candidates for the maximum amount of money.”

Mr. Toner said he believes the Justices are “more likely than not” to strike down the aggregate contribution limits, in part because the Supreme Court, under Chief Justice Roberts, has been “very skeptical” of campaign finance restrictions over the last five or six years.

“Then the key issue is, does the Court apply what is known as strict scrutiny standard of review for contribution limits,” Mr. Toner said. “That has not been the law since *Buckley v. Valeo*,” and would lead to “a sea change in campaign finance.”

To watch Mr. Toner’s *NBC News* interview, please click [here](#).