BEFORE THE UNITED STATES JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

IN RE: Mary Nampiaparampil and Devi Nampiaparampil
v. NYC Campaign Finance Board and others

MDL -

MEMORANDUM IN SUPPORT OF

PLAINTIFFS' MOTION FOR CONSOLIDATION PURSUANT TO 28 U.S.C. § 1407

I. INTRODUCTION

Pursuant to 28 U.S.C. § 1407 and the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, Plaintiffs Mary Joseph Nampiaparampil ("Mary Nam") and Devi Elizabeth Nampiaparampil ("Dr. Devi") respectfully move this Panel for an Order consolidating their cases, which are currently pending in the Eastern District of New York (Case No. 24-cv-05605) and the Southern District of New York (Case No. 23-cv-6391), for coordinated or consolidated pretrial proceedings. Both cases arise from substantially similar factual allegations and legal claims against the New York City Campaign Finance Board (NYCCFB) and its associated Defendants. Plaintiffs allege they have been subjected to a myriad of free speech restrictions since 2021. They anticipate that additional tag-along cases will arise should a critical pre-trial issue be adjudicated in their favor. The Defendant NYCCFB has made it illegal for insolvent campaigns and their officers to communicate, coordinate, or even consult with attorneys regarding campaign-related issues, including civil rights abuses. Since campaigns are voluntary associations, and must have attorney representation to access the courts, this currently poses a significant obstacle for potential tag-along plaintiffs to overcome.

II. BACKGROUND

A. Nature of the Cases

1. Mary Joseph Nampiaparampil's case, filed in the Eastern District of New York, and Devi Elizabeth Nampiaparampil's case, filed in the Southern District of New York,

involve claims of constitutional violations, including First Amendment retaliation, Equal Protection Clause violations, and procedural due process infractions stemming from the NYCCFB's enforcement and auditing practices.

2. Both Plaintiffs allege retaliatory conduct, disproportionate penalties, denial of access to legal representation, and violations of statutory protections related to campaign finance laws.
3. The legal and factual overlap between the two cases includes:
    - The imposition of the so-called "Lawyer Ban," which restricted both Plaintiffs' ability to obtain legal counsel to defend against NYCCFB allegations. Specifically, Plaintiffs allege that the NYCCFB's interpretation of campaign finance laws unfairly precluded them from retaining legal counsel unless it could be financed through campaign funds, which were already restricted under campaign finance limits. The Agency's General Counsel, Joseph Gallagher, explained New York City's campaign finance laws to the S.D.N.Y. Court in a July 25, 2024 hearing (No. 23-cv-6391 Docket #55). He explained to the Judge, "If you want to spend on a lawyer and your campaign doesn't have the finances to spend on that lawyer, you can't pay for it out-of-pocket unless you stay with the contribution* limit. So, in this matter, it would have been $6000." (*The transcript erroneously reads "contradiction" limit). After the hearing, the Agency, through NYC's Office of Corporation Counsel, submitted a written Motion to the S.D.N.Y. Court, once again emphasizing, "If a campaign runs out of funds, candidates cannot pay for legal counsel out of pocket without violating contribution limits."
        i. Of note, before initiating this Section 1983 litigation, Plaintiff Dr. Devi consulted with a law firm and retained its services. She subsequently ended her relationship with the firm. However, she faces approximately $910,000 in campaign finance penalties for that act *alone*. The Defendants currently hold the sword of Damocles over both Plaintiffs' heads since they jointly share responsibility for campaign finance penalties.
        ii. The now insolvent 2021 campaign "Dr. Devi For NYC" does not have an open bank account to retain counsel to pursue litigation. At the

Defendants' direction, Plaintiff Dr. Devi closed the campaign's accounts at the conclusion of the 2021 election. The campaign cannot open a new bank account without the Defendants' assistance, which they have declined to provide. The Defendants have also prevented the defunct campaign from fundraising further. The plaintiffs cannot open a new legal defense fund without triggering additional penalties for illegal coordination of expenditures with a campaign.

iii. Plaintiff Dr. Devi hit the $6000 personal expenditure limit for NYC candidates, in 2021, as the Republican nominee for NYC Public Advocate. Although she has been a political candidate for office, she has been banned from spending money on political speech since November 2, 2021 (Election Day).

iv. Plaintiff Mary Nam served as the campaign Treasurer for the entire 2021 election cycle. Although she had created almost all the financial records for the campaign, she has been barred from assisting during the *second* campaign finance audit of "Dr. Devi For NYC." This audit has been ongoing since October 2022. Citing NYCCFB Rule 1-04, "The value of an in-kind contribution is the fair market value of the goods and services provided to the campaign," and finding that Plaintiff Mary Nam's volunteer work on her daughter's campaign was an "in-kind contribution," CFB Auditor, Donna Ross, speaking on behalf of the Agency, determined that the insolvent campaign could not afford Plaintiff Mary Nam's services. If Plaintiff Mary Nam continued to volunteer on the campaign, even for the purposes of coordinating a response to the Defendants' audit, both plaintiffs would incur campaign finance violations and penalties. The Defendants could appraise the fair market value of Plaintiff Mary Nam's speech. The Agency appraised Mary Nam's (no longer) "free" speech to be above her personal contribution limit of $2000 for the 2021 election cycle.

v. After serving as the campaign's candidate-liaison (a purported resource for the campaign), NYCCFB employee, Hannah Egerton, subsequently switched sides to become one of the campaign's auditors or prosecutors. Acting on behalf of the NYCCFB, she removed Plaintiff Mary Nam from her position as Treasurer of the campaign without her consent. Egerton

also assigned Plaintiff Dr. Devi to serve as Treasurer of the campaign– also without her consent.

vi. Again, neither plaintiff is allowed to consult with an attorney, an accountant, or a political consultant about either their campaign finance audit or their legal cases. Plaintiff Mary Nam is not allowed to participate in her own defense, but is personally liable for any violations and penalties the Defendants find.

vii. Of note, the Defendants' *first* campaign finance audit of "Dr. Devi For NYC" found zero (0) campaign finance violations and a 0.00% documentation error rate. Subsequently, the Agency reassigned new auditors, including Donna Ross and Hannah Egerton, to re-review the same financial transactions. With this second review, the Defendants purportedly found dozens upon dozens of new violations.

viii. Mathematically, this is the NYCCFB's retaliatory lawyer ban:

But for the protected activity

[Litigation (through compensated or uncompensated legal services) to redress grievances committed by the CFB and its agents],

The adverse action

[(≦ 3) x [("CFB's Fair Market Value" Cost of Litigation) - (Campaign's Liquid Assets)]]

+ ≦ $10,000

= [(≦ 3) x ("Over-the-Limit Contribution")] + ≦ $10,000

= Violation + (≦ "Treble") Penalties +/- Lifetime Ban On Receiving Matching Funds

Would not have occurred.

- The Defendant NYCCFB's interpretation effectively leaves campaigns, and their officers, and those officers' related private businesses, defenseless during campaign finance audits, as they cannot raise additional funds or use personal resources to retain counsel. This "ban" is reminiscent of historical prohibitions such as the Black Codes and Slave Codes, which barred certain individuals from accessing education or legal resources, effectively denying

them autonomy and self-defense. See *Buckley v. Valeo*, 424 U.S. 1, 31 (1976) (holding that restrictions on expenditures must align with fundamental constitutional rights).

- Plaintiffs regard the Defendants' campaign finance audit as retaliatory, not because of its commencement, but because of its timing, nature, duration, and conduct. The Defendants' repeated, disruptive and disproportionately burdensome demands for information that has already been provided, refusal to provide necessary software support for their proprietary system, repeated requests to screen share information contained on the plaintiffs' laptops, interrogation-like Q+A sessions that have been ongoing for almost 4 years, extended timeframes that disrupted Plaintiffs' personal and professional obligations, and pressure to attest to false statements under threat of direct and indirect economic harm by audit all suggest retaliation.
- For instance, Mary Nam alleges that the audits targeted her campaign with demands far exceeding those imposed on similarly situated candidates, while Dr. Devi contends that the penalties suggested were designed to dissuade her future participation in elections and to disrupt her private practice's ability to provide safe and effective medical care to patients. See *McCutcheon v. FEC*, 572 U.S. 185, 203 (2014) (emphasizing that restrictions must be narrowly tailored to avoid chilling political participation). NYCCFB Executive Director, Amy Loprest, explained why a candidate would find it "unmanageable" to run for office during an ongoing active NYCCFB audit. In a letter to then-Governor Cuomo, then-Mayor Bill de Blasio, and others, she asked for an election to be canceled, explaining, "Administratively, candidates would need to open and maintain two different committees, with separate contribution limits, spending limits, and thresholds... This would create confusion for candidates... The recordkeeping that will be required of candidates, and the subsequent CFB audit of expenditures, will be borderline unmanageable.... Requiring candidates to comply with two different sets of contribution limits... will be demanding."

- A broader pattern of First Amendment violations involving retaliatory actions aimed at political challengers who sought to question or criticize the NYCCFB's practices. Both Plaintiffs assert that these actions were calculated to silence dissent and establish a chilling effect on political participation. See *Citizens United v. FEC*, 558 U.S. 310, 329 (2010).
- Because of its Matching Funds program, and because it limits spending from all private sources, the CFB is the largest single donor in New York City's local elections. Its employees are arguably the City's most influential lobbyists. The Defendants ensure politicians' "compliance" with their goals through a combination of actual and threatened retaliation, intimidation, and censorship. This can be summarized as an unconstitutional interference with freedom of assembly. Frederick Schaffer, Chair of the Campaign Finance Board, for example, failed to disclose that his wife sat on the Executive Board of a registered lobbyist firm. According to the City Clerk, the firm petitioned City Council members to raise the thresholds on public disclosure requirements for lobbyists, decreasing transparency in lobbying. Schaffer also failed to disclose himself as a lobbyist– both by marriage and by his own activities. Nevertheless, in its filings, a different City Agency (the Civilian Complaints Review Board), which Schaffer had lobbied, referenced and registered his specific lobbying activities with the City Clerk.

4. Both Plaintiffs allege that NYCCFB's actions extended beyond campaign finance audits into broader systemic failures, including issues tied to Sanitation enforcement. Mary Nam has highlighted specific instances where she was left defenseless after receiving eleven Sanitation summonses to appear in court shortly after Dr. Devi filed for a temporary restraining order against the Defendants. The penalties for posting 11 campaign flyers in the City exceeded over $100,000 due to the combination of sanitation penalties and legally authorized campaign finance penalties for exceeding personal expenditure caps (by paying any of the City's potential fines).
   - Despite the retaliatory nature of these summonses, Mary Nam was effectively barred from hiring a lawyer to represent her due to the "Lawyer Ban." She

was never served. A trial took place in her absence because of a prolonged hospitalization, at the time, for life-threatening illness. Plaintiff Mary Nam had no legal representation during her hearings. Instead, because it was illegal for Mary Nam to retain a lawyer, the Defendant City of New York granted Plaintiff Dr. Devi leave to practice law without a license and serve as her legal representative in Court over the course of six months. Plaintiff Mary Nam never consented to this. Plaintiff Mary Nam contends these actions left her unable to mount a proper defense in that action and any future actions, exacerbating the punitive nature of the enforcement actions and undermining her ability to continue her political activities.

- Of note, even though City Agencies must be granted deference in their decision-making, the Plaintiffs Nampiaparampil won *all* eleven Sanitation cases. The City could not provide any witnesses, or any evidence at all, that Mary Nam had committed any of the violations she was accused of.

5. Plaintiffs further note that certain actions taken by Defendants and their counsel raise serious constitutional concerns, as they implicate Fifth Amendment rights against self-incrimination and Fourth Amendment protections against unlawful government overreach. To affirm the plausibility of the lawyer ban, we note:
    - On July 29, 2024, shortly after explaining the lawyer ban to the S.D.N.Y. Court, the Defendant NYCCFB enforced an approximately $68,556 NYS Supreme Court judgment against another potential tag-along plaintiff: 2015 City Council Candidate, Celia Dosamantes. Dosamantes, a political challenger and an Indian-American woman, was a criminal defendant in People v. Dosamantes, 180 A.D.3d 518, 118 N.Y.S.3d 106, 2020 N.Y. Slip Op. 1118 (N.Y. App. Div. 2020)). She served time at Rikers Island for campaign-related offenses. According to the Defendants, Dosamantes had exceeded the individual donor contribution limit when she spoke to a criminal defense attorney about her 2015 campaign. This can be seen in NYC Campaign Finance Board vs. Celia Dosamantes et al. in New York Supreme Court (Index #451903/ 2023) Point 60, where then-General Counsel Bethany Perskie wrote, "Pursuant to documents provided to CFB staff, the Campaign

underpaid a legal services vendor $6,000, which was considered an in-kind contribution $3,250 in excess of the $2,750 limit... [T]he Candidate contributed a total of $11,850 to the Campaign, $3,600 in excess of the $8,250 contribution limit applicable to the Candidate."

- The NYCCFB further explained in its Motion to Dismiss the First Amended Complaint before the S.D.N.Y. Court in the Nampiaparampil case, "Dosamantes was alleged to have paid, below market-rate, the legal services vendor referenced in that document, and Dosamantes's campaign seemingly failed to recognize that the savings garnered by this below market-rate payment could constitute a contribution subject to applicable limits." Dosamantes may have paid below-market rates for her Section 18(b) Public Defender, when compared to the rates charged by private attorneys, but why is this illegal? The Defendant government agency has failed to explain why it is in the public interest to ban lawyers. Because Dosamantes hit her personal expenditure limit circa 2015, she has been restricted in her ability to mount a criminal defense. She claimed the Defendants subjected her to an unwarranted and unconstitutional search, without an attorney present, but her statement was deemed untimely. Of note, she completed her jail sentence at Rikers Island over five years ago, and is now seeking to vacate her criminal judgment. She is seeking full exoneration.
- Dosamantes is not currently a plaintiff in this case, although she may become a tag-along plaintiff, despite the Defendants' recent intimidating $68,556 default judgment and enforcement action against her. The NYCCFB has a long-standing history of making an example of her, and her Indian-American physician-mother, in order to deter political challengers such as Dr. Devi and her mother, Mary Nam. Then NYCCFB Executive Director, Amy Loprest, gave the following press release on April 30, 2018, "Criminal prosecutions in cases like this one are an important deterrent by demonstrating that there can be serious consequences for attempting to steal public funds, beyond the civil penalties available to the CFB."

6. The Defendants' selective enforcement of their lawyer ban demonstrates their *mens rea.* Note that the Defendants already acknowledge selective enforcement, as it relates to legal representation. On p15 of their Motion to Dismiss the First Amended Complaint in the S.D.N.Y., they write (emphasis added) that a "campaign's **post-election legal fees** going forward is **rarely,** if ever, the subject of the Board's retrospective audit." The Defendants offer no explanation for what precipitates this "rare" occurrence. Plaintiffs allege it is a combination of viewpoint based political discrimination and racial discrimination.
7. Plaintiffs are deeply concerned that the NYCCFB's policies, including the Lawyer Ban and prohibitions on treasurers' involvement in audits, appear designed not only to deprive candidates of their constitutional rights but to create conditions under which compliance becomes functionally impossible. Such conduct, knowingly perpetuated, could render those involved complicit in the deprivation of constitutional protections and election interference, which are matters of grave public interest.
8. Racial Discrimination: Plaintiffs allege that the NYCCFB required candidates to disclose their race and gender as part of their official candidate press releases and other documentation. Additional discriminatory practices by NYCCFB employees include:
    - Allowing white candidates to use professional titles such as "Dr." in official materials while denying the same right to Indian-American candidates (including Plaintiffs), despite lacking written policies supporting this decision.
    - Requiring members of the public disclose their race in order to speak at NYCCFB public hearings
    - Denying Asian-American journalists, including Indian-American journalists, access to post-debate materials, such as footage, in violation of debate contracts.
    - Differential enforcement practices regarding the lawyer ban, unfairly targeting Indian-American candidates

- Disparate impact from NYCCFB enforcement policies, disproportionately targeting minority candidates and campaigns, raising serious constitutional concerns. See *Arlington Heights v. Metropolitan Housing Dev. Corp.*, 429 U.S. 252, 266 (1977).
- Jaclyn Williams, the campaign's liaison for much of the election cycle, published an article arguing that Indian doctors should remain in India. She worked on related policy efforts.
- Prior to joining the NYCCFB as its Chair, Frederick Schaffer conceived and enacted a policy at the City University of New York selectively increasing tuition for (brown) immigrants, causing them to either amass more student debt or to drop out of school. Schaffer claimed his policy deterred terrorist activity, but never explained why a suicide bomber would care about high tuition rates or increasing student loan debts. Student loans seem like a problem for those who intend to live a long time. A Columbia Spectator article entitled "CUNY Students Challenge Fee Increase," published on February 1, 2002, explained how Schaffer spearheaded the effort, later deemed unconstitutional.

9. 42 U.S.C. § 3631: Prohibits interference with rights (e.g., voting, speaking at public meetings) motivated by racial bias. The Defendants' conduct involved intimidation, coercion, or deprivation of constitutional rights, aimed at political challengers who are members of ethnic minority groups. Moreover, the NYCCFB's actions have been disproportionately harmful to ethnic minorities who challenged the government. The current evidence suggests racial discrimination but may require further discovery to determine whether defendants' actions meet the threshold for a hate crime.
10. These systemic issues—including the chilling of political participation, the denial of legal representation, and unconstitutional overreach—demand immediate judicial review and resolution. Plaintiffs raise these points not to delay the civil proceedings, but to underscore the urgent need for consolidation and the systemic reform it can facilitate.

B. Procedural Posture

11. Mary Joseph Nampiaparampil's case is in the pretrial phase. The E.D.N.Y. recently granted Plaintiff Mary Nam's Motion for Recusal for the perception of bias. The case was transferred to a new Judge on December 12, 2024.

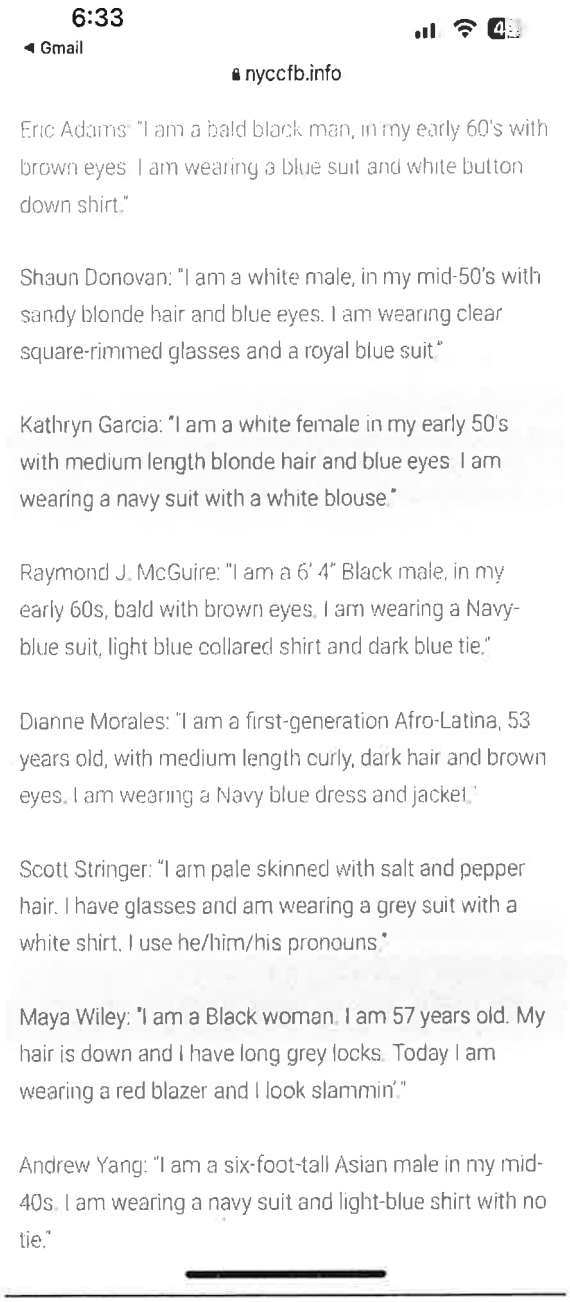

Figure 1: Snapshot of the NYCCFB Requirements for Participation in the Public Forum

12. Devi Elizabeth Nampiaparampil's case is also in the pretrial phase. Plaintiff's Motion for Sanctions Due to the Spoliation of Evidence has been pending before the Court since September 20, 2024 (Case No. 23-cv-6391 Docket #60). Plaintiff Dr. Devi has alleged that the Defendants destroyed numerous forms of public-facing protected electronically stored information (ESI), known to be relevant to the case. The Defendants then falsified the public record to create a false version of true events, destroy evidence of misconduct and erase evidence of the knowledge of misconduct, which demonstrated actual malice. The Defendant NYCCFB acknowledged the changes in the protected ESI, responding, "[T]he coding that underlies the online Voter Guide for a particular election may be changed or altered as information is moved around on the vendor's website in contemplation of, for example, another upcoming election. This results in changes to the information publicly visible on the CFB vendor's website. This is why it may appear that certain candidates' information (notably, from across party lines) disappears from the CFB's vendor's website for past elections." A decision has not yet been made on the Motion for Sanctions. However, the Defendants have submitted a Motion for Dismissal and a Notice of potential conversion to Summary Judgment. Those pleadings are almost fully briefed.

III. LEGAL STANDARD FOR CONSOLIDATION

Under 28 U.S.C. § 1407, consolidation is appropriate when:

1. The actions involve one or more common questions of fact;
2. Consolidation will promote the convenience of parties and witnesses; and
3. Consolidation will further the just and efficient conduct of the litigation. See *In re Nat'l Prescription Opiate Litig.*, 290 F. Supp. 3d 1375, 1378 (J.P.M.L. 2017).

IV. ARGUMENT

A. Common Questions of Fact and Law

The cases filed by Mary and Devi Nampiaparampil arise from identical conduct by the NYCCFB and involve substantially overlapping factual and legal questions. Both Plaintiffs allege:

1. Retaliatory actions aimed at suppressing political speech and participation in elections.
2. The discriminatory application of campaign finance laws and auditing procedures.
3. Procedural irregularities that violate constitutional and statutory protections.

Specifically, the Lawyer Ban and the burdensome auditing procedures form the crux of both Plaintiffs' claims. Consolidating these actions will prevent duplicative discovery and inconsistent rulings, while also allowing the MDL to serve as a platform for addressing systemic issues arising from NYCCFB's enforcement practices. For example, Plaintiffs allege that NYCCFB's policies are weaponized against political challengers, effectively turning financial regulations into tools for silencing opposition candidates. See *Citizens United v. FEC*, 558 U.S. at 340.

Moreover, the rescission or invalidation of the so-called "Lawyer Ban" by this Panel would likely prompt other campaigns and their officers, who have similarly been impacted by the NYCCFB's policies, to join the multidistrict litigation. This would expand the scope of the MDL and further ensure consistency and efficiency in adjudicating the claims of all affected parties.

1. The Plaintiffs' concerns about sustaining economic injuries extend even to their coordination in filing this Motion for Consolidation. NYC campaign finance regulations broadly prohibit independent expenditures by family members of candidates, presuming undue influence or coordination even in cases where no direct connection exists. These restrictions create a "knowledge ban." This mirrors historical practices that sought to suppress knowledge and advocacy, raising significant public interest questions. Why is it in the public interest for a government entity to prevent individuals from consulting legal counsel or defending themselves? See *Citizens United v. FEC*, 558 U.S. 310 (2010). These regulations effectively chill collaborative political advocacy, raising fears that legitimate coordination between Plaintiffs, or even the funding and drafting of this Motion, might later be mischaracterized as a violation. Such concerns underscore the

overreach of the NYCCFB's regulatory regime and the urgency of resolving these systemic issues within a consolidated MDL.

2. The NYCCFB has written, "[T]he sponsor of an independent expenditure is effectively presumed to be coordinating with a candidate if 'the person or entity making the expenditure has utilized strategic information or data that... has been made publicly available by the candidate... [or various agents] in a manner which the candidate or such individual or entity knew or should have known would facilitate such utilization." In response to this proposed Rule (which has since been adopted), attorney David Keating of the Institute for Free Speech wrote to the NYCCFB, "The Natural Reading of the Proposal Would Unconstitutionally Ban Independent Speech... Given the sheer breadth of the proposed rule, independent speakers would have to hermetically isolate themselves from the rest of the world... They could not use the internet, watch television, read a newspaper, listen to the radio, or talk to anyone."
3. The Plaintiffs also face campaign finance violations and penalties simply because they are family members. Dr. Devi's husband, who is also Mary Nam's son-in-law, previously worked as a campaign finance auditor for the NYCCFB. The Agency determined that he could not provide guidance to his wife's campaign given the "fair market value" of his specialized knowledge about campaign finance. It did not matter that any financial penalties imposed on her would necessarily affect him and their two children. In that sense, he could not participate in the defense of his own family or his joint-property. The NYCCFB has inserted itself into the spousal relationship determining what matters can be lawfully discussed and what matters cannot be. In his letter, Keating elaborated, "The Proposal Unjustifiably and Irrationally Discriminates Against Family Members. The U.S. Supreme Court has repeatedly held that campaign contributions may be regulated only to the extent that they 'protect against corruption or the appearance of corruption.' (See, e.g., McCutcheon v. Fed Election Comm'n, 134 S. Ct. 1434, 1441 (2014)). Similarly, restrictions on direct speech may be regulated only to the extent that they are rooted in a "substantial governmental interest in stemming the reality or appearance of corruption in the electoral process." Citizens United, 558 U.S. at 312

(quoting Buckley v. Valeo, 424 U.s. 1, 47-48 (1976)). The proposed rule's focus on familial relations is divorced from its core necessary anti-corruption purpose." Keating also wrote, "[T]he only public policy rationale for this proposal seems to be to 'level the playing field.'" This is supported by the NYCCFB's own official statements.

4. At an official press briefing on November 21, 2024, held at CFB headquarters, the CFB Press Secretary, in the presence of CFB General Counsel, explained that he did not want to provide a "roadmap" of the CFB's audit procedures "for the campaigns to follow." When questioned on this point again by multiple reporters, he emphasized that he could not provide "insight" on this matter because, "We don't want to tip people off." Later, when discussing the official actions of the Board, he stated, "The Board has full discretion with these determinations... The Board can do whatever they want frankly." The Press Secretary also stated that the Agency has "complete discretion" and acts to promote "equity" without providing any specificity as to what that means. In *Ariz. Free Enterprise Club's Freedom PAC v. Bennett*, 131 S.Ct. 2806, 2825 (2011), the Supreme Court stated, "We have repeatedly rejected the argument that the government has a compelling state interest in 'leveling the playing field' that can justify undue burdens on political speech."
5. There is no evidence that the Defendant NYCCFB has relayed any of the plaintiffs, or potential tag-along plaintiffs,' concerns to either the City's legislative or executive branches, both of which it exerts substantial control over through its campaign finance audits. Instead, the CFB's new, more restrictive, proposed rules were adopted, and are in effect.
6. The Defendants' Rules are designed specifically to deprive individuals of their constitutional rights. For the Plaintiffs, who were officers of the campaign, to waive their constitutional rights– especially in the Matching Funds program, where there is no voluntary escape– they had to have done so "knowingly and voluntarily." Prior to ballot access, the Plaintiffs were given only two choices: to remain eligible for matching funds and face low personal expenditure caps OR to opt out of eligibility entirely and face *an even lower* expenditure cap. The Defendants emailed Dr. Devi the personal expenditure cap, for non-participation, would be $5100, but the

applicable Rule for "non-participants" was actually $3500. If the Plaintiffs didn't sign the form immediately, Dr. Devi would be removed from the election ballot. The Defendants have the Plaintiffs' signatures on a form agreeing to follow the Rules and laws of New York, which they (naively) presumed were constitutional. The Plaintiffs have never consented to waive their constitutional rights; nor have their actions suggested that they intended to do so. The burden falls on the Defendants to prove that the Plaintiffs knowingly and voluntarily waived their First and Fourteenth Amendment rights.

7. Again, at a planned media briefing that occurred on November 21, 2024, NYCCFB Press Secretary, in the presence of NYCCFB General Counsel, referenced Citizens United and stated, "I don't want the Supreme Court to eliminate us." He explained to a room full of reporters, "You can't limit speech... Spending limits are unconstitutional... We figured out ways to work around that system." The Defendants' *mens rea* also comes through in a publication by Defendants Loprest and Perskie where they describe how they created a "model system for other jurisdictions" that circumvents the Supreme Court's *Citizens United* ruling. (Amy Loprest and Bethany Perskie, *Empowering Small Donors: New York City's Multiple Match Public Financing as a Model for a Post-Citizens United World*, 40 FORDHAM URB. L.J. 639 (2012)). Again, the purpose of the Defendants' Rules is solely to evade Citizens United.

B. Importance of Judicial Expertise

The legal complexities of campaign finance law and First Amendment protections underscore the need for judicial expertise in this matter. Both cases require interpretation of statutory frameworks governing campaign finance laws, as well as constitutional principles related to political speech and access to legal counsel. The Plaintiffs respectfully submit that these cases would benefit from assignment to a court or judge with demonstrated experience in handling such issues. Judges based in jurisdictions like the District of Columbia, where campaign finance law is frequently reviewed, are particularly well-equipped to address these nuanced legal challenges. Reassignment would ensure that the court's focus remains on the substantive constitutional questions rather than foundational explanations of the law's mechanics.

The challenges in these cases are analogous to those recognized in *Citizens United v. FEC*, 558 U.S. 310 (2010), where the Supreme Court addressed complexities in balancing campaign finance regulation and free speech. Similarly, cases such as *Buckley v. Valeo*, 424 U.S. 1 (1976), and *McCutcheon v. FEC*, 134 S. Ct. 1434 (2014), illustrate the need for judicial familiarity with the interplay of campaign finance regulations and constitutional rights.

Moreover, there was a clearly established constitutional right at the time of the Defendants' misconduct. In *Randall v. Sorrell*, 548 U.S. 230, 248 (2006), a case appealed from the Second Circuit, the Supreme Court ruled, "Contribution limits that are too low can harm the electoral process by preventing challengers from mounting effective campaigns against incumbent officeholders, thereby reducing democratic accountability." The Supreme Court also added, at 241,"The Court in Buckley held that limits on a candidate's expenditures of his own funds, as well as limits on overall campaign expenditures, are unconstitutional because they impose significant restrictions on the ability of candidates, citizens, and associations to engage in protected political expression." The Defendants have never provided a reason why they demand candidates for office waive their constitutional rights.

The District of Columbia is an ideal venue for consolidation of these cases

Judicial Experience with Campaign Finance Laws: The District of Columbia is home to the Federal Election Commission (FEC) and other regulatory bodies that routinely litigate complex campaign finance matters. Judges in this jurisdiction are well-versed in interpreting federal laws governing elections and political speech, providing an unparalleled depth of knowledge on the issues presented in these cases.

Neutral Venue for Constitutional Claims: As a federal district, the District of Columbia offers neutrality and avoids any perceived bias from consolidating within the original jurisdictions. This is particularly important for cases involving allegations of systemic misconduct by a local regulatory body, as it ensures an impartial forum for adjudicating constitutional claims.

Precedent for Campaign Finance Litigation: High-profile cases like *Citizens United v. FEC*, 558 U.S. 310 (2010), and *Buckley v. Valeo*, 424 U.S. 1 (1976), have established the District of Columbia as a key venue for resolving campaign finance disputes. Consolidating these cases in a district with a history of adjudicating First Amendment and electoral law issues ensures consistency with established precedent.

Convenience of Location: While New York-based parties are involved, the District of Columbia is geographically accessible and centrally located for potential additional plaintiffs (or defendants) from across the country. This is particularly relevant given the likelihood of tag-along cases involving past campaign officers impacted by the NYCCFB's policies, and advocacy groups who are limited in their ability to speak to candidates or campaigns due to NYCCFB regulations.

Public Interest in Systemic Reform: These cases address fundamental issues of electoral fairness and constitutional rights. Consolidation in the District of Columbia underscores the national significance of these issues and ensures that the cases are handled with the gravitas they deserve.

C. The Cases Are Similar But Distinct

While Mary Nam and Dr. Devi's cases share significant legal and factual overlap, they also involve unique circumstances that warrant maintaining their independent identities within the MDL. Each Plaintiff brings distinct claims arising from their individual interactions with the NYCCFB, including differing timelines, specific violations of their rights, and individualized impacts of the "Lawyer Ban," restrictions on spending for public safety and reasonable accommodations, and related policies. These distinctions are critical because:

1. The independent progression of the cases has already established separate procedural histories and evidence records.
2. Joining one Plaintiff's case as part of the other would potentially dilute or conflate the specific claims and defenses unique to each Plaintiff.

3. Consolidation under the MDL framework will achieve the desired coordination and efficiency without merging the claims to the detriment of individualized adjudication. See *In re Air Crash Disaster at Fla. Everglades on Dec. 29, 1972*, 368 F. Supp. 812 (J.P.M.L. 1973).

D. Convenience of Parties and Witnesses

Both Plaintiffs reside in New York, and the defendants are New York-based entities and individuals. Witnesses, including NYCCFB officials, would likely overlap between the two cases. Consolidation will ensure that parties and witnesses are not subject to duplicative depositions or hearings, reducing the burden on all involved.

E. Efficiency and Judicial Economy

Consolidation will promote judicial economy by:

1. Allowing coordinated pretrial proceedings, including discovery and motions practice.
2. Preventing inconsistent rulings on common legal issues, such as the constitutionality of the "Lawyer Ban."
3. Reducing costs for both the Plaintiffs and Defendants by streamlining litigation processes.

In addition, the consolidation of these cases could lead to broader systemic reforms and clarifications in the application of campaign finance laws, benefiting not only the Plaintiffs but potentially all similarly situated individuals. Legal precedent supports such efforts in cases where broader policy questions are implicated. See, e.g., *In re Nat'l Prescription Opiate Litig.*, 290 F. Supp. 3d 1375 (J.P.M.L. 2017) (consolidating cases to promote efficiency and address systemic issues); *In re Air Crash Disaster at Fla. Everglades on Dec. 29, 1972*, 368 F. Supp. 812 (J.P.M.L. 1973).

V. CONCLUSION

For the reasons stated above, Plaintiffs respectfully request that this Panel issue an Order consolidating the actions filed by Mary Joseph Nampiaparampil and Devi Elizabeth Nampiaparampil for coordinated or consolidated pretrial proceedings in a single district court, as determined by the Panel.

Our campaign "Dr. Devi For NYC" cannot access the courts. Neither can Plaintiff Dr. Devi's private business, Metropolis Pain Medicine PLLC, d/b/a Devi Nampiaparampil, M.D. Upon information and belief, there are numerous other potential plaintiffs, many of which Plaintiff Dr. Devi identified in her Complaint, who would likely join the MDL if granted access to the courts. This is a matter of significant public concern.

In Kay v. Ehrler, 499 U.S. at 437–438, the Supreme Court determined, "The statutory policy of furthering the successful prosecution of meritorious claims is better served by a rule that creates an incentive to retain counsel in every such case." The Second Circuit added in United States v. Paccione, 964 F.2d 1269 (2d Cir. 1992). "The conduct of litigation by a nonlawyer creates unusual burdens not only for the party he represents but as well for his adversaries and the court." We agree with the Courts' prior determinations. We appreciate the burdens our pro se filing may create and we respectfully ask the Court to be liberal in its review of our pleadings. We are not *pro se* by choice.

Respectfully submitted,

/s/ Mary Joseph Nampiaparampil

Mary Joseph Nampiaparampil

Pro Se Plaintiff

/s/ Devi Elizabeth Nampiaparampil

Devi Elizabeth Nampiaparampil

Pro Se Plaintiff

BEFORE THE UNITED STATES JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

IN RE: Mary Nampiaparampil and Devi Nampiaparampil v. NYC Campaign Finance Board and others — MDL -

LIST OF PARTIES AND THEIR ATTORNEYS

+

Eastern District of New York

Case No. 24-cv-05605

Mary Joseph Nampiaparampil

Pro Se Plaintiff

Address:

12 Columbia Road

Ardsley, NY 10502

Email: mnampi@gmail.com

Cell: 914-720-5550

John Doody

Attorney for Defendants:

The NYC Department of Sanitation Enforcement Division, The NYC Campaign Finance Board, and The City of New York

Address:

New York City Law Department

100 Church Street

New York, NY 10007

Email: johdoody@law.nyc.gov

Phone: 212-356-4362

Southern District of New York:

Case No. 23-cv-6391

Devi Elizabeth Nampiaparampil

Pro Se Plaintiff

Address:

111 John Street #2509

New York, NY 10038

devichechi@gmail.com

Cell: 312-523-5935

David Sumner Thayer

Attorney for Defendants:

The NYC Campaign Finance Board, Amy Loprest, David Duhalde, Hannah Egerton, Frederick Schaffer, Bethany Perskie, Matthew Sollars, Jaclyn Williams, and The City of New York

Address:

The New York City Law Department

100 Church Street

New York, NY 10007

Email: dthayer@law.nyc.gov

Phone: 212-356-2649