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Objecting to the Declaration of Independence?

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If campaign finance laws exist in the movies, Iron Man can contribute to whatever candidate or party he wants, but the Incredible Hulk cannot. In fact, if the Hulk makes a contribution, he could face a prison sentence of up to five years — not that any prison could hold him.

Consider the strange case of Dr. Bruce Banner, the Hulk's alter ego. In the film "The Incredible Hulk," Dr. Banner is a researcher at the fictional Culver University working with the military on radiological experiments. Presumably, Banner was paid for this work by the federal government through a Pentagon contract. In doing so, Dr. Banner's right to contribute was, well, smashed.

You see, while under present law, most Americans are permitted to give up to \$2,600 to any candidate of their choosing, federal contractors are forced to forfeit that right.

Things are different for Iron Man, AKA Tony Stark, the CEO of Stark Industries. The fictional Stark Industries has boatloads of government contracts. In the first Iron Man movie, Tony Stark is captured in Afghanistan by terrorists shortly after demonstrating the effectiveness of a new type of missile—"the weapon you only have to fire once"—to the U.S. military. Earlier in the film, Tony boasts to a reporter for Vanity Fair about technological breakthroughs in medicine and "intelli-crops" funded by his company's military contracts. But because Iron Man is not a sole proprietor, his constitutional rights are shielded.

Does it make sense to ban a gamma radiation researcher from contributing to members of Congress because of concerns about corruption, while allowing the CEO of a major contracting company to contribute? Of course it doesn't.

Corporate employees, officers, and shareholders of federal contracting firms are allowed to make contributions with their personal funds, and corporations are allowed to establish political action committees. Furthermore, the ban does not apply to those who receive federal grants, loans, guarantees, or even individuals

seeking political positions. Essentially, the only persons banned from making contributions are lone contractors, like the affable Dr. Banner.

In real life, the ban is just as arbitrary. Wendy Wagner, a law professor at the University of Texas, knows this all too well. She has a \$12,000 contract with the Administrative Conference of the United States — an agency that most members of Congress probably don't even know exists — to prepare a report and recommendations on how administrative agencies can better use science. Professor Wagner, like the Hulk, cannot make contributions because of her contract.

It is absurd to think that someone with a \$12,000 contract with the Administrative Conference of the United States could conceivably leverage another contract through campaign contributions to a congressman. Even if that were possible, the appropriate response would be to come up a narrower solution, such as exempting small contractors from the ban. As it stands, the complete ban goes too far. The Supreme Court has called the right to contribute a “basic constitutional freedom” resting “at the foundation of a free society.” That freedom should not be infringed upon without a lot of careful thought, if ever.

Fortunately, Professor Wagner joined forces with two similar federal contractors in a suit against the Federal Election Commission, arguing that the contractor ban is unconstitutional. These plaintiffs may not be “Earth’s mightiest heroes,” but they are definitely doing their part to defend the Constitution. Their case is presently before the U.S. Court of Appeals for the D.C. Circuit.

If they prevail, all sole proprietors will be able to share the right to contribute with the rest of America. Rules that pick and choose who get to maintain their basic constitutional rights on the basis of employment are incompatible with the First Amendment.

The contractor ban is not the first time Congress tried to get away with abolishing the First Amendment rights of a class of people. A federal law passed in 2002 banned all minors from contributing, for fear that wealthy parents would give money in excess of the contribution limits through their kids. The Supreme Court struck the ban down, reminding Congress that “[m]inors enjoy the protection of the First Amendment.”

A victory for Professor Wagner and her fellow contractors would reaffirm that banning an entire class of contributors is unconstitutional. After all, federal contractors, like all Americans, enjoy the protection of the First Amendment.

While Tony Stark is busy downing Scotch and saving the world, let's hope the D.C. Circuit affirms the Hulk's First Amendment rights.

Otherwise, the court might make Hulk angry.