

Electioneering Communications

Hispanic Leadership Fund, Inc. v. Federal Election Commission (T.S. Ellis III, E.D. Va. 1:12-cv-893)

On August 10, 2012, the Hispanic Leadership Fund filed a federal complaint in the Eastern District of Virginia seeking a declaration that planned advertisements did not violate fund-disclosure regulations imposed on political advertisements published during the time period preceding the 2012 presidential election.¹ With its complaint, the fund filed a motion for a preliminary injunction.²

When another organization sought an advisory opinion from the Federal Election Commission concerning similar advertisements, the commission deadlocked.³

Judge T.S. Ellis III heard the parties on August 17⁴ and ordered them to submit by August 24 a proposed discovery and trial schedule for a consolidated merits trial and motion hearing.⁵ The parties agreed to waive discovery, and they agreed with the court to hold a proceeding on August 31.⁶ Judge Ellis agreed to let the Campaign Legal Center participate as an amicus curiae.⁷ Another proceeding was held on September 20.⁸

Judge Ellis ruled on October 4.⁹ He determined that the essence of the case was whether the advertisements referred to a clearly identified candidate, namely the President running for reelection.¹⁰ Three of five draft advertisements at issue were electioneering communications because they referred to candidate Obama.¹¹

1. [Complaint](#), *Hispanic Leadership Fund, Inc. v. Fed. Election Comm'n*, No. 1:12-cv-893 (E.D. Va. Aug. 10, 2012), D.E. 1; [Hispanic Leadership Fund, Inc. v. Fed. Election Comm'n](#), 897 F. Supp. 2d 407, 414–15 (E.D. Va. 2012).

2. [Preliminary Injunction Motion](#), *Hispanic Leadership Fund, Inc.*, No. 1:12-cv-893 (E.D. Va. Aug. 10, 2012), D.E. 2.

3. [Hispanic Leadership Fund, Inc.](#), 897 F. Supp. 2d at 415, 418–20.

4. [Minutes](#), *Hispanic Leadership Fund, Inc.*, No. 1:12-cv-893 (E.D. Va. Aug. 17, 2012), D.E. 20.

5. [Order](#), *id.* (Aug. 17, 2012), D.E. 21.

6. [Order](#), *id.* (Aug. 22, 2012), D.E. 23; [Notice](#), *id.* (Aug. 22, 2012), D.E. 22; *see* [Minutes](#), *id.* (Aug. 31, 2012), D.E. 30.

7. [Order](#), *id.* (Aug. 29, 2012), D.E. 29; *see* [Motion](#), *id.* (Aug. 29, 2012), D.E. 28.

8. [Minutes](#), *id.* (Sept. 20, 2012), D.E. 38.

9. [Hispanic Leadership Fund, Inc. v. Fed. Election Comm'n](#), 897 F. Supp. 2d 407 (E.D. Va. 2012).

10. *Id.* at 426; *see* 2 U.S.C. § 434(f)(3)(A)(1)(I) (2012).

11. [Hispanic Leadership Fund, Inc.](#), 897 F. Supp. 2d at 415, 429–33; *see* [Order](#), *Hispanic Leadership Fund, Inc.*, No. 1:12-cv-893 (E.D. Va. Dec. 11, 2012), D.E. 55 (denying the commission's motion for reconsideration).