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A STUDY OF THE IMPACTS OF THE CITIZENS UNITED SUPREME COURT
DECISION ON ELECTORAL OUTCOMES IN U.S. HOUSE OF
REPRESENTATIVES RACES

by

Asher B. Sizeler-Fletcher

A Thesis Submitted in Partial Fulfillment
of the Requirements for a Degree with Honors
(Political Science)

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University of Maine

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ABSTRACT

The 2010 Supreme Court decision in the case *Citizens United v. FEC* brought about major changes in U.S. Campaign finance law, most infamously the creation and proliferating of Super PACs, a new vehicle for outside spending. In this thesis, I investigate the impacts of the *Citizens United* decision on electoral outcomes in U.S. House of Representatives races. I analyzed campaign finance data from the 2006, 2014, 2016, and 2018 election cycles for three categories of House races: open seats, competitive seats, and seats that fall within a specific spending ratio between the top two vote getters. I conducted a number of comparisons of the winning percentages of candidates with more PAC support (in individual races) and more outside support (in individual races), between election cycles and seat categories. I also compared incumbent-party winning percentages to PAC and outside-spending winning percentages, to look for differences between the impact on incumbents and challengers. I found that outside spending is more aligned with winning candidates in the competitive seats categories than PAC spending. However, in the other categories there is no substantial difference between PAC support and outside support. I also found that the *Citizens United* decision appears to be helping challengers try to unseat incumbents by making it easier to inject large sums of outside money into races. When two candidates are very evenly matched, having more outside spending can help a challenger unseat an incumbent, but if the incumbent has numerous factors favoring them, having more outside support will not substantially help the challenger.

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CHAPTER 1

INTRODUCTION

On January 21, 2010, the United States Supreme Court announced its decisions in one of the most famous/infamous Supreme Court cases of the twenty-first century, *Citizens United v. Federal Elections Commission*. At issue was the legality of independent expenditures by corporations, labor unions, and nonprofits to attack or support political candidates. The Bipartisan Campaign Reform Act of 2002 placed restrictions on corporations, labor unions, and nonprofits attacking or promoting candidates with independent expenditures. The *Citizens United* organization sought an injunction against the FEC from using the BCRA to stop the broadcasting of its film *Hillary: The Movie*. The case eventually reached the Supreme Court, where, in a 5-4 decision, the Court held that the First Amendment allows corporations, and presumably non-profits and labor unions, to provide independent expenditures to promote or attack political candidates without government restrictions. The *Citizens United* decision overturned previous Supreme Court campaign finance regulation precedent, namely *Austin v. Michigan Chamber of Commerce* and sections of *McConnell v. FEC*, redefining campaign finance regulation in America.

The *Citizens United* decision has been contentiously debated ever since it was issued. Some people applaud the decision as a victory for free speech. Others condemn the decision as a threat to democracy, arguing that it will lead to unlimited campaign contributions by corporations which will have a powerful (negative) impact on American

politics. It is well known that in a congressional race the candidate with more financial support wins much more often than the candidate with less financial support. *Citizens United* opened the floodgates to money from corporations (and also labor unions, and nonprofits) to be added to the political arena to pay for electioneering communications to attack or promote political candidates.

What I investigate in my thesis is how the changes allowed by the *Citizens United* decision affected electoral outcomes in House of Representatives races. In this thesis, I analyze and compare campaign finance data from one election cycle before the *Citizens United* decision (2006) to one election cycle after the *Citizens United* decision (2014). I compare the success of U.S. House candidates with the most PAC support (in individual U.S. House of Representatives races) to the success of U.S. House candidates with the most Super PAC, 501 (c) nonprofits, and 527 group support (in individual U.S. House of Representatives races), comparing 2006 to 2014. My thesis question is, in U.S. House of Representatives races since the *Citizens United* decision, are the candidates with the most Super PAC, 501 (c) nonprofits, and 527 groups support (in individual races) winning more often than the candidates with the most traditional PAC funding in House of Representatives races before the *Citizens United* decision.

Political Action Committees (PACs) are political organizations that raise money and then give that money directly to candidates and party committees, or spend it on independent expenditures. PACs often represent business, labor, or ideological interests. There are limits on how much money a PAC can give to candidate committees, national party committees, other PACs, and how much money they can receive from individuals, party committees, and other PACs (opensecrets.org). The first PAC was formed in 1944

by the Congress of Industrial Organizations to support Franklin D. Roosevelt's re-election bid.

The *Citizens United* decision applied to SuperPACs (created not long after the *Citizens United* decisions by the *Speechnow.org v. FEC* decision) 501 (c) organizations, and 527 groups. Super PACs are organizations that can raise an unlimited amount of money from corporations, unions, non profits, and individuals to spend on elections advocating for or against candidates. Super PACs cannot donate directly to a campaign or work with a campaign. The central differences between standard PACs and SuperPACs are that Super PACs can receive unlimited funding from a particular source; however, unlike standard PACs, Super PACs cannot contribute directly to or coordinate with campaign committees in any way.

The second type of political organizations are 501 (c) groups, which are tax-exempt non-profit organizations that can engage in varying degrees of political activity based on the type. However, political activity cannot be the foremost activity of any type of 501 (c) group. 501 (c) groups can receive unlimited donations from corporations, or individuals, and do not have to disclose the source of their funding. 501 (c) nonprofits cannot work with campaigns, and cannot expressly tell voters who to vote for. The most common type of 501 (c) group is the 501 (c) (4) also called a "social welfare organization," which can engage in political activity as long as political activity is not its primary purpose (irs.gov).

The third type of political organizations are 527 groups, which are organizations whose purpose is to influence political issues, candidate elections, policy debates, or political appointments. 527 groups can raise unlimited amounts of money from corporations, unions, and individuals, but they must disclose their contributors. Like

Super PACs and 501 (c) s, 527 groups cannot coordinate with candidates or party committees. 527 groups can be tax exempt if the follow IRS guidelines (irs.gov). The data I analyzed for my thesis from the 2014 races is a combination of funds from Super PACs, 501(c) nonprofits, and 527 groups.

Table 1

Political Organizations Table (NALC, 2015)

Advocacy Groups Have Distinct Benefits and Limits

Advocacy Groups and Their Regulations

	 Contribution Limit	 Must Disclose Donors?	 Can Coordinate with Candidate?	 Can be Primarily Political?	 Can Expressly Tell Voters Who to Vote For?	 Regulator
Traditional PACs	\$5,000 per year	✓	✓	✓	✓	FEC
Super PAC	Unlimited	✓	✗	✓	✓	FEC
501(c)(4) Non-profit	Unlimited	✗	✗	✗	✗	IRS
527 Non-profit	Unlimited	✓	✗	✓	✗	FEC

Source: Bloomberg Politics, July 31, 2015; OpenSecrets.com: Center for Responsible Politics.

Source: Bloomberg Politics, July 31, 2015; Opensecrets.com: Center for Responsive Politics.

I chose the topic of campaign finance and more specifically *Citizens United* and how it has impacted the electoral outcomes in House of Representatives races, because campaign finance is a very important aspect of the American political system. Campaign finance is important because political donors can have influence over politicians. It is very expensive to run a political campaign for national office in the U.S. Campaigns are constantly asking for donations.

According to the Center for Responsive Politics in 2016, the average amount of money spent by a winning House of Representatives candidate was \$1.3 million while the average cost of a winning Senate candidate was \$10.4 million (Kim, 2016). The \$1.3

million and \$10.4 million are only the amount spent by the campaigns, therefore those numbers do not include outside spending from organizations like PACs, Super PACs etc. The same is true of non campaign affiliated political groups like Super PACs, 501(c) nonprofits, and 527 groups who are looking for funding to run advertisements for or against certain candidates or issues. Super PACs can receive unlimited contributions from a singular person or corporation. While not affiliated with a specific campaign, candidates can find out who is supporting them through advertisements, which gives the donors who write the large checks some influence. Additionally, Super PACs are often run by former staffers (or even family members a candidate that they are supporting (opensecrets.org, 2017)).

The *Citizens United* decision changed campaign finance regulation in America, leading to the proliferation of Super PACs (which were created by *Speechnow.org v. FEC* decision). Super PACs have, in turn, led to a substantial increase in the amount of money in politics and the amount of secret money in politics (Overby, 2012). In the American republican system, the voters trust that politicians will represent their interests in Washington, D.C. Yet, that is not always the case, because a donor can often be a louder voice in a politician's ear than their constituents. Donors can persuade politicians to put their interests first, though it is important to note that there are plenty of situations where the interest of the donor will coincide with the interests of the majority of constituents. When/if the top donors are able to influence how politicians behave while in office, democracy is weakened. A system in which politicians foremost represent the interest of the highest bidder(s) sounds like an idea from a dystopian book or movie.

The second reason that I am interested in campaign finance is that it is a behind-the-scenes aspect of political campaigns. It takes a lot of money to run a political campaign, but it is not a topic candidates like to discuss. Last summer, I had an internship with a Senate campaign, it really opened my eyes to how expensive it can be to run a political campaign. Even with scores of unpaid interns and volunteers, the costs quickly add up. Candidates will often apologize for asking for money when asking for money. But without funding, a candidate has very little chance of being able to successfully advertise themselves to the voters.

The data analyzed in this thesis comes from the Federal Election Commission by way of the Center for Responsive Politics. The data are from the 2006, 2014, 2016, and 2018 election cycles. I started with the data analysis with data from 2006 and 2014, and later analyzed data from 2016 and 2018 upon recommendation from my thesis committee. I chose the 2006 and 2014 election cycles because they are the two full election cycles closest before and after the *Citizens United* decision without a presidential race. I compare the PAC funds of the House of Representatives in 2006 to the Super PAC, 501 (c) organizations, and 527 groups (the data from these three types of groups are combined into one category) for the 2014 House races. For the Literature Review chapter, I use journal articles and book chapters have found on JSTOR and WPSA, along with reports from nonprofits organizations, including: Center for Responsive Politics, Brennan Center, Sunlight Foundation, Center for Public Integrity, Committee for Economic Development, Bipartisan Policy Center.

The data analyzed are reported to the Federal Election Commission by candidate campaigns, party committees, PACs, Super PACs, 501 (c) nonprofits, 527 groups etc...

and then made available for public access by the FEC. The data are reported to FEC because it is required by U.S. campaign finance regulations. U.S. campaign finance regulations are an extensive set of laws that regulate the financial side of political campaigns. Campaign finance laws cover three main areas. First, the raising of money by campaigns and non campaign affiliated organizations to be spent on campaigns. Second, the spending of money for and against campaigns. Third, the disclosure of funds to be spent on campaigns (though the disclosure aspect does not apply to all organizations that raise and spend money for political campaigns). There are two major pieces of campaign finance regulation in the United States, the Federal Election Campaign Act of 1971 (plus the 1974 amendments) and the Bipartisan Campaign Reform Act (2002).

The passage of the Federal Election Campaign Act (1971) marked the beginning of the modern era of campaign finance regulation in the United States. The Act regulates campaign finance in a number of ways. First, it sets limits for the amount of money a federal candidate or party committee can receive from an individual or a corporation, and limits the amount that an individual or corporation can give in total (distributed over a number of candidates and party committees) per election cycle. Second, the Act mandates disclosure of contributions to, and expenditures by, candidates running for federal office. Third, the Act placed bans on certain corporate and union contributions, speech and expenditures (Jones, 2017). Fourth, the Act created the basic legislative framework for Political Action Committees (PACs). Additionally, the Act gave the Justice Department the authority to prosecute violations of it. In the first election cycle after its passage (1972) there were 7,000 cases of violations of FECA referred to the Justice Department, however only five cases were prosecuted (fec.gov).

Following the Watergate Scandal, the FECA was amended in 1974. The Federal Election Campaign Act Amendments of 1974 had five central sections: additional limits on contributions to candidates in federal elections, provide matching funds for presidential primaries, limits on the amount of speaking honorariums, stricter campaign finance reporting and disclosure, creation of the Federal Election Commission (fordlibrarymuseum.gov, 1974).

The second major piece of campaign finance legislation in United States history is the Bipartisan Campaign Reform Act (2002), which amended sections of the FECA. The goal of the BCRA was to reduce the amount and influence of money in federal U.S. elections, so that the voices of ordinary Americans could compete with large campaign donors. The Act sought to accomplish this goal by placing limits on soft money being used by political party committees for advertising (Strickland). Soft money is money that goes to a political party committee rather than a specific candidate (Encyclopedia Britannica, 2010). To make up for the lost funding caused by limits on soft money, the contribution limits on hard money per individual were raised. Additionally, the Act placed limits on the electioneering communications that included a federal candidate's name or image paid for by corporations, nonprofits, and labor unions (Cornell Law School). However, these provisions of the BCRA proved controversial, on the grounds that they infringed upon First Amendment rights. These amendments in particular, and the controversy that surrounded them resurfaced in the *Citizens United* case.

The Federal Election Campaign Act (1971) and Bipartisan Campaign Reform Act (2002) are the foundation for campaign finance legislation in America. These pieces of legislation were not enacted on a whim, but they were carefully planned laws enacted to

address a very real concern, corruption (and the appearance of corruption) in American elections. This is why campaign finance matters, to remain a democracy, it is necessary to have “clean” elections. Corrupted elections taint the whole system. Studying campaign finance matters because it helps us determine whether these type of laws are working, where there are loopholes that can be exploited, and if the laws go too far and unjustifiably infringe on First Amendment rights.

Within the panoply of U.S. campaign finance court cases, *Citizens United* stands out, because it opened the floodgates for larger sums of money than ever before to enter the American political system in the form of independent expenditures. For decades the Supreme Court had given the federal government broad discretion to enact campaign finance reform legislation that regulated individual contributions to candidates and political campaigns to prevent corruption and the appearance of corrupt. However, the Supreme Court did not give the federal government broad discretion to enact campaign finance reform legislation to regulate independent expenditures, because the Court had held that limitations on those violated the First Amendment. *Citizens United* matters because it severely limited the federal government's ability to regulate independent expenditures, the result was a rapid proliferation of Super PACs.

This investigate the impact of the *Citizens United* decision on electoral outcomes in U.S. House of Representatives races. In political races, having more financial support is an advantage, and the candidate with more financial support often wins. In this thesis, I investigate how the *Citizens United* decision may or may not have increased that advantage. By analyzing data to compare traditional PAC to Super PAC support, I try to determine the success of Super PACs as a means for channeling money into the

American political system. The success of Super PACs compared to traditional PACs shows an aspect of why the *Citizens United* decision is such a significant decision among previous campaign finance Supreme Court decisions.

CHAPTER 2

LITERATURE REVIEW

Supreme Court cases are remembered not only for the specific changes they make to the U.S. legal code, but also for how the effects of those changes impact the country overall. There is substantial literature on the topic of *Citizens United* and its impact on campaign finance, addressing the issue from many different angles. This literature review starts with a review of the major campaign finance court cases throughout U.S. history. The rest is divided into six sections based on common themes I found in the available literature on campaign finance. The six sections are: *Citizens United: Citizens United's* place among other Supreme Court campaign finance decisions, *Citizens United* is a threat to democracy, *Citizens United* is a victory for free speech, *Citizens United* only had a minimal impact, *Citizens United* and congressional races, *Citizens United* and the role of incumbents.

Case Review

Many significant Supreme Court cases dealt with campaign finance throughout U.S. history before *Citizens United*. Herein is a concise explanation of five campaign finance Court cases that are important to understanding the impact (in terms of changes to campaign finance law) of *Citizens United*, followed by a more detailed explanation of the *Citizens United* case and the Supreme Court's decision. These five campaign finance court cases that are important to understanding the changes the *Citizens United* decision made to U.S. campaign finance law are: *Buckley v. Valeo* (1976); *Austin v. Michigan*

Chamber of Commerce (1990); *McConnell v. FEC (2003)*; *Wisconsin Right to Life v. FEC (2007)*; and *SpeechNow.org v. FEC*.

The Federal Election Campaign Act of 1971 was enacted as an attempt to weed out campaign corruption. The Act (and its 1974 amendments which were enacted in the wake of the Watergate scandal) placed limits on: campaign contributions from individuals and PACs, expenditures by candidates from their own personal funds, and independent expenditures (ilsr.org, 2008). A group of individuals that included a senator, a presidential candidate, and members of the ACLU sued, arguing that the amendments to FECA were unconstitutional on the grounds that they violated the First Amendment's freedom of speech and association clause. The case (*Buckley v. Valeo*) eventually reached the Supreme Court. The Court held that the limits on individual and committee donations to candidates were constitutional. However, limits on candidates spending their own money on their campaign, limits on independent expenditures, and limits on total campaign spending were unconstitutional (oyez.org). *Buckley v. Valeo* is a landmark Supreme Court case regarding campaign finance because of the Court's ruling that the government cannot put limits on independent expenditures, (spending money on behalf of a candidate is considered free speech protected by the First Amendment), which has resulted in the proliferation of political action committees.

The second campaign finance Court case of importance is *Austin v. Michigan Chamber of Commerce (1990)*. The Michigan Campaign Finance Act of 1979 barred corporations from using general treasury funds for independent expenditures supporting or opposing political candidates. The Michigan Chamber of commerce sued, arguing that the MCFA violated its First Amendment rights (oyez.org). The case eventually reached

the Supreme Court, and the Court ruled that the Act did not violate First Amendment rights. The Court held that while the Act did place burdens on the Chamber of Commerce and other corporations, the burdens were constitutionally justified because 1) the state of Michigan had a compelling interest to maintain electoral integrity and 2) the Act was narrowly tailored and implemented to achieve that goal (Katz & Vile, 2017). *Austin v. Michigan Chamber of Commerce* became the foundation for state and federal campaign finance regulations; however, it was overturned by the *Citizens United* decision in 2010.

The Bipartisan Campaign Reform Act (2002) placed limits on soft money being used by political party committees for advertising, and it placed limits on the electioneering communications that included a federal candidate's name or image, that were paid for by corporations, nonprofits, and labor unions. Numerous lawsuits were filed against the BCRA, and the suits were combined into one case named *McConnell v. FEC (2003)*. The lawsuits claimed that the Act's limits on soft money and regulations of source, content, and timing of political advertising violated the First Amendment (oyez.org). The Court held that the government's legitimate interest to prevent corruption, and the appearance of corruption of the electoral process by large financial contributions, allowed the federal government to place limits on soft money and electioneering communications. The Court therefore upheld the constitutionality of the contested provisions of the Bipartisan Campaign Reform Act (2002) (O'Neill).

In 2004, a nonprofit political advocacy organization named Wisconsin Right to Life sued the Federal Election Commission, claiming that the Bipartisan Campaign Reform Act (2002) provision that barred corporate funds from being used on political advertisements within 60 days of an election was unconstitutional, because Wisconsin

Right to Life's ads did not endorse or oppose a candidate (oyez.org). In its decisions for the case *Wisconsin Right to Life v. FEC (2007)* the Supreme Court held that the BCRA provision, which barred corporate funds from being used on political advertisements within 60 days of the election, was unconstitutional as applied to issue ads like Wisconsin Right to Life's. The majority maintained that there was a significant difference between issue ads and express political advocacy, defining express political advocacy as an appeal to vote for or against a specific candidate, while everything else falls under issue ads (campaignlegal.org, 2015). The Court held that the government has a compelling state interest to regulate the latter but not the former. The decision in *Wisconsin Right to Life v. FEC (2007)* is considered to have virtually overturned sections of the *McConnell v. FEC (2003)* decision. In *McConnell v. FEC (2003)*, the Supreme Court upheld section 203 of the BCRA against a suit, but in *Wisconsin Right to Life v. FEC (2007)*, the Court held that WRTL's ad was not the functional equivalent of express advocacy. Therefore, it did not fall under the jurisdiction of the BCRA. This created a loophole which bypassed the *McConnell v. FEC (2003)* decision.

SpeechNow.org v. FEC did not reach the Supreme Court, but it is still a very important piece of campaign finance court case history. In 2008, SpeechNow.org (a 527 organization) filed a challenge to the sections of the FECA that placed contribution limits and disclosure requirements as applied to political committees that make only independent expenditures in elections (campaignlegal.org, 2015). SpeechNow.org argued that the contribution limits in the Act unconstitutionally violated the freedom of speech clause of the First Amendment, and that the disclosure requirements were unconstitutionally burdensome (fec.gov). In 2010, the U.S. Court of Appeals for the

District of Columbia Circuit ruled that the contribution limits were unconstitutional as applied to individuals' contributions to SpeechNow.org, but the Court ruled that the disclosure requirements were constitutional as applied to SpeechNow.org (fec.gov). *Speechnow.org v. FEC* forever remains in the shadow of *Citizens United v. FEC*, but the two cases are significantly related. *Citizens United* dealt with the campaign finance spending, while Speech Now.org dealt with the other side of the coin, raising campaign funds.

In 2010, the U.S. court system heard another challenge to major sections of U.S. campaign finance law. The Citizens United organization sued the FEC arguing that sections of the BCRA infringed upon their First Amendment rights. *Citizens United v. FEC* would eventually become one of the most famous (or infamous) Supreme Court cases of the 21st century. The plaintiff in the case was a politically conservative 501 (c) 4 nonprofit organization named *Citizens United*. In 2008 the organization released a documentary titled *Hillary: The Movie*. The organization planned to release the film to video-on-demand services to cable TV subscribers thirty days before the start of the 2008 Democratic presidential primary election, and to advertise the film in TV commercials. However, the BCRA had expanded the scope of the FECA's (section 441b) ban on corporate and union contributions in connection with political elections to include electioneering communications, paid for with general treasury funds, and speech that expressly advocates for or against a candidate. Section 203 of the BCRA defined electioneering communication as "any broadcast, cable, or satellite communication that refers to a clearly identified candidate for Federal office and is made within 60 days before a general election or 30 days before a primary election" (Duignan, 2019, p.2).

The BCRA also expanded disclosure and disclaimer requirements. Section 311 of the BCRA states “televised electioneering communications funded by anyone other than a candidate for office must include a clear, readable disclaimer displayed on the screen for at least four seconds. The disclaimer must identify the person or organization responsible for the advertisement, that person or organization's address or website, and a statement that the advertisement “is not authorized by any candidate or candidate's committee” (Sullivan, 2010, p.2). To preempt the imposition of a penalty by the FEC, *Citizens United* sought an injunction against the FEC in the the United States District Court for the District of Columbia to prevent the application of BCRA against its film *Hillary: The Movie* (oyez.org).

In its case for an injunction, *Citizens United* argued that section 203 of the BCRA violates the First Amendment on its face when applied to *Hillary: The Movie*, because the film did not constitute express advocacy for or against a candidate. The organization also argued that section 311 (the donor disclosure section) was unconstitutional as applied to *Hillary: The Movie*. The District Court denied the injunction, holding that *Hillary: the Movie* was the functional equivalent of express advocacy, and therefore section 203 had not been unconstitutionally applied. After the District Court denied the injunction, the *Citizens United* organization appealed to the Supreme Court. The Supreme Court granted a writ of certiorari and heard arguments in the case in March 2009 (campaignlegal.org, 2015).

The Supreme Court decided that it could not resolve the as applied challenge from *Citizens United*, without setting a negative precedent for political speech. Instead, the Court broadened the argument from *Citizens United* (which was quite narrow because it

only focused specifically on *Hillary: The Movie*). This meant revisiting the Court's decision in *Austin v. Michigan Chamber of Commerce* and sections of *McConnell v. FEC*. The Court therefore, considered a facial challenge to sections 203 and 441b, and applied strict scrutiny. This meant the government had to show that the sections in question served a compelling interest and were narrowly tailored to meet that interest.

In January 2010 the Supreme Court announced its decision, holding that the First Amendment allows corporations, non-profits, and labor unions to provide independent expenditures to promote or attack political candidates, without government restrictions. This decision overruled the *Austin v. Michigan Chamber of Commerce* decision, and overruled sections of the *McConnell v. FEC* decision. The Court held that the decision in *Austin v. Michigan Chamber of Commerce* interfered with the open marketplace of ideas which is protected by the First Amendment. Since the majority believed that *Austin v. Michigan Chamber of Commerce* was incorrectly decided, it was not persuaded by either of the government's arguments, anti-corruption and shareholder protection.

However, the Court ruled that the disclosure requirements of the BCRA were constitutionally applied to the film, because the government has a legitimate interest to provide transparency of funding sources to voters. While disclosure and disclaimer requirements may create a slight burden for a speaker, they do not prevent anyone from speaking. Additionally, the Court upheld the disclosure requirements for political advertising funders, as well as the ban on direct contributions from corporations and unions to candidates.

In the majority opinion, Justice Kennedy said that all political speech is essential to democracy, it does not matter if the source is a corporation. "Government may not

suppress political speech on the basis of the speaker's corporate identity. No sufficient governmental interest justifies limits on the political speech of nonprofit or for-profit corporations” (Sullivan, 2010, p.3). Therefore (section 441b) the ban on corporate and union contributions in connection with political elections to include electioneering communications, paid for with general treasury funds, and speech that expressly advocates for or against a candidate, was facially unconstitutional.

Writing for the dissent, Justice Stevens stated that government regulation of corporate involvement in elections is necessary to preserve the integrity of elections. The dissent believed that the majority decision would greatly increase the influence of corporations over the election process, stating that the ruling “threatens to undermine the integrity of elected institutions across the Nation” (Hudson jr., p.3). Stevens argued that the majority had blatantly disregarded the precedent of stare decisis, and had used question begging and ad hoc arguments in the majority opinion. The result would “undoubtedly cripple the ability of ordinary citizens, Congress, and the States to adopt even limited measures to protect against corporate domination of the electoral process. Americans may be forgiven if they do not feel the Court has advanced the cause of self-government today” (Duignan, 2019, p.7).

The strong views in both the majority opinion and the dissent set the stage for the contentious debate over *Citizens United* among the American public. Public opinion on campaign finance, and specifically the *Citizens United* decision, show the importance of the issue to the American public, and therefore why it is an important topic to study. A 2004 study on public perceptions of corruption and money in politics by Persily and Lammie concluded that “We must admit that large shares of the American population

distrust their government and believe the campaign finance system is a source of undue influence” (Persily & Lammie, p. 174).

A recent study by Dowling and Miller found that Americans view more positively a candidate who receives a majority of their campaign contributions from individuals rather than from interest groups (Dowling & Miller, 2016). An extensive survey by the *New York Times* found that 84% of Americans believe that money has too much influence in political campaigns, while 39% believed that the current campaign financing system needed fundamental changes and 46% believe that it needs to be completely rebuilt (nytimes.com, 2015). Additionally, 54% answered “no” to the question “Do you consider money given to political candidates to be a form of free speech protected by the First Amendment to the Constitution?” it is important to note that there was some divergence along party lines in answers to this question; Republicans tended to agree with the question while Democrat tended to disagree (nytimes.com, 2015).

These and many other studies show that campaign finance is considered an important topic by Americans, there is concern about the current shape of the U.S. campaign finance system. Many believe money has an undue influence on American elections. The *Citizens United* decision has added to this concern by opening up a pathway for corporate and union money to influence candidates and elections, which make the impacts of the *Citizens United* decision an important topic to study.

Citizens United's Place Among Other Supreme Court Campaign Finance Decisions

Citizens United is one of many significant Supreme Court cases that dealt with campaign finance regulation throughout American history. To better understand the

effects of *Citizens United*, it is important to examine what changes it made compared to other Supreme Court campaign finance decisions. Campaign finance deregulation by the Supreme Court began with *Buckley v. Valeo* in 1976 and continues today, most notably with *Citizens United v. FEC*. Each major Supreme Court campaign finance decision is integral to understanding the modern U.S. campaign finance system.

What stands out about the *Citizens United* decision compared to previous Supreme Court campaign finance decision is the resulting proliferation of Super PACs (Dwyre, 2015).

In “The Deregulatory Moment?” Dwyre states, “The *Citizens United* and SpeechNow decisions

and the FEC rulings to implement them led to the emergence of a new type of campaign organization—the independent expenditure-only political committee, or Super PAC”

(Dwyre, 2015, p.45). A central aspect of campaign finance regulation is contributions

limits, but Super PACs became a new way to avoid those contribution limits. Former

FEC chairman Trevor Potter described Super PACs as “the clearest, easiest way to spend

unlimited funds on an election... pretty much the holy grail that people have been

looking for” (Dwyre, 2015, p.46). Super PACs are significant for many reasons,

especially the potential for corruption that is enabled by allowing them to accept

unlimited contributions. The first major piece of campaign finance regulation (FECA)

was enacted in 1971 to address campaign corruption.

However, the changes in U.S. campaign finance regulation resulting from the *Citizens*

United decision go beyond just the removal of the campaign finance restrictions which

led to the proliferation SuperPACs (Kang, 2012). A debate that began with the *Buckley v.*

Valeo decision was radically altered, because *Citizens United* “removed almost all government regulation of campaign finance beyond transactions directly involving a political party or candidate” (Kang, 2012, p.21). The reason the government enacts campaign finance laws is to prevent corruption and the appearance of corruption, and the government had successfully used the anti-corruption interest to defend campaign finance regulation from legal challenges for decades. However, the *Citizens United* decision narrowed the government's ability to use the anti-corruption interest to defend campaign finance regulations that do not involve funds going directly to candidates, i.e. independent expenditures (Kang 2012).

In the *Citizens United* decision the Supreme Court narrowed the anti-corruption interest. In *Buckley v. Valeo* the Court held that the corruption interest was not limited to quid pro quo. Later decisions accepted an even more expansive definition of corruption most notably *Austin v. Michigan Chamber of Commerce* (Abraham, 2010). The majority defended this position by arguing “the fact that speakers may have influence over or access to elected officials does not mean that such officials are corrupt” (Abraham, 2010, p.1090). By shifting the definition of corruption (in the area of campaign finance) to strictly quid pro quo (then holding bans on corporate independent expenditures as unconstitutional), the Court was therefore rolling back many previous campaign finance Supreme Court decisions.

Richard White adds, in “What Counts as Corruption” (2013), the Supreme Court's decision in the *Citizens United* case attempted to oversimplify a complex issue that America had been dealing with for centuries. “Struggle with corruption in the Gilded Age resonates with combating modern financial and political corruption in the United States.

It is ironic that their [the Court's] increasingly complex understanding of corruption should be reduced to Kennedy's primitive forms" (White, 2013, p.1054). Twentieth-century campaign finance regulations were the culmination of decades of study of corruption in American politics. It was deemed reasonable to limit some freedom of speech to prevent corruption and the appearance of corruption. Yet decades later, some of those regulations would be undone by a Supreme Court majority that believed campaign finance laws in certain areas were overly burdensome and a solution looking for a problem. However, that lack of a problem is arguable because those campaign finance regulations had been successful in reducing corruption in the American political system.

Citizens United is a Threat to Democracy

Immediately following the Supreme Court's decision in *Citizens United v. FEC*, debate began over the decision and its possible effects. Many people believed that the *Citizens United* decision was a threat to democracy, arguing that it would enable corruption which would obstruct the will of the people. Former senator Russ Feingold (co-sponsor of the BCRA) derided the *Citizens United* decision saying that it "gives a green light to corporations to unleash their massive coffers on the political system" (Kang, 2012, p.14). The decision has led to an influx in "dark money" in politics overall (though Super PACs in particular do have to disclose donors) and without a contribution cap, singular donors can fund a much larger percentage of a Super PAC's operations than of a PAC's. In 2006, only two donors gave over one million dollars to an outside group, but in 2014 that number jumped to 84 (Maguire, 2015).

The argument that the *Citizens United* decision is a threat to democracy has two parts. First, based on electoral outcomes, and second based on the voting behavior of

politicians. This thesis relates to the first part of the argument, for which I will investigate how House of Representatives candidates who benefited the most from the result of the *Citizens United* decision (through Super PACs, 501 C nonprofits, 527 group funding support) are performing in House of Representatives races compared to candidates with regular PAC support before the *Citizens United* decision comparing 2006 results to 2014 results.

An aspect of the concern over the *Citizens United* decision is that allowing unlimited contributions to Super PACs increases the ability of a small subsection of donors to fund a substantial percentage of a campaign for or against a candidate. Lioz and Kennedy (2012) found that the vast majority of the money flowing to candidates, parties, Super PACs, and other outside groups is coming from a tiny number of wealthy donors, either individuals or corporations (Lioz & Kennedy, 2012). In 2012, for example, 68% of the \$828 million raised by Super PACs came from only 1% of Super PAC donors (Maguire, 2015). This issue of a small number of donors providing a significant chunk of all funding has existed to some degree throughout U.S. history. However, with the proliferation of Super PACs, which have no contribution limits, this issue has been exacerbated.

As donors (particularly corporate donors) pour more and more money into supporting campaigns in the post-*Citizens United* era, it is not surprising that they would expect some influence in return for the millions they are donating to support campaigns. Krumholz (2013) argues that the evidence that corporate donors are looking for influence is that they donate to candidates on committees that interest them (Krumholz, 2013). For example, the finance, insurance, and real estate sector (the largest private sector

contributor to federal candidates and campaigns) give most of their donations to candidates, PACs and SuperPACs of candidates who are on the Financial Services committee (Krumholz, 2013). This is only one example, but it shows how the unlimited corporate donations to support federal candidates can be intended to influence.

Evidence shows that corporations support Super PACs that support candidates on committees that deal with the sector that corporation is in. (Krumholz, 2013) While the Super PACs have no formal communication with candidate campaigns, instead using their funds on independent expenditures, there is great concern that Super PACs and candidates are not as independent as the *Citizens United* decision says they are. Kang argues that independent expenditures are not as independent (from candidate campaigns) as law says that should be. “They are made without formal coordination, but candidates and those making the independent expenditures know whom the spending is intended to benefit” (Kang, 2012, p.25). This creates a quasi-quid-pro-quo relationship. Since contributions to Super PACs can be unlimited, the fear that corruption will manifest in this relationship has become a strong concern of many who consider the *Citizens United* decision as a threat to democracy.

In “Aligning Campaign Finance Law” Nicholas Stephanopoulos (2015) also writes about a link between the policy decisions of politicians and the preferences of their donors. Politicians tend to hold more extreme viewpoints in line with donors, rather than more centrist viewpoints of the average American. “The ideal points of members of Congress have almost exactly the same bimodal distribution as the ideal points of individual contributors. They look nothing like the far more centrist distribution of the public at large” (Stephanopoulos, 2015, p.1427). This type of link between the views of

donors and politicians is seen as a cause for concern by many. This type of link could have numerous impacts on American politics and the political system as a whole. In particular, in relation to the *Citizens United* decision, as campaign finance regulations are loosened in the name of free speech, the possibility of corruption from this link could increase.

The concern of corruption is the heart of the argument that the *Citizens United* decision is a threat to democracy. The government can regulate campaign finance to prevent corruption, but the *Citizens United* decision narrowed the definition of corruption in regard to campaign finance returning to a *Buckley v. Valeo* definition. Hasen points out that changing the definition of corruption shows that a major aspect of the *Citizens United* debate is over what constitutes corruption in regards to campaign finance (Hasen, 2011). The definition has been narrowed in the name of free speech, but many are concerned that it has been narrowed too much. A narrow definition of corruption can force the government to be reactive instead of proactive. As a result the federal government will become forced to respond to corruption rather than using its full ability to prevent corruption before it occurs.

The *Citizens United* decision in 2010 made it easier for corporations to enter the political arena by holding that the First Amendment protects corporate donations to political causes. In a democratic government, the elected officials are responsive to the will of the electorate. When corporations enter the political arena by funding campaigns that support certain candidates and attack others, there is concern that the voices of the electorate will be drowned out by the multi-million dollar corporate “war chests.” In “Expensive Speech Illegitimate Power” Zakaras (2013) argues that this situation is a

serious cause for concern. He states, “Political speech authored by for-profit corporations - including not just political advertising during campaign season, but political lobbying year round - is often dangerous to democracy” (Zakaras, 2013, p.526). Clearly, large corporate contributions can speak louder than the voices of the electorate. Giving the corporate donors significant influence over the representative that “the people” cannot match.

Citizens United is a Victory for Free Speech

On the other side of the debate over the *Citizens United* decision, many argue that the decision was an important victory for free speech. Political speech is integral to a democracy. Whether it is coming from an individual or a corporation, campaign finance regulations that limit the amount that corporations can give to fund political campaigns is a restriction on free speech. Supporters of the *Citizens United* decision contest or downplay the possible negative effects of the decision that are promoted by those who believe that the *Citizens United* decision is a threat to democracy. It is important to study arguments in favor of the *Citizens United* decision to learn both sides of the debate over the decision and the importance of free speech for all types of sources that fund political campaigns. The impact of Super PAC funds on a candidate's chance of winning can show how free speech (in terms of campaign funding) impacts the ability of a candidate to successfully run a political campaign. Campaign funding helps candidates advertise themselves to the public. On the other hand, campaign donation limits could potentially burden a candidate's ability to legitimately run for office, thereby blocking new candidates and new ideas from being represented in political races.

Many who support the *Citizens United* decision as a victory for free speech argue that the decision is important not only for free speech and campaign finance regulations, but also as a general First Amendment case. In “*Citizens United* and the Battle for Free Speech in America” Simpson (2012) argues that in the twenty-first century, the First Amendment came to be viewed as a tool to serve the goals of society rather than individuals (Simpson, 2012). However, the *Citizens United* decision “returns to the constitutional principle that the government must protect and not violate freedom of speech” (Simpson, 2012, p.15). The *Citizens United* decision clearly outlines the breadth of the First Amendment and shows how severe a situation must be for the government to be allowed to limit free speech.

In “In Defense of *Citizens United*: Why Campaign Finance Reform Threatens American Democracy” Hubbard and Kane (2013) argue that the *Citizens United* decision was a good decision because it can potentially help break up the duopoly of the two-party political system in the U.S. (Hubbard and Kane, 2013). They state that the enactment of FECA coincided with a hyper-partisan divergence in Congress, because it gave greater control over campaign funds to the political parties. The authors write “The changes in campaign finance rules turned American politics into a classic case of monopolistic competition, in which the Democrats and Republicans’ partisan duopoly was protected by government regulation that diminished innovative policy ideas” (p.127). Hubbard and Kane believe that the *Citizens United* decision allowed new voices to enter politics that had been previously locked out by the duopoly held by the Democratic and Republican parties. With new voices, American politics will hopefully represent the more diverse voices of the American public.

Like Hubbard and Kane, Bradley A. Smith (2015) also writes about the importance of the *Citizens United* decision as an avenue to lessen the stranglehold of the two political parties on American politics. While many opposed to the *Citizens United* decision decry the resulting increase in outside spending as a threat to American democracy, Smith argues that outside spending by a variety of interest groups is important to bring new viewpoints that may be different from major party planks. He says, “Outside spending simply means spending not controlled by candidates and political parties — spending by the Humane Society, the National Association of Realtors, the Environmental Defense Fund, the U.S. Chamber of Commerce and similar groups. It is crucial for such citizen organizations to speak out about candidates. Political discussion should not be monopolized by politicians and political parties” (Smith, 2015, p.2). *Citizens United* has therefore resulted in more speech, bringing new viewpoints, making it a victory for free speech.

Citizens United Only Had a Minimal Impact

There are strong arguments on both sides of the debate over whether the *Citizens United* decision has/will positively or negatively impact American democracy, but there is also a third group who argue that the *Citizens United* decision in and of itself has had only a minimal impact, because it is one in a long line of campaign finance deregulation Supreme Court cases. To those who support this argument, *Citizens United* is a controversial case because campaign finance has become over-politicized. The anti-democratic corporate takeover of American elections has become a rallying cry for some grassroots political movements, as “perceived corporate dominance has spurred a recent

populist backlash on both the political left and the political right... even if *Citizens United's* incremental impact is mild, it nevertheless has the feeling of a final straw” (Levitt, 2010, p.217). Not surprisingly, there is plenty of literature about the disconnect between perceived changes and actual changes of the *Citizens United* decision. Much of what is seen to be drastic changes to campaign finance law made by the *Citizens United* decision was chipped away at by a number of previous decisions, *Wisconsin Right to Life v. FEC* in particular.

The literature about the *Citizens United* decision having only a minimal impact either discusses changes made to the legal code compared to previous campaign finance cases, or how those changes have only minimally affected elections so far. For example, In “Can Rich Dudes Buy an Election?” Darrell West (2014) points to the fact that in 2012, conservative mega donors used Super PACs to take advantage of changes made to campaign finance law by the *Citizens United* decision to spend more money than ever before to try to defeat Barack Obama, yet he still won. Obama’s ability to appeal to a large swath of the American public and to mobilize those voters proved more effective than the millions of dollars spent on TV ads by the Koch brothers, Karl Rove etc. . . . Leading West to conclude that “Rich people can’t automatically buy American elections, but money has a crucial impact on problem definition and campaign dialogue” (West, 2014, p.34). While this is only one example of one presidential race it points to the fact that elections are much more complex than a handful of donor spending millions of dollar to try to influence the outcome.

West discusses how the changes made by the *Citizens United* decision have only minimally affected elections so far, using the 2012 presidential election as an example. In

“The End of Campaign Finance Law” Michael Kang argues that much of the perceived changes to American campaign finance law by the *Citizens United* decision had been changed years earlier in a lesser known case, *Wisconsin Right to Life v. FEC*. Much of the concern over the *Citizens United* decision revolves around corporate spending on elections, and how that spending would significantly increase as a result of the *Citizens United* decision.

However, “the Court had already opened the door for what amounted to corporate spending on campaign speech, in the form of so-called “sham issue advocacy,” a few years earlier in a much less publicized decisions” (Kang, 2012, p.3). In *Wisconsin Right to Life v. FEC* the Supreme Court narrowed the government's ability to restrict corporate spending, allowing corporate spending on a variety of types of ads that support or criticize candidates for federal office. In regard to corporate spending on issue ads, the only change that the *Citizens United* decision made was allowing corporations to be more explicit in their campaign advocacy (Kang, 2012).

Nate Persily, director of the Center for Law and Politics at Columbia Law School has a similar view of the *Citizens United* decision and the changes (or lack thereof) it made to U.S. campaign finance law. According to Persily, “Most critics of the decision will suggest that the Court, with this decision, opened the floodgates to unlimited corporate and union spending in next year’s and subsequent federal elections. The truth is that this decision is the latest in a series of decisions (four, to be exact) from the Roberts Court knocking down campaign finance laws. The floodgates, such as they are, were opened three years ago in a different case, *Wisconsin Right to Life v. FEC*” (Marx, 2010, p.3). The significance of the *Citizens United* decision therefore lies in expanding the types of

advertisements protected by the First Amendment. *Wisconsin Right to Life v. FEC* protected ads that praised or criticized a federal candidate, the *Citizens United* decision protected ads that directly endorsed a candidate or said “do not vote for...” a specific candidate.

Citizens United and Congressional Races

Since the question of this thesis focuses on House of Representatives races, it is important to study the literature about the *Citizens United* decision that focuses on how it could (or could not) impact Congress both electoral outcomes and the behavior of politicians. The *Citizens United* decision increased the amount of money spent on congressional races (Kim, 2016). Studies have found that unlimited campaign contribution allows singular donors to fund a larger percentage of a campaign. It has been discussed at length whether these funds will impact the ways representatives vote.

Besides the data analysis, much of the literature on *Citizens United* and congressional races focuses on specific examples of how the effects of the *Citizens United* decision helped and influenced candidates. In “How *Citizens United* changed Politics and Shaped the Tax Bill” Norden et, al. (2017) use the recent tax bill (The Tax Cuts and Jobs Act) as an example of donors in the post - *Citizens United* era strongly influencing policy. When asked about the prioritizing of the tax bill, Representative Chris Collins (R-NY) said, “My donors are basically saying, ‘Get it done or don’t ever call me again.’” Senate Majority Leader Mitch McConnell’s former chief of staff Steven Law said, “[Donors] would be mortified if we didn’t live up to what we’ve committed to on tax reform” (Norden et, al., 2017, p.2). While on the other side of the equation, conservative donor

Doug Deason told congressmen “We’re closing the checkbook until you get some things done...Get Obamacare repealed and replaced, get tax reform passed...You control the Senate. You control the House. You have the presidency. There's no reason you can't get this done. Get it done and we'll open it back up” (Norden et, al., 2017, p.2). Similar to how *Citizens United* allowed corporation funded political ads that more forcefully support or condemn a candidate, politicians can be more open, and donors more forceful, about the influence donors hold.

Norden et al. (2017) theorize that donors and politicians have become much more open about this type of behavior since the *Citizens United* decision, because individual donors can now contribute much larger sums of money than before *Citizens United* by using Super PACs. This means that a “handful” of individual donors can now have a much greater influence over a candidate/politician because they are able to be a much larger percentage of a campaigns advertising. For example, before *Citizens United*, a donor who gave \$100,000 or more could represent 5% of all contributions, but now post *Citizens United* a donor can represent 25% of all contributions (Norden et, al., 2017).

Another example of *Citizens United* affecting congressional races is Orrin Hatch's 2012 reelection campaign. In 2012, Hatch was facing a strong primary challenger, who was supported by a Super PAC named FreedomWorks for America. In response to the anti-Hatch ads funded by FreedomWorks, the pharmaceutical industry’s main lobbyist group Pharmaceutical Researchers and Manufacturers of America gave \$750,000 to a 501(c) 4 “social welfare non-profit named Freedom Path that mainly supported Hatch in the 2012 election (Beckel, 2012). Hatch is on the Health, Education, Labor and Pensions committee, which shows why the pharmaceutical industry supports him so strongly. This

connection is an example of Krumholz's argument that the evidence that corporate donors are looking for influence is that they give to candidates on committees that interest them (Krumholz, 2013).

In 2005 Brad Alexander published a study titled "Good Money and Bad Money: Do Funding Sources Affect Electoral Outcomes?" Since this study is from 2005, it is not about Super PACs, but Alexander does write at length about the impacts traditional PACs have on electoral outcomes. Alexander found that traditional PAC support had a significant impact on a candidate's chances of winning, "the higher the percentage of donations a candidate accepts from PACs, the more likely they are to win" (Alexander, 2005, p.355). While traditional PACs are different than Super PACs, they are the precursors to Super PACs. Super PACs can raise unlimited sums and use that money on independent expenditures to strengthen a candidate's chance of winning even more, whether in a reelection or as a challenger.

Citizens United and the Role of Incumbents

The incumbency advantage is the advantage that a candidate who is the current holder of a seat has over the challenger. The incumbency advantage exists because incumbents have better name recognition, more experienced campaign officials, previous campaign outreach, and access to more financial resources (Landsman, 2017). The incumbency advantage is relevant to this thesis because it can be difficult to distinguish between the influence of campaign funds (as a result of a change in campaign finance regulations) and the power of incumbency. Incumbency is an issue that I must be aware of when analyzing

data because the incumbency advantage can easily be conflated with the effects of additional campaign funds as a result of *Citizens United*.

There are many ways in which the incumbency advantage and the changes brought about by *Citizens United* are linked. Heberlig & Larson (2012) write about the relationship between independent expenditures and the success of incumbents in “Parties, Incumbents, and Campaign Finance in American Elections” from 2012. With the *Citizens United* decision expanding the amount of independent expenditures for express advocacy, donors can more directly help candidates. Instead of giving money to party committees which then decide how to use the money and what candidate to spend it on, donors can give the money to Super PACs and 501Cs to directly impact the candidate they support. “With a new spending option open to them, corporations could potentially shift their political spending towards express advocacy rather than making PAC contributions to incumbents (who can then redistribute those funds to the parties)” (Heberlig & Larson, 2012, p.57). This shift could allow more money to go directly to incumbents, thus increasing their advantage, part of the financial resources aspect of the incumbency advantage. While incumbents benefit from this change in campaign finance law, it is still important to consider that some of the support is because of the preexisting incumbency advantage.

In a second piece by Heberlig and Larson titled, “U.S. House Incumbent Fundraising and Spending in a Post-*Citizens United* and Post-McCutcheon World” (2014), they investigate the fundraising behavior of incumbents since the *Citizens United* decision. Heberlig and Larson found that incumbents are concerned that Super PACs will help challengers to unseat them, causing incumbents to increase their fundraising efforts

(Heberlig and Larson, 2014). They write “The Supreme Court's rulings in *Citizens United* and *SpeechNow.org* have the potential to increase electoral uncertainty for incumbents by making it easier for unregulated groups to finance a campaign to defeat them. The threat of such a campaign would motivate House members to raise more campaign money to protect themselves” (Heberlig & Larson, 2014, p.2). Increasing fundraising efforts would drive the cost of running a congressional race even higher than it already is, which would mean more money in politics in general. Since house incumbents already have incredibly high reelection rates, the additional outside spending from Super PACs could have a serious impact either way, by solidifying the reelection opportunities of incumbents or helping challengers win longshot campaigns.

In “Campaign Finance and Voter Welfare with Entrenched Incumbents” Scott Ashworth (2006) also discusses the effects of the incumbency advantage combined with easier access and influence over candidates. Loosening campaign finance regulation means that donors can now fund a larger percentage of a campaign (Norden et, al., 2017). Donors expect influence in return when the candidate wins, but the candidate must win for the donor to gain influence, which “leads them to demand more favors from candidates with less chance of winning, so incumbents have advantage in fundraising” (Ashworth, 2006, p.64). When combined with the incumbency advantage, challengers start at an even greater disadvantage making races less competitive. Therefore, the weakened campaign finance regulations strengthen the incumbency advantage, in turn making electoral outcomes a combination of the two, general incumbency advantage and Super PAC funding of campaigns.

Another important aspect of incumbency is that incumbents do not always need to spend large sums of money to win, due to the many aspects of the incumbency advantage. In “Measuring Campaign Spending Effects in U.S. House Elections” Gary Jacobson (2006) finds that “heavy spending by incumbents is a sign of electoral weakness, while heavy spending by challengers is a sign of electoral strength” (Jacobson, 2006, p.204). This also applies to other sort of funding on behalf of candidates PACs, Super PACs, 501Cs, a donor(s) often will not see a need to spend large sums on a particular candidate if that candidate does not face a serious challenge (Jacobson, 2006). Since this thesis compares PAC support to Super PAC and 501 (c) support, and looking at electoral outcomes, this is an important factor to consider since the incumbency advantage helps candidates aside from outside funding.

The literature on *Citizens United* and its impact on campaign finance is substantial. I have chosen a number of pieces for my literature from the six common themes I found throughout the literature. The literature shows how important many believe the *Citizens United* case to be. It is viewed both positively and negatively with strong arguments on all sides. It has now been close to nine years since the decision, with congressional elections every two years that means five elections since the decision was announced and the changes to American campaign finance law were made. For my research, I used campaign finance data for the 2006 and 2014 U.S. House of Representatives elections. I compared the success of candidates with more PAC support (in individual races) to the success of candidates with more Super PAC support (in individual races). This comparison will determine if the rise of Super PACs resulting from the *Citizens United*

decision has significantly impacted electoral outcomes compared to PACs, which were key before the *Citizens United* decision and the subsequent proliferation of Super PACs.

CHAPTER 3

METHODOLOGY

In this thesis I investigated the impact of the *Citizens United* decision on electoral outcomes in U.S. House of Representatives races, by comparing the success of candidates with the most PAC support (in respective races) to the success of candidates with the most outside spending support (Super PACs, 501 c nonprofit organizations, and 527 groups) in the 2006 and 2014 election cycles. The campaign finance data analyzed are from the Federal Election Commission (FEC). Some of the data I accessed by-way-of the Center for Responsive Politics, which had data organized in ways that were easier to navigate. The FEC is an independent regulatory agency that enforces campaign finance laws in the U.S. for federal elections. Federal campaign finance law has three distinct areas: disclosure of funds raised and spent, restrictions on contributions and expenditures, public financing of presidential campaigns (fec.gov). Data that candidates, party committees, PACs, Super PACs et al. must disclose are sent to the FEC where they are compiled and accessible to the public.

The data I analyzed in this thesis come from the 2006 and 2014 U.S. House of Representatives election cycles. In the data analysis, I compared the success of House candidates in 2006 who had the most traditional PAC support in their respective races, to the success of House candidates in 2014 who had the most outside spending (Super PAC, 501 c, 527 group) support in their respective races. I investigated whether the candidate with the most outside spending (Super PAC, 501 c, 527 group) support in respective

races in 2014, won or lost more or less often than the candidates with the most traditional PAC support in respective races in 2006. I chose 2006 and 2014 for my comparison because they are the two full election cycles closest before and after the *Citizens United* decision without a presidential race. I decided to not analyze data from election cycles with a presidential race (2008 and 2012), because presidential elections can influence the congressional campaign finance situation, and I am particularly interested in U.S. House races. Since I am investigating the impact of the *Citizens United* decision on House of Representatives electoral outcomes, comparing 2006 and 2014 provides a more immediate impact, because those are the two election cycles closest before and after the *Citizens United* decision without a presidential race.

For 2014, I used outside spending data for U.S. House of Representatives candidates. Outside spending includes Super PACs, 501 c nonprofit organizations, and 527 groups. The outside spending takes the form of independent expenditures, electioneering communications, and communication costs (opensecrets.org). Super PACs are organizations that can raise an unlimited amount of money from corporations, unions, non profits, and individuals, to spend on elections advocating for or against candidates; however, they cannot donate directly to a campaign or work with a campaign. 501 (c) groups are tax-exempt non-profit organizations that can engage in varying degrees of political activity based on the type, they can receive unlimited donations from corporations, or individuals, and do not have to disclose the source of their funding. 527 groups are organizations whose purpose is to influence political issues, candidate elections, policy debates, or political appointments, they can raise unlimited amounts of money from corporations, unions, and individuals, but they must disclose their

contributors. After the first round of data analysis my committee suggested that I also analyze the three categories for PAC support in 2014 to see if this was a significant change between 2006 and 2014.

For 2006, I used traditional PAC spending for U.S. House candidates. Traditional PACs (Political Action Committees) are political organizations that raise money and then give that money directly to candidates and party committees, or spend it on independent expenditures. PACs often represent business, labor, or ideological interests. There are limits on how much money a PAC can give to candidate committees, national party committees, other PACs, and on how much money they can receive from individuals, party committees, and other PACs (opensecrets.org). I chose to compare traditional PACs to Super PACs, because the former are the precursor to Super PACs, and Super PACs proliferated as a direct result of the *Citizens United decision*.

There are 435 seats in the U.S. House of Representatives, and each is up for election every two years. However, many of the races are not considered competitive, and there are even some races where a candidate runs unopposed. In races that are not competitive, it is unlikely that much money from traditional PACs, Super PACs, 501c, 527 groups will be involved. Since my thesis focuses on spending from these organizations, it would not make sense to analyze every race. Therefore, the data that I analyze are divided into three categories: open seat races, competitive races, and races with a 7:1 and below spending ratio between the two highest spending candidates. The competitive races are from the Sabato Center for Politics at the University of Virginia. Each election cycle the Sabato Center uses their political forecasting model to indicate certain races as competitive. Though the races in the competitive seat category come from the Sabato Center, the

campaign finance data that I analyze for each category comes from the Center for Responsive Politics (outside spending) and FEC website (traditional PAC spending).

I chose open seats as the first category for races to analyze because open seat races tend to have more money spent on them. Incumbency provides a significant advantage so when there are no incumbents the races tend to be more competitive. Political parties often see open seats as an opportunity to flip a seat. Open seats tend to be considered more competitive than races with an incumbent, therefore, it is more likely that large sums of money will be spent on the race by outside sources. Since my thesis focuses on outside spending and potential changes from traditional PACs to Super PACs, 501c s, and 527 groups, open seat races are a relevant category. In the open seat category there were 31 races in 2006, and 42 races in 2014.

I chose competitive seats as the second category, because that cuts right to the core of the types of races relevant to my analysis. The most competitive races are most likely to have large sums of outside money spent on them. Having a category labeled competitive directly cuts out all races considered noncompetitive and therefore unlikely to have much outside spending, making them nearly irrelevant to my analysis. There are many definitions for a competitive House race, but I chose to analyze the races considered competitive by the Sabato Center, because they produced a list of House races they considered competitive for both 2006 and 2014. The Sabato Center for Politics at the University of Virginia studies and promotes civic engagement and political participation (centerforpolitics.org). The Sabato Center's ratings system is based on a number of factors that include: electoral history, polling, candidate quality, modeling, reporting. In the competitive seat category, there were 61 races in 2006, and 36 races in 2014.

The third category is races with a 7:1 and below spending ratio. This category is much larger than the first two categories, and there is some overlap with the first two categories. The Center for Responsive Politics gives each House race a spending ratio from 1:1 to 10:1, comparing the winner to the second-highest vote getter. My advisor and I decided on a 7:1 limit, because that would provide a substantial amount of races to analyze (many more than the first two categories), while removing the most lopsided races. We decided on using a ratio as the parameter instead of races in which the top two vote getters spent above a certain dollar amount, because a ratio gives a better picture of the difference in spending of the top two vote getters. It is possible that there are races where neither candidate spent a large amount of money and the race was very competitive. This would be a situation where outside spending could have a significant impact. In the 7:1 and below spending ratio category, there were 172 races in 2006, and 126 races in 2014.

A potential issue to be aware of when analyzing the data and writing the data analysis chapter is that the incumbency advantage can easily be conflated with the effects of additional funds, in this case, the result of the *Citizens United* decision. Politicians running for reelection are known to have over their challengers, it is called the incumbency advantage. The incumbency advantage exists because incumbents have better name recognition, more experienced campaign officials, previous campaign outreach, and access to more financial resources (Landsman, 2017). The “access to more financial resources” aspect of the incumbency advantage is especially relevant to my thesis topic. Financial support is often a key to victory in U.S. House races, though incumbency is also, and the two often go hand-in-hand. After the first round of data

analysis, my committee suggested that I analyze the data for the 3:1 and below spending ratio to see if there was a significant difference from the 7:1 and below spending ratio.

By dividing the data into three categories, I studied the impact of the changes caused by the *Citizens United* decision in three different situations. Since one of the categories is open seats there would be no incumbent in those races. Therefore, I could compare the success of the candidates with the most Super PAC support (and the change from traditional PAC to Super PAC from 2006 to 2014) in the open seat races category to the other categories to see if a lack of an incumbent produces a significant difference.

While analyzing the data, I noticed that often when the candidate with less PAC support or outside spending support won a race, the incumbent lost. I was curious about a possible connection, so I determined the percentage of races in which the incumbent political party (because some races were open seats) retained the seat. I did this for all categories in 2006 and 2014, and for the competitive races in 2016 and 2018.

The focus of this thesis is comparing 2006 and 2014, however, in the second round of data analysis, I analyzed some data from 2016 and 2018. My committee suggested that I analyze competitive races from 2016 and 2018, to investigate whether or not the changes I found in the 2014 data continued in 2016 and 2018. For both 2016 and 2018, I analyzed competitive races, to determine what percentage of the races the candidate with more outside support won. I only analyzed the competitive races in 2016 and 2018, because outside spending appeared to have a more significant impact on competitive races than the other categories.

CHAPTER 4

DATA ANALYSIS

This thesis investigates the impact of the Supreme Court's *Citizens United* decision on the electoral outcomes of U.S. House of Representatives races. The thesis question is, in House of Representatives races since the *Citizens United* decision, are the candidates with the most Super PAC, 501 (c) nonprofit, and 527 group support (in individual races) winning more often than the candidates with the most traditional PAC funding in House of Representatives races before the *Citizens United* decision, comparing 2006 to 2014? The data analysis chapter is divided into five sections: Introduction, Results, Discussion, Hypotheses, Limitations.

Introduction

The data that I analyzed are campaign finance data from the FEC, some of which I accessed by-way-of the Center for Responsive Politics. I used total PAC support for individual House of Representatives candidates for 2006 and 2014, total outside support for individual House of Representatives candidates for 2014, 2016, and 2018, and official election results reports from the FEC to determine the incumbent party winning percentage in 2006, 2014, 2016, and 2018. The races are divided into three categories (with some overlap): open seats, competitive seats, and spending ratio (as described in my methodology chapter).

I analyzed the data to address three questions: In what percentage of the races did the candidate with more PAC support win? (2006 and 2014). In what percentage of the races did the candidate with more outside support win? (2014, 2016, 2018). In what percentage of the races did the incumbent party retain the seat? (2006, 2014, 2016, 2018).

What percentage of the races did the candidate with more PAC support win?

Since this thesis investigates the possible impacts of outside spending (Super PACs, 527s, 501 (c) s) on House of Representatives races, I needed data from before the decision to compare the outside spending post *Citizens United* to. Traditional PACs are the precursor to Super PACs, therefore, they are the best political organization to compare Super PACs to. Comparing the results from outside spending post *Citizens United* to traditional PAC spending pre *Citizens United* was the best way to complete a before and after comparison. This comparison allows me to investigate how the change from traditional PACs to Super PACs has impacted electoral outcomes by increasing, decreasing, or keeping the same, the winning percentages for candidates with the most of that type of support in individual races.

I also analyzed PAC support for 2014 to compare it with 2006 to see determine if there was a significant change. While Super PACs were created and then proceeded to proliferate in the wake of the *Citizens United* decision, traditional PACs still exist, but they are no longer the “center of attention” in the campaign finance world. I determined the winning percentage of the candidates with more PAC support for 2014 and compared that to 2006 to investigate how the creation and proliferation of Super PACs may or may not have impacted the use and effectiveness of traditional PACs.

What percentage of the races did the candidate with more outside support win?

Since I am interested in the impacts of the *Citizens United* decision on electoral outcomes, I decided upon the above question. Super PACs were created and then proceeded to proliferate in the wake of the *Citizens United* decision, and Super PACs make up a significant percentage of the total outside spending. Therefore, the above question cuts directly to the impact of outside spending (especially Super PACs) on electoral outcomes. Looking at the winning percentages of candidates with more outside spending support provides an overview of the significant role outside spending can play in races and how it compares to traditional PAC support (the primary option before the *Citizens United* decision). While I started with only 2014, upon suggestion by the thesis committee, I also analyzed the outside spending data to answer the question for 2016 and 2018, to see if the results were similar.

What percentage of the races did the incumbent party retain the seat?

This was not a question I initially planned to address in my data analysis. However, as I was analyzing the data, I became curious about the relationship between the winning percentage of candidates with more PAC and outside spending support, and the winning percentage of the incumbent party (I chose incumbent party rather than just incumbent because one category of data is open seats therefore there are no incumbents in this category). I noticed that the incumbent party often retained the seat, whether or not they had more PAC or outside spending support. But when the challenger won a seat, they would almost always have more PAC or outside spending support. Therefore, I decided to incorporate the above question into my data analysis as a way to see if there was a direct relationship.

Results

My data results made a 9x4 table with years and questions along the horizontal axis and categories along the vertical axis. I have divided that table by category, question, and year, creating a series of smaller tables which are listed below. First is open seats; second is competitive seats; and third is based on spending ratio, which is divided into two groups - 7:1 and below spending ratio and 3:1 and below spending ratio.

Open Seats

Table 2

Question 1	2006	2014	2016	2018
What percentage of the races did the candidate with more PAC support win?	83.8%	87.8%		

Table 3

Question 2	2006	2014	2016	2018
What percentage of the races did the candidate with more outside support win?		68.3%	75%	80%

Table 4

Question 3	2006	2014	2016	2018
What percentage of the races did the incumbent party retain the seat?	80%	85.7%	90%	74%

Competitive Seats

Table 5

Question 1	2006	2014	2016	2018
What percentage of the races did the candidate with more PAC support win?	60.6%	55%		

Table 6

Question 2	2006	2014	2016	2018
What percentage of the races did the candidate with more outside support win?		63.8%	55%	69.4%

Table 7

Question 3	2006	2014	2016	2018
What percentage of the races did the incumbent party retain the seat?	55.7%	55%	74%	47.2%

Spending Ratio
7:1 and below

Table 8

Question 1	2006	2014	2016	2018
What percentage of the races did the candidate with more PAC support win?	84.3%	87.8%		

Table 9

Question 2	2006	2014	2016	2018
What percentage of the races did the candidate with more outside support win?		62.7%	58.9%	*

Table 10

Question 3	2006	2014	2016	2018
What percentage of the races did the incumbent party retain the seat?	83.1%	85.7%	88.4%	*

Spending Ratio
3:1 and below

Table 11

Question 1	2006	2014	2016	2018
What percentage of the races did the candidate with more PAC support win?	77.8%	83.8%		

Table 12

Question 2	2006	2014	2016	2018
What percentage of the races did the candidate with more outside support win?		64%	55.4%	*

Table 13

Question 3	2006	2014	2016	2018
What percentage of the races did the incumbent party retain the seat?	76%	84.8%	85.1%	*

Discussion

My thesis question is, in House of Representatives races since the *Citizens United* decision, are the candidates with the most Super PAC, 501 (c) nonprofits, and 527 groups support (in individual races) winning more often than the candidates with the most traditional PAC funding in House of Representatives races before the *Citizens United* decision, comparing 2006 to 2014? I started by comparing PAC support in 2006 to outside spending support in 2014.

Table 14

	2006	2014
	What percentage of the races did the candidate with more PAC support win?	What percentage of the races did the candidate with more outside support win?
Open Seats	83.8%	68.3%
Competitive	60.6%	63.8%
7:1 and below spending ratio	84.3%	62.7%
3:1 and below spending ratio	77.8%	64%

I found that for open seats there was a 15.5 percentage point decrease, for competitive seats there was a 3.2 percentage point increase, and for spending ratio 7:1 and below there was a 21.6 percentage point decrease and 3:1 and below there was a 13.8 percentage point decrease. The results show outside support being less aligned than PAC support in 2006 with electoral winners in House of Representatives for races in the open seat and spending ratio categories. However, competitive seat winners were more aligned with the candidate with more outside support (2014) than PAC support (2006). I immediately noticed that in the open seat and spending ratio categories there was a greater than ten percentage point decrease while there was an increase in the competitive seat category. This trend appeared in many of the comparisons. I believe this is because the competitive seat races are all truly competitive, while the races in the open seat and spending ratio categories have significantly varying degrees of competitiveness.

I chose open seats as a category for my data analysis because I believed that open seat races tended to be more competitive than races with an incumbent. I soon learned that many open seats are not competitive in any way, and in many the incumbent party easily

retains the seat, because in reality, many of the open seat races were districts where one party had an overwhelming enrollment advantage over the other party. One aspect of the results of this comparison that confirmed my expectations was that the percentages for the 3:1 and below spending ratio group were less than the percentages for the 7:1 and below spending ratio group. This trend continued throughout the data analysis, I had expected it to be this way because the greater the variation in spending ratios, the less competitive (on the whole) I expected races to be.

Comparing PAC support in 2006 to outside spending support in 2014 stands out because it compares different questions in different years. However, the rest of the comparisons are either: between years (but the same question), between the categories, or different questions but within the same year. After completing the comparison of PAC support in 2006 to outside spending support in 2014, my thesis committee suggested that I compare PAC support in 2006 to PAC support in 2014 to see if there was a significant change in the effectiveness of PAC support after the creation and proliferation of Super PACs.

	2006	2014
	What percentage of the races did the candidate with more PAC support win?	What percentage of the races did the candidate with more PAC support win?
Open Seats	83.8%	87.8%
Competitive Seats	60.6%	55%
7:1 and below spending ratio	84.3%	87.8%
3:1 and below spending ratio	77.8%	83.0%

The results show a slight percentage increase from 2006 to 2014 in open seat races and spending ratio races; however, there is a percentage decrease for competitive seats. This means that PAC support became slightly closer aligned with winning candidates in 2014 than 2006 in open seat races and spending ratio races, but less aligned in competitive seat races. I believe this result is because outside spending (particularly Super PACs) became the primary vehicle for independent expenditures for truly competitive races. Therefore, the races that were left with lots of traditional PAC support were most likely not at all competitive, leading to an increase in the success of candidates with more PAC support. The winning percentage of candidate with more PAC support in (truly) competitive races in 2014 decreased because the successful candidates in those races were getting significant outside spending support. Again, the percentage increase/decrease for competitive seats was the opposite of the other categories. My speculation as to why that is the case is that the races in the competitive seats category were all truly competitive, while the other categories have a mixture of races from very competitive to not competitive at all.

Table 15 is important because it looks at the potential changes in the alignment of PAC support with winning candidates once Super PACs became an option for spending large sums of money on political campaigns. Studying the changes in the percentage of the races where the candidate with more PAC support won, gives a better understanding of what types of races/candidates PAC support is going to post-*Citizens United*. The results show that PAC support is less aligned with winning candidates in truly competitive races, possibly meaning that outside support is becoming the primary way to influence truly competitive races.

Table 16

	2014	2014
	What percentage of the races did the candidate with more PAC support win?	What percentage of the races did the candidate with more outside support win?
Open Seats	87.8%	68.3%
Competitive Seats	55%	63.8%
7:1 and below spending ratio	87.8%	62.7%
3:1 and below spending ratio	83.8%	64%

The table 16 results show a much greater winning percentage for candidate with more PAC support than outside support in the open seats category and both spending ratio categories. However for competitive seats, the candidates with more outside support had a greater winning percentage than the candidates with more PAC support. I would speculate that the reason for this is because traditional PAC support is going towards races that are less competitive (the open seats and spending ratio categories included

racers that greatly vary in competitiveness). This results in a very high winning percentage for candidates with more PAC support. While outside spending is being used by organizations to support truly competitive races because there are fewer regulations of outside spending than traditional PACs. With outside support possibly being seen as a more effective tool to help challengers than traditional PAC support, the result is lower winning percentages in all four categories. For PAC support the percentages for all four categories are very similar to the incumbent party winning percentage (those results are listed in Table 18, right hand column). Overall, I believe that the key point is that in competitive races that winning percentage of the candidates with more outside support is greater (8.8 percentage points) than the candidates with more traditional PAC support.

Table 16 is important because it shows a comparison of PAC support to outside support in the same election cycle. Looking at the alignment of PAC support and outside support with winning candidates in the four categories, gives a side by side comparison of their effectiveness in the post *Citizens United* era. The results are important because they show again, that outside support is more aligned with winning candidates in truly competitive races. It would be expected that the most competitive races would get the most attention from a majority of large donors looking to influence electoral outcomes. By showing that outside spending is more effective than traditional PAC support in those races, the comparison shows how outside spending in the post *Citizens United* era can be a powerful tool to influence U.S. House of Representative elections.

After completing the data analysis for 2014 outside spending I did the same for 2016 and 2018 to see if the results were similar or not. It is important to note that 2016 was a presidential year which can impact the entire campaign finance picture for that election

cycle and the 2018 election cycle had its own unique characteristics because it was the midterm of a (deeply unpopular) president in his first term.

Table 17

	2014	2016	2018
	What percentage of the races did the candidate with more outside support win?	What percentage of the races did the candidate with more outside support win?	What percentage of the races did the candidate with more outside support win?
Open Seats	68.3%	75%	80%
Competitive Seats	63.8%	55%	69.4%
7:1 and below spending ratio	62.7%	58.9%	*
3:1 and below spending ratio	64%	55.4%	*

The table 17 results show percentage increases for open seats from 2014 to 2016 and 2016 to 2018, while there is a percentage decrease for all other categories. Although there are only three years of data available, the results for open seats show an upward trend in the winning percentage of the candidates with the most outside support (in individual races). This represents an increasing alignment of outside spending with winning candidates. I am curious as to whether or not that percentage will continue to rise, decrease, or stay relatively similar over the next couple election cycles. For competitive seats, it is interesting how the percentage decreases from 2014 to 2016 but then increase from 2016 to 2018. I am perplexed as to why the percentage would decrease in 2016 but then increase in 2018 (to an amount greater than 2016). The 2016 election cycle was a

presidential election cycle, which could be a reason for way the results were so different in 2016. If this is the case, will the percentage decrease again in 2020? Unfortunately spending ratio data was not yet available for 2018, so I could only complete the data analysis of the two spending ratio groups for 2014 and 2016. Both groups have slight decreases from 2014 to 2016 similar to the competitive seats category. Again, 2016 being a presidential election cycle could be a factor as to why the percentage decreases, but the decrease is interesting considering the widespread use of Super PACs (and other forms of outside spending) and the seemingly positive results for those entities in 2014.

One aspect of the results that stood out to me in particular was that percentages in 2014 and 2016 for competitive seats and the 3:1 and below spending ratio seats were very similar. I think this is the case because there may be significant overlap between the competitive seats category and the 3:1 and below spending ratio category. After the competitive seats category I believe that the 3:1 and below spending ratio category would be the second most competitive category.

Table 16 is important because it uses three years of outside spending data to look for trends in outside spending in the post *Citizens United* era. Not only is it important to investigate outside spending compared to traditional PAC spending, but looking for trends in outside spending (for the three years of available data) gives a better picture of the campaign finance situation post *Citizens United*. Finding a trend for the three years post *Citizens United*, would strengthen the results of the comparison between traditional PAC support and outside spending support. By showing an increase and then a decrease in the winning percentage for candidates with the most outside spending in competitive

races, the results show the importance of unique characteristic of election cycles to influence electoral outcomes.

I became curious about the percentages of races (in the categories I was studying) where the incumbent party retained the seat. I was interested in this because I noticed that often when the incumbent lost, they had less outside spending support than the challenger. I choose to look at incumbent party rather than strictly incumbent candidate because one of the categories is open seats, therefore there are no incumbents in those races.

Table 18

	2006	2006
	What percentage of the races did the candidate with more PAC support win?	What percentage of the races did the incumbent party retain the seat?
Open Seats	83.8%	80%
Competitive Seats	60.6%	55.7%
7:1 and below spending ratio	84.3%	83.1%
3:1 and below spending ratio	77.8%	76%

In 2006 the results show only a slight difference between the winning percentage of candidates with more PAC support and the incumbent party winning percentage, for opens seats, competitive seats and both spending ratio groups. The winning percentage for both PAC support and incumbent party are quite high in the open seat and spending ratio categories. It is interesting to note that again the percentages for the competitive seats were substantially less than the other categories. The incumbent party winning percentage was substantially lower for competitive seats, this is not surprising since

competitive seats are often toss ups. The percentage of races where the candidate with more PAC support won are significantly lower in the competitive seats category than the other categories, I believe that is because there were many races where the incumbent (party) had less PAC support and lost. I believe this is to be expected because overall the incumbent usually has more PAC support (opensecrets.org) and usually wins the race (opensecrets.org). In all categories the PAC support winning percentage and incumbent party winning percentage are quite similar. For competitive seats, the PAC support winning percentage is 4.9 percentage points greater than incumbent party winning percentage, I would speculate that the difference (though not that exact number) represent the challengers who had more PAC support and won.

Table 19

	2014	2014
	What percentage of the races did the candidate with more outside support win?	What percentage of the races did the incumbent party retain the seat?
Open Seats	68.3%	85.7%
Competitive Seats	63.8%	55%
7:1 and below spending ratio	62.7%	85.7%
3:1 and below spending ratio	64%	84.8%

In 2014 the results show that the incumbent party winning percentage remains very high for races in the open seat and spending ratio categories. However, for competitive seats the incumbent party winning percentage is barely above 50% (nearly the same as 2006). Again I believe this is because the races in the competitive seats category are truly competitive, which would be expected to result in a larger percentage of challengers

winning than in the other categories. It is interesting that the candidates with more outside support had a greater winning percentage than the incumbent party in the competitive seats categories. In the other categories the incumbent party had a very high winning percentage, even though the winning percentage of candidates with the most outside support is around twenty percentage points lower. For the open seat and spending ratio categories, the incumbent party winning percentages were significantly greater than the winning percentage of the candidates with more outside support. This result shows that in those categories, incumbency is a greater indicator of success than outside support. However, it is very likely that in most races the incumbent party candidate had the most outside support.

Table 20

	2016	2016
	What percentage of the races did the candidate with more outside support win?	What percentage of the races did the incumbent party retain the seat?
Open Seats	75%	90%
Competitive Seats	55%	75%
7:1 and below spending ratio	58.9%	88.4%
3:1 and below spending ratio	55.4%	85.1%

In 2016 the incumbent party winning percentage is very similar to to the 2014 incumbent party winning percentage for the open seats category and both groups of the spending ratio category. Again the incumbent party winning percentage is significantly lower for the competitive seat races. However, the percentage has increased considerably form 2014, leaving a significant disparity between the winning percentage of the

candidates with more outside support than their opponents, and incumbent party winning percentage. The open seats category has the greatest outside support winning percentage and incumbent party winning percentage. Again, for the open seat and spending ratio categories, the incumbent party winning percentage was significantly greater than the winning percentage of the candidates with more outside support, showing that in those categories incumbency is a greater indicator of success than outside support. However, it is very likely that in many races the incumbent party candidate had the most outside support. Interestingly, for the competitive seats category the incumbent party winning percentage is much greater than the outside support winning percentage (this is very different than 2014). The 20 percentage point difference for competitive seats really stands out, it could potentially mean that in 2016 challengers had greater outside support than their incumbent opponents more than in previous election cycles, yet were less successful. There may be many reasons for the 20 percentage point difference for competitive seats in 2016, it could possibly be the result of 2016 being a presidential election, or a result of the individual characteristics of the competitive seat races in 2016.

Table 21

	2018	2018
	What percentage of the races did the candidate with more outside support win?	What percentage of the races did the incumbent party retain the seat?
Open Seats	80%	74%
Competitive Seats	69.4%	47.2%
7:1 and below spending ratio		
3:1 and below spending ratio		

In 2018, for open seats both the outside support winning percentage and the incumbent party winning percentage remain quite high. However, the outside support winning percentage is greater than incumbent party winning percentage which is different than 2014 and 2016. Again both percentages are significantly lower in the competitive seats category, with the incumbent party winning percentage being exceptionally lower. This may be because the 2018 midterms were the midterms in a president's first term which is a time when the president's party often loses many seats in the House of Representatives (McCarthy, 2017).

It is not surprising that a number of the seats flipped were considered competitive seats, which would cause such a low incumbent party winning percentage in the 2018 competitive seat category. Because of the exceptionally low incumbent party winning percentage (for competitive seats) the outside support winning percentage was over twenty percentage points greater (nearly the opposite of 2016) showing that outside support could have played a significant role in helping challengers get their message to voters, contributing to their success. Unfortunately, for 2018 spending ratio data was not yet available so I could not answer the two questions in the table.

Tables 17-20 are important because they look at similarities/differences between PAC or outside support and incumbent party winning percentage. The goal was to see if there were changes between the years and the within the categories. Financial support and incumbency are both factors that strongly influence electoral outcomes. The results show variance among years and categories, but the common theme is that competitive seats stand out compared to open seat and spending ratio seats. This reinforces the trend from among the many comparisons in this thesis that truly competitive seats should be looked

at differently than the categories that included seats with a wide variety of competitiveness.

Table 22

	2006	2014	2016	2018	
	What percentage of the races did the incumbent party retain the seat?	What percentage of the races did the incumbent party retain the seat?	What percentage of the races did the incumbent party retain the seat?	What percentage of the races did the incumbent party retain the seat?	Average
Open Seats	80%	85.7%	90%	74%	82.4%
Competitive Seats	55.7%	55%	75%	47.2%	58.2%
7:1 and below spending ratio	83.1%	85.7%	88.4%		85.7%
3:1 and below spending ratio	76%	84.8%	85.1%		81.9%

For the open seat and spending ratio categories there is an increase for incumbent party winning percentage from 2006 to 2014 and 2014 to 2016. For competitive seats there is a slight decrease from 2006 to 2014 and then a dramatic increase from 2014 to 2016. Overall, the competitive seat percentages are less than the open seat and spending ratio races. Data were only available for open seats and competitive seats in 2018, for which both decreased dramatically. As I wrote below the previous table, I would speculate that the incumbent party winning percentages dropped dramatically in 2018 because it was the midterm of a president in their first term, which is an election cycle where the president's party usually does poorly. While there is some up and down, the

incumbent party winning percentage in competitive seat races remains far below that of the other categories, implying that incumbency provides less of an advantage in those races, and therefore outside spending support could have a greater impact.

Campaign finance is one of many aspects of American politics. In this thesis I investigated the impact of the *Citizens United* Supreme Court decision on electoral outcomes. *Citizens United* is one of a number of major campaign finance court decisions (which I described in the introduction and literature review chapters), whose impact is fiercely debated. My research looks at the possible impacts of the decision on strictly U.S. House of Representatives races, which was narrowed to three categories: open seats, competitive seats, and spending ratio (which was divided into two groups). I compared the winning percentages of the candidates (in individual races) with the most PAC support, to the candidates with the most outside spending support, from four election cycles: 2006, 2014, 2016, 2018. I investigated the impact of outside spending in U.S. House of Representatives compared to the role of traditional PAC support, so see if outside spending was more aligned with winning candidates than traditional PAC support.

I believe that the key point from my findings is that outside spending was more aligned with winning candidates than PAC spending in the races in the competitive seats category. However, there was no significant difference in winning percentage for the open seats and spending ratio seats. The races in the competitive seats category were all truly competitive, whereas the races in the other categories greatly varied. Therefore, the outside spending was having an impact on electoral outcomes in those races that were truly competitive. While the number of U.S. House of Representatives races each election

that are truly competitive is small, they significantly affect the overall composition of the U.S. House of Representatives, because most races are not competitive because one candidate has a large advantage due to a number of factors. The ability of outside spending to be a major factor in determining electoral results, makes *Citizens United* a significant Supreme Court decision in shaping the role of money (specifically outside spending) in U.S. House of Representatives elections.

Hypotheses

After reviewing the results of the data analysis I formed two hypotheses.

Hypothesis 1

Super PACs (and other forms of outside spending) make it easier to inject large sums of money into U.S. House of Representatives races to support challengers; however, incumbent party reelection rates in open seat races and spending ratio races did not change substantially between 2006 and 2014.

There are a couple of reasons why I believe this to be the case. First, the changes made to U.S. campaign finance law by the *Citizens United* decision (and the subsequent creation and proliferation of Super PACs) reduced the barriers to spending large sums of money on political campaigns. Since there is less regulation of Super PACs than other political organizations like traditional PACs, Super PACs are seen as a better vehicle to influence elections. There are many factors that influence and determine the outcome of an election. Due to the incumbency advantage the incumbent will often be favored. Which means that the challenger will need all the help they can get (especially financial) to have a legitimate chance at winning. The creation and proliferation of Super PACs brought about a new way (with minimal limitations) for donors to help challengers.

The data results show a lower winning percentage for candidate with more outside support in 2014 than PAC support in 2006, but incumbent party winning percentage is relatively similar. This led me to believe that substantially more money was being spent to support challengers in 2014, but their winning percentage was not much better than in 2006. The significant changes to U.S. campaign finance law, mainly the creation and proliferation of Super PACs in 2014 which did not exist in 2006, means most of that support was most likely going through Super PACs.

Hypothesis 2

In races that are truly competitive, having more outside spending support can give a challenger a substantial boost, helping them unseat an incumbent. However, in races that are not truly competitive having more outside support does not substantially help a challenger unseat an incumbent.

Outside support matters most in races that are truly competitive. Comparing 2006 to 2014 (PAC support to outside spending) in the categories with races varying in competitiveness (open seat and spending ratio categories) the candidates with more outside support had lower winning percentages than PAC support in 2006 in respective categories. However, the winning percentage increased in the competitive seats category. As the saying goes “Money in politics does not matter until it matters.” In those competitive races every last dollar of financial support can impact the race, making that support all the more important. But in races that are either non-competitive or barely competitive, after a certain point, each extra dollar has little impact on the electoral outcome of the race. In some situations one candidate may have such an advantage that

no matter how much financial support the disadvantaged candidate gets they still have no chance of winning.

There are many factors that influence the outcome of an election. If a candidate only has the advantage of the outside support factor, while the other candidate has the advantage in numerous factors (incumbency, name recognition, party enrollment totals etc...) than having an advantage in outside support will not significantly increase that candidate's chances of winning (if at all). However, in truly competitive races, where the candidates are relatively even in terms of advantages in factors that influence elections, then having more outside spending can increase a candidate's chances of winning, more than having the most traditional PAC support.

Limitations

In this final section of the data analysis chapter I will outline limitations and weaknesses of my research, and unexpected results. The major limitation/weakness is that the data analysis was all done by hand. I am not knowledgeable in any type of statistical data analysis process, therefore it was all done by hand. This has multiple consequences, foremost human error in the transferring of data and calculations. Additionally, the lack of spending ratio data for 2018, meant that I could not see if there was any trend for more than two years in that category.

The main unexpected result is that I thought open seats would be competitive, this is one reason why I chose that as one of the categories for my data analysis. But I learned that open seats greatly vary in their competitiveness, some are truly competitive, some are not competitive, and most are somewhere in the middle (Frazier, 2018). I expected the lack of an incumbent to be a major factor that would make these races competitive,

however, I learned that many of the open seats were districts that were never competitive due to party breakdown of voter enrollment, therefore the incumbent party could easily retain the seat (Gonzales, 2013). The growing number of U.S. House of Representatives races that lack competitiveness is written about by Abramowitz, Alexander, and Gunning, in a 2006 study titled *Incumbency, Redistricting, and the Decline of Competition in U.S. House Elections*. They found that U.S. House of Representatives races are becoming less competitive overall because of internal migration, immigration, and ideological realignment. “Democratic districts have become more Democratic, Republican districts have become more Republican, and marginal districts have been disappearing as a result of powerful forces at work in American society” (Abramowitz, Alexander, and Gunning, 2006, p.77).

Another unexpected result was that the winning percentage of the candidate with more outside support in competitive seat races decreased in 2016 but then dramatically increased in 2018 (to a percentage greater than 2014). It is possible that was a result of 2016 being a presidential election cycle, therefore it would be interesting to see what happens in 2020. Those results really stood out to me, and I am confused as to what caused them.

In my Data Analysis chapter I presented my results, and then discussed the results through comparisons. The comparisons are organized by year, question, or category. In most of the comparisons the open seats, and both spending ratio categories had similar results, while the competitive seats results were different. I believe this is because the open seats and spending ratio categories included races that greatly vary in their competitiveness, while the competitive seats category races are all truly competitive. In

the comparison between PAC support and outside support, the winning percentage would be greater for PAC support than outside support in the open seats and spending ratio categories, but greater for outside support in the competitive seats. For each comparison I discuss the results, importance, of the results, speculate about the results, and describe any unique characteristic of that particular election cycle. The discussion of the results leads to my two hypotheses, about outside spending helping challengers, and the ability of outside spending to play a crucial role in truly competitive races but being less effective in races where one candidate already has an overwhelming advantage. I finished the chapter with a discussion of limitations, weakness, and unexpected results.

CHAPTER FIVE

CONCLUSION

In this thesis I investigated the impact of the *Citizens United* Supreme Court decision on electoral outcomes in U.S. House of Representatives races. My thesis question was, in House of Representatives races since the *Citizens United* decision, are the candidates with the most Super PAC, 501 (c) nonprofits, and 527 groups support (in individual races) winning more often than the candidates with the most traditional PAC funding in House of Representatives races before the *Citizens United* decision, comparing 2006 to 2014?

I choose the topic of campaign finance and *Citizens United* because I am interested in the role that money plays in American elections. The *Citizens United* decision stands out because of the resulting creation and proliferation of Super PACs that allowed large sums of money to be injected into U.S. elections in support of and in opposition to, candidates and issues. Large donors can often have some degree of influence over politicians. Though Super PACs are not affiliated with a campaign, it is not difficult for candidates to find out who is financing advertisements for them or against their opponents. In some cases, Super PACs are run by former staffers (or even family members) of a candidate that they are supporting (opensecrets.org, 2017).

I analyzed campaign finance data to answer three questions: What percentage of the races did the candidate with more PAC support win? What percentage of the races did the candidate with more outside support win? What percentage of the races did the

incumbent party retain the seat? There were three categories of House races: open seat races, competitive races, and spending ratio races. The goal was to investigate a possible change in winning percentage from PAC support to outside spending support, by comparing the winning percentages from candidates with the most PAC support to candidates with the most outside support.

The results from the data analysis were different for the competitive seat races than the open seat races and spending ratio races. This is because the competitive seat races were all truly competitive, while the other two categories were made up of seats varying in competitiveness. When comparing PAC support in 2006 to outside support in 2014, the results showed that in the competitive races the candidates with more outside support did win more than the candidates with more traditional PAC support, however, for the other categories there was actually a decrease in winning percentage. The comparison of PAC support in 2006 to PAC support in 2014 showed that in competitive races PAC support was less aligned with winning candidates, but more aligned in the other categories. Comparing 2014 PAC and outside support showed that outside support was more aligned with winning candidate than PAC support in competitive races, but the opposite was true in the other categories. The overall trend of outside support (2014, 2016, 2018) was an increase in winning percentage in open seats, while decreasing and then increasing in competitive seats. There were very mixed results for the incumbent party winning percentage comparisons. In some cases, the outside spending winning percentage was greater than the incumbent party winning percentage, but in other cases it was the opposite. The results really varied depending on the category and the year.

To address my thesis question, I believe the best answer from the data analysis results is that in truly competitive races the candidates with more outside support have a greater winning percentage than the candidates with more traditional PAC support, in midterm elections (2014 and 2018). In 2016 the winning percentage for candidates with the most outside support was actually lower than PAC support in 2006, it is possible that 2016 is different because it was a presidential election. In open seat races and spending ratio races however, there was no significant change in winning percentage.

The results led me to form two hypotheses. The first hypothesis is about the ability of outside spending to benefit challengers more so than incumbents. Incumbents almost always have large financial “war chest.” However, the deregulated nature of outside spending (particularly Super PACs) may benefit challengers by allowing large sums of money from various organizations or donors to be spent in support of challengers, improving their chance of success on election day. The second hypothesis is about the effect of having more outside support than an opponent. Having more outside support can help a challenger unseat an incumbent, more so than having more traditional PAC support, but only in truly competitive races. In races that are not truly competitive having the advantage in only the outside spending factor does not provide a substantial boost. In races in which both candidates are evenly matched, having more outside support can increase a challenger’s chances of winning the race. Both hypotheses point to ways in which the *Citizens United* decision can impact electoral outcomes in U.S. House of Representative races.

Since it is very expensive to run federal political campaigns in the U.S., campaign finance play a major role in the overall election process. The larger funders can have

influence over politicians. The *Citizens United* Supreme Court decision stands out because it held that the First Amendment allows corporations, non-profits, and labor unions, to provide independent expenditures to promote or attack political candidates, without government restrictions, thus effectively overturning a number of previous campaign finance Supreme Court rulings. The impact of the resulting creation and proliferation of Super PACs (which can raise an unlimited amount of money from corporations, unions, non-profits, and individuals) to spend on elections advocating for or against candidates, is what I investigated in this thesis.

My data analysis results show the potential impact of the *Citizens United* decision on U.S. House of Representatives races. The increase in the winning percentage of candidates with the most PAC support compared to most outside spending support (but only in competitive races) shows that the *Citizens United* decision appears to have in some ways had an impact on electoral outcomes in U.S. House of representative races. By impacting actual electoral outcomes the *Citizens United* decision appears to have increased the strength and influence of outside spending on elections. The outside spending that goes through Super PACs is often large contributions from individuals, corporations, or labor unions. This means that these organization may gain more influence in American politics. The ability of political donors to gain influence over politicians leading to corruption, was one reason for the implementation of an extensive set of campaign finance regulations in the U.S., in the first place.

The so what question asks why is my thesis important. It is important because it investigates how a major Supreme Court campaign finance decision can impact elections across the country. These are House of Representatives elections, sending members to the

House that will write policy that affects Americans across the country. Therefore, changing campaign finance law can cause a chain reaction impacting all aspects of the American political system. To investigate how the changes brought about by the *Citizens United* decision may be having real impacts on electoral outcomes is important because it looks at how Supreme Court campaign finance decisions can impact elections, in turn affecting the outcomes of those elections.

After reviewing my data analysis process and the results I found a number of directions for future research, questions unanswered, and big picture questions. Directions for future research include more specific data analysis questions. For example, in Tables 16-20 I compare the results from two questions, PAC support and outside spending support to incumbent party winning percentage. Those questions could be combined, to find the success of incumbent party candidates with the most PAC support or outside spending support. Combining the questions to create a more specific category of races could be a way to more clearly determine the success of those incumbent party candidates with more PAC support or more outside support. The same could be done with challengers to see how challengers with more outside support or PAC support compared to challengers with less of that kind of support than their incumbent opponent.

Another direction for future research would be using different House race categories. I used three categories: open seats, competitive, and spending ratio (which was broken into two groups, 7:1 and below and 3:1 and below). First, the spending ratio could be narrowed to 2:1 or even 1:1, the narrower the category gets the more competitive the races would be expected to be. In my data analysis the results showed the most impact on the competitive seats races, therefore narrowing the spending ratio category would be a

different way to create a category of predominantly competitive races. Additionally, other categories would include political affiliation. Looking at the political parties separately could be used to investigate the relationship of each political party with PAC and outside spending, and to see their success at holding and/or flipping seats based on outside spending.

A different direction for future research would be using data from future elections. In certain parts of the data analysis, the results were much different in 2016. I speculated that this could be because 2016 was a presidential election cycle, while all the other election cycles I analyzed were midterms. The 2020 elections are looming on the horizon, which will be a presidential year. It would be interesting to see if the results for 2020 would be similar to 2016, if so, that would put more weight behind the speculation that presidential elections impact electoral outcomes in regard to outside spending differently than midterm elections. Alternatively, the 2020 results might not be similar to 2016, but could still be very different from the midterm election cycles studied. Studying future elections would help to solidify trends in the data results, or if results varied, would show how the unique characteristic of each election cycle impacts the spending which can in turn impact electoral outcomes.

I end this conclusion chapter, and therefore my thesis, with some big picture questions about campaign finance and *Citizens United* in relation to my thesis. First, did the *Citizens United* decision really help challengers? Future research could more closely investigate this question. Second, what could be the role of outside spending in the 2020 election? It will be interesting to see data from the 2020 election cycle on outside spending and winning candidates. Third, while the *Citizens United* decision appears to

have helped challengers who are already competitive, what are the prospects for it to increase the number of competitive races, through boosting challenger's chances of winning? Fourth, how does the impact of outside spending compare to unique electoral characteristics? There are many factors that impact electoral outcomes, with outside spending being just one factor, and different factors can be more important in different election cycles. Fifth, will there be congressional action to address outside spending and the *Citizens United* decision? There is a substantial amount of discontent over the amount of outside spending in U.S. elections by the public, but so far there does not seem to be much concern in Congress. Sixth, Could outside spending play a greater role in less competitive races in the future? All of these questions could lead to future research. But for now the *Citizens United* decision will remain to some degree an influencing factor in U.S. House of Representatives races. The extent of the impact of the *Citizens United* decision will continue to be researched and investigated.

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