

From: [Blake Hawthorne](#)
To: ["Attorney General Constitutional Claims Mailbox \(const_claims@oag.state.tx.us\)"](#)
Subject: 15-0320; King Street Patriots, et al. v. Texas Democratic Party, et al.
Date: Thursday, November 17, 2016 10:46:00 AM
Attachments: [image001.png](#)
[15-0320 Petitioner"s Brief on the Merits.pdf](#)

Dear Attorney General of Texas,

In accordance with Texas Government Code § 402.010 I am providing you notice of a claim raised in the Supreme Court of Texas that a statute is unconstitutional. The petitioner's brief on the merits in [15-0320, *King Street Patriots, et al. v. Texas Democratic Party, et al.*](#), which is attached, raises the following constitutional issues:

1. "Are the political-committee and political-committee-like definitions constitutional? TEX. ELEC. CODE 251.001(12) (political committee), (13) (specific-purpose committee), (14) (general-purpose committee)."
2. "Are the campaign-contribution and political-contribution definitions constitutional? *Id.* 251.001(3), 251.001(5)."
3. "Is the corporate-contribution ban constitutional? *Id.* 253.091, 253.094."
4. "Are provisions creating a private right of action for enforcement of the Texas Election Code constitutional? *Id.* 253.131, 253.132, 273.081."

The petitioners' brief also states the following bases for the constitutional claims:

1. "Texas's political-committee, SPC, and GPC definitions trigger organizational and administrative burdens that are 'onerous' under *Citizens United*. The challenged Texas law – rather than requiring constitutional, *non*-political-committee, *i.e.*, simple, one-time event-driven reports for organizations such as KSP – requires them to register, keep records, and file extensive, ongoing reports. Texas law is facially unconstitutional, because it triggers such burdens regardless of whether organizations are 'under the control of' candidates or have 'the major purpose' of 'nominat[ing] or elect[ing]' candidates under *Buckley*. Even if organizations have the *Buckley* major purpose, government still may not trigger such burdens if the organizations engage in only small-scale

speech. In addition, the SPC and GPC definitions are vague, because they refer to ‘supporting or opposing’ candidates or measures.”

2. “Texas’s campaign-contribution definition is facially unconstitutional, because it is circular and intent-based. Because the political-contribution definition depends on the campaign-contribution definition, the political-contribution definition is also facially unconstitutional.”

3. “Texas’s ban on corporate contributions is facially unconstitutional under the U.S. Supreme Court’s *post-Beaumont* decisions in *WRTL-II*, *Citizens United*, and *McCutcheon*.”

4. “Texas’s private-right-of-action provisions are facially unconstitutional. They lack standards regarding what showing is necessary to initiate discovery and what is discoverable. But the First Amendment requires both. Furthermore, Texas’s private-right-of action provisions violate the Fourteenth Amendment’s Due Process Clause.”



Blake A. Hawthorne | Clerk
Supreme Court of Texas
201 West 14th Street Rm. 104 | Austin, TX 78701
Phone (512) 463-1312 | Fax (512) 463-1365
blake.hawthorne@txcourts.gov