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## 2018 Elections: The California Disclose Act Increases Transparency of Donors Supporting Political Ads on the Internet and Social Media

In October 2017, Governor Jerry Brown signed into law **AB 249, the California Disclose Act**, which attempts to make it easier to identify the largest contributors to political campaign ads. **According to the bill's supporters**, the law was a response to the U.S. Supreme Court's 2010 *Citizens United* decision, which struck down limits on independent expenditures in elections by corporations, unions, or individuals.

The law requires clear and unambiguous disclosure on ads about ballot measures or candidates of the sponsoring committee's three "top contributors" of \$50,000 or more, calculated cumulatively over the 12-month period preceding the expenditure. The law applies to ads sponsored by outside groups (i.e., committees other than a political party committee, ballot measure committee, or candidate-controlled committee) and covers all major forms of political advertising, including print, television, video, radio, mass mailers, and robocalls, with specific requirements for each form of communication. For example, in the case of television and video advertisements (including those disseminated over the Internet), the disclosure must be shown on a solid black background on the entire bottom one-third of the screen for at least five seconds. The disclosure must identify the top contributors, each on a separate line, in large, clear type, in descending order (by amount of contribution).

In the case of electronic media advertisements paid for by outside groups, the communication must include the text "Who funded this ad?" in a contrasting color and font size that is easily readable by the average viewer. That text must be a hyperlink to a website that discloses, in no less than 8 point font, certain information including who paid for the communication, the group's top three contributors of \$50,000 or more, and whether the advertisement was authorized or paid for by a candidate or a committee controlled by a candidate. Websites paid for by outside groups must contain the same disclosures. If it would be impracticable for the electronic media advertisement to include the "Who funded this ad?" language, the advertisement need only include a hyperlink to a website containing the information disclosures described above. The website must remain online and available to the public for at least 30 days after the election or ballot measure vote in question.

For political advertisements via forms of electronic media that allow users to engage in discourse and post content (e.g., Facebook, Twitter, Instagram, Reddit, or any other social media), the sponsoring committee's profile, landing page, or similar location must include disclosures regarding the committee's funding, top contributors, and authorization (or lack thereof) by a candidate or candidate committee. The disclosures

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need not appear on each individual post, comment, or other similar communication. Social media advertisements for which the only expense or cost of the communication is compensated staff time are exempt from these disclosure requirements, unless the posting social media account was created only for the purpose of political advertising.

Regardless of medium, any organization that intends to disseminate political advertisements or contribute to efforts to do so should pay careful attention to the changes enacted by the California Disclose Act. In order to give the public as much time as possible to prepare in anticipation of the 2018 elections, the new law went into effect October 7, 2017.