UNITED STATES DISTRICT COURT

DISTRICT OF MAINE

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DINNER TABLE ACTION, et al., CIVIL ACTION

Plaintiffs Docket No: 1:24-00430-KFW

-versus-

WILLIAM J. SCHNEIDER, et al.,

Defendants

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Transcript of Proceedings

Pursuant to notice, the above-entitled matter came on for **Oral Argument** held before **THE HONORABLE KAREN FRINK WOLF**, United States Magistrate Judge, in the United States District Court, Edward T. Gignoux Courthouse, 156 Federal Street, Portland, Maine, on the 22nd day of May 2025 at 9:05 a.m. as follows:

Appearances:

For the Plaintiffs: Charles M. Miller, Esquire
Joshua D. Dunlap, Esquire

For the Defendants: Jonathan R. Bolton, Esquire

For the Intervenors: Neal Kumar Katyal, Esquire

Lori D. Dunbar, RMR, CRR
Official Court Reporter

(Prepared from manual stenography and computer aided transcription)

(Open court)

THE COURT: Good morning, everyone. We're here in the matter of Dinner Table Action, et al., versus William J. Schneider, et al., Case No. 24-CV-430. Would counsel please enter their appearances for the record.

MR. MILLER: Good morning, Your Honor, Charles Miller with the Institute For Free Speech on behalf of plaintiffs. Here with me today is Josh Dunlap.

THE COURT: Good morning.

MR. BOLTON: Good morning, Your Honor. Jonathan Bolton, Assistant Attorney General, representing the state defendants.

THE COURT: Good morning.

MR. KATYAL: Good morning. Neal Katyal, Your Honor, representing the intervenors.

THE COURT: Good morning. All right. Is there anything in the way of preliminary matters before we get started with argument?

MR. MILLER: No, Your Honor.

THE COURT: All right. Mr. Miller.

MR. MILLER: All right. So good morning, Your Honor. As you know, I'm here today on behalf of plaintiffs, Dinner Table Action, For Our Future, and also Mr. Alex Titcomb, who is here today. And also representing plaintiffs is Josh Dunlap. And, you know, just I guess as a preliminary

matter, you know, we do want to thank the Court and counsel for the way that this litigation has proceeded to this point. It's been very cooperative and everybody's been quite frankly a joy to work with.

And, you know, to some extent, you know, I want to welcome you to this sort of fun and interesting and impactful area of the First Amendment law. You know, I have the privilege of doing these cases, you know, as a career right now, and it's quite an enjoyable -- you know, obviously opposing counsel also gets to do things like this a lot. And so this is -- you know, these are sort of, you know, for me, you know, a legal geek like this, these are sort of heady and fun topics and I could talk about, you know, some of these things for hours, which I promise I will not do.

But, you know -- but here sort of, you know, the factual underpinnings of this particular case and the law that surrounds here sort of somewhat takes some of these heavy issues and it really consolidates them down to make, you know, the particular applications of law here not quite rote but close to that.

And so, you know, basically the factual underpinnings here are that intervenors are -- are frankly, you know, as a constitutional matter looking to change free speech law as it currently exists in the country, specifically campaign finance law, by, you know, attempting to engineer laws in states that

can give them an opportunity to challenge the existing cases in the Supreme Court, which means that, like here, they pass something that's unambiguously unconstitutional and so that they can go and argue to the Court their own version of originalism if they're able to get a case before the Supreme Court.

And, you know, so there are these theories of constitutional interpretation where, you know, like, again, me and others really like to kind of geek out about it, you know, as a matter of sort of academics. But in this particular matter as a matter of law there's not really many places for it to go.

And, you know, I guess to some extent, you know, the -- the courts here in Maine are seeing, you know, more of these type of cases and so the Court, you know, itself here may be becoming somewhat of expert as well. I know there was a similar case last year, a similar ballot initiative, you know, that, you know, that also ended up being enjoined.

But -- but, again, the law in this particular matter is set and is clear. So there's binding Supreme Court precedent that control. The application is direct and every federal court of appeals that has looked at this issue, you know, including an en banc court, have unanimously concluded -- and these are judges from, you know, across the ideological spectrum, and they've been unanimous. Over 30 judges, I think

it's 33, but certainly at least 30 have looked at this, this very issue here, and, you know, determined unanimously across those courts that this case is controlled by *Citizens United*.

So really -- and as we, you know, as the Court asked last week, you know, isn't this really a legal case, not a factual one, and because of all these scenarios that's exactly right. And, as you know, with the record in front of us there essentially -- between the direct parties, the plaintiffs and the state defendant, there essentially are no contested facts here, obviously implications from facts that are, but no contested facts.

THE COURT: Let me stop you just for a moment on that.

MR. MILLER: Yeah.

THE COURT: So in your briefing you I think criticize the experts that have been presented but in particular the empirical expert, Professor Robertson, right?

MR. MILLER: Yeah, so -- so I -- I'm sorry, my -- my point was between the plaintiffs and the state defendants. With the intervenors, yes.

THE COURT: Okay.

MR. MILLER: Yeah, so, you know, we do certainly take -- take issue there.

THE COURT: All right. So on that point, then -- so let's just jump over to that since we're on it.

MR. MILLER: Yes.

THE COURT: So I asked last week when we had our prehearing conference whether there are any facts that I need to find. So in -- so in the briefing there is a particular criticism regarding the empirical evidence offered by Professor Robertson. So is it necessary for me to find any facts with respect to that? Is it necessary for me to assess credibility of any of the experts presented, which obviously would be difficult since none of them are here testifying? So talk to me about that.

MR. MILLER: So --

THE COURT: What is -- what does any of that offer in terms of the decision I have to make is really kind of the core question.

MR. MILLER: Yeah, so the core question is this -- or the -- my core answer is this: At a high level, what I'm going to tell you is that empirical evidence actually is not even relevant to the case. The reason that it is not relevant is the -- you know, the U.S. Supreme Court has decided as a matter of law when these other courts -- these other cases have held that the independent nature of the expenditures and the independent nature of the contributions for those expenditures severs any possible appearance as a matter of law.

So it's not a man-on-the-street-type question. It's

not, hey, if you ask somebody do they see corruption, you know, because they see corruption everywhere. It's really sort of, you know, you know, the Court looks at it and says, you know, like under these scenarios is it -- is there an appearance of quid pro quo corruption, as you know which is narrowly defined.

And so because of that it's really not -- it's really not a matter, you know, for -- for somebody to go out and kind of do a survey and say, hey, we asked some people in the street and 35 percent of them think five dollars is corrupting, you know, and sort of from there that -- that is simply not -- it's not really relevant to the analysis here, because the analysis here is simply -- is simply is there independence, is there separation from the candidate to the committee and the donation. And the answer is yes.

What is simply trying to sort of be introduced on the other side is the idea that, well, maybe there might not be that independence, because, you know, there could be some coordination that could be illicit. And, you know, essentially the -- the response to that -- I know this is getting a little bit aside from your question -- but, you know, the response to that is, well, those things are handled other ways. And this makes it a prophylactic-upon-prophylactic sort of response.

But getting back to the credibility of the expert

testimony itself, so, one, we think that, like, you don't really have to get to it. But if you do get to it, you know, you can -- you can see through the -- the deposition testimony that we've put in through the counter expert that we put in that there were many flaws to that analysis. It was a very rushed study that, you know, happened earlier this year. They went out; they surveyed some people. The results really don't -- don't really say anything meaningful for this case. It equates -- the responses essentially equate a $5 donation with a $500 donation, and because the error bars overlap it's all the same. And then there's a sort of stairstep up to where they say anything from 5,000 to 50 million is also -- those all overlap, and so statistically, you know, even Robertson admitted that those are essentially the same.

And so in fact, like if you -- if you take that -- that study for -- for its sort of impact, it would tell you that a $5,000 limit doesn't actually do anything because it's viewed as the same level of corruption as a $50 million donation by the public.

And so -- and that complements, you know, Mr. Primo's testimony that said that when you put in these contribution limits it does not appear -- it does not have any effect upon the public's perception of corruption. And so -- so, you know, we think that, you know, if the Court were to kind of go and look at this and look at the testimony and the reports,

you know, we think that the Court should conclude that Mr. Robertson does not really provide, you know, anything of value, or at the very least it's very contested there, and the burden here is on the defendants in this matter.

So I hope I've sort of answered that question.

THE COURT: You have, yes, and I interrupted you. Go ahead.

MR. MILLER: Yes, so I -- please, any time, any way you want to direct me.

THE COURT: Thank you.

MR. MILLER: That's why I'm here. Okay.

So -- all right. So this is a -- this is a First Amendment case and, as I just mentioned, because of that, you know, the burden here is on the state to justify the law. So -- and for our purposes, you know, we're seeking an injunction. As the Court knows, there's sort of multi factors that apply, but in these First Amendment cases it all essentially consolidates around the merits. Because, you know, if you have lost your First Amendment right it is by definition irreparable. The equities favor the Constitution, and the public interest is always in having the First Amendment rights protected. And so because of that essentially those other factors go away and it is just a merits decision. And so that's -- that's the legal test.

Now, as I sort of indicated earlier, this is a -- the

defendants called it a legal syllogism, which is true. That is why it's been uniformly decided. And the syllogism that is here is that, because the Courts have found and concluded -- the Supreme Court has found that an independent expenditure can't be limited because there is no quid pro quo corruption. An independent contribution also cannot be limited because it's one step further removed. And also, you know, that donor can make an unlimited expenditure in his own name.

THE COURT: But that's not what the Supreme Court has said. That's obviously what *SpeechNow* says and that's what the other circuits that have addressed the issue have said. The defendants and the intervenors say that's just flat-out -- it's flat-out wrong and that it's inconsistent with what the Supreme Court has consistently said both before and since *Citizens United*.

MR. MILLER: And when they make that argument, what the defendants and intervenors are saying is -- what they're doing is they're taking the law that applies to candidate contributions and saying that the candidate contribution law applies out here. And that's -- that's their mistake, because, you know, as I said, there's this chasm and we're over here now. We're not in the area where there's the justification for the regulation because the justification for all these regulations of contributions is that quid pro quo. So if you don't have that justification anymore you -- you

can't -- you can't make the limit. You can't -- you can't limit the contribution because it's not tied back to the candidate. It's not being made to -- it can't be found to be made to essentially kind of buy the -- the activity from that -- from that candidate or that elected official.

THE COURT: So the other side, though, has also argued that, while an independent expenditure might not be corrupt or even present the appearance of corruption, a contribution still can. So I get your whole point that it's that much more removed. I get that you don't -- that -- I get the argument that the quid isn't there.

MR. MILLER: Yes.

THE COURT: Which is really I think what it distills down to, right?

MR. MILLER: Correct.

THE COURT: But what about their point -- and in fact they presented examples of how a contribution to a PAC still can present at least the significant appearance of corruption.

MR. MILLER: And that argument can be made exactly the same way for the independent expenditure itself. You know, someone could come into a court and say, hey, *Citizens United* is wrong because it assumes that the independent expenditure is independent. And it's really not because they're secretly coordinating so, therefore, it's not an

independent expenditure. There is a quid pro quo because -- because it's not independent. And that's the point that I'm trying to make is that -- is that they're fighting -- they're fighting what we're saying and what the law is on this.

What the law is is that -- is that the independent contribution to the independent expenditure committee is presumed to be independent. And what they're saying is, well, what if it's not. And, you know, what happens -- what if it's not for the expenditure. You know, so somebody's doing an independent expenditure and turns out it's not independent. They actually are doing these coordinations. Well, then, that's when all of these laws apply that trigger the limits and the reporting requirements and the like.

And that same thing is true for some sort of solicitation for a donation to -- to an independent entity. If a candidate actually does that, well, then, those thresholds apply then. They kick in. And that's the -- the legal solution that the courts afford here. And it's the one that is narrowly tailored. And so -- and so their argument that, hey, we want to assume that the universe is different and an independent contribution isn't actually -- you know, will not be independent, you know, is sort of an invalid assumption to make here.

And with respect to the cases that they cite to, they cite to the *Menendez* case from 2015. And there, you know,

like -- there were all kinds of allegations of direct bribes and gifts and things, and then -- you know, and then somewhere down the list was an allegation of a contribution to a PAC, I don't think it was a Super PAC, but to a PAC controlled by the senatorial committee for the -- the national one, not his. And, you know, like -- like there -- you know, there simply was no finding there of any conviction when they have them, even some of the more direct bribes.

So, you know, I'm not saying that, you know, the idea that, you know, theoretically because one of these things happen -- you know, anything can be a bribe, as they point out, you know, even in their briefing. You know, they say that -- that, you know, anything can be a quid pro quo if that's what the -- sort of -- what the person's being bribed asked for, if it's a payment to a third party, any third party. And so that could justify -- you know, that argument could justify like getting regulation of disclosure of all sorts of things that are not directly tied to a candidate. So it just sort of takes us too far afield.

With respect to the *Householder* case, so I was at the Ohio Attorney General Office at the time, actually was involved in the civil side of prosecuting claims on behalf of the state against Mr. Householder and all of those entities. And, you know, what I'll tell you there is that the money received the entity was not -- was not a Super PAC. The money

that received an entity was a C4 organization that Mr. Householder controlled. So that was a direct -- they directly gave him this $60 million, you know, for him to control and deal with. So that was not a Super PAC scenario. And then, you know, some of that money, you know, essentially went into his pocket for house repairs, to pay off business debts, and all of these other things. You know, so that was simply a direct bribe case.

You know, with respect to the cases then that were cited, there are a few additional cases that were cited in a footnote by intervenors, again, it's sort of these kind of like, well, hey, we're making -- you know, there are some allegations that are made out there, you know, about this. And -- and, again, it's true that those allegations are there, but the -- but what that does, though, is it does, you know, under the law under these cases there just is this, you know -- what the case will tell you is, well, then, if that's the case that wasn't the independent expenditure, it wasn't the independent donation. And so, therefore, it's outside of what these cases and these laws are talking about.

THE COURT: So let me take you back to *SpeechNow* for a minute. Actually let -- let's go back to *Citizens United*. So the Supreme Court in *Citizens United* commented on lots and lots and lots of concepts. The one that it didn't comment on really was the contribution issue that we're talking about

today. It had the opportunity within sort of a -- a long and kind of somewhat roving opinion to do that and didn't. So what should I take from that? And why do I just leave it now to accepting decisions that were made by seven other circuits, I guess?

MR. MILLER: Yeah. So, I mean, it is true that it was not directly addressed there, and the reason it wasn't directly addressed is, as I said, you know, they look at making it independent as being the break. And so they didn't get into that. But *SpeechNow* and all of these other cases are simply correct that because that is the break that -- that you can't have the contribution, you know, making, you know, as far as counting as being a potential quid pro quo corruption or the appearance thereof.

You know, so, like, as it said in the *SpeechNow,* in light of the Court's holding, as a matter of law -- because it's as a matter of law, it was a legal holding that the independent expenditures do not corrupt, therefore the contributions there can't either.

And it's just -- and with respect to -- the Supreme Court, you know, has -- has said in another case, it was *Arizona's Free Enterprise Club's Freedom Club PAC v. Bennett* said there, quote, the candidate funding circuit is broken. The separation between the candidates and the independent expenditure groups negates the possibility that independent

expenditures will result in the sort of quid pro quo corruption to which our cases are concerned.

Now, again, I acknowledge that there they're talking about the expenditures, but what's significant is that what they're saying is is that it is that independence that breaks the circuit. And so once it's independent then -- then, therefore, there cannot be quid pro quo. And anybody could say, well, yeah, but it's not really independent, that expenditure really wasn't independent. And it's just, well, then, you have to establish that and it makes it something else, which would be the same thing here.

THE COURT: So I think that the other side and in particular the amicus has argued that those lines are blurred now, right? Because of all of the changes that have occurred in campaign funding over the last decade and a half.

MR. MILLER: Right.

THE COURT: That the lines are blurred and that that chain maybe isn't so broken anymore. So respond to that for me.

MR. MILLER: Well, I guess at the highest level of response it is that these were conclusions as a matter of law that the Supreme Court made. So a different court cannot reach a different conclusion with respect to that. But, you know, the fact that people are simply exercising their First Amendment rights isn't reasons to regulate them. And, you

know, what the -- the proper thing to do I think, you know, for the regulators is just to ensure that there's that independence. And if what they're saying is is that, well, you know, independence may be broken down, well, then, just make sure to keep a separation there. That -- that's the responsibility that the regulators should have, and that's what the response should be is to keep -- is to keep the independence if they're saying that there's something that's blurring there. It is not to then ban the true independent activity.

THE COURT: All right. So let me ask you this. So we haven't really talked that much about the referendum, right? So the fact of the matter here is that an extraordinary number of Mainers felt that this referendum was appropriate, presumably because of the appearance of corruption.

MR. MILLER: No, no. What we know is is that they wanted to limit political spending. And they probably want to limit the way that, you know, lots of people want to limit it, and it's because they don't like hearing it. Most people want to have limited political expenditures because they just don't want to -- you know, they don't want all the TV ads. They don't want to have all the text messages coming to them. They don't want all the commercials; they don't want all this inundation. They just don't like hearing it. They don't want

to hear the speech. That's the visceral reaction that people have. And that's typically why they vote for these limits, not because they think that there's fraud. So just to -- and particularly not that they think there's some sort of quid pro quo fraud that it would be -- would be the actually only limited source.

And remember people view, even, you know, the evidence that was submitted by -- by -- by the intervenors, you know, indicate that people view five dollars as corrupting. And -- and let's not forget that the Supreme Court, you know, has said that, you know, because people make expenditures and maybe large expenditures, the fact that they get access and influence isn't quid pro quo. But I'll guarantee you that a lot of those voters think that that access and influence is what they call corruption, you know, if you would ask them. You know, they don't like that; they think that it's icky.

And the reason that we have a First Amendment is to protect these minority rights. I mean, that's why -- that's why we, you know, have these laws, that's why we have these courts is that, yes, there will be people that want to, you know, silence the speech from minority interests. So the fact that there is a large portion of the public that, you know, voted in support of this because they don't want to hear the speech, well, that's a good thing why we have the First Amendment.

So -- so I think that that's why -- why I -- from my perspective it's not troubling as a matter of law that there are a lot of people that say that they don't like this. You know, just like, you know, even kind of drawing down to the specific issue even more, you know, you ask people all the time, you know, should there be negative ads. No, there should never be negative ads. We don't like those. That's not how we want our politics to operate. And, you know, there wouldn't be negative ads if they weren't so darned effective. So what people say that they want and what they respond to are simply two different things.

And, you know, I want to mention that, you know, the legal -- the laws and the campaign finance system that's set up here in the state of Maine, you know, sort of belie the position that they have that they're looking to limit these contributions to independent committees for -- for fraud purposes or for quid pro quo purposes because the same level of contribution can happen to a party committee. And so if there's a vehicle for this to still happen and, you know, it's a vehicle that's controlled by the people in power, right, you know, the party is -- is often, you know, more closely tied to the actual elected officials than an independent committee is, but yet the parties are allowed to have these same independent expenditures, you know, that -- that disconnect, you know, shows the underinclusive nature of this law that belies the

argument that it's being done for quid pro quo purposes. It's simply being done to stop the independent speech.

And, you know, I started to make this point earlier, but, you know, I really do think that, you know, when they introduce the -- sort of the Musk example, you know, that's -- that really proves this for us, because under *Citizens United* he can spend that 230 some million dollars that he spent just directly out of his own pocket. The fact that he then put it into, you know, another entity before spending it, that's just, you know -- that doesn't change anything at all. And to say that -- that it's somehow more corrupting that he did it through his America PAC or whatever he called it, I mean, that just logically cannot be so. You know, so -- so that is -- that again shows I think very clearly not just the fallacy of the argument but why all of those circuit court decisions and that Alaska Supreme Court decision were correct in saying that, you know, because the donation is one more step removed, because it's still independent, you just cannot regulate it under *Citizens United*.

And, you know, if you -- the legal argument that they're making here, although they somewhat say that it's limited to -- to the facts here and *SpeechNow*, you know, they've said in other contexts that this same legal argument actually applies to *Citizens United*. And, you know, you know, we cited to the *Law Review* article that they wrote about this that said

it actually even applies to *Buckley*. And it's true, I mean, like, the -- the consistency of their argument that they're making, you know, essentially, you know, has to, like, require all of those precedents to be wiped out because *Buckley* itself said that the independent expenditure is what breaks it. So it really is all the way back to that *Buckley* precedent that they're asking to be, you know -- they essentially would have to ask the Court to reconsider for them to prevail here.

And intervenors obviously put on the, you know -- I don't know if you want to -- I would say argument from, you know, from a historian indicating that, hey, by originalism, you know, this doesn't work. But, like, when you get to it the underlying point that they had was is that the reason that these regulations could stand under their view of the original meaning of the First Amendment was that they thought that the free speech clause was completely unenforceable, that -- that it was passed in a way to be a declaratory right, meaning that, hey, we just all agree that this is here. But if you have legislative action, that's the people saying that the law was okay. And so that would eviscerate pretty much all free speech cases, not just these -- these ones that are campaign finance related.

And, you know, if we're going to talk about sort of originalism in this context, you know -- well, first of all, like these cases -- this line of cases, you know, the *Buckley*

line of cases, which includes *Citizens United*, I mean, these are not originalist cases. You know, but, you know, Justice Thomas has written his views on originalism and how it applies here. And his -- his take was that *Buckley*'s allowing the imposition of contribution limits to candidates, candidate contributions, is actually unconstitutional as a matter of originalism. And, as you know, we note in our brief that we'll preserve the right to make that argument to the Supreme Court, you know, if this case advances that far. So we think that even sort of under the -- sort of the originalist argument that they're trying to make that it simply, you know, doesn't really hold any -- any water.

There was a slightly different argument that they made that was -- that they characterize as originalist as far as the -- the meaning of the word corruption and what corruption can mean. And, in fact, it's just the wrong application for originalism because corruption was a term that was -- that was employed in *Buckley*, right, which was not originalist decision. And it's not like -- it's not like the Court in *Buckley* said, a-ha, we're taking the term quid pro quo corruption from the 1700s because this is what they used. No, they were using modern parlance.

Just like -- so -- we're the Free Speech Institute, say, so another sets of cases I do are media cases; I represent the media a lot. And, you know, like what I want to say in those

cases now is it's actually like when people say freedom of the press like it doesn't mean the institutional press, it never meant that. Now like the modern parlance for that, right, would be like freedom of the keyboard, you know, or something like, you know, to kind of, you know, to update it.

And so like in this context, like if you're doing originalism, you know, with a term for like corruption or the concept, like you should be -- you should not be starting from now to say, a-ha, we said that, what did it mean back then. We wouldn't say, like, oh, he just said keyboard, let's go see what a keyboard was back in the 1700s.

So, you know, because *Buckley* didn't presume to take that concept of corruption from the Constitution or from anything at the founding to then sort of now start -- start now and look backwards and say, well, we think that the founders were actually concerned about other forms of corruption and therefore *Buckley* is wrong, like it's just a non sequitur argument.

And then beyond that, you know, I did have the -- the privilege of speaking with Professor Rakove about this, who was the expert they put in with the report with the, you know, talking about the Tudors and sort of, you know, rotten boroughs in England. It was a lovely discussion; it was very educational, you know. But then I asked him, I said, well, you know, how did they deal with all these forms of corruption

that they were concerned about? Well, they did it through these laws, they have these different, you know, parts of the Constitution, the emoluments clause, you know, they have the ability to kind of do these removal things, they have all these protections and these safeguards that are built into the Constitution to affect these forms of corruption. So, you know, that -- so that means also that, you know, like, okay, so to the extent that they had these concerns about corruption they actually addressed them in the constitutions at the time.

But I also asked him, I said, well, so how does any of this implicate the First Amendment, and he said it doesn't. That corruption discussion just didn't have anything, you know -- the concept of corruption that they had at the time really had nothing to do with what they were doing with the First Amendment. That -- that was his point. So that's really just a complete aside because, you know, frankly, it sort of misunderstands what originalism is, frankly, as sort of, you know, kind of the underlying premise with respect to -- with respect to that.

I do want to mention that, you know, we have also challenged here the -- independently the zero dollar disclosure for -- for reporting of expenditures here. First of all, we think that that aspect should go away just because this should be defeated simply as sort of a package. That just came in here, you know, as sort of their process of

enforcing the -- the limits that they want to impose so they have this reporting threshold in there so it just, you know -- as sort of -- the Court should just look at it, determine that because the -- the limits were unconstitutional reporting requirements should go away, that it comes with this as well.

THE COURT: So I understand your point that if -- so if I should essentially rule in your favor on the contribution limit then the rest of it goes. But let's say that I don't. You've -- I understand the argument you made in your main brief on the disclosure requirements, but you haven't responded in your -- you did not respond in your reply to the defendants' arguments and the intervenors' arguments.

So I guess my question is -- is whether there are aspects of the disclosure requirements that you are not challenging.

MR. MILLER: So with respect to the -- all right, well, so let me take a step back.

Under the -- under the existing law, like, they already have the reporting requirements above the $50. So if this goes away that's still there.

THE COURT: Right.

MR. MILLER: And so we are not affirmatively challenging anything beyond that, you know, in this particular case. So we're not looking to do away with that. It was specifically for this act. And, you know, we didn't say

anything new in our reply and response to that because we -- you know, the arguments that we simply, you know, made originally with respect to this still stand. And a lot of it, you know, actually simply ties back to the merits argument, you know, originally, which is because there's no quid pro quo that can happen with these, certainly with the small dollar donations, you know, there's even lower chance. There are the -- the privacy concerns and, you know, like -- on these disclosure cases now, like *Bonta* is really sort of the leading case and, you know -- you know, as the Court is aware, I'm sure, you know, like doxing is a more and more, you know, bigger problem and concern that exists that really has taken the informational interests, if you will, that arguably exist. I don't say -- and it minimizes it further.

And so, you know, you have to counterweight this to say that the people's -- people's right to speak anonymously is -- is more key, as we -- you know, as we have in our declarations, you know, there are donors at that lower level that -- that donate because it's meaningful to them. You know, sort of like, you know, as *Buckley* said, you know, it's meaningful to make the speech, and so the fact that you're doing it is very important to them. But they will not do it if it's going to be disclosed because they have, you know, various safety concerns or concerns about employment, you know, maybe they -- there's potential -- I'm not saying this

for this particular donors but like there also can be potential in these scenarios for somebody who has a protective order, you know, they don't want somebody to know where they live. You know, there are all these reasons that people have to want to speak anonymously.

And if you go back to sort of originalism in the time of the founding, like political speech was anonymous or synonymous, and they did it for a couple of reasons. One, you know, like that was shortly after, you know, there was a king and there were threats of imprisonment and stuff for speech. But in addition to that they actually had a very, very high-minded concept of political debate at the time, which was that ideas should be judged on their own merit. And that's why they often would do these synonymously because they didn't want to seem -- they didn't want either, one, to seem like they were taking credit for it or they didn't want the idea to be judged because of the speaker. And so that was -- that was sort of the prevailing view at the time that also kind of pulls away at the informational interest that could possibly be sort of the only reason that exists here.

And so the informational interest, as far as knowing the identity of the small-dollar donors, is so miniscule even for those sort of direct donations, those contributions that either go directly to a candidate or to a party or to a traditional PAC that can make a contribution, you know, those

go away here.

And, again, we think the hostility towards -- towards these independent expenditure groups is shown by the fact that this is a lower threshold for them than for other entities and for donations that -- you know, to a candidate which arguably could be, right, quid pro quo corruption. Those disclosure limits are higher than these.

And so, again, that sort of, you know, underinclusive nature of the regulation shows the hostility to this and shows that the motivation, you know, really is not the informational interest per se, but it's simply to sort of -- to chill the speech and the associational rights that can happen in this context.

THE COURT: So you -- so you've given me these examples of, you know, doxing and harassment and other things that on their own make sense, right? But from an informational standpoint to the voting public, why isn't -- why aren't those disclosure requirements appropriate?

MR. MILLER: So I'm not standing here today to say that disclosure requirements at large are not appropriate. What I'm saying is is that the informational interest of who's giving small-dollar donations, these, you know -- there are a lot of donations now that are a dollar or less. And so on the federal level it's actually kind of -- it's clogging up the entire system of reporting and it's making it very, very

difficult for those to make the reports, you know, so like there's like a sort of overinformation sort of aspect of it.

But, like, as far as -- it just -- it should -- there is a much lower interest in knowing who is speaking at these lower thresholds and who's contributing at lower thresholds simply because it is smaller. The informational interest, you know, is still largely tied back to that prevention of quid pro quo fraud interest. That's really, you know, like -- it's sort of like the disclosure happens largely so you can kind of, you know, track to see the quid pro quo fraud, so that happens, you know, largely at the other end. So there's not going to be quid pro quo concerns for small-dollar donations, which is why they don't have them disclosed for direct donations. You know, so like they've decided this is a threshold below which we don't care.

And, again, this is -- you know, this came up through ballot initiative, and a lot of time what happens in those processes is is that you end up with these -- and it's not just necessarily in these constitutional contexts but even just in normal statutory contexts, you end up with these disconnects that can be just simply, you know, problematic on their own. And that's really what is -- what has happened here.

And, you know, the -- the arguments that defendants have made against this really -- they essentially kind of -- I

don't want to say fight the hypothetical but they fight -- they fight the wall. And they -- they fight the -- well, the syllogism, as they call it. You know, because it -- everything that they're basing this upon is yes but it's, sure, independent expenditures can't be limited, sure, independent contributions can't be limited, but because we think that there are some that aren't independent, therefore, you know, we want this to happen. And it's just very clear under these cases that you can't -- you can't presume away the independence of the activity, which is really what they're trying to do here.

And -- and again, as I said before, and I'm not going to belabor it, but, you know, they could -- whatever argument that they're making with respect to the non -- the potential nonindependence of a contribution could be made -- you could substitute the word independent contribution for independent expenditure and the argument would be exactly the same.

THE COURT: I understand. So -- but I -- I think their argument is that the law is narrowly tailored to reasonably assure that there is not the appearance of corruption or actual corruption. Isn't that really what their argument is? It's not so much a -- a wishing for a presumption that doesn't exist.

MR. MILLER: Well, but -- so if -- so if we talk about, you know, tailoring, you know, so they want to put an

independent expenditure donation limit on top of preexisting candidate solicitation restrictions, like the candidate can't request the money, and they want to do that on top of the disclosure requirement, so that's a prophylactic upon prophylactic, which *Cruz* said that you can't do.

And in the -- in addition to -- to that, you know, when they were making their arguments, you know, they said that they were concerned with a certain type of -- of Super PAC, a committee that, you know, supports simply a single candidate. That's what the state said their concern was. Well, the regulation isn't limited to that. And, you know, so they sort of have these -- these sort of hypotheticals of things that they say that they're concerned about, but they don't actually -- the regulation actually isn't tailored to meet those -- to address that. You know, they say that they can be concerned about, you know, potential, you know, levels of coordination. Well, then, you make sure that you, you know, that you prohibit those levels of coordination, you know, if it's, you know, staffing issues or whatever it is, like, then address that problem, not prohibit the speech.

And then, you know, I -- I guess -- I would be remiss if I didn't say with response to this what all of the other courts said in this, which is that the other courts did not even decide what level of scrutiny to apply.

THE COURT: Right.

MR. MILLER: Because they said essentially something outweighs nothing, and there is no legitimate government interest. And, you know, so we think that strict scrutiny should apply, you know, but certainly at least intermediate scrutiny, and there's no way that they could survive that here.

And I just -- I want to highlight again I guess at this point actually the, you know, again my response to your first question, which was sort of about that appearance of -- of corruption. And I think that really what I say about that right now is that, you know, that appearance of corruption is not a man-on-the-street standard. What that becomes is that's actually a heckler's veto, hey, we don't like that so therefore it can go away. So the -- the appearance of corruption is not a factual test, you know.

And if you look at all these cases from the Supreme Court and otherwise they don't say, well, what do people think of this. And in fact in cases -- in similar cases where other parties have tried to present, you know, sort of the -- this evidence, the Court basically kind of, you know, pushes them aside and says, hey, a study here and there, that's not really meaningful. And what they're really saying is is that, you know, is that this is sort of a legal test of -- of legally when we look at this, you know, as a court, you know, do we see this as something that could appear to be quid pro quo

corruption.

And because those -- because that's such a -- like if you think about that, that's a really like loaded legal term. You know, if you, you know, go to a cocktail party or something and you ask just somebody off the street, you know, like, hey, do you think this is quid pro quo corruption, you know, like they don't have your charging instructions, you know, they're not here with the jury, they're not going through and understanding what even like quid pro quo corruption means as a legal matter in these cases. And so, therefore, asking them do you think this appears to be quid pro quo corruption doesn't -- it just doesn't mean anything. And -- and so that's why -- that's one of the reasons why the courts don't really look at those things very meaningfully in these contexts to make these -- to make these decisions.

And, you know, the fact that the vote tally was high just shows that the majorities like to silence minorities, you know, like, that's true, it's always been true. Doesn't really matter, you know, what side's in power, you know, people don't like to hear criticism. And, you know, and in particular people don't like to hear political ads, people just don't like them.

And -- and, again, in this context there's just no constitutional reason to -- to prefer political parties having unlimited contributions over an independent expenditure group.

You know, that is something that just cannot be justified in this context.

And, let's see, I just -- I don't want to repeat too much here because I jumped around. So could you just give me a second, Your Honor?

THE COURT: Certainly.

MR. MILLER: Okay. Your Honor, with respect to sort of the questions you asked earlier about Professor Robertson, you know, I just wanted to note that, you know -- you know, as I was telling you, there is really no statistical difference, and he acknowledged that in his deposition, the bottom of page 55 of the transcript we submitted, you know.

I said: According to figure 1 there's no significant difference between setting the limit at $50,000 to 5 million and I guess even 50 million, right?

And his response, page 56: Right. Those confidence intervals all overlap, so I'd infer that there's no significant difference at the sample size. Because those differences are small, you would need to run another study or two.

And I say: All right. I continue: The confidence intervals also overlap between the 5,000 and 50,000 as well, meaning you can't really distinguish between those either, correct?

Response: Correct. The study wasn't really designed

to -- to make those particular distinctions.

And so when you have that in there, there really is no distinction, then, you know, between -- you know, and significance to the number. And it's why when you -- when you have this sort of these -- these studies and these things are kind of like centered around the case and sort of done very quickly, I think you could kind of have these sort of errors that kind of pop up in this to where like, okay, we want to test 5,000. And so they kind of -- you know, it's set up this way. And it was sort of was like indicating, well, we don't care about what happens below -- above there, but it also really doesn't make sense, right? Because they're trying to justify bringing it down but now they've just said that there's no distinction.

And so they really, you know, even -- that's why we're saying that if you kind of look at his -- at his -- what he says here, he says that there is no significant difference between those levels, which means there's no justification that he can provide for them to set it at 5,000 versus 50,000 versus 5 million versus 50 million.

THE COURT: So from -- so on that point, from your perspective -- and I know we've discussed this now a couple of times -- but is it even -- is it necessary for me to parse that out at all?

MR. MILLER: Absolutely not.

THE COURT: Is it necessary -- let's assume that this case goes to the circuit.

MR. MILLER: Right.

THE COURT: Is it necessary for the circuit to have facts found by me in order to have an appropriate record?

MR. MILLER: No.

THE COURT: Okay.

MR. MILLER: No.

THE COURT: All right. So ultimately your position, while you might quarrel with the conclusions of Professor Robertson, your -- as I understand it, your position is that it's irrelevant.

MR. MILLER: Yeah.

THE COURT: And unnecessary.

MR. MILLER: That's right. Yeah, Your Honor, yeah, so I'm -- you know, I'm here today making a lot of arguments to you that I really think you should never reach, you know? Like, you know, if -- if I were, you know, you know, honestly I think that I should be able to come up here and simply say, you know, according to *SpeechNow* and all the cases that follow it, this case is controlled by *Citizens United*, end of story. You know, because that's ultimately what we think is true. But we have to make all these arguments about this because I don't know where you're going to go. But ultimately like I think it's simply -- I think it is that simple.

THE COURT: All right. Let's just stick -- I know you're nearly done, but let me take you back before *Citizens United.* Let's talk about *Buckley* just for a little bit more.

MR. MILLER: Yeah.

THE COURT: Okay. So I understand that *Buckley* involved direct donations to candidate. But doesn't *Buckley* stand for a larger proposition that limits on contributions may be appropriate?

MR. MILLER: So, again -- so before I talk about that I just want to say, you know, a lot of parts of *Buckley* have been, you know, no longer valid.

THE COURT: Right.

MR. MILLER: So there's little left that stands.

THE COURT: Right.

MR. MILLER: And so what stands of *Buckley* is the quid pro quo that the Courts have said the quid pro quo of *Buckley*, you know, means the quid pro quo for the candidate. And so it's the contribution to the candidate is the only thing that *Buckley* stands for. And, you know, also the other thing that stands there again are contributions to political parties because they coordinate, they coordinate so it's the same. And they -- it also allowed coordination or it allowed for contributions to PACs. But, again, they're allowed to pass on the donation.

So it's money -- so the only thing that's allowed is and

what it applies to are contributions that can be funneled in to the candidate. And so, again, that's the breaker because otherwise, you know, then if it's -- we're just talking contribution, well, maybe I can put a contribution limit on to this interest group, you know, because we want to limit their speech on, you know, like this issue that they're speaking to. You know, let me put contribution limits on ballot initiative groups. You know, but -- like, well, you can't do that, and the reason is is that the only justification for the contribution limit is the quid pro quo. That's what stands there.

And so -- so that's why these cases are all consistent with -- with *Buckley*, because -- you know, because remember, you know, with *Citizens United* it did away or it made express that, you know, that this cannot be concerned with undue influence. It can only be concerned with that direct -- that direct bribe is the only thing that can.

And I just want to -- I mentioned earlier that Professor Rakove, you know, said it didn't apply to the First Amendment. I think that I had the transcript cites in the brief but, you know, just to -- you know, that was at page 29 of his transcript I asked: Were those potential concerns of the founders about the potential political corruption expressed anywhere in the First Amendment?

He said: Not directly.

I asked him again later, page 72: So how does this concept of political corruption they articulate here in the declaration inform the formation and creation of free speech clause in the First Amendment, if at all?

And then he'd say: I -- I'd say the link would be very thin.

You know, and so that argument really just isn't -- isn't there. We put on the -- the declaration, I guess is what we're calling this here, from Professor Seth Barrett Tillman, who explained in his counter declaration that the framers did not include the term corruption anywhere in the Constitution. They considered it, there were times where they considered including it, but they decided not to. You know, so it was a conscious decision at the time not to have that term in there, which is another one of the reasons why kind of sort of like trying to apply this originalism to *Buckley* by going back, you know, just doesn't work because the term wasn't used and it was considered and it was excluded.

And I -- I think if you don't have any other questions for me at this time I'll sit down.

THE COURT: Thank you. I'll see you back in a bit. All right. Mr. Bolton.

MR. BOLTON: Good morning, Your Honor, Jonathan Bolton for the state defendants.

So I'd like to start just by responding to a few

comments by my friend about Maine voters and about the nature of this law and this referendum. I think at the beginning of his remarks he referred to the act as the -- the intervenors' law because some of the intervenors were involved with, you know, the -- the process of starting this citizen initiative process.

Just to be clear, this is not the initiatives -- the initiators' law -- this is not the intervenors' law. This is the law of the people of Maine. The people of Maine signed that -- tens of thousands of signatures on a citizens initiative petition to ask the legislature to enact this law. The legislature declined. It went to the voters; over 600,000 voters voted in favor of this law. So it may have started out as some of the intervenors' law; it is now the people of Maine's law. So I just wanted to -- to make that clear.

And the other thing I think relating to that rather staggering number of voters that supported this bill, which is the largest number in Maine history to ever vote for a citizens initiative, I think by quite a bit, that the courts have made very clear that this is relevant evidence in this case, the number of voters who voted for this and the lopsided majority. And I'll quote from the *Shrink Missouri* PAC case, where the Supreme Court says, and although majority votes do not as such defeat First Amendment protections, the statewide vote on Proposition A certainly attested to the perception

relied upon here. An overwhelming 74 percent of the voters of Missouri determined that contribution limits are necessary to combat corruption and the appearance thereof.

So bottom line is obviously the Court can't uphold the law simply because it was approved overwhelming, that can't be the only factor, but it certainly is a factor to consider. And I think the -- the notion that voters were concerned about something else is just -- I don't think it's supported by the record. And I think the case law -- Supreme Court case law and also the *Daggett* case from the First Circuit support that this Court absolutely can take that into consideration as a factor supporting appearance of corruption here.

So I would like to start just talking a little bit about *Citizens United* and how this case is not a challenge in any way to the ruling of *Citizens United*. *Citizens United* was a case about a speech ban. It was about whether -- a law that banned certain speakers from making independent expenditures. If you read *Citizens United,* the Court is clearly extremely concerned about the fact that this is a total ban on speech. It calls it a categorical ban on speech and it says it's asymmetrical to Congress's interests in preventing quid pro quo corruption.

So we are not -- this is -- I think my friend called this exactly the same in terms of independent expenditures versus contributions, and this is not exactly the same. This

is very different. We are in a situation that *Citizens United* -- the *Citizens United* court I don't think could have imagined in 2010 where we have a system of funding campaigns in this country and in this state where Super PACs are -- essentially have become major players, which they weren't in 2010, and -- in funding these -- these campaigns. So we're not concerned about independent expenditures corrupting, we're not bringing forward as a, quote, generic favoritism or influence theory, you know, that a candidate would see a commercial and be indebted -- feel indebted to the person making the commercial.

The government interest at stake here is, you know, that there's now widespread, clear-cut opportunities for candidates and donors to collude, exchange official acts for unlimited payments of money to the Super PACs that candidates can be all but assured are going to further that candidate's interests. So that is a situation, that is a dynamic that did not exist in 2010, that did not exist when *SpeechNow* was decided, but I think the data that we've provided to the Court and the other evidence shows that it is a reality now.

So under the -- you know, as things are now, if I'm a wealthy person or if I'm a corporation, I need an official favor, I can go to a candidate, the candidate can direct me to give a million dollars to a Super PAC that supports the candidate. The Super PAC could be run by the close associates

of the -- of the candidate, although they wouldn't be cooperating. The Super PAC might do nothing but run ads supporting that candidate or opposing the, you know, the candidate's opponent. The candidate in that situation gets a benefit that's really indistinguishable from if the donor had provided that contribution to the candidate's own campaign committee.

THE COURT: So what about Mr. Miller's argument that the fix for those sorts of problems is with the regulators, right? It's not with the -- the law is the law. And *Citizens United* in a sense, right, is what has created the situations that you're talking about, right? So isn't it -- short of saying *Citizens United* needs to go away, which is something I can't do obviously --

MR. BOLTON: Of course.

THE COURT: -- isn't the fix somewhere else? Is it here by saying, no, uphold these contribution limits?

MR. BOLTON: I think it is -- I think it is here, Your Honor. And I think one of the reasons why is because of the fact what you were talking about -- with Mr. Miller towards the end about the levels of scrutiny. *Citizens United* was a strict scrutiny case, and in strict scrutiny the government is very limited, right, in terms of the means that it can employ to attack a given problem. Right? So banning independent expenditures under *Citizens United* failed strict

scrutiny because, you know, you have -- you have to have a very tight fit, extremely tight fit between the means and the end. And I think if you -- if you go back to -- even to *Buckley* when *Buckley* struck down the ceiling on independent expenditures, you know, it talked about how it wasn't comfortable with the ceiling specifically because of the high level of scrutiny that applies to, you know, what are essentially speech bans or limits on speech.

So here we're in a lower level of scrutiny, we're in an intermediate level of scrutiny, you know, where we only have to show that the act is closely drawn. And under that lower level of scrutiny the types of provisions that are meant to prevent circumvention of other provisions, in this case the candidate contribution limits, can be upheld even if they would fail under strict scrutiny because the fit doesn't have to be as tight, because we're not dealing with core constitutional, you know, political right -- the right of political expression. We're dealing with something that the *Beaumont* court called -- you know, said towards the edges of core political speech. So there's complaisant review is the phrase that *Beaumont* uses.

So that justifies, I think, a type of regulation like this that sets a limit that's not a particularly low limit, it's quite high, it's much higher than the candidate contribution limits under Maine law, that allows quite a bit

of -- of contributions and has no effect probably on the vast majority of Mainers that want to participate in -- in political campaigns but does provide this protection against the problem of quid pro quo corruption that, again, is really quite -- very hard to distinguish in the modern era, in the modern era of Super PACs, from just plain old classic, you give me a campaign contribution and I'll give you an official favor.

And so the -- the point I want to make with my example about, you know, how -- how this would sort of play out with a Super PAC in terms of a quid pro quo bribe, basically, involving a Super PAC is that the reason why the syllogism sort of breaks down with *SpeechNow* is because the -- the Super PAC doesn't have to be involved in any way in this -- in this exchange. It can be completely unwitting. It could be making completely independent expenditures in complete compliance with how *Citizens United* described what independent expenditures are, and there could still be bribery occurring.

And so I think *SpeechNow* actually -- and the other cases, I think we made this point in our brief -- but it -- it reverses things. How could the contribution possibly be corrupting if the expenditure can't? I mean, the -- the contribution is something that's much, much closer to classic quid pro quo corruption than an independent expenditure. I mean, you don't think about arrangements, I think, just in the

popular imagination that a candidate is going to -- you know, somebody is making television commercials and they have an exchange where you make me a television commercial and I'll do an official act for you, right? It's the people that -- that are providing funds to help the candidate get elected where -- where those arrangements occur. So that's -- it's a -- it's a more direct threat that the government's dealing with with contributors than -- than independent expenditures. So I think that's exactly reversed in some of these cases that the plaintiffs rely on.

And the other thing, you know, I think when you just -- again, this is sort of just thinking about this in broad terms, when you hear criticism about, you know, potentially untoward efforts to, you know, you know, in political campaigns, the -- the people who get criticized aren't people making commercials making expenditures, right? It's wealthy donors that people suspect are sort of up to no good. So I think that's also consistent with the idea that it's contributions, not independent expenditures, where the real threat is, where the greater threat is. So that's I think why this is a very different case than *Citizens United*.

And I think I -- I touched on the level of, you know, scrutiny here. And I -- the other thing I would just say about that is I don't think there's any authority for the idea that close -- that closely drawn scrutiny only applies to

contributions to candidates. Certainly there are cases like *McConnell* and like *California Medical Association* where it's been applied, that intermediate level of scrutiny has been applied to something other than direct contributions to candidates, and it also doesn't make sense in terms of the -- just the rationale as to why closely drawn scrutiny applies, which is that, again, contributions are not -- there is a small component of speech to them, right, which is when you make a contribution of any amount you're saying I support this candidate, I support this group. But it's mostly not expressive in and of itself. It is -- it impacts the right of association to some extent, but it's not core political speech, and that's what the Supreme Court has held over and over again.

So, again, that justifies why the government can regulate contributions in a way that it can't regulate direct speech, which is what independent expenditures are under the Court's juris prudence.

THE COURT: All right. So to accept your proposition I need to reject *SpeechNow* and all of the other circuit decisions that have expanded on but for the most part been consistent with the core concept that if you -- if it's independent it is okay. Right? An independent contribution -- a contribution to an IE PAC is essentially the same or it is the precedent event for an independent

expenditure, all okay.

So how -- so the -- so my question really is, how did all of those circuits get it wrong? Is it just a function of what has bloomed since the earliest of the decisions?

MR. BOLTON: Yeah, I think that's exactly right, Your Honor. I mean, obviously I don't -- I don't know why the judges ruled the way they did other than what they say on the page. But I think that's -- I think it's exactly right that they were looking at -- looking at the issue in sort of a vacuum that we have the benefit of not having anymore; we're not looking at this in a vacuum.

And maybe I can make an analogy to the *McConnell* case, which involved the Supreme Court upholding a law passed by the bipartisan Campaign Finance Reform Act that limited the use of soft money, right? And that was a case in which, in finding that the Congress had, you know, good reason to do this, that it satisfied closely drawn scrutiny, the Court essentially was able to look at the history of soft money, which became a thing kind of in the early 1990s and it kind of exploded into this huge way of funding campaigns. And the Court was able to look at that over, you know, a 12-, 15-year period, whatever it was, and say, wow, this really has turned into a problem and we can see the problem based on the -- you know, the record that's presented to us.

If *McConnell* had somehow come up to the Supreme Court in

the early 1990s before anybody figured out that soft money could be used in this way, it might have come out differently, right, because there wasn't this record of how everything had been transformed by this, you know, what was thought to be sort of a technical change in the law in the early 1990s.

So I think we might be able to analogize that to the situation here. You have *SpeechNow* that was decided I think three months after *Citizens United.* There were no such thing as Super PACs really. Those other decisions were mostly, with a few exceptions, decided, you know, shortly thereafter. I think one or two were even decided before.

And so they -- they were looking at this sort of in a vacuum. And, you know, the facts in *SpeechNow* were -- it was this organization that I think they supported First Amendment rights and they -- they were dealing with a pretty small, you know, set of contributions and it -- looking at that it might not have been apparent to the D.C. Circuit that they were sort of opening floodgates here to a completely new way of financing campaigns.

We have the benefit of a lot more information now, and we can see what -- what *SpeechNow* has wrought and we can see that it was not a modest decision, that it was actually hugely transformative in how campaigns are run. And so I think we're in a -- sort of a more advantaged position here, I think the Court is, because you can look at the real-world effects.

That was -- it was literally impossible for *SpeechNow* to do that because they were the ones who allowed this type of entity to be -- to exist in the first place.

So -- and just the other thing about the lower standard of review here is I think it also means that the government has quite a bit of leeway in terms of setting the specific amount of a contribution limit. So, you know, 5,000, it -- really the plaintiffs can argue it should be 4,000, it should be 10,000. I think the case law is quite clear that, you know, the government has quite a bit of discretion in that sort of thing.

So to sum up, basically what you're looking at with this act, it's a law, it addresses a different problem than the problem that *Citizens United* addressed. It addresses that problem through a less restrictive means than the speech ban that was at issue in *Citizens United*. And it -- it does so -- and this Court is going to or should review it under a standard of review that is more complaisant than the standard of review that was used in *Citizens United*.

THE COURT: All right. So I understand your point about the evolution of -- or really the evolution of Super PACs and how campaigns and campaign funding has occurred. I get all that. But what about the plaintiffs' argument here that the contribution -- so I'm -- I'm -- I've got the law in front of me. Here I have Supreme Court precedent. I know

that you say that *Citizens United* was a very different case, but that's what I have in front of me. I have six or seven or more circuits that have said that it applies the same way to contributions. And so then I also have the plaintiff saying, and contributions are that much further removed, right? That much further removed. So you can't get to the quid pro quo corruption or the appearance thereof.

So how do you -- how do you address that point, that it's -- it's that much more removed, even if the people of the state of Maine disagree with the idea?

MR. BOLTON: Your Honor, I just don't agree that it's further removed. I think it's much closer because, again, I think it comes back to now that -- in the current world we live in where you have these Super PACs that are functioning like arms of a campaign, that when you -- when you have contributions to these entities it's almost indistinguishable from classic quid pro -- well, it's not always going to be quid pro quo corruption, but it's -- contributing to one of these entities is indistinguishable almost from contributing to a candidate. So it's really the -- the interests are quite -- are quite close to the interests in limiting actual contributions to candidates. So I think that's how I would answer is that it is -- it is closer, not further away.

And I guess the other thing I would point out is that in

Citizens United there were no examples at all of the -- the Court points out there the government had no examples of IEs being used in this sort of corrupt way. We've pointed the Court to -- you know, Super PACs have only been around for a little over ten years and we've pointed the Court to two examples already that have turned into sort of large statewide or national scandals. And, you know, there's no reason to think there aren't going to be more and eventually there isn't going to be one in Maine. So there is a -- a track record here.

And, again, in the *Menendez* case you have a decision of the district court saying that, yes, in fact this -- you know, they tried to get that -- that indictment thrown out on the theory that it's inconsistent with *SpeechNow*. The district court said no, this is -- this is potentially bribery. So you have a -- you actually have authority for the idea that speech -- I think in some sense *SpeechNow* is wrong in making that syllogism because here's an example, right, of where you have at least alleged bribery resulting from contributions to a Super PAC.

THE COURT: All right. So I do get your point or your request, really your ask, for me to do something different, right, than any others. But -- and I understand your point that -- I understand the idea or the concept that really the contribution is closer, not further away, right?

But that's not what the state of the law is, right? We've got *Citizens United*, got these circuit decisions, and then what we have is first comes a contribution, you don't have an expenditure unless you have that contribution, they are connected in that stream, and then I've got this umbrella of the law there.

Isn't it for the fix, really, that this law I suppose is supporting, isn't that -- can't that fix only come from the Supreme Court? I mean, don't they have to -- doesn't the Supreme Court have to address sort of the new age of Super PACs? How is that something that is appropriate for the district court here to do?

MR. BOLTON: Well, Your Honor, because I think -- I think *Citizens United* doesn't control this case, we're under a lower, intermediate standard of review, there's no -- there certainly are those cases in other circuits. There is no controlling authority here.

And so I think, you know, the -- the people of Maine have decided that they want to have this law, they want this to be the policy of the state of Maine, they want to combat quid pro quo corruption in this way. I think it would be, you know, appropriate, you know, if the Court agrees with our arguments, there's nothing standing in the Court's way to let this law go into effect. It would, you know, presumably go up on appeal, and then the courts -- the courts of appeal and

perhaps the Supreme Court would take it from there. But there is nothing standing in the way of this Court in our view from letting this law go into effect. And, again, we don't think *Citizens United* controls here because it was a strict scrutiny case.

THE COURT: The *Menendez* decision, the other sort of factual scenarios that have been presented, are those presented for really illustrative purposes; are they for evidentiary purposes? Like what do I -- what do they do to inform my ultimate decision? That's number one.

And then the second part of that is the plaintiff has pointed out all of the ways that those situations are different than -- than, you know, what has historically been viewed as quid pro quo corruption. So if you'd speak to those two points.

MR. BOLTON: Sure. Well, I think the -- you know, I think the case law indicates that -- that having examples -- and they don't have to be examples in Maine -- but having examples of the type of corruption that an act is trying to regulate are, you know, factors that weigh in favor of the state's asserted interests in -- in having that law, to prevent those harms.

So I think, you know, we are pointing to those as evidence of the strength of the government's interest that this is not a hypothetical concern, which I think it arguably

was in *Citizens United* given the government had no examples to point to the Court of IEs corrupting. This is nonhypothetical, this has actually happened, and, you know, is likely to continue happening and will eventually happen in Maine, if it hasn't already.

I mean, one of the things -- and the executive director of the ethics convention mentioned this in his deposition that, you know, if these things are happening they're going to be happening behind closed doors, right, and they're hard -- they're hard to suss out. And he said the first part; I added the second part. The -- the *Buckley* decision also talks about how it's very difficult to detect, you know, this type of corruption.

So that's why you need a prophylactic rule because it's so hard to actually find this. But despite that we have two examples, and I think that does go towards making, you know, the showing that there is a -- a I think sufficiently important governmental interest at stake here.

And I think, you know, those cases are -- I -- you know, obviously Senator Menendez wasn't convicted, but the fact that he was indicted and the fact that it survived, you know, attempts to dismiss the claim and made it to a jury I think is evidence that this is a real thing that could happen and that it's -- it's not hypothetical.

And, you know, in the *Householder* case he was -- he was

convicted. And we pointed the Court to, you know, documents that show that there was a Super PAC that was involved in the scheme that was making expenditures in support of a group of candidates that was aligned with Mr. Householder, so that is another example. And, again, we think there will be more as this sort of current state of affairs continues.

THE COURT: So isn't that also, though, a suggestion that the expenditures themselves can be corrupt, right? And the Supreme Court says no.

MR. BOLTON: Well, the Supreme Court -- yes, I -- the Supreme Court may have been wrong about that, but we agree that you cannot -- that you're bound by their decision that independent expenditures cannot be corrupting. I mean, you know, maybe the right way to really understand -- and I think this has been argued, you know, in a *Law Review* article we cite in our brief, you know, that the -- the sort of tautology that IEs cannot corrupt, you know, as a matter of law maybe is dicta and that really what they were saying was that the government interest wasn't strong enough to support regulating IEs. But I don't think the Court has to get into any of that because we are not advocating for a ban on speech or a limit on IEs, you know, direct speech. We're just arguing for a contribution limit under a lower level of scrutiny.

THE COURT: All right. Do you want to speak to the issue of the disclosure requirement?

MR. BOLTON: Yes. And Mr. Katyal's going to talk about that as well, so I want to -- I don't want to steal his thunder on that, but I -- I just have a couple of points that I want to make on it.

THE COURT: Go ahead.

MR. BOLTON: One is that these provisions that are -- that have been inserted -- first of all, the Supreme Court has said that states are free -- and this is the -- the *Citizens Against Rent Control* case -- that states are free to ban anonymous contributions, so that's controlling Supreme Court precedent.

I just want to make clear, this is not a duplicative requirement with the $50 contribution disclosure requirement. So IE reports are different than the reports that PACs have to provide. Everybody who makes IEs has to provide -- has to make IE reports if they meet the -- the monetary criteria, which I believe is $250, and they are -- they are issued on a different timeline, they are in a different time frame than PAC reports are. PAC reports -- I mean, it gets complicated, the whole schedule, but essentially there are situations in which an IE report may have to be issued more quickly than a PAC report might and might give a voter more up-to-date information about a particular IE and what contributions constituted the IE than they might get if they had to rely on a PAC report. I mean, obviously also you're giving the voter

more information because the limit is -- there is no bottom limit, so it has a greater informational value.

The other point I wanted to make on the disclosure provision is just unseverability, and I just want to emphasize that this is a question of state law, whether the -- if the Court were to find the disclosure limitation to be constitutional, which -- which we believe it should, independent of, you know, whatever it decides -- we obviously believe you should find the whole act constitutional, but if you were to find only the disclosure provision constitutional our position is that that would be severable under Maine law, and it is a question of Maine law whether it's severable. And Maine law has an extremely pro-severability provision in the Maine Revised Statutes, which says that the provisions of any session law are severable. If any provision of the statutes or of a session law is invalid, or the application of either -- of either to any person or circumstance is invalid, such invalidity does not affect other provisions or applications which can be given effect without the invalid provision or application.

So that's a long way of saying that there's a very strong presumption of severability in Maine law. And the Law Court has said that a law is going to be inseverable, quote, only if the invalid -- I'm sorry, that's not the quote. Only if the invalid portion, quote, is such an integral portion of

the entire statute or ordinance that the enacting body would only have enacted the legislation as a whole, end of quote.

And I think, given that there's a presumption in favor of severability, I think that under state law the plaintiffs would have to come forward with some reason to think that the voters would not have wanted whatever could go into effect to go into effect with regard to this law, and there's no evidence of that, I think. The better assumption would be that voters will -- would like as much of the law to go into effect as possibly can.

THE COURT: All right.

MR. BOLTON: And unless you have questions that's all I have.

THE COURT: Thank you.

MR. BOLTON: Thank you.

THE COURT: Mr. Katyal.

MR. KATYAL: Thank you, Judge Wolf, and may it please the Court. I want to first start by sharing my friend's thanks first to the Court and then to my colleagues on both sides here. It's been a model of how to do things and I wish it were always this way and I'm glad it is here.

The plaintiffs today have an extraordinary demand. They're asking this Court to use its judicial power to strike down this Maine law and to displace the will of the Maine voters. As your seventh question to my colleague indicated,

this law was adopted by an overwhelming 74.9 percent of the vote, garnering over 600,000 votes more than any citizens initiative or politician has received in any election in the entire 205-year history of the state.

There are four preliminary injunction factors. It's their burden, not ours, to meet them. And it's an extraordinary ask that they have to set aside the will of the people and under a standard, as Mr. Bolton just said, of complaisant review, as the First Circuit has indicated.

Now, your -- one of your questions to my colleague Mr. Bolton said, you know -- excuse me, to my -- to my friend on the other side asked, you know, as your second question you said, the Supreme Court has never said this. It's the D.C. Circuit that has said this. And I think that's the answer to your question to Mr. Bolton about whether you as a district court, what should you do. I think the most important thing you should do is let the will of the Maine voters preside over this when you don't face any binding precedent to the contrary, and I'll go through why that is in a minute.

So I want to focus ultimately on three aspects today. One is the original understanding of the Constitution, which fully supports Maine's law; second, the narrow tailoring and expert evidence questions that you were asking my colleague; and, third, about the disclosure provisions. Before doing that, just a few points about what you were asking my

colleagues about.

First, with respect to some questions to my friend on the other side about contribution limits. I think it's fair to say the Supreme Court has drawn a very sharp line between contribution limits, which are generally okay, and independent expenditure limits, which are not. Indeed, *Citizens United* says that, quote, contribution limits are an accepted means to prevent quid pro quo corruption. And I think there are three rationales behind that statement.

One comes from *National Right to Work Committee,* in which the Supreme Court said that contribution limits combat the unique risk of corruption, quote, threatened by large financial contributions that create political debts directly implicating the integrity of electoral processes. So that's one rationale for why contribution limits are generally okay and get that complaisant standard of review that Mr. Bolton talks about.

The second rationale comes from *Buckley v. Valeo* in which the Court said, contribution restrictions don't restrict speech much because, quote, the quantity of communication by the contributor does not increase perceptively with the size of the contribution, since the expression rests solely on this undifferentiated symbolic act of contributing.

And then, third, also from *Valeo*, unlike any independent expenditure limits, quote, the overall effect of contribution

limits is merely to require political committees to raise funds from a greater number of persons, and contributors are free to associate with anyone.

So basically what this is saying is that limits on contributions, very different than limits on independent expenditures because the contribution is an undifferentiated symbolic act of support and we accept contribution limits, the Supreme Court says, because, quote, the quantity of communication doesn't increase with the size of the contribution. The contribution basically just expresses one idea, which is, hey, I support candidate X, and a limit on the amount of money doesn't undermine that message, whereas an independent expenditure limit does. It directly reduces the amount of speech.

That's what *Buckley v. Valeo* says at page 19, and that's why only twice in the Supreme Court's history has the Supreme Court ever struck down a contribution limit. Both are very, very far afield from this case. One is *Randall v. Sorrell* back in 2006, which had a very low limit of $200 of giving per candidate. And the other was the *McCutcheon* case, which involved a restriction on top of restriction, something that doesn't exist here.

My friend on the other side said, oh, those cases are about contributions to candidates, not to groups. That's the exact argument that was up and teed to the Supreme Court in

California Medical Association, and at page 195 they rejected it. They rejected the argument that PAC contributions are, quote, qualitatively different because they flow to a political committee rather than to a candidate. It's -- their argument's directly contrary to what the Supreme Court has said.

Now, moving to the heart of I think your questioning to my friend on the other side about *SpeechNow*. I think your second question to him got it exactly right. The Supreme Court has never said what he's saying. It's absolutely true that the D.C. Circuit has. If we were in D.C. we wouldn't be here saying you as a district court could do what we're asking you to do here. We think you have to do what we're asking you to do here because their ask is so extraordinary to set aside the will of the voters, and you can only do so if you can jump over that complaisant standard of review and say it's not met here, which I don't think that you can.

So Supreme Court decisions don't say what they're asking you to do, First Circuit decisions don't say what they're asking you to do, and *SpeechNow* was decided a mere three months after *Citizens United*. As Mr. Bolton says, that was well before the factual tapestry that you have now. And we certainly don't think you should follow it because it doesn't make sense, either logically or empirically.

Citizens United, indeed my friend on the other side even

admitted, he said, quote, it didn't directly address this problem. And it adopted an inconsistent view of what -- of what -- excuse me, *SpeechNow* adopted an inconsistent view of what the Supreme Court has said in *Citizens United*. And indeed I think here the fundamental point is that Maine's law is a hundred percent consistent with *Citizens United*. We're not challenging any aspect of *Citizens United* because what *Citizens United* held is that when Super PACs make independent expenditures without coordination there's no risk of corruption. That's because they're independent; that's what Justice Kennedy said in the majority opinion. He said, look, if there's a quid pro quo deal, the spending isn't really independent. And that is very easy for a Super PAC to police. They know it. All they have to do is avoid talking to candidates, avoid talking to campaigns, and that expenditure is independent.

But *SpeechNow* made a big mistake when it comes to contributions. It wrongly assumed that just because the PAC's spending is independent that the contribution to that Super PAC must also be corruption free, and that's where the logic fails. A donor and politician can easily strike a corrupt deal. Look, I'll give you -- I'll give you government favors, the politician says, if you get your supporters to fund the Super PAC that supports me. The Super PAC's entirely independent of all this in how it spends its money, but the

contribution stems from corruption. This comes from *California Medical Association.* The case, again, it said that, quote, a PAC expenditure, quote, involves speech by someone other than to the contributor. Other than to the contributor. That's the crucial distinction. The independence of a Super PAC's spending says nothing about whether the original contribution was made independently of the candidate.

And that's where the *Menendez* thing comes in because it's real-world proof. The prosecutors allege that he was promised government favors in exchange for contributions to a Super PAC that supported him. The senator came to the district court and teed up -- and this is at 291 F. Supp. 3d 621, he said look at *SpeechNow*, it's impossible for this contribution to be corrupting, and the trial court said absolutely wrong, that's not what the Supreme Court said.

And so ultimately there is an enforcement gap. This is what Maine voters were reacting to. Super PACs can easily stay independent. They just need not talk to campaigns. They can police themselves. That's why *Citizens United* said what it said. But Super PACs can't police the donors' motives. It's the donors' motives. When a $1 million check arrives, the Super PAC has no way to know whether that $1 million resulted from some corrupt deal between the donor and the candidate, and that's what Maine voters addressed in

Question 1.

And if you want an illustration of this, just remember how my friend on the other side introduced his argument today. I wrote it down. Quote, he said, an independent expenditure cannot be corrupting so independent contributions cannot be corrupting. Independent contributions? The whole point of Question 1 is Maine voters saying there is a risk that the contributions aren't independent. We'll grant you if you have an independent contribution there's no corruption. What Maine voters are saying is in the system, which occurs behind closed doors, there's a risk that contributions aren't independent and you don't have the policing mechanism that *Citizens United* pointed to of the Super PAC. They know when something's corrupting, but they don't know when a contribution is corrupting. That's the fundamental thing.

And by the way, this wasn't a slip on my friend's part on the other side. At the end of the argument he repeated the same formulation, independent contributions can't be corrupting. We'll spot him that. Maine voters are worried all contributions are not independent.

My friend said, well, the Maine initiative is about -- is about restriction of TV ads. I have no idea where he gets that from in the text of the Maine referendum. I think Maine was reacting to exactly, as Mr. Bolton said, the same set of concerns that was at issue in the *Shrink Missouri* case in

which you had an overwhelming referendum to try and limit corruption and quid pro quo corruption by putting contribution limits on. That's exactly what's -- what's happening here.

My friend on the other side also said that the *Householder* case is about -- was about -- didn't involve Super PACs. And I just point you to Docket No. 45-8, paragraphs 15 and 16, of that indictment. Obviously he was there for the civil side, but at least with respect to the criminal side this is what it says: Quote, during the 2018 election cycle Householder Enterprises laundered at least $1 million from Generation Now through a PAC to pay for media buys in the PAC's name to help elect candidates loyal to Defendant Householder.

So it is involving a PAC; these are real-world examples. None of that was true in *SpeechNow*. We had no data. And most of the cases that follow *SpeechNow* -- I think you asked about the other seven or so -- they all cluster generally around that time.

Now you have a track record that shows that there's a real risk of corruption. That's what Maine voters are reacting to. As the main brief before you and the amicus brief that you mentioned earlier points out, you know, when *SpeechNow* was decided there was $85 million nationwide in contribution to Super PACs. That number is now $6.9 billion and it affects Maine specifically. The main brief talks about

a 2022 district attorney's race in which a candidate spent 54,000 and 22,000, and a Super PAC came in funded just by one entity spending $384,000. It's infected government's -- governors' races as well in Maine, as the briefing before you indicates. So you've got all of these concerns that I think Maine voters are reacting to.

My friend on the other side said, well, what about Elon Musk? If this is true, then Elon Musk can give money in his own name to independent expenditures. We completely agree. The Maine law is designed to limit the risk of corruption. It's not trying to get all money out of politics. And if the law means that Elon Musk or rich people direct their money to independent expenditures, that's a good thing. Remember, *Citizens United* said independent expenditures cannot corrupt. So if it's channeled in that direction there's no worry. The real harm that Maine voters are reacting to in Question 1 is not the expenditure; it's the contribution. It's the contribution where the risk of quid pro quo corruption lies.

If I could, maybe I'll turn to the questions about narrow tailoring and the expert evidence. And I think, you know, the first thing to note is that the Supreme Court has said repeatedly, and Mr. Bolton mentioned this, that governments have a lot of leeway when it comes to campaign finance regulation with respect to contribution limits. You know, *Valeo* at page 30 said, quote, Congress's failure to

engage in such fine-tuning doesn't invalidate the legislation. The Court has no scalpel to decide whether, say, a $2,000 limit might not serve as well as a $1,000 limit. As well, in the *National Right to Work Committee* the Court said, quote, nor will we second-guess a legislative determination as to the need for prophylactic measures where corruption is the evil fear. And that's exactly what's happened here.

And so the Court has -- the Supreme Court has upheld $5,000 limits in other areas, like the *California Medical Association* case about multi-PAC candidate committees, the *Buckley* case with the $1,000 contribution limit, and the like.

Now, with respect to Professor Robertson's testimony, I think this is very specific evidence. It's not some screed against political action committees or anything like that. What he finds in all of the work is that a $5,000 cap on contributions to Super PACs has a substantial salutary effect by reducing perceptions of quid pro quo corruption and increasing broader confidence in the government. That's a quote from him in the report. And the deposition at page 18 says, quote, we saw this really striking discontinuity above $5,000, which is really quite surprising.

Now, what my friend on the other side points to -- he points to two things. He points to one in which he said, well, Robertson said that there were some people that found a five dollar contribution corrupting. But the key finding --

and this is what our sur-reply goes into some detail on -- was that Robertson showed that increasing donations above five dollars generally increased the appearance and contribution of quid pro quo corruption. And, sure, some people see five dollars as corrupting, but a great deal more see larger contributions as posing additional risks of corruption. The sur-reply report at page 2, quote, notwithstanding the minority of people who see even five dollars as corrupting, there are many other people who do not see five dollars as corrupting but who do see payments above $5,000 to be corrupting. That's the key point. The greater the number, the greater the appearance of corruption from five to 5,000.

So then my friend says, oh, okay, but Robertson also said there was no difference between $5,000 and $50,000. I think that flatly misreads what Mr. Robertson said. It focuses on a small number of people. To be sure, some people think 5,000 is as corrupting as 50,000; but as Robertson says, many other people don't and do see a distinction. And also it doesn't matter. The law deals with both. It's five and 5,000; it prohibits both. And if they're both corrupting, that's why the law is narrowly tailored.

So those are the reasons why I think that it's narrowly tailored. I can address my friend's questions about political parties and whether they should be included in the act if you'd like, or I could turn to something else.

THE COURT: No, go ahead.

MR. KATYAL: Okay. So with respect to the political parties, my friend on the other side says it's underinclusive because the law doesn't address political parties. But party committees and the subordinate entities, as our brief explains, are already subject to a whole host of regulations both at the federal and state level. That's at page 7 of our brief that codified many of them in 11 CFR.

And I think here, as you think about narrow tailoring, the *Williams-Yulee* First Amendment case from the Supreme Court is really telling. At page 449 the Court says, quote, a state need not address all aspects of a problem in one fell swoop. Policymakers may focus on their most pressing concerns. We have accordingly upheld laws even under strict scrutiny that conceivably could have restricted even greater amounts of speech in service of their stated interests.

And here I think the voters and the people and the initiative could reasonably conclude this massive problem of Super PAC funding is the thing that they wanted to address. It might be that there are some risks in other parts and maybe they'll get to that then, but that isn't something that dooms a case -- dooms a law under the First Amendment.

And Maine has good reasons to treat political parties differently. The *Randall v. Sorrell* case says there are different political rights that are at issue there. And also

Maine has all sorts of rules restricting parties already. You know, in order to be a party a group must show a large base of public support, that's 21-A MRSA 301(3). They have to have various public proceedings, biannual caucuses, state conventions, a whole host of things that Super PACs just have nothing -- they don't have to meet any of this. And that's why I think voters could reasonably conclude, as they did here, that it's the Super PAC funding which is the real concern, and that's why they dealt with that.

I think one other thing that my friend pointed to was he said, look, if you're going to have disclosure provisions, then the disclosure provisions are a better way to deal with the Super PAC problem, that that should deal with it, and you can't add any additional restrictions on top of that like contribution limits. And I think there's a couple things to say about that.

One is I think it's important to note that even *SpeechNow* didn't make that argument, and I think they didn't for good reason because the Supreme Court has rejected exactly that argument in *Buckley v. Valeo* in which it upheld contribution limits at the same time as it upheld disclosure provisions. The plaintiffs at page 27 in *Valeo* argued, quote, contribution limitations must be invalidated because bribery laws and narrowly drawn disclosure requirements constitute a less restrictive means of dealing with corruption and

appearance. And the Supreme Court said, note disclose -- the legislature could conclude disclosure was, quote, only a partial measure and that the bribery laws dealt with only the, quote, most blatant and specific attempts. And the Court said, quote, contribution ceilings were a necessary legislative concomitant to deal with the reality or the appearance of corruption, even when the identities of the contributors and the amounts of their contributions are fully disclosed. That's at page 28.

And since the *Buckley* decision every contribution limit that has been upheld by the Court has had a corresponding disclosure provision that's also been upheld. That's true of contribution limits to candidates; it's true of contribution limits to campaigns; it's true of contribution limits to normal PACs. Even though you have overlapping regulations, it's always understood that those mutually reinforce one another, that they are independently justified as constitutional.

The -- I guess I'd say two other things. One is I want to talk about the original understanding and meaning. And then the other is to deal with your question about what facts that you need to find here.

With respect to the original understanding, we do think that the plaintiffs' extraordinary request for an injunction should be denied because the act addresses a separate fear, a

fear of dependence corruption, the improper dependence of public officials on deep-pocketed interests rather than their own constituents.

As our brief goes into detail, the founders understood corruption to be a key concern they had. They were worried about what they saw in England and France, worried about the rotten boroughs, worried about all those kinds of things. And as a result they enshrined in various parts of the Constitution, the original Constitution of 1787, things like the decennial census, electoral college, ineligibility clauses and the like, all to prevent that risk of corruption. It's pretty striking -- and this is I think Professor Rakove's key point, which is the First Amendment, which comes along four years later, if it was going to hamstring in some way governments from being able to react to corruption in the way the plaintiffs are trying to allege here, you would have thought someone would have said that somewhere in there because corruption was such an animating concern.

And so what we're asking you to do with respect to the original understanding here is to look at those declarations and make those -- and -- and use that to inform your analysis. We certainly don't need it. This is a straightforward case under the precedent. There's no binding precedent that says the Maine law is unconstitutional the way there is in D.C. That's certainly enough.

But we think that case is like, for example, the Second Amendment right to bear arms and whether it confers an individual right. Back at the time of *United States v. Emerson*, the 1999 case from -- Federal District Court case from Texas, there had been, quote, hundreds of decisions that said the Second Amendment doesn't confer an individual right to bear arms. The *Emerson* Court looked at that and said, you know, those decisions are wrong under the original understanding, and it wrote a decision explaining that. And that I think informed the analysis as the cases went up to the U.S. Supreme Court, ultimately culminating in a reversal of those hundreds of opinions that had been written both by the Supreme Court in 1939 and other places. And so we think that's what you should do here is do that.

Now, you have asked us and you asked us last week what facts do you need to find. And, look, we don't think it's necessary that you need to find any facts because the plaintiffs have made a purely legal challenge and that's what they reiterated to you today. The plaintiffs stake this case on the argument that there is no anticorruption interest that could justify the Maine act. They haven't advanced I think the argument that if an interest exists that they -- that the state has not adduced sufficient evidence of it. And so all you need to do to deny an injunction is find that the interest here is cognizable as a matter of law and that the Maine law

is appropriately tailored to do it.

And there I think the referendum itself does that, it's that overwhelming vote. *Shrink Missouri* says that -- and this is the part that my friend read to you on the other side -- my friend Mr. Bolton read to you in response to a question from the other side, that the fact that it was overwhelmingly voted for in this way underscores the perceived risk of quid pro quo corruption. And my friend on the other side said, well, the man on the street can't be the test.

I'm not sure that we, you know, have a position on the man on the street, but certainly the Supreme Court has said in *Shrink Missouri* that when you have an overwhelming referendum vote that says we need to limit campaign contributions because of the risk of corruption, that is good evidence, and we certainly think you don't need any additional evidence on that point.

Now, it's helpful here that you have that additional evidence. At one point you asked my friend on the other side, is your point that the experts are, quote, unnecessary and irrelevant. We agree the experts are unnecessary because the law itself demonstrates a risk of quid pro quo corruption, and the Supreme Court has said time and again in this context that governments have leeway for contribution limits. They don't need to be fine-tuned. That's the quote I read to you earlier. So we think just as a matter of law you don't need

the experts.

But we disagree with the word irrelevant here. Because we think even if you didn't buy -- even if you didn't look to the referendum, even if you didn't look to the Supreme Court cases giving leeway, here you have evidence before you that shows, A, the need for this, the number -- mass amounts of money that have come into the system since the *SpeechNow* decision; and B, evidence of narrow tailoring, the Robertson testimony saying actually this $5,000 limit is exactly the place you want to draw, that that's the place that allows some speech to come in. It's not an entire ban on Super PACs, but it also addresses the risk of corruption that $5,000 is an important tipping point, and that's why the law is set the way -- or set where it is.

THE COURT: I want to back you up just a minute to dependence corruption. So I understand your argument but doesn't it -- doesn't recognition of dependence corruption by me really fly in the face of *FEC v. Ted Cruz for Senate*?

MR. KATYAL: So I agree that *Ted Cruz* says that there's been only one -- one rationale that the Courts have recognized in the past; it's retrospective; it's looking at the past. And I think that is an accurate description that it's never been fully used to uphold something. But I don't think that forecloses it from being used in the future as a reason for it.

And, indeed, if you were to look at *Citizens United* at page 358, the Court does say there that dependence corruption may be a sufficient rationale. Here's the quote: *National Right to Work Committee* did say there is a sufficient governmental interest in ensuring that substantial aggregations of wealth amassed by corporations would not be used to incur political debts from legislators who are aided by the contributions. And the Court then goes on to say that isn't relevant to independent expenditures because, quote, *National Right to Work Committee* thus involved contribution limits which, unlike our limits on independent expenditures, have been an accepted means to prevent quid pro quo corruption.

And so I take two things from that discussion at page 358. One is that dependence corruption can be a sufficient rationale in an appropriate case; and number two, that there is that sharp distinction in *Citizens United* itself between independent expenditures, generally not okay and restrictions on that, and restrictions on contribution limits akin to the *National Right to Work Committee* case, which are okay.

This is a contribution limit through and through. This is not an independent expenditure limit. Sometimes my friend on the other side tries to conflate the two and say, well, these are -- this is money that is going to an independent expenditure; so, therefore, it should be treated like an

independent expenditure.

THE COURT: Is it really that Mr. Miller has conflated it, or is it that *SpeechNow* and subsequent cases have made it so?

MR. KATYAL: Yeah, so I think *SpeechNow* did conflate it, and then I think my friend on the other side is picking that up. But I think it's important that, you know, the Supreme Court repeatedly, as opposed to the D.C. Circuit, has drawn that sharp distinction in the language I just read to you. But also in *California Medical* because the Supreme Court there rejected the plaintiff's claim that speech expressed through a contributor's donation and the speech expressed through a PAC's independent expenditure are one in the same. The Court said, quote, a PAC is a separate legal entity that receives funds from multiple sources and engages in independent political advocacy, but a contribution to the PAC does not convert the PAC speech into that of the contributor. In other words, the individual's contribution doesn't somehow metastasize into an independent expenditure. Just because the contribution funds an independent expenditure, they're two completely separate categories of campaign finance. And if you want to know why, it's those three reasons that I gave to you earlier coming from the *National Right to Work* case and *Valeo* of why the speech interest is much more attenuated in the contribution limit context.

THE COURT: Thank you.

MR. KATYAL: I think that's pretty much all I have, but I'm happy to answer any other questions that you have.

THE COURT: Thank you.

MR. KATYAL: Okay, thank you.

THE COURT: Mr. Miller.

MR. MILLER: All right. Thank you, Your Honor. So I'll just go through and I think try to make some brief responses to some of the key points there.

There was a fair amount of discussion about -- about *Nixon v. Shrink Missouri* case there. That was a case that involved candidate contributions. The other -- the law of Missouri there. These other cases they talk about either involve contributions to candidates or to PACs that can go to candidates. And so that's why we're in that political contribution realm.

And when -- and, you know, I think -- I think it was -- I think it was very helpful to kind of highlight the issue that we're talking about here when Mr. Katyal said that, you know, the Elon Musk situation, you know, him making an independent expenditure is fine because it's an independent expenditure. And, you know, he also acknowledged that independent contributions are good. They think that those are fine because they're independent. And it really is, you know, that the -- the lack of independence that they -- that they

find problematic or the potential for the lack of independence, right? So -- so that's the concern.

And, you know, I think one, you know, just as -- as the legal, you know, logic goes here and the reason that *SpeechNow* and those other seven circuits, you know, may not technically be controlling here but why they're right, why they're certainly persuasive is that they say that, you know, logically it doesn't make any sense that you -- to say that the candidate can't go up to Musk and say, hey, spend this for me, do this, and, you know, and assume that that -- the -- corruption there can't happen. Because that's what they're saying. They're saying you have to assume that that -- that the direct expenditure that *Citizens United* allows cannot be corrupt because they have to say it has to be independent. And they're right; that's what the law requires you to find. And that's the same thing here because it's one step removed. You have to assume that it's independent.

If it's not, well, then that's where all these laws kick in that say, well, listen, if it's not going to be independent, you know, the FEC requires, you know, that in this context, like, listen, if there's a solicitation that happens from the candidate then it has to be within limits. That's how that concern is resolved, to make sure that the independence is there with respect to the contribution.

And, you know, sure, they've put evidence on here that

there's, like, been a proliferation of spending this way. Right. You know, but people exercising their political rights, the right to free speech, isn't a reason to stop them from doing it, from doing this independently. We normally say more speech is the solution, not less speech. So the mere fact that there are these independent expenditures with independent contributions that are happening isn't a reason to cause the regulation. And --

THE COURT: But isn't the point, though, that the independent expenditure PACs can't police the contributions? They can't police them.

MR. MILLER: I don't know why -- I don't know why we're going to assume that the law here thinks that it's -- that the law is concerned with the -- the committee itself is -- is sort of the regulator of this. You know, again, the Musk example. You know, like the -- the independent spender theoretically could, you know, not be independent. It's the same thing. And that's my point. They're trying to break the logic chain by saying, well, we've decided that the independent expenditure committee, they -- they are holy, they're always good, so there must be a problem somewhere else. They have to concede that because that's what *Citizens United* clearly says.

But what really *Citizens United* says is just like it's -- it's stepped away. You know, the -- because the

contribution limits that are allowed here, again, it's because they can go to the candidate. That's why they're allowed to have the regulations because it's something that can eventually get to a candidate through the PAC, through the political party, or directly to a candidate. And that's why it's a lower level of scrutiny there. But now here, because we've stepped away from the candidate, you don't have that concern of the quid pro quo corruption, you no longer have the basis to have the lower scrutiny and that's why it's strict scrutiny here.

And, you know, with respect to the argument that, you know, because there were lots of voters who voted for this therefore it means corruption exists here, that there's the concern, one is, you know, has -- has two fallacies. First in *Shrink* there were -- there it wasn't just the -- the voters that they looked at there. There were actual sort of real corruption that happened, again, that was a candidate -- that was a candidate contribution case. You know, so there were concrete examples that really happened, not the theoretical stuff that are happening here.

And then also the Supreme Court said in *Citizens Against Rent Control v. Berkeley* that it's irrelevant that the voters rather than the legislative body enacted a law. Because the voters may be no -- may no more violate the Constitution by enacting a ballot measure than a legislative body may do so by

enacting legislation.

And so, sure, there was a big vote here to stop speech. But that's all we know. We can't -- there can be no presumption here that the reason that they did so was, you know, the very narrowly defined quid pro quo corruption interest. It's more likely, you know, you -- the Court could just equally assume that they did it because they don't like speech just as much as you can assume that it was because of quid pro quo corruption. There's really no way to make a conclusion there otherwise.

And, you know, this is -- we have this in our -- well, and I guess let me say this, on that same point. So in *McCutcheon*, you know, the -- the Court specifically said, quote, Congress may target only a specific type of corruption, quid pro quo corruption. Spending large sums of money in connection with elections but not in connection with the effort to control the exercise of an official holder's official duties does not give rise to quid pro quo corruption.

And, you know, like my point here is is that when the voters think about corruption they're not thinking about this this narrowly. When they do the survey and they ask people, hey, do you think there's something corrupting, they're not thinking like is it this. That's why the five dollar response is so significant because -- because it's -- it's the tell that tells you that all of the respondents to

that survey, not just the one that says, yeah, the cup of coffee at Starbucks is corrupting, all of them when they're answering that question, do you think this is corrupting, they're just thinking of, you know, their version of corruption where they just think that anything is corrupting, you know, like that anything can influence somebody, can blah blah blah. They're not looking at this. That's the significance of the high level, you know, the 30 plus percent, 35 to 40 percent, it's unclear to see in the way that they presented the evidence there, you know, found corruption at that level, because it invalidates everything else because the -- the survey then becomes meaningless because they're not actually looking at this. That's the significance there. And --

THE COURT: Could you respond to Mr. Katyal's points regarding *California Medical Association*?

MR. MILLER: Yeah, so *California Medical Association* was a case where there was a $5,000 limit upheld to a multicandidate committee. And so, again, the contribution limits there were essentially to the candidate, who was the several of them. And, you know, as I have said several times here, it's -- the line here as far as contributions, you know, under the Supreme Court line of cases that can be regulated are contributions that go into that system. They go into the system, they can get to a candidate or get to something that

can be controlled by them or coordinated with them. Now that we're on something that's independent, none of those cases apply, none of them speak to this.

And, you know, there was some discussion essentially that, you know, gee, the Supreme Court was sort of naive, you know, with *Citizens United,* didn't know, you know, what would come from this, you know, that that was the case at, you know, with -- with *SpeechNow* as well is that they wouldn't quite -- you know, they didn't quite consider the circumvention that could occur through here. But, you know, the circumvention concerns were known by the Court, you know, they -- they looked at those interests in *McCutcheon*, for example. They looked at them in *McConnell*. *McConnell*, you know, preceded *Citizens United*. So, you know, they're aware of the potential for circumvention, and -- and that knowledge was there. That's not a new concern.

And so, again, that's why the regulations are there. Listen, if you try to circumvent, we're going to count that against you. And so that's how that has been resolved. And, you know, I think that, you know, your questions were very much on point and I think that, you know, counsel's somewhat conceded that, yeah, the problem here is *Citizens United* and they think that *Citizens United*, you know, got this wrong. And, you know -- and that's really where we are with this is that, you know, they don't think that that independence really

truly is independent and so thus that's why they see it with respect to the contribution.

And, you know, also telling is it is essentially saying the exact opposite of what is -- what has been held in the *SpeechNow* line of cases where they say, no, the contribution to the independent expenditure committee is closer to the candidate, and it's because they're fighting the fact that it's independent. The independent contribution to the independent committee is certainly further -- further afield. And Mr. Katyal did acknowledge that, you know, the independent ones are fine. So this is all about the fear that people are doing something that the system and that the law that exists simply does not allow and it addresses through other ways. And so that's how, you know, we get to the idea that this is prophylactic upon prophylactic.

And then I do want to just highlight sort of a legal point -- again, this is in our brief but, you know, the First Circuit has -- has held that there's a concept of binding dictum, and the *McCoy* case we cited talked to -- about that. And so the Supreme Court did, you know, cite to *SpeechNow* at one point, and it -- and it did so in a footnote. It was talking about PACs and there -- I'll just start with --

THE COURT: Really what it was doing was defining what PACs are, right?

MR. MILLER: Well, but let me just -- yeah, it was

defining what a PAC was but -- and this is my point. So after it defined what a PAC was it then goes on to say -- and it wasn't necessary to do this for the case -- it goes on to say, a so-called Super PAC is a PAC that makes only independent expenditures and cannot contribute to candidates, right? So it is defining it. But the base and aggregate limits governing contributions for traditional PACs but not to independent expenditure PACs, see *SpeechNow,* and there's a citation there.

And what I'm telling -- and the reason why I'm telling you that, you know, it should be considered as dicta from the Court is that the Court doesn't just casually go out and find circuit court cases to cite that it disagrees with. It would say, you know, lower courts have held, you know, it's been -- you know, it will call it out if there's some concern about it. Here it's just saying that the base and aggregate limits governing contributions to traditional PACs but not to independent expenditures PACs, period, see the case. So that is them relying upon that case. And so I think that really should be taken, you know, you know, seriously.

And -- let me -- and it's just, you know, I think that it is -- it's just not -- it's not true when they say that their argument is 100 percent consistent with *Citizens United*. We have eight circuit courts saying otherwise. You know, what is consistent with -- and, again, the only reason that they're

making that argument is they're trying to deny the independence of the -- the contribution because they have to say that, well, the -- the contribution isn't independent. But there's no reason to believe that that's the case. And so they're being extremely aggressive with that.

You know, this is somewhat of a side, but with respect to the *Householder* situation and the PAC there, the money was given to Mr. Householder through a C4. He then took some money and put it into a PAC so that there was a PAC that was sort of downstream of the bribe. You know, so that is what that is, but it's not like the PAC was the source of the bribe or the political, you know, spending that -- that somebody made a PAC contribution as a bribe. The bribe was to him through his -- through his C4.

And -- all right. So I think I talked about the Musk example enough.

The -- I think that there was some discussion a little bit about kind of the *Williams-Yulee* case. That -- what I'll say about that case is that it's a very interesting area of the law that that was in because it's about contributions for judicial races. And, you know, I think Robertson and that kind of opinion kind of said judges' races are different and we have higher, you know, standards that we're going to hold them to, yada yada, so it was sort of like a -- it's sort of like its own little niche area of the law, so take that for

what it's worth.

But the -- and the idea that -- that the courts do not consider disclosure requirements to be part of the prophylactic upon prophylactic sort of analysis, there were citations to early cases, you know, saying that that wasn't really going on there. But if you look at the cases that actually sort of use this terminology, you know, they do so. If you look at like a *Cruz*, *McCutcheon*, *Wisconsin Right to Life*, you know, they are essentially, you know, requiring governments to have sort of, you know, more and more refined regulations of speech and be more, you know -- more careful in justifying what they're doing than what happened earlier.

And with -- with that I think I've addressed most of the points that they had here. I think that it is -- I think that this has shown and they have acknowledged that, you know, this case, you know, does fall exactly in line with *SpeechNow*. You know, the Court should find the reasoning of all those cases to be persuasive, you know, because that -- that syllogism is accurate. We have now left the political contribution system and now we're over something independent.

And despite the fact that there are people that do not like the world that exists now, you know, the -- the case law all -- on all of this is binding. These sort of things that they try to cite to sort of as facts are not, be they the expert opinions, be they these other, you know, cases of

Householder or some of the other ones that they cited in the footnote, you know, those really all are simply, you know, the legislative fact category, you know, which is something that the Supreme Court could consider if it decided to change the law, but it's already resolved these issues as a matter of law, not as a matter of fact. So there really is no room for this Court to second-guess those decisions.

THE COURT: Thank you, Mr. Miller.

MR. MILLER: Thank you.

THE COURT: Mr. Bolton, anything further?

MR. BOLTON: Your Honor, I have a couple points if you can indulge me.

THE COURT: I certainly will indulge you.

MR. BOLTON: Your Honor, just a few things on contributions and the standard of review that applies. We didn't hear a case that holds that some kind of contributions are subject to intermediate scrutiny and some are subject to strict scrutiny. There is no case that I'm aware of that holds that. All the cases say that contribution limits are subject to intermediate scrutiny, and there's no case making a distinction about different kinds. So I think until a court -- you know, the Supreme Court or a court at the First Circuit says otherwise, I think contribution limits are subject -- regardless of who they apply to and what types of contributions are subject to intermediate scrutiny.

THE COURT: So in *SpeechNow* they didn't appear to care what --

MR. BOLTON: They didn't and we think that that was -- that was incorrect. It's based on this sort of syllogism that they used that there's nothing to support the government's interests and therefore it doesn't matter which level of scrutiny you use. And we think that's wrong on the merits. If you agree that that's wrong on the merits, then I think the level of scrutiny applied does matter quite a bit, and there's no case law saying that there should be anything other than intermediate scrutiny.

And the reasoning -- I would just also add the reasoning for why you apply intermediate scrutiny applies just as equally to this type of a contribution limit. On *Citizens Against Rent Control,* obviously voters can't pass a blatantly unconstitutional law; we don't disagree with that. That doesn't make it constitutional because the voters passed it. But what ShrinkNow [sic] says is that an important piece of evidence that this Court can consider is the fact that the referendum dealing with contribution limits was passed overwhelmingly. And that is in fact evidence supporting the government's important interest in -- in regulating corruption through contribution limits. So we think that's an important case, and we don't -- I don't think those cases are in opposition to each other in any way.

The footnote that Mr. Miller refers to from the Supreme Court citing to *SpeechNow*, you know, that was a case -- they were citing -- they were explaining the result of *SpeechNow*, but the FCC was the party in that case. They're bound by *SpeechNow*, right? So -- and my understanding is the FCC has adopted *SpeechNow*, the rule of *SpeechNow* in its own rules, so that was -- that is a factual footnote. That is not an endorsement of any principle of law. I mean, that is just factually describing the state of what -- what your -- what regulations you're subject to if you are a federal Super PAC, right? So that -- that I don't think should be given any weight at all.

And then the last thing with *Williams-Yulee* -- I disagree that this is a statement in a niche area of law because the Supreme Court in January in the *TikTok* case just used -- used this -- applied the same principle, not to judicial contribution rules. So I think that's a much broader principle than Mr. Miller gives it credit for. That's all I have.

THE COURT: All right. While I have you up here, I think I discussed this with you last week, if -- so currently the stay effectively of the law is until I think the end of this month. And I think we discussed the State's position regarding continuing the -- that until July 31st, I think, was submitted as a potential date in maybe a status report that

you submitted.

MR. BOLTON: I -- Your Honor, I believe it might have been July 15th.

THE COURT: It may have been 15th, yeah. Either 15 or 31, doesn't --

MR. BOLTON: If the status report said otherwise I would defer to that but my recollection is --

THE COURT: I think you're right.

MR. MILLER: Your Honor, I agree with July 15th.

MR. BOLTON: July 15th, yeah.

THE COURT: Right, so I -- so what's the State's position?

MR. BOLTON: The State's position is we are -- we do not intend to enforce the law prior to -- or the -- through July 15th.

THE COURT: All right, thank you for that.

All right. Mr. Katyal.

MR. KATYAL: Just a couple points, Your Honor. One, the syllogism of *SpeechNow* is wrong. It was always wrong but now you have data to show it's wrong, both the money coming into Maine and what's happened with *Menendez*, *Householder*, and the like. And *SpeechNow* was decided just a mere three months after *Citizens United* and under a fact pattern which involved a First Amendment PAC and nothing like -- the Court had no reason to get into this whole question that we are getting

into here, which is big amounts of money coming in to influence elections.

We are not challenging *Citizens United*. Our whole point and *Citizens United* whole point, Justice Kennedy said, and I think this was your question to my friend on the other side in rebuttal, was Super PACs can police themselves. They know whether a contribution is truly independent or not. They can't do that on the contribution side. That's what makes it so different, and that's the answer, as my friend keeps harping on the Musk example. If Musk gives money to his Super PAC, that is money that he can control and make sure it's fully independent. You don't have those same safeguards in the ordinary campaign finance circumstance.

And of course a law is not made for outliers. Maybe there's one or two Elon Musks in the world, but Maine can enact a law for the mine run of cases; indeed, the Supreme Court's recognized that the corporate structure alone is a rationale for government regulation in the campaign finance area. That's the *National Right to Work Committee* case in 1982. Here Maine voters reacting to a specific problem, the amount of money coming in from Super PACs. It may be that some rich donors may create other problems. The government of course at that point can deal with that.

My friend said that the Supreme Court has accepted the *SpeechNow* case relying on that footnote. Not even close. As

you said, that is just a citation to the definition under FECA; it has nothing to do with them accepting anything. The Supreme Court does that all the time. The idea that that's somehow binding dicta for you is I think incredibly untenable and demonstrates I think the weakness of this position that you're bound by *SpeechNow* in some way.

This is, Your Honor, in the end Maine voters saying essentially help us, huge amounts of money coming in and drowning our voices. Now, he says, well, the evidence from Robertson, there's no difference between five dollars and 5,000 or $50,000 and 5,000. I think it's clear that he'll never be satisfied. There's no data we could give him that does that. I think Robertson does exactly what we are saying he does, which is say there is a risk of corruption at these dollar amounts. That's what the Maine voters are reacting to. And I think the referendum itself is really powerful evidence of that.

His answer to that is to say that is the majority silencing the minority. We think it's very much the reverse. What Maine voters are saying is, there is this minority of money, Super PAC money, coming into our state and it is distorting our elections. You have evidence before you in the form of the intervenors' affidavits. These are voters from Maine. These are one of Maine's most prominent legislators saying this money is distorting our political process and

creating not just the appearance but the reality of quid pro quo corruption, and the Maine Director of Elections is saying this is all occurring behind closed doors. That's the rationale for Question 1 to be on the ballot. That's what Maine voters are reacting to, and I think this Court would have to engage in the most serious of hesitation before setting aside such a law that has done -- that is designed to combat something that is such a danger to our democracy.

THE COURT: All right, thank you very much.

All right. Counsel, thank you very much for your robust arguments. Indeed, Mr. Miller was correct at the beginning that was all fun. That said, these are obviously important interests to all participants in the case and all participants in the process generally. So I will obviously be giving all this even more careful consideration than I already have, and I will have a decision to you by July 15th, if not before. Thank you and have a good day.

(Time noted: 11:38 a.m.)

C E R T I F I C A T I O N

I, Lori D. Dunbar, Registered Merit Reporter, Certified Realtime Reporter, and Official Court Reporter for the United States District Court, District of Maine, certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

Dated: June 6, 2025

/s/ Lori D. Dunbar

Official Court Reporter