

Nos. 25-1705, 25-1706

UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

No. 25-1705

DINNER TABLE ACTION; FOR OUR FUTURE; ALEX TITCOMB,
Plaintiffs-Appellees,

v.

WILLIAM J. SCHNEIDER, in the official capacity as Chairman of the Maine Commission on Governmental Ethics and Election Practices; DAVID R. HASTINGS, III, in the official capacity as a Member of the Maine Commission on Governmental Ethics and Election Practices; DENNIS MARBLE, in the official capacity as a Member of the Maine Commission on Governmental Ethics and Election Practices; BETH N. AHEARN, in the official capacity as a Member of the Maine Commission on Governmental Ethics and Election Practices; AARON M. FREY, in the official capacity as Attorney General of Maine; SARAH E. LECLAIRE, in the official capacity as a Member of the Maine Commission on Governmental Ethics and Election Practices,

Defendants-Appellants,

EQUAL CITIZENS; CARA MCCORMICK; PETER MCCORMICK; RICHARD A. BENNETT,

Defendants.

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Defendants,

On Appeal from the U.S. District Court for the District of Maine
Hon. Karen F. Wolf, Case No. 1:24-cv-00430-KFW

**BRIEF OF FORMER MEMBERS OF CONGRESS AND FORMER GOVERNORS
AS AMICI CURIAE IN SUPPORT OF DEFENDANTS-APPELLANTS
AND SUPPORTING REVERSAL**

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IDENTITY AND INTEREST OF AMICI CURIAE

Amici constitute a bipartisan coalition of former elected officials who are part of Issue One’s ReFormers Caucus, the largest bipartisan coalition of its kind ever assembled to advocate for sweeping political reforms to fix our broken political system.¹ They are:

- **Hon. Charles Boustany**, former Republican Congressman from Louisiana
- **Hon. Arne Carlson**, former Republican Governor of Minnesota
- **Hon. Tom Daschle**, former Democratic Congressman and former Senator from South Dakota and former Senate Majority Leader
- **Hon. Byron Dorgan**, former Democratic Congressman and former Senator from North Dakota
- **Hon. Russ Feingold**, former Democratic Senator from Wisconsin
- **Hon. Dick Gephardt**, former Democratic Congressman from Missouri and former House Majority Leader
- **Hon. Jim Gerlach**, former Republican Congressman from Pennsylvania

¹ Amici have authority to file this brief pursuant to Federal Rule of Appellate Procedure 29(a)(2) because all parties have consented to its filing. Amici’s counsel authored the brief in whole and no party or a party’s counsel contributed money that was intended to fund preparing or submitting the brief. *See* Fed. R. App. P. 29(a)(4)(E)(i)–(ii). Issue One, a nonprofit organization, provided funding for the preparation and submission of this brief. *Id.* 29(a)(4)(E)(iii).

- **Hon. Dan Glickman**, former Secretary of Agriculture and former Democratic Congressman from Kansas
- **Hon. Jim Greenwood**, former Republican Congressman from Pennsylvania
- **Hon. Paul Hodes**, former Democratic Congressman from New Hampshire
- **Hon. Bob Inglis**, former Republican Congressman from South Carolina
- **Hon. Ron Kind**, former Democratic Congressman from Wisconsin
- **Hon. Mel Levine**, former Democratic Congressman from California
- **Hon. John McKernan**, former Republican Governor and former Congressman from Maine
- **Hon. Connie Morella**, former U.S. Ambassador to the Organization for Economic Cooperation and Development and former Republican Congresswoman from Maryland
- **Hon. Reid Ribble**, former Republican Congressman from Wisconsin
- **Hon. Tim Roemer**, former U.S. Ambassador to India and former Democratic Congressman from Indiana
- **Hon. Claudine Schneider**, former Republican Congresswoman from Rhode Island
- **Hon. Chris Shays**, former Republican Congressman from Connecticut
- **Hon. Karen Shepherd**, former Democratic Congresswoman from Utah
- **Hon. Olympia Snowe**, former Republican Senator from Maine

- **Hon. Mark Udall**, former Democratic Congressman and former Senator from Colorado
- **Hon. Zach Wamp**, former Republican Congressman from Tennessee
- **Hon. Tim Wirth**, former Democratic Congressman and former Senator from Colorado

As former elected officials, amici have observed firsthand how the rising prevalence of money in politics—particularly via super PACs—has escalated campaign costs and created a system whereby candidates for office are increasingly dependent on large, consolidated contributions from a small group of wealthy donors. This dependence distorts electoral priorities, undermines voters’ trust, and creates a system highly prone to corruption and abuse.

Although amici differ in political affiliation and ideology, they share a deep, nonpartisan interest in ensuring that campaign finance systems protect the integrity of the democratic process and strengthen the public’s confidence in our governments. Amici are thus united in supporting efforts to prevent corruption and its appearance, such as the Maine law at issue in this case that limits super PAC contributions.

Amici respectfully submit this brief to provide this Court with insight into the real-world dynamics of electoral politics and governance.

SUMMARY OF ARGUMENT

Politics in America is not what it used to be. A generation ago, candidates relied on broad coalitions of voters and small-dollar donors to win elections. But after lower courts interpreted the U.S. Supreme Court's *Citizens United v. Federal Election Commission* decision to open the door to unlimited contributions to super PACs, money—not voters—became the central currency of political power. The predictable result is a system where billionaires and corporate interests dominate, while ordinary citizens are pushed to the margins.

Large super PAC contributions are one of the biggest threats to the integrity of American democracy. In just fifteen years since *Citizens United* and the D.C. Circuit's decision in *SpeechNow.org v. Federal Election Commission*, outside spending in federal elections has skyrocketed from tens of millions of dollars to *billions* of dollars.

This is not a story of more speech; it is a story of concentrated power. Politicians cannot realistically ignore super PACs, also known as independent expenditure committees. Lawmakers are forced to court these groups as a form of political insurance—voting and acting with an

eye toward the donors who can make or break their careers. The result is policy skewed toward elite funders and away from constituents.

Worse still, the bulk of super PAC money bankrolls negative advertising. Because super PACs face no electoral accountability, they are free to run fear-driven attack campaigns that deepen polarization, corrode civic trust, and distort the democratic process.

The risk of corruption associated with super PAC contributions is not hypothetical. Courts, juries, and prosecutors have repeatedly treated super PAC contributions as vehicles for quid pro quo arrangements—from Senator Robert Menendez’s alleged solicitations, to Speaker of the House of Ohio Larry Householder’s \$60 million bribery scheme, to Puerto Rico Governor Wanda Vázquez Garced’s acceptance of bribes through a super PAC, to Anaheim Mayor Harry Sidhu’s expectation of a \$1 million super PAC contribution in exchange for confidential information, and to businessman Greg Lindberg’s promises of millions in aid through independent expenditure committees in return for the ousting of the regulator overseeing his business. These real-world cases demonstrate what the Supreme Court recognized in *Buckley v. Valeo* long ago:

contributions are inherently different from expenditures, because they create dependency, leverage, and the appearance of corruption.

Finally, this case arises in a special posture. The Maine contribution limit law at issue is not a product of Maine's legislature; the people of Maine, directly exercising their sovereign power through ballot initiative, proposed and passed the law by a roughly three-to-one margin. When citizens themselves vote to limit super PAC contributions to prevent corruption, their judgment deserves the highest deference. To strike down such a measure would be to substitute judicial speculation for the people's own democratic determination, deepening the very cynicism the Supreme Court has said is fatal to democracy.

This Court should uphold Maine's voter-enacted law. Contribution limits on super PACs are not only constitutionally permissible, they are necessary to preserve the integrity of representative self-government.

ARGUMENT

I. Politics is broken, and limitless super PAC contributions are to blame.

Citizens United and *SpeechNow.org* were decided in 2010. In the decade and a half since, there has been a sea change in American campaign finance. By eliminating independent expenditure restrictions

and allowing unlimited contributions to “independent expenditure-only committees,” these decisions created the modern super PAC. The predictable and demonstrable result has been an explosion in outside spending, overwhelming the role of ordinary voters and undermining confidence in the democratic process.

A. The rise of super PACs directly correlates with the increase in money being spent on elections.

Perhaps the most notable, and detrimental, development in politics caused by *Citizens United*, *SpeechNow.org*, and their progeny is the explosion of concentrated money from elite megadonors in elections. Before those decisions were issued, independent expenditures were a factor in federal elections, but one of significantly less degree. According to OpenSecrets, a nonpartisan, nonprofit that tracks money in politics, super PAC expenditures accounted for less than \$63 million in spending during the 2010 election cycle. Yet, by the 2024 election cycle, super PACs collectively spent more than *\$4.1 billion* on independent expenditures targeting federal candidates:

Election Cycle	Super PAC Independent Expenditures
2010	\$63 million
2012	\$623 million
2014	\$348 million
2016	\$1.1 billion
2018	\$894 million
2020	\$2.7 billion
2022	\$1.9 billion
2024	\$4.1 billion

See ECF No. 45-5 at 2² (OpenSecrets report identifying independent expenditures by active super PACs between the 2010 and 2024 cycles).³

Super PACs have thus injected nearly *\$12 billion* into U.S. elections in the past decade and a half, with more than half of that spending collectively occurring during the 2022 and 2024 election cycles. In fact, while super PACs accounted for only 2% of all spending in federal

² Throughout this brief, standalone citations to “ECF No. ___” refer to entries on the District Court’s docket in this case.

³ OpenSecrets’ data includes independent expenditures made by Carey committees, also known as hybrid super PACs, which maintain one bank account funded by limited contributions that can be used to directly donate to candidates and a second bank account funded by unlimited contributions that can be used to make independent expenditures.

elections during the 2010 election cycle, that figure had increased to 28% by the 2024 election cycle. *See* Michael Beckel (@mjbeckel), X (Oct. 25, 2025), <https://x.com/mjbeckel/status/1982121054622663141>.

This dramatic transformation is not the product of an organic increase in democratic participation—it is the result of legal changes that allow a handful of wealthy donors and entities to channel unlimited sums of money into super PACs, saturating the electoral landscape.

B. Politicians have no practical choice other than to engage with super PACs.

The significant increase of money in politics has led to an untenable situation for those running for office. For many, securing support from super PACs is not a choice, it is a requirement.⁴ Politicians operate under the constant threat that massive amounts of money (frequently millions of dollars) will be dropped against them in the closing stretches of their campaigns, so they prepare for that situation by stockpiling super PAC

⁴ This requirement is enmeshed with, and overlies, the already immense fundraising pressures faced by members of Congress. Between January 2023 and December 2024, the typical representative running for reelection in a toss-up race raised an average of nearly \$11,000 per day, while the typical senator running for reelection raised an average of more than \$15,000 per day. Amelia Minkin, *The 118th Congress' Fundraising Treadmill*, Issue One (Feb. 2025), <https://issueone.org/articles/the-118th-congress-fundraising-treadmill/>.

cash for themselves. *Cf.* Paul M. Smith & Saurav Ghosh, *Recent Changes in the Economics of Voting Caused by the Arrival of Super PACs*, Human Rights Magazine (Oct. 24, 2022) (“In the arms race of political fundraising, super PACs are nuclear weapons; candidates who lack them are at a fundamental, and typically insurmountable, disadvantage.”). And to do *that*, politicians go to extreme lengths.

For example, politicians spend an immense amount of their time on fundraising efforts. See Maya Kornberg & Sophia Deng, *How Money Shapes Pathways to Power in Congress*, Brennan Center for Justice (Sept. 10, 2024) (“The average amount raised by those running [for] federal office has increased dramatically in recent decades, resulting in candidates and elected officials needing to spend more time raising money during their campaigns just to keep up.”), <https://www.brennancenter.org/our-work/analysis-opinion/how-money-shapes-pathways-power-congress>. Financial pressures, which have been exacerbated by the rise of super PACs, require politicians to “continually fundraise”—not only for themselves, but also for the super PACs “by

attending events or endorsing PACs.” *Id.*⁵ In fact, a 2016 expose uncovered that leadership for both parties had told newly elected members of Congress to spend 30 hours a week dialing for dollars. Norah O’Donnell, *Are members of Congress becoming telemarketers?*, CBS News (Apr. 24, 2016), <https://www.cbsnews.com/news/60-minutes-are-members-of-congress-becoming-telemarketers/>. The need to constantly fundraise negatively impacts lawmakers’ abilities to perform their jobs and can even lead to burnout.⁶

⁵ In fact, the Federal Election Commission expressly permits “federal candidates and officeholders” to “attend, speak at and be featured guests at fundraisers for Super PACs at which unlimited individual, corporate and labor organization contributions are solicited.” *Fundraising for Super PACs by federal candidates*, Federal Election Commission, <https://www.fec.gov/help-candidates-and-committees/making-disbursements-pac/fundraising-super-pacs-federal-candidates-nonconnected-pac>; see also Phil Hirschhorn, *Obama campaign blurs the line with super PAC*, CBS News (Feb. 7, 2012) (reporting that Obama campaign manager Jim Messina announced that “White House, cabinet, and campaign officials” would appear and speak at super PAC fundraising events) <https://www.cbsnews.com/news/obama-campaign-blurs-the-line-with-super-pac>.

⁶ See Kelly Ngo, *Congress has collectively spent 94 years fundraising since 2015*, Issue One (Jul. 12, 2016) (“[E]very hour that a lawmaker spends schmoozing with deep-pocketed donors is an hour he or she doesn’t spend getting to know colleagues on both sides of aisle, troubleshooting constituent concerns or diving into complicated legislation to address the most critical issues facing our country. Every hour they spend fundraising is an hour they don’t spend working to make our lives better and our country stronger.”), <https://issueone.org/articles/congress->

In addition to fundraising, politicians will vote (or make campaign promises to vote) in the interests of their target super PACs in order to secure the support of those super PACs. As Senators Ron Wyden, a Democrat from Oregon, and Lisa Murkowski, a Republican from Alaska, put it in a 2012 joint op-ed:

Contrary to the popular perception, the prospect of getting—or not getting—a check from an individual or political action committee does not drive the typical decision on Capitol Hill. But *decision-making is often colored by the prospect of facing \$5 million in anonymous attacks ads* if a member of Congress crosses an economically powerful interest.

Ron Wyden & Lisa Murkowski, *Our states vouch for transparent campaign financing*, The Washington Post (Dec. 2012) (emphasis added), https://www.washingtonpost.com/opinions/a-federal-blueprint-for-transparent-campaign-financing/2012/12/27/b1c6287e-43eb-11e2-8061-253bccfc7532_story.html.

Put in different terms, politicians effectively seek super PAC insurance—a reserve of cash that they can access quickly should they

[collectively-spent-94-years-fundraising-since-2015](#); Amisa Ratliff et al., *Why We Left Congress*, Issue One (Dec. 6, 2018) (describing the toll fundraising takes on politicians), <https://issueone.org/articles/why-we-left-congress-how-the-legislative-branch-is-broken-and-what-we-can-do-about-it/>.

need to respond to their opponent's super PAC arsenal. The premium to access those funds? Time, access, and alignment with the super PAC's interests. Super PACs can thus exert control over politicians even before those politicians have seen (or felt) a dollar of the super PAC's money.

C. Super PACs elevate the voices of the wealthy few over those of the average citizen.

The proliferation of super PAC money also exacerbates the growing disparity between those with wealth, whose voices shape policy, and those without it, whose needs go unheard. To start, a minuscule number of megadonors dominate super PAC fundraising. In the 2024 presidential race, for example, donors contributing \$5 million or more accounted for more than 75% of all presidential super PAC receipts. *See* Ian Vandewalker, *Megadonors Playing a Larger Role in Presidential Race, FEC Data Shows*, Brennan Center for Justice (Nov. 1, 2024), <https://www.brennancenter.org/our-work/analysis-opinion/megadonors-playing-larger-role-presidential-race-fec-data-shows>.

The concentration of political contributions ensures that candidates remain disproportionately responsive to elite funders, not ordinary constituents. *See, e.g.,* Paul M. Smith & Saurav Ghosh, *Recent Changes in the Economics of Voting Caused by the Arrival of Super PACs*, Human

Rights Magazine (Oct. 24, 2022) (“Super PACs have emphatically shifted the electoral balance of power away from everyday voters and toward wealthy donors able and willing to spend millions of dollars on the candidates who will best cater to their private interests.”). Political science research demonstrates that policy outcomes in the U.S. align closely with the preferences of affluent donors, while the preferences of average citizens exert “little or no independent influence.” Martin Gilens & Benjamin I. Page, *Testing Theories of American Politics: Elites, Interest Groups, and Average Citizens*, 12 Persp. on Pol. 564, 565 (2014).

When the electoral process depends on super PACs fueled by unlimited contributions, candidates are incentivized to adopt positions that appeal to deep-pocketed backers rather than to their constituents as a whole. Instead of campaigning for broad-based support, many candidates prioritize appeasing elite funders. Over time, policy agendas are shaped by narrow interests with the purchasing power to influence electoral outcomes—eroding the democratic concept of political equality.

D. Super PACs distort and undermine the political process by flooding the market with negative ads.

Super PACs, being insulated from direct electoral accountability, predominantly run negative advertising. Because they do not need to face

voters, they are less constrained by reputational risk or the need for broad appeal. Indeed, ads funded by super PACs—including so-called “pop-up” super PACs that form, spend huge sums, and then disappear shortly after Election Day⁷—tend to be significantly more negative in tone than those by candidates or parties.⁸

This dynamic contributes to blame-centric, fear-driven, and polarized discourse, rather than reasoned deliberation. Negative political ads exacerbate the adversarial “us versus them” mentality, *see* Danielle Martin & Alessandro Nai, *Deepening the rift: Negative campaigning fosters affective polarization in multiparty elections*, *Electoral Studies* 87 (2024) (“[A]ffective polarization between two parties is higher when the

⁷ See Carolyn Daly, “Pop-up” Super PACs Game the System to Leave Voters in the Dark, Campaign Legal Center (June 2024), <https://campaignlegal.org/update/pop-super-pacs-game-system-leave-voters-dark>.

⁸ See, e.g., Michael Beckel, *9 Key Numbers to Know About the Money in the 2020 Presidential Race*, Issue One (Sept. 2020) (noting that 76% of the money spent by the 12 top-spending outside groups has spent on negative advertising), <https://issueone.org/articles/9-key-numbers-to-know-about-the-money-in-the-2020-presidential-race/>; Michael Beckel, *Super PACs and Dark Money Groups Outspent Candidates in a Record Number of Races in 2018*, Issue One at 1 (Dec. 2018), <https://www.issueone.org/wp-content/uploads/2018/12/2018-outside-spending.pdf>.

tone of these parties is more negative, and also when these two parties attack each other more.”), fuel cynicism and erode voters’ trust in government, *see generally* William J. Schenck-Hamlin et al., *The Influence of Negative Advertising Frames on Political Cynicism and Politician Accountability*, 26 Human Comm’n Rsch. 53 (2000), and rely on fear and *ad hominem* attacks over policy-based critiques, *cf.* Katelyn Howard, *How Negative Campaign Ads Appeal To Voter Fears*, KOSU (Oct. 14, 2024) (“[P]oliticians benefit from appealing to broad, general fears and alluding to potential solutions rather than offering details.”), <https://www.kosu.org/politics/2020-10-14/how-negative-campaign-ads-appeal-to-voter-fears>.

The focus on negativity reflects a “win at all costs” approach, regardless of the harmful effects on our democracy. Super PACs’ limitless ability to obtain and spend funds with no accountability to voters means they do not need to focus on how to solve problems and build coalitions of voters and politicians—instead, they can focus solely on winning by flooding the political process with attack ads.

II. Super PAC contributions, unlike super PAC expenditures, raise unique corruption concerns that justify regulation.

Whether or not one likes the speech that super PACs induce, the only constitutional basis for regulating political speech is the risk of corruption. Amici urge this Court not to accept the premise, advanced in *SpeechNow.org* and its successors, that contributions to super PACs pose no greater risk of corruption than expenditures. *SpeechNow.org v. Fed. Election Comm’n*, 599 F.3d 686, 696 (D.C. Cir. 2010) (“[B]ecause *Citizens United* holds that independent expenditures do not corrupt or give the appearance of corruption as a matter of law, then the government can have no anti-corruption interest in limiting contributions to independent expenditure-only organizations.”). Those cases misread *Citizens United*, which spoke only to expenditures, and ignore the realities of modern campaigns. In practice, super PAC contributions implicate corruption and its appearance in ways that expenditures do not—and thus fall within the zone of permissible regulation contemplated by *Buckley*.

A. Super PAC contributions are fundamentally different from expenditures and should be treated differently.

For nearly fifty years, the Supreme Court has recognized that contributions and expenditures are not constitutionally equivalent. *See*

Buckley v. Valeo, 424 U.S. 1, 19–20 (1976). Contributions are not speech in the same way expenditures are: they are transfers of money to another actor, signaling loyalty and conferring influence by virtue of the recipient’s discretion over how the funds will be used. Expenditures, by contrast, are an individual’s or organization’s own expressive act, the kind of political speech at the heart of the First Amendment. Treating the two identically, as *SpeechNow.org* did, ignores the logic of *Buckley* and extends *Citizens United* beyond its holding.

Moreover, contributions to super PACs implicate corruption concerns in ways that independent expenditures do not. A donor who writes a check for \$10 million to a super PAC that exists solely to elect a specific candidate is not engaging in independent political expression. Rather, the donor is financing an entity whose sole purpose is to advance the candidate’s electoral success, and the candidate is acutely aware of who supplied the funds. That act creates dependence and leverage, which is why contributions are inherently more susceptible to quid pro quo arrangements than expenditures.⁹

⁹ Of course, while the line between politician and donor is most direct in the context of contributions made to single-candidate super PACs, contributions made to multi-candidate super PACs are not immune from

The appearance of influence is no less corrosive. In the public’s eye, contributions made by a small handful of wealthy donors who dominate the financing of super PACs are widely understood not as disinterested speech, but as investments designed to secure access and favorable consideration. *See* Press Release, *New polling illuminates how the Supreme Court got Citizens United wrong and shows bipartisan momentum for money-in-politics reforms, including proposed Montana ballot measure*, Issue One (Oct. 28, 2025) (“[N]early 8 in 10 Americans (79%) agreed that large independent expenditures . . . by wealthy donors and corporations in elections give rise to corruption or the appearance of corruption.”), <https://issueone.org/press/new-polling-citizens-united-money-in-politics-reforms/>.¹⁰

the corruption risk, as those contributions can easily be earmarked to ensure that it will benefit a single candidate. *See, e.g.*, ECF No. 45-7 (Menendez indictment) at ¶57 (alleging that a donor’s contributions were “earmarked . . . for the New Jersey Senate race,” in which Menendez was the only Democrat running).

¹⁰ *See also National Survey: Super PACs, Corruption, and Democracy*, Brennan Center for Justice (Apr. 24, 2012) (“Large majorities of Americans believe that members of Congress will favor the interests of those who donate to Super PACs over those who do not—and that Super PAC donors can pressure elected officials to alter their votes.”), <https://www.brennancenter.org/our-work/analysis-opinion/national-survey-super-pacs-corruption-and-democracy>. In this 2012 survey, more than two-thirds of respondents “agreed that a company that spent

Candidates, too, are aware of such contributions and recognize the signaling function of such gifts. *See supra* n.5 (discussing how politicians can, and do, attend and speak at super PAC fundraising events); Matt Corley, *Three dark money lessons from the Larry Householder corruption prosecution*, Citizens for Responsibility and Ethics (Mar. 29, 2023) (“Anonymous political spending may only be anonymous to the public—politicians often know who is spending to benefit them.”), <https://www.citizensforethics.org/news/analysis/three-dark-money-lessons-from-the-larry-householder-corruption-prosecution/>. A massive contribution to a super PAC tied to a campaign effectively communicates the donor’s importance, ensuring the donor’s interests are not ignored.

Allowing unlimited contributions to super PACs also undermines the integrity of the contribution regime the Supreme Court preserved in *Buckley*. Campaign contribution limits to candidates are designed to cap the size of any one donor’s influence. But those limits are meaningless if donors can supplement their capped contribution with unlimited

\$100,000 to help elect a member of Congress could successfully pressure him or her to change a vote on proposed legislation,” and more than three-fourths of respondents “agreed that members of Congress are more likely to act in the interest of a group that spent millions to elect them than to act in the public interest.” *Id.*

donations to a super PAC devoted to the same candidate's election. A donor may give the statutory maximum directly to a candidate while simultaneously contributing millions of dollars to the candidate's allied super PAC. This is the functional equivalent of an unlimited direct contribution. The *SpeechNow.org* approach thus invites circumvention, nullifying the carefully balanced contribution limits the Supreme Court upheld. As the late Mike Castle, a Delaware Republican who served in the U.S. House of Representatives from 1993 to 2011, aptly observed:

What super PACs are doing today is probably as problematic as anything in the financing of campaigns out there. Wealthy people on both sides organize these PACs and fund the heck out of them—they make more substantial contributions than they could individually. That's a problem.¹¹

Making matters worse, the supposed safeguard that super PACs are independent of candidates is a fiction. In practice, the independence of super PACs is porous at best. Campaigns and super PACs share consultants, vendors, and field organizing operations; candidates headline super PAC fundraisers; and “redboxing” allows campaigns to

¹¹ Michael Beckel, *Behind the Price of Power: Q&A with former Rep. Mike Castle (R-DE)*, Issue One (Aug. 15, 2017), <https://issueone.org/articles/behind-price-power-qa-former-rep-mike-castle-r-de/>. Castle, like amici, was a member of the ReFormers Caucus.

post messaging guidance that super PACs then adopt wholesale.¹² These realities render the distinction between contributions to candidates and contributions to their aligned super PACs largely formal. When entities are so intertwined, contributions to super PACs cannot be meaningfully distinguished from contributions to the candidates themselves.

Finally, preserving the public's confidence in elections demands treating contributions differently from expenditures. The Supreme Court

¹² See, e.g., Richard L. Hasen, *Why Limits on Contributions to Super PACs Should Survive* Citizens United, 86 Fordham L. Rev. 2299, 2323–24 (2018) (observing that, at the time the Supreme Court decided *Buckley*, it “probably did not foresee super PACs that spend more than the candidates they support, that are managed by candidates’ former campaign managers and other experienced political operatives, and that may be ceded responsibility for all of a campaign’s advertising” (internal footnotes omitted)); Sophia Gonsalves-Brown, *Super PAC Deals are a Bad Deal for Democracy*, Campaign Legal Center (Jan. 26, 2023) (“Unsurprisingly, candidates and super PACs frequently work hand in glove, with candidates fundraising for super PACs, providing super PACs with preferred messaging and other materials to support their campaigns, and contracting through common vendors that are familiar with the candidate’s messaging and strategic objectives.”), <https://campaignlegal.org/update/super-pac-deals-are-bad-deal-democracy>. “Redboxing” is the practice of a campaign “provid[ing] messaging on its website and us[ing] widely understood signals (like a literal red box) and specific phrasing . . . to direct super PACs to use the campaign’s approved messaging in their ads.” Saurav Ghosh & Eric Kashdan, *Voters Need to Know What “Redboxing” Is and How It Undermines Democracy*, Campaign Legal Center (Mar. 27, 2025), <https://campaignlegal.org/update/voters-need-know-what-redboxing-and-how-it-undermines-democracy>.

has recognized the compelling governmental interest in preventing the appearance of corruption. *See, e.g., Buckley*, 424 U.S. at 27. When voters see massive checks written to super PACs, they reasonably perceive that government is for sale.¹³ That perception—*i.e.*, the very appearance of corruption identified in *Buckley*—corrodes trust in democratic institutions no less than explicit quid pro quo corruption. To treat such contributions as constitutionally immune, as *SpeechNow.org* did, is to disregard the real-world dynamics of modern campaigns and to risk delegitimizing the electoral process itself.

In short, contributions to super PACs are not equivalent to expenditures. They create dependency, signal influence, permit circumvention of contribution limits, and rest on a hollow fiction of independence. Because the D.C. Circuit failed to grapple with these realities in *SpeechNow.org*, its reasoning—and the reasoning of the other circuit courts that followed—is unpersuasive. This Court should hold

¹³ *See* Tom Moore, *Undoing Citizens United and Reining In Super PACs*, Center for American Progress (Sept. 15, 2025) (“Americans are fed up with a political system that seems bought and sold. . . . Year after year, polls show overwhelming majorities convinced that elected officials listen more to wealthy donors and special interests than to the people who sent them to office.”), <https://www.americanprogress.org/article/undoing-citizens-united-and-reining-in-super-pacs/>.

that super PAC contribution limits are constitutionally permissible to protect against both corruption and its appearance.

B. Contribution-based corruption is real, not just theoretical.

The distinctions between super PAC contributions and super PAC expenditures are not mere academic concerns. As several recent cases demonstrate, courts, juries, and prosecutors frequently treat super PAC contributions as being capable of furthering corruption (and, at a minimum, being capable of triggering the appearance of corruption).

i. Robert Menendez

In 2016, then-Senator Robert Menendez, a Democrat from New Jersey who had served as the top-ranking Democrat on the Senate Foreign Relations Committee, was charged with multiple counts of bribery, in part based on alleged quid pro quo contributions sought by Menendez and received from Florida ophthalmologist Salomon Melgen. ECF No. 45-7 at ¶57. Specifically, Melgen contributed \$600,000 to a super PAC called “Majority PAC” that was earmarked for the New Jersey Senate race. *Id.* Menendez was the only Democrat running in the New Jersey Senate race that year. *Id.* Melgen’s donations were allegedly made in exchange for Menendez’ “advocacy at the highest levels of [the Centers

for Medicare & Medicaid Services and/or the Department of Health and Human Services] on behalf of” Melgen. *See, e.g., id.* at ¶¶247, 251.

On Menendez’ motion for acquittal following a nine-week trial, the district court held that super PAC contributions may qualify as “anything of value” under 18 U.S.C. § 201, but ultimately held that a rational juror could not find an explicit quid pro quo based on the evidence proffered (a requirement under the First Amendment). *See United States v. Menendez*, 291 F. Supp. 3d 606, 622, 633 (D.N.J. 2018).

ii. Greg Lindberg

In 2019, insurance executive Greg Lindberg was charged with bribing the commissioner of the North Carolina Department of Insurance. *See United States v. Lindberg*, 19-cr-22, ECF No. 3 (W.D.N.C. Mar. 18, 2019). The indictment alleged that Lindberg promised millions of dollars in support to the North Carolina insurance commissioner, routed through independent expenditure committees in return for the removal of a senior insurance regulator overseeing the regulation and periodic examination of Lindberg’s business. *Id.* at ¶¶12–14; *see also id.* at ¶86 (alleging that Lindberg “gave, offered, and agreed to give \$2 million in campaign contributions . . . through an independent

expenditure committee to the [insurance commissioner] . . . to influence and reward the [insurance commissioner] in connection with the transfer of [a] Senior Deputy Commissioner”).

After an initial 2020 conviction was vacated, *see United States v. Lindberg*, 39 F.4th 151 (4th Cir. 2022), Lindberg was retried and convicted in 2024 of bribery and wire fraud, *see United States v. Lindberg*, 19-cr-22, ECF No. 435 (W.D.N.C. May 15, 2024) (verdict form).

iii. Larry Householder

In 2020, then-Ohio House Speaker Larry Householder was charged with racketeering conspiracy, *see* ECF No. 45-8 at 1–43 (Householder indictment) in connection with the “largest public corruption case in state history,” Paula Christian, *Jury finds former Ohio House Speaker Larry Householder and co-defendant Matt Borges guilty*, News 5 Cleveland (Mar. 9, 2023), <https://www.news5cleveland.com/news/politics/ohio-politics/jury-finds-former-ohio-house-speaker-larry-householder-and-co-defendant-matt-borges-guilty>. The government alleged that Householder and his associates accepted approximately \$60 million from FirstEnergy Corp. through a 501(c)(4) nonprofit dark money group and a super PAC in exchange for passing and protecting House Bill 6, a billion-dollar

bailout for the company’s nuclear plants. *See, e.g.*, ECF No. 45-8 at ¶¶15–16, 25, 91, 97, 100, 130.

Householder was found guilty after a jury trial. *See* ECF No. 45-8 at 44. He was sentenced to 20 years. *See* Press Release, *Former Ohio House Speaker sentenced to 20 years in prison for leading racketeering conspiracy involving \$60 million in bribes*, Department of Justice (June 29, 2023), <https://www.justice.gov/usao-sdoh/pr/former-ohio-house-speaker-sentenced-20-years-prison-leading-racketeering-conspiracy>.¹⁴

iv. Wanda Vázquez Garced

In 2022, former Puerto Rico Governor Wanda Vázquez Garced and others were charged with conspiracy, bribery, and wire fraud. *See United States v. Vazquez-Garced*, 22-cr-342, ECF No. 3 (D.P.R. Aug. 3, 2022). The indictment alleged that Julio Herrera Velutini and Mark Rossini “offer[ed] bribes in the form of . . . funding” in support of Vazquez’ election campaign in exchange for Vázquez-Garced’s termination of a

¹⁴ FirstEnergy Corp., the entity that made the contributions, agreed to pay a \$230 million monetary penalty and signed a deferred prosecution agreement. *See* Press Release, *FirstEnergy charged federally, agrees to terms of deferred prosecution settlement*, Department of Justice (July 22, 2021), <https://www.justice.gov/usao-sdoh/pr/firstenergy-charged-federally-agrees-terms-deferred-prosecution-settlement>.

commissioner of the Office of the Commissioner of Financial Institutions of Puerto Rico. *Id.* at ¶30. The funding included payments to super PACs. *See, e.g., id.* at ¶¶31, 138, 174.

Vázquez Garced pleaded guilty in August 2025 to accepting promises of political campaign contributions. Pedro Menéndez Sanabria, *Former Governor Wanda Vázquez Pleads Guilty in Federal Court*, The Weekly Journal (Aug. 27, 2025), https://www.wjournalpr.com/top-stories/former-governor-wanda-v-zquez-pleads-guilty-in-federal-court/article_ba29f5a0-4009-400b-b756-e6a4f466c778.html. As of today's date, Vázquez Garced's sentencing is set for December 4, 2025. *United States v. Vazquez-Garced*, 25-cr-296, ECF No. 16 (D.P.R. Oct. 6, 2025).

v. Harry Sidhu

In 2023, former Anaheim, California, Mayor Harry Sidhu entered a plea agreement admitting obstruction of justice, wire fraud, and false-statement-to-federal-agency charges arising from the attempted sale of the stadium in which the Anaheim Angels Major League Baseball team plays. *See United States v. Sidhu*, 23-cr-114, ECF No. 3 at ¶¶2, 15 (C.D. Cal. Aug. 16, 2023). Sidhu admitted that, while on the city's negotiating team for the stadium sale, he "provided confidential inside information

belonging to the City . . . so that the Angels could buy Angel Stadium on terms beneficial to the Angels.” *Id.* at ¶15. Sidhu also admitted that he “expected a \$1,000,000 campaign contribution from the Angels” after the sale, to be routed to a super PAC supporting his reelection campaign. *Id.* (admitting that Sidhu “was secretly recorded stating that he . . . expected \$1 million to be directed to a political action committee (PAC) to be spent on [his] behalf during the next election”). The quid pro quo admitted was Sidhu’s disclosure of confidential city negotiation materials in exchange for that million-dollar super PAC contribution if the transaction closed.

Sidhu was sentenced to two months in prison, a year of supervised release, and a \$55,000 fine. *See* Spencer Custodio, *Disgraced Former Anaheim Mayor Harry Sidhu Sentenced to Two Months in Prison*, Voice of OC (Mar. 28, 2025), <https://voiceofoc.org/2025/03/disgraced-former-anaheim-mayor-harry-sidhu-sentenced-to-two-months-in-prison/>.

The outcome of any of these cases is irrelevant. They are important because they show that corruption vis-à-vis a quid pro quo arrangement between politician and super PAC contributor is a plausible risk (and, in most of the cases, an *actual* risk) that will only become more prevalent if super PAC growth remains unchecked. These cases thus support the

conclusion that unrestricted super PAC contributions implicate, at best, the appearance of corruption, and, at worse, actual corruption.

III. Courts should not supplant Maine voters’ attempt to combat the appearance of corruption.

There are few tools of democracy, if any, that more faithfully reflect the voice of the people than ballot initiatives. *See, e.g., Kansans for Const. Freedom v. Kobach*, 789 F.Supp.3d 1062, 1074 (D. Kan. 2025) (“Ballot initiatives are perhaps the purest, most democratic process of self-government.” (internal quotation marks and alterations omitted)); Julian N. Eule, *Judicial Review of Direct Democracy*, 99 Yale L. J. 1503, 1510 (1990) (“Substitutive direct democracy is direct democracy in its purest current form.”). Maine’s ballot initiative process—which allows Maine voters to initiate and approve of legislation directly—is no exception. *See* Me. Const. art. IV, Pt. 3, §§ 18–19 (constitutional provisions governing ballot initiatives).

When Maine voters enact legislation directly via ballot initiative, they speak in their own voice as lawmakers, expressing policy choices without the filter of political bargaining or legislative compromise. Such legislation carries significant weight, as it is the result of the exercised right of the people to enact legislation—a right that is “reserved to the

people through the direct initiative of legislation provisions of the Constitution” that “cannot be abridged directly or indirectly by any action of the Legislature.” *Kelly v. Curtis*, 287 A.2d 426, 428 (Me. 1972); *see also* William R. Leinen, *Preserving Republican Governance: An Essential Government Functions Exception to Direct Democratic Measures*, 52 Wm. & Mary L. Rev. 997, 1010 (2010) (recognizing that courts are often highly deferential to ballot measures, and that “[m]uch of the deference accorded to ballot initiatives is based in the deep-seated belief that the electorate holds a reserved legislative power that is equal to or greater than that of the legislature”).¹⁵

The Act—which was passed via ballot initiative by the *vast* majority of Maine voters¹⁶—thus reflects the direct voice of the people of Maine.¹⁷

¹⁵ This aspect of ballot initiatives is also true in other states. *See, e.g., Rossi v. Brown*, 889 P.2d 557, 560 (Cal. 1995) (“The initiative and referendum are not rights granted the people, but powers reserved by them. Declaring it the duty of the courts to jealously guard this right of the people, the courts have described the initiative and referendum as articulating one of the most precious rights of our democratic process.” (cleaned up)).

¹⁶ *See* ECF No. 45-10 (indicating that approximately 75% of Maine electors voted in favor of the Act); *see also* ECF No. 74 at 2 (noting that the Act was passed by “a record number of Maine voters”).

¹⁷ It also reflects the longstanding opinions of the American people at large. A recent poll commissioned by Issue One and conducted by YouGov

This aspect of the Act is particularly significant in the context of deciding whether the Act’s contribution limits are constitutional.

The Supreme Court has long recognized that preventing corruption and the *appearance* of corruption is a compelling governmental interest that justifies limits on campaign contributions. *See Fed. Election Comm’n v. Cruz*, 596 U.S. 289, 305 (2022); *Fed. Election Comm’n v. Nat’l Conservative Pol. Action Comm.*, 470 U.S. 480, 496–97 (1985). When voters themselves enact contribution limits through a ballot initiative—like Maine voters did here—their collective judgment regarding the apparent risk of corruption is entitled to particular deference. That is

demonstrated that 79% of Americans believe that large independent expenditures by wealthy donors and corporations in elections give rise to corruption, or the appearance of corruption. Press Release, *New polling illuminates how the Supreme Court got Citizens United wrong and shows bipartisan momentum for money-in-politics reforms, including proposed Montana ballot measure*, Issue One (Oct. 28, 2025), <https://issueone.org/press/new-polling-citizens-united-money-in-politics-reforms/>. A survey conducted 13 years earlier, in the aftermath of *Citizens United* and *SpeechNow.org*, similarly established that nearly 70% of Americans “believe[d] Super PAC spending will lead to corruption and that three in four Americans believe[d] limiting how much corporations, unions, and individuals can donate to Super PACs would curb corruption.” *National Survey: Super PACs, Corruption, and Democracy*, Brennan Center for Justice (Apr. 24, 2012), <https://www.brennancenter.org/our-work/analysis-opinion/national-survey-super-pacs-corruption-and-democracy>.

because the appearance of corruption is a matter of public perception. Indeed, in *Nixon v. Shrink Missouri Government PAC*, the Supreme Court recognized that, “[a]lthough majority votes do not . . . defeat First Amendment protections,” a statewide vote “certainly attested to the perception relied upon here: An overwhelming 74[%] of the voters of Missouri determined that contribution limits are necessary to combat corruption and the appearance thereof.” 528 U.S. 377, 394 (2000) (internal quotation marks and alterations omitted); *see also McConnell v. Fed. Election Comm’n*, 540 U.S. 93, 275 n.8 (2003) (Thomas, J., concurring in part and dissenting in part) (drawing connection between the appearance of corruption and evidence of public perception).¹⁸

Maine voters’ overwhelming approval of the Act—by a roughly three-to-one margin—is not the only piece of evidence demonstrating their perception that contribution limits are necessary to combat apparent corruption. A survey conducted in connection with this litigation found that most individuals believe that *quid pro quo*

¹⁸ The correlation between public perception and appearance of impropriety is well established in other contexts, as well. *See, e.g., Wersal v. Sexton*, 674 F.3d 1010, 1022 (8th Cir. 2012) (“[T]he appearance of impartiality arises from the public’s perception of that judge.”).

corruption is relatively unlikely to occur with respect to contributions below \$5,000, but that it *is* likely to occur with respect to donations at or above \$5,000. *See* ECF No. 53-3 at 9–10; *cf.* 21-A M.R.S.A. § 1015(2-C) (applying \$5,000 limit to super PAC contributions). There can therefore be little doubt that Maine voters enacted the Act to prevent the appearance of corruption.

The upshot is that Maine voters’ opinion that the Act prevents the appearance of corruption is precisely the kind of judgment best made by the electorate rather than by the courts.¹⁹ Contribution limits enacted by ballot initiative reflect a democratic check on the very dangers the Supreme Court has identified—actual and apparent quid pro quo corruption. By respecting voter-enacted contribution limits, courts will honor the principle that sovereignty ultimately rests with the people.

In contrast, second-guessing the very citizens whose trust in government the Constitution seeks to protect would replace public

¹⁹ Deference is particularly appropriate given the disparity between how courts and the public assess the appearance of corruption. *See* Douglas M. Spencer & Alexander G. Theodoridis, “*Appearance of Corruption*”: *Linking Public Opinion and Campaign Finance Reform*, 19 Election L.J. 510 (2020) (“[P]erceptions of corruption are much broader among the general public than in the courts.”).

judgment with judicial speculation about what “appears” corrupt, thereby undermining the core rationale of the appearance standard. Judicial invalidation would also risk deepening the cynicism voters already feel toward government, sending the message that even when citizens act directly to reform their system, their voices will be disregarded.

As the Supreme Court has long observed, “a democracy is effective only if the people have faith in those who govern,” *United States v. Mississippi Valley Generating Co.*, 364 U. S. 520, 562 (1961), and “the cynical assumption that large donors call the tune could jeopardize the willingness of voters to take part in democratic governance,” *Nixon*, 528 U.S. at 390. When the people themselves move to address that risk, like Maine voters did here, courts should not stand in the way.

CONCLUSION

For the foregoing reasons, this Court should reverse the District Court’s decision below.

Dated: October 29, 2025

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

1. This brief complies with the type-volume limit of Federal Rules of Appellate Procedure 29(a)(5) and 32(a)(7)(B) because it contains 6,752 words, excluding those parts of the brief exempted by Federal Rule of Appellate Procedure 32(f).

2. This brief also complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type-style requirements of Federal Rule of Appellate Procedure 32(a)(6) because it was prepared using Microsoft Word in 14-point Century Schoolbook, a proportionally spaced typeface.

Dated: October 29, 2025

/s/ *Evan Bianchi*
Evan Bianchi

CERTIFICATE OF SERVICE

I hereby certify that on October 29, 2025, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the First Circuit by using the CM/ECF system. I certify that all participants in this case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

/s/ *Evan Bianchi*
Evan Bianchi