

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

SAFE AFFORDABLE GEORGIA,
INC.,

Plaintiff,

v.

JAMES D. KREYENBUHL, in his
official capacity as Chairman of the
State Ethics Commission; RICK
THOMPSON, in his official capacity
as Vice Chairman of the State Ethics
Commission; DAVID BURGE,
STAN WISE, and DANA DIMENT,
in their official capacities as
members of the State Ethics
Commission; and CHRISTOPHER
M. CARR, in his official capacity as
the Attorney General of Georgia,

Defendants.

Case No.

**BRIEF IN SUPPORT OF PLAINTIFF'S
EMERGENCY MOTION FOR PRELIMINARY INJUNCTION**

Introduction

Current Georgia law allows a very different structure for political fundraising and expenditure for one current gubernatorial candidate when compared to the others. WBJ Leadership Committee, a “leadership committee” that benefits gubernatorial candidate Burt Jones, is allowed to accept contributions beyond the maximum amount in Georgia law and to spend those

funds in support of, and in coordination with, any campaign—including his own. The other gubernatorial candidates and committees supporting other candidates, however, are hamstrung by maximum contribution limits and restraints on how they can spend that money. The sitting lieutenant governor is allowed to have a leadership committee that faces no fundraising limits and can expend funds in support of his candidacy (even a candidacy for a different office than the one that allows him to have the leadership committee) and in coordination with his own campaign or the campaigns of other candidates he would like to support. But committees supporting other candidates for governor enjoy no such liberties.

Georgia has created an impermissible two-tiered fundraising system for candidates and committees in the same race. *Davis v. FEC*, 554 U.S. 724, 738 (2008).

Brad Raffensperger is Secretary of State of Georgia and a Republican candidate for governor. The current lieutenant governor, who operates a leadership committee, is also a Republican candidate for governor. Plaintiff Safe Affordable Georgia, Inc., a hybrid PAC chaired by Raffensperger, intends, once the challenged restrictions are enjoined, to operate in the manner Georgia allows a leadership committee, but is currently prevented from doing so by Georgia laws that prevent Safe Affordable Georgia from accepting or soliciting contributions in the same way the Burt Jones' leadership committee can or

from making expenditures beyond the statutory limits in coordination with candidates that it would like to support in the same manner that Burt Jones' leadership committee can. Safe Affordable Georgia seeks a preliminary injunction to remove these restraints and level the playing field.

STATEMENT OF FACTS

The Regulatory Regime

Georgia defines a “campaign committee” as “the candidate, person, or committee which accepts contributions or makes expenditures designed to bring about the nomination or election of an individual to any elected office.” O.C.G.A. § 21-5-3(2). Section 21-5-41(a) limits the amount of money that any statewide “candidate or campaign committee” may receive from any person for each primary, general, and runoff election.

An “independent committee” is “any committee . . . other than a campaign committee, political party, or political action committee, which receives donations during a calendar year from [its] members or supporters,” which it spends “either for the purpose of affecting the outcome of an election for any elected office or to advocate the election or defeat of any particular candidate.” O.C.G.A. § 21-5-3(15). Independent committees may not coordinate their activities with an individual candidate or his or her campaign committee. *See* Ga. Comp. R. & Regs, R. 189-6-04. (“[A]n expenditure . . . must not be made with the cooperation or consent of, or in consultation with, or at the request or

suggestion of any candidate or any of his or her agents or authorized committees,” lest it be “considered a contribution which is subject to limits.”).

A “political action committee” is an organization “which receives donations during a calendar year from persons who are members or supporters of the committee and which contributes funds to one or more candidates for public office or campaign committees of candidates for public office.” O.C.G.A. § 21-5-3(20). PAC contributions to candidates are subject to the limits contained in O.C.G.A. § 21-5-41.

A “leadership committee” is “a committee, corporation, or organization chaired by the Governor, the Lieutenant Governor,” or a political party’s nominee for Governor or Lieutenant Governor “selected in a primary election in the year in which he or she is nominated.” O.C.G.A. § 21-5-34.2(a). However, “[a] leadership committee shall be a separate legal entity from a candidate’s campaign committee and shall not be considered an independent committee.” O.C.G.A. § 21-5-34.2(f).

“A leadership committee may accept contributions or make expenditures for the purpose of affecting the outcome of any election or advocating for the election or defeat of any candidate, may defray ordinary and necessary expenses incurred in connection with any candidate’s campaign for elective office, and may defray ordinary and necessary expenses incurred in connection with a public officer’s fulfillment or retention of such office.” O.C.G.A. § 21-5-

34.2(d). It may coordinate expenditures with a campaign committee and cover expenses ordinarily borne by a campaign committee, as it is exempt from Section 21-5-41's contribution limits. O.C.G.A. § 21-5-34.2(e).

The primary distinction between a hybrid PAC and a leadership committee is that a leadership committee may raise funds to support a candidate who chairs that committee and may coordinate with candidates and campaign committees in unlimited amounts. The primary distinction between a leadership committee and a campaign committee is that the latter faces strict contribution limits, which the former lacks.

Defendants James D. Kreyenbuhl, Rick Thompson, David Burge, Stan Wise, and Dana Diment are the five members of the Georgia State Ethics Commission ("SEC"). The SEC is the state agency responsible for civil enforcement of Georgia campaign finance laws, including the fundraising purpose restrictions in O.C.G.A. § 21-5-30(a) and the contribution and coordination limits in O.C.G.A. § 21-5-41. Defendant Chris Carr is the Georgia Attorney General, and is responsible for the criminal enforcement of Georgia campaign finance laws.

The 2026 Gubernatorial Primary

Plaintiff Safe Affordable Georgia was registered as an independent committee with the State Ethics Commission on November 13, 2025, by its Executive Director, Ryan Germany. *See Declaration of Ryan Germany*

(“Germany Decl.”) ¶¶ 2-3. Germany registered Safe Affordable Georgia as a PAC on November 21, 2025. *Id.* at ¶ 3; Germany Decl. at Exhibit A. Safe Affordable Georgia is chaired by Brad Raffensperger, Georgia’s Secretary of State and a candidate in the 2026 Republican primary for governor. Germany Decl. at ¶ 4.

The candidate field for the Republican gubernatorial nomination includes Burt Jones, the sitting Lieutenant Governor. Jones has designated WBJ Leadership Committee, Inc. (“WBJ”) as his leadership committee. *Id.* at ¶ 5. In its June 30, 2025, semi-annual SEC filing, WBJ disclosed having over \$14 million cash on hand, all of which is available to be spent in support of Jones’ primary campaign. *Id.* at ¶ 6; Germany Decl. at Exhibit B. Indeed, as of the June 2025 report, WBJ received contributions of \$100,000 from four sources, and approximately 60 contributions of \$10,000 or more, in the reporting period. *Id.* Each of these donations exceeds the limits for contributions to campaign committees. *Id.* No other candidate in the race would be allowed to accept contributions in that amount that could then be spent in coordination with their campaign committee.

Even if a competing candidate chairs a hybrid PAC, that hybrid PAC cannot solicit contributions for the candidate or coordinate expenditures with the campaign or candidate. Germany Decl. at ¶ 7.

Safe Affordable Georgia intends, once the challenged restrictions are enjoined, to coordinate with Raffensperger, his campaign, and other candidates and campaign committees to the same extent WBJ can coordinate with Jones and other committees. *Id.* at ¶ 8. Safe Affordable Georgia intends, once the challenged restrictions are enjoined, to accept above-limit contributions and coordinate the expenditure of those funds with campaign committees to advance the election prospects of the supported candidates. *Id.* at ¶ 9. However, Safe Affordable Georgia refrains from soliciting contributions for coordination purposes, and from coordinating with candidates and campaign committees, including Raffensperger and his campaign committee, Brad for Governor, Inc, on account of the coordinated spending limits Georgia places on hybrid PACs through O.C.G.A. § 21-5-30(a)'s bar on a hybrid PAC accepting contributions made to bring about the nomination or election of a candidate for any office; and O.C.G.A. § 21-5-41's bar on a hybrid PAC coordinating its expenditures with campaign committees. *Id.* at ¶ 10.

ARGUMENT

A preliminary injunction should issue when a party establishes: “(1) it has a substantial likelihood of success on the merits; (2) irreparable injury will be suffered unless the injunction issues; (3) the threatened injury to the movant outweighs whatever damage the proposed injunction may cause the opposing party; and (4) if issued, the injunction would not be adverse to the

public interest.” *Jones v. Gov. of Fla.*, 950 F.3d 795, 806 (11th Cir. 2020) (quotation omitted); see *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). The last two “factors merge when the Government is the opposing party.” *Nken v. Holder*, 556 U.S. 418, 435 (2009). Because all four factors favor Safe Affordable Georgia, it is entitled to a preliminary injunction.

I. Safe Affordable Georgia has a substantial likelihood of success on the merits

“The First Amendment has its fullest and most urgent application precisely to the conduct of campaigns for political office.” *FEC v. Ted Cruz for Senate*, 596 U.S. 289, 302 (2022). “This broad protection . . . reflects our profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open.” *Id.*

Campaign-finance laws restrict core political speech and cannot be upheld unless they satisfy at least “closely-drawn” scrutiny.¹ *Id.* at 305. The only permissible justification for regulating campaign speech “is the prevention of ‘quid pro quo’ corruption or its appearance.” *Id.* And “the Government bears the burden of proving the constitutionality of its actions.” *Id.*

¹ Plaintiff contends that strict scrutiny applies, but that the law fails under either standard.

Plaintiff has standing to challenge the disparate treatment afforded by the unequal campaign finance system. Standing exists where: (1) a plaintiff suffers an injury in fact that (2) is fairly traceable to the challenged action and (3) is likely to be redressed by a favorable decision. *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560–61 (1992). “[T]he unequal treatment afforded by the statute [inflicts] an injury sufficient to confer standing . . . to file a First Amendment challenge.” *One Georgia, Inc. v. Carr*, 601 F. Supp. 3d 1291, 1302 (N.D. Ga. 2022). An injury caused by a statute is obviously traceable to the officials who enforce it. And enjoining enforcement of the offending law would redress the injury because it would “place both [Safe Affordable Georgia] and [WBJ] under the same contribution limitation for the primary election.” *Perdue v. Kemp*, 584 F. Supp. 3d 1310, 1320 (N.D. Ga. 2022). Safe Affordable Georgia has standing.

In a previous challenge to Georgia’s disparate treatment of leadership committees, a court in this District held that “[s]pending for political ends and contributing to political candidates both fall within the First Amendment’s protection of speech and political association.” *Perdue*, 584 F. Supp. 3d at 1322 (quoting *Fed. Election Comm’n v. Colo. Republican Fed. Campaign Comm.*, 533 U.S. 431, 440 (2001)). While campaign speech may be regulated “to protect against corruption or the appearance of corruption,” regulations cannot be used “to restrict the political participation of some in order to enhance the relative

influence of others.” *Id.* (quoting *McCutcheon v. Fed. Election Comm’n*, 572 U.S. 185, 191 (2014)).

“[T]he Supreme Court has ‘never upheld the constitutionality of a law that imposes different contribution limits for candidates who are competing against each other,’ and has opined that ‘the unprecedented step of imposing different contribution and coordinated party expenditure limits on candidates vying for the same seat is antithetical to the First Amendment.’” *Id.* at 1323 (quoting *Davis*, 554 U.S. at 738, 743-44). But that’s precisely what the statute here does. Under Georgia law, a leadership committee can raise unlimited funds and use those funds in coordination with a candidate. WBJ, Jones’s leadership committee, with over \$14 million on hand as of its the last filing, can coordinate with Jones and his campaign committee. The similarly situated Safe Affordable Georgia cannot coordinate with Raffensperger or his campaign.

Sections 21-5-30(a) and 21-5-41 “restrict the political participation” of Safe Affordable Georgia, while Section 21-5-34.2 enhances the “relative influence of” WBJ by “imposing different contribution and coordinated [] expenditure limits on candidates vying for the same seat.” *Perdue*, 584 F. Supp. 3d at 1322-23 (citations omitted). This scheme is “antithetical to the First Amendment.” *Id.* at 1323. The existence of this uneven playing field is not in serious dispute, and maybe is not disputed at all, based on the holdings of prior

cases. *Id.* (explaining this structure “effectively negates the contribution limit upon which all candidates for Governor in the primary election are bound for just one person”). Defendants have not suggested any compelling government interest is served by having different campaign finance rules for only one candidate for governor. The only unresolved question is how to resolve this flaw.

The Supreme Court answered this question in *Davis*. “If the normally applicable limits on individual contributions and coordinated party contributions are seriously distorting the electoral process, . . . and if those limits are not needed in order to combat corruption, then the obvious remedy is to raise or eliminate those limits.” *Davis*, 554 U.S. at 743.

Here, imposing fundraising, contribution and coordination limits on Safe Affordable Georgia, while not imposing them on WBJ, seriously distorts Georgia’s gubernatorial election process. Georgia has determined the limits are not needed to combat corruption when it created leadership committees. Thus, the obvious remedy is to allow Safe Affordable Georgia to participate in the political process in the same manner that WBJ can.

The possible alternative remedy of restricting the ability of leadership committees to function as statutorily designed is unsatisfying. “There is . . . no constitutional basis for attacking contribution limits on the ground that they are too high.” *Id.* at 737. The Supreme Court disfavors remedies that level

down, instead of leveling up, campaign restrictions. Liberty is the default. “[Georgia] has no constitutional obligation to limit contributions at all; and if [Georgia] concludes that allowing contributions of a certain amount does not create an undue risk of corruption or the appearance of corruption, a candidate who wishes to restrict an opponent's fundraising cannot argue that the Constitution demands that contributions be regulated more strictly.” *Id.*

Safe Affordable Georgia seeks parity with WBJ by requesting the same liberty to fundraise, contribute, and coordinate with candidates enjoyed by WBJ. Rather than restricting WBJ, Safe Affordable Georgia asks this Court to merely put it on a level playing field and allow it the same rules regarding its political speech as WBJ enjoys. The fundraising-purpose restrictions contained in Section 21-5-30(a) and contribution limits contained in Section 21-5-41 as applied to Safe Affordable Georgia cannot withstand review when WBJ faces no such restrictions.

II. Plaintiff has Suffered and Will Suffer Irreparable Harm if the Contribution and Coordination Limits Remain in Force

In a First Amendment case, a plaintiff's injury is irreparable per se. “The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.” *Elrod v. Burns*, 427 U.S. 347, 373 (1976). The primary election is in May 2026. Each day that Safe Affordable Georgia is handcuffed while WBJ is permitted to provide unlimited support to

Jones presents an irreparable injury. The longer the injury remains, the more it snowballs. The primary election ends on May 19, 2026, ballots can first be mailed on April 20, and in-person advanced voting begins on April 27. See Georgia Secretary of State Election Calendar, <https://sos.ga.gov/sites/default/files/forms/2026%20Calendar.pdf>. Only a few short months remain to raise funds and influence primary voters. Only immediate relief affords an adequate remedy. See Germany Decl. ¶ 12.

III. The Public Interest and Balance of Equities Favor Plaintiff

The balance of harms favors Plaintiff. An injunction serves the public interest. On the one hand, Safe Affordable Georgia faces the prospect of continued unconstitutional limitations on its speech in violation of the First Amendment. On the other hand, allowing Safe Affordable Georgia to coordinate with Raffensperger, his campaign, and other candidates and campaign committees merely provides parity with WBJ, and does not harm the State or anyone else. “[N]either the government nor the public has any legitimate interest in enforcing an unconstitutional [law].” *LaCroix v. Town of Fort Myers Beach*, 38 F.4th 941, 955 (11th Cir. 2022).

IV. No Bond is Warranted

Under Fed. R. Civ. P. 65(c), the trial judge has wide discretion in the matter of requiring security. In the absence of proof showing a likelihood of harm, no bond is necessary. *BellSouth Telecomms., Inc. v. MCI Metro Access*

Trans. Servs., LLC, 425 F.3d 964, 971 (11th Cir. 2005). An injunction would not harm the state, let alone cause it compensable harm. Therefore, the bond should be waived.

CONCLUSION

This Court should grant Plaintiff's motion for a preliminary injunction and issue an order preliminarily enjoining Defendants, their officers, agents, servants, employees, and all persons in active concert or participation with them who receive actual notice of the injunction, from enforcing:

- a. O.C.G.A. § 21-5-30(a) to bar Safe Affordable Georgia, Inc. from accepting contributions made to bring about the nomination or election of a candidate for any office;
- b. O.C.G.A. § 21-5-41 to bar Safe Affordable Georgia, Inc., from coordinating its expenditures with candidate committees; and,
- c. Ga. Comp. R. & Regs, R. 189-6-04, implementing O.C.G.A. § 21-5-41's contribution and coordination limits.

Dated: December 8, 2025

Respectfully submitted,

/s/ Christopher S. Anulewicz

Christopher S. Anulewicz

Georgia Bar No. 020914

BRADLEY ARANT BOULT

CUMMINGS LLP

1230 Peachtree Street NE

21st Floor

Atlanta, GA 30309

Tel: (404) 868-2030

canulewicz@bradley.com

/s/ Charles Miller

Charles Miller*

INSTITUTE FOR FREE SPEECH

1150 Connecticut Ave., NW,

Suite 801

Washington, D.C. 20036

Tel: (202) 301-9800

Fax: (202) 301-3399

cmiller@ifs.org

**pro hac vice admission forthcoming*

CERTIFICATE OF COMPLIANCE

Pursuant to L.R. 7.1(D), the undersigned certifies that the foregoing Brief has been prepared in Century Schoolbook 13, a font and type selection approved by the Court in L.R. 5.1(B).

Dated: December 8, 2025

Respectfully submitted,

/s/ Charles Miller

Charles Miller

CERTIFICATE OF SERVICE

I certify that on December 8, 2025, a true and correct copy of the foregoing was electronically filed with the Clerk of Court through the CM/ECF system, which will send notice of electronic filing to all counsel of record.

Dated: December 8, 2025

Respectfully submitted,

/s/ Christopher S. Anulewicz

Christopher S. Anulewicz