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. 1:25-cv-06985-ELR

Judge Elenor L. Ross

***EMERGENCY* MOTION FOR INJUNCTION PENDING APPEAL**

Plaintiff Safe Affordable Georgia, Inc., hereby moves this Court for an injunction pending appeal enjoining the enforcement of the Georgia campaign finance laws and regulations that restrict its ability to raise and spend funds as compared to a leadership committee.

Plaintiff requests emergency treatment of this motion because the Georgia legislature went into session in early January, meaning the candidate

chairing Plaintiff and whom Plaintiff intends to coordinate, Brad Raffenspurger, is unable to raise funds for the primary election until session ends in April. Meantime, Raffensperger's opponent, Burt Jones, is free to raise and spend in the election through WBJ Leadership Committee, Inc.

Additionally, disposition on this motion in necessary before Plaintiff can seek an injunction pending appeal from the Court of Apeals. F.R.App.Pro. 8.

As such, Plaintiff requests the Court order a response from Defendant by Monday February 2, 2026. Plaintiff further respectfully requests the Court rule upon this motion at its earliest opportunity, including before completion of briefing.

Plaintiff informed Defendants that this motion would be filed immediately after filing the notice of appeal. They will receive a copy of this motion to via ECF/Pacer upon filing.

For the reasons stated in the memorandum supporting this motion, Plaintiff requests the court issue an order enjoining defendants, their officers, agents, servants, employees, and all persons in active concert or participation with them who receive actual notice of the injunction, during the pendency of Plaintiff's appeal, 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.

If the Court determines providing this relief to those committees similarly situated to Plaintiff, e.g., hybrid PACs chaired by candidates in the Republican gubernatorial primary, is equitably necessary to enter the requested order, see ECF 20 at 15, Plaintiff requests the Court do so.

Dated: January 29, 2026

Respectfully submitted,

/s/ Charles Miller

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CERTIFICATE OF COMPLIANCE

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

/s/ Charles Miller

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
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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. 1:25-cv-06985-ELR

Judge Elenor L. Ross

MEMORANDUM IN SUPPORT OF *EMERGENCY* MOTION FOR INJUNCTION PENDING APPEAL

INTRODUCTION

Plaintiff respectfully requests an injunction pending appeal under Federal Rule of Appellate Procedure 8(a)(1)(C).[1] Specifically, Plaintiff requests an order enjoining defendants, their officers, agents, servants, employees, and

[1] Plaintiff requests the Court order Defendants to respond to the emergency motion by February 3, 2026.

all persons in active concert or participation with them who receive actual notice of the injunction, during the pendency of the current appeal, 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.

If the Court determines providing this relief to those committees similarly situated to Plaintiff, e.g., hybrid PACs chaired by candidates in the Republican gubernatorial primary, is equitably necessary to enter the requested order, see ECF 20 at 15, Plaintiff requests the Court do so.

Plaintiff appreciates that this Court did not accept its argument on the original motion. However, apart from Rule 8's expectation that Plaintiff nonetheless first seek relief from this Court, Plaintiff submits that this motion has merit beyond seeking reconsideration. [2]

[2] If Plaintiff errs in this assessment, Plaintiff respectfully requests that the Court not await complete briefing before denying the motion so that it may expeditiously pursue its remedy on appeal.

STANDARD OF REVIEW

For a court to grant "an injunction pending appeal, the petitioners must show: (1) a substantial likelihood that they will prevail on the merits of the appeal; (2) a substantial risk of irreparable injury to the intervenors unless the injunction is granted; (3) no substantial harm to other interested persons; and (4) no harm to the public interest." *Touchston v. McDermott*, 234 F.3d 1130, 1132 (11th Cir. 2000).

ARGUMENT

This Court held that the challenged regulatory regime "is likely unconstitutional." Order at 13. The Court, however, found the requested remedy to be unsatisfactory. *Id*. ("the relief SAG seeks is incongruous with the injury"). The Court opined that Plaintiff should have sought to enjoin the Leadership Committee ("LC") statute as the true source of the injury. *Id*. at 14.

However, there is nothing inherently unconstitutional about leadership committees standing alone. As the Court noted, it is only the fact that similarly situated groups seeking to support different candidates in the same race have different rules (i.e., one group has no contribution or coordination limits while other groups, including plaintiff, face both of those restrictions on their speech) that render the campaign finance regime, as-applied in this

instance, unconstitutional. *Id*. The correct remedy is to remove the speech restrictions that create the inequality.

Granting the injunction Plaintiff seeks is the only remedy that allows truly equal competition.[3] WBJ Leadership Committee, Inc., ("WBJ") has already had significant opportunity to spend funds. This bell cannot be unrung. But this Court can, as a remedy, afford Plaintiff, and by extension others similarly situated, the opportunity to engage in the same level of speech as is afforded WBJ.

Even if an order enjoining the LC statute could unring WBJ's bell, it is difficult to see how a remedy could be legally ordered. A judge in this District recently ruled that a remedy could not be had against WBJ. In finding that the harm was not traceable to WBJ, the court reasoned that " Plaintiffs ask the Court to twist itself into a logical pretzel to find that by benefiting from a law enacted to confer such a benefit, Defendants caused Plaintiffs' injury." *Carr v. WBJ Leadership, Inc*., No. 1:25-cv-04426-VMC, Order at 15 (N.D. Ga. Aug. 28, 2025). The court noted that without eliminating every leadership committee, enjoining only WBJ "would not unburden their hindered First Amendment rights, nor would it level the unequal playing field complained of." *Id*. at 18.

[3] Plaintiff shares the Court's concern for other primary candidates. Plaintiff addresses its desires for a level playing field for all below.

Conceptually, it is difficult to comprehend how the Defendants could "stop enforcing" a statute that provides greater liberties as opposed to one that restricts them. Such an injunction would have to rewrite the leadership committee statute or reclassify leadership committees as hybrid PACs or do something else to state what leadership committees could do and not do.

Finally, it is remarkable that the state-actor Defendants in this case argue that the LC statute is the source of the problem, when the state-actor defendant[4] in *Carr* argued that the statutes Plaintiff challenge here were what should be challenged. As that court noted, "Defendants contend that Plaintiffs' true injuries are caused by the contribution limits imposed by O.C.G.A. § 21-5-41 and the Commission and Attorney General's enforcement of the same." *Id*. at 22. Specifically, the brief filed on behalf of the Lieutenant Governor in his official capacity argued that "the only real difference between a leadership committee and an independent committee is that a leadership committee can coordinate with any campaign and not have that coordination deemed an in-kind contribution to the candidate's campaign subject to contribution limits under O.C.G.A. § 21-5-41." Jones Memorandum, *Carr v. WBJ Leadership, Inc*., No. 1:25-cv-04426-VMC, ECF 14 at 7 (N.D. Ga Aug.

[4] Carr sued Jones in his official capacity.

18, 2025). The state Defendant was correct there—and prevailed. Enjoining the application of O.C.G.A. § 21-5-41 is the correct remedy.

Plaintiff does not seek "to rewrite the LC Statute." Order at 14. The LC statute would remain unaltered by the requested injunction, which would operate only against the enforcement of other statutes. Plaintiff squarely challenge the statutes causing its harm, the contribution and coordination limits in O.C.G.A. § 21-5-41 and the O.C.G.A. § 21-5-30(a) fundraising restrictions, just as the Lieutenant Governor suggested was the proper remedy in *Carr*.

While an injunction would make Plaintiff more like a leadership committee, Plaintiff would not become one or have all the benefits of one (such as being able to defray job related expenses). Rather, Plaintiff would simply be temporarily relieved of burdens placed on hybrid PACs. The Court could also frame the injunction to protect similarly situated non-parties.

Finally, the Court took issue with the requested remedy being too narrow because the requested injunction would only *directly* benefit Safe Affordable Georgia, leaving committees seeking to support other primary candidates in the lurch. Order at 15. But Plaintiff supports relief that would put all similarly situated non-parties on the same footing.

Practically speaking, once the coordination rules are enjoined for Safe Affordable Georgia, Defendants are unlikely to attempt to enforce the

enjoined laws against similarly situated committees. Regardless, Defendants carry the burden of fully untangling the impact of their constitutional violation. *Riddle v. Hickenlooper*, 742 F.3d 922, 932 (10th Cir. 2014) (Gorsuch, J., concurring) ("can a state really justify unequal treatment because of a 'problem' of its own creation?"). This fact was not lost on the Tenth Circuit when it applied *Davis v. Fed. Election Comm'n*, 554 U.S. 724 (2008), in *Riddle*.

Riddle held that contribution limits placed on independent and minor party candidates were unconstitutional because major party candidates effectively had limits twice as high, given their ability to raise and spend money for both a primary and general election after the primary had ended, effectively doubling the major party candidates' fundraising limits during the general election. *Id.* at 930. As in Georgia, "the State of Colorado has created different contribution limits for candidates running against each other, and these differences have little to do with fighting corruption." *Id*. As a result, *Riddle* ruled the contribution limits applied to independent candidates were unconstitutional.

This is notable in two ways. First, *Riddle* applied *Davis* to contribution limits, which the Order noted Defendants claim has not happened. Second, *Riddle* struck the limits applicable to independent candidates. It didn't strike

the higher limits applicable to party candidates. *Riddle* leveled up, not down. *Riddle* shows the way here.

If the Court believes a broader remedy than what Plaintiff requested is warranted, it could, with respect to the injunction pending appeal, and on remand in a final order, enter both as-applied and quasi-as-applied relief to afford relief to all similarly situated committees seeking to support candidates in the gubernatorial primary. *Citizens United v. FEC*, 558 U.S. 310, 375-76 (2010).

The Court has already acknowledged that Plaintiff suffers irreparable harm. The public good and governmental interests obviously weigh in favor of remedying this unconstitutional scheme. Based on the above, Plaintiff respectfully requests that the Court determine that Plaintiff is likely to succeed on appeal and enter an injunction pending appeal.

Dated: January 29, 2026

Respectfully submitted,

/s/ Charles Miller

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Counsel for Plaintiff

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).

/s/ Charles Miller
Counsel for Plaintiff