No. 26- 10312

United States Court of Appeals for the Eleventh Circuit

SAFE AFFORDABLE GEORGIA, INC,

Plaintiff-Appellant,

v.

JAMES KREYENBUHL, et al.,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Georgia,

Hon. Elenor L. Ross

(Dist. Ct. No. 1:25-cv-06985)

MOTION FOR INJUNCTION PENDING APPEAL

Time Sensitive
Ruling Requested by February 18, 2026

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INTRODUCTION

Georgia candidates are in the midst of a competitive primary election for governor. Speech relating to this election—campaign speech—falls squarely within the First Amendment's core free speech guaranty. Plaintiff Safe Affordable Georgia, Inc., ("SAGA"), a political committee, requires urgent injunctive relief to secure its fundamental right to speak about this election.

The district court found that SAGA is suffering an ongoing urgent constitutional injury, and that issuing the requested preliminary injunction would remedy that harm. Yet, the district court refused to enjoin the constitutional violation, because the narrowly tailored injunction Plaintiff requested would remedy only *its* harm, and not the harm suffered by other non-party speakers.

This court should adopt the district court's finding that Georgia's campaign finance regime is likely unconstitutional as applied to Plaintiff, and focus on the relatively simple task of affording an appropriate remedy.

In the race at issue, the incumbent is not running for reelection. And Georgia campaign finance law affords a significant advantages to one

candidate, Burt Jones, the lieutenant governor. He alone can fundraise without limits into a committee that he chairs and can coordinate with his campaign. He alone can fundraise and accept unlimited donations into that same committee for the election while the legislature is in session between now and early April.

The district court correctly and unsurprisingly found this advantage is likely unconstitutional. This was the fourth district court case to do so. Yet, the district court refused to enter a preliminary injunction to level the playing field because the remedy would not expressly benefit non-parties. "[E]njoining enforcement of the contribution limits against Plaintiff would not prevent the unconstitutionality caused by the [statutory scheme] because contributors to [other] candidates . . . would still be subject to those limits." Order at 15.

This was error on multiple levels. First, we would have a very cruel and ineffectual court system if courts do not remedy constitutional violations against parties because other non-parties' rights are being equally violated. Second, the Supreme Court has made clear that "universal injunctions" are disfavored and injunctive relief, particularly preliminary injunctive relief, should be limited to that necessary to

afford relief to the plaintiff. Third, if plaintiff is wrong on this point, the district court should have fashioned a broader preliminary injunction than requested in order to remedy the First Amendment violation for all those impacted instead of refusing to enter any relief. Plaintiff made clear that it wanted a level playing field and would not object to such relief but believed it could not request such relief at the preliminary injunction phase.

An injunction pending appeal is necessary to afford Plaintiff any factual relief in this appeal. The Georgia campaign finance regime restrains SAGA from raising funds expressly to support the campaign of its chairman, Brad Raffensperger, and from coordinating with him, while affording WBJ Leadership Committee, Inc., ("WBJ") unlimited ability to do so for Raffensperger's primary opponent, Burt Jones. Georgia law also prohibits Raffensperger and Jones from raising funds for their campaign committees while the Georgia legislature is in session from early January through early April. Raffensperger and SAGA are locked out of fundraising for the gubernatorial primary, while WBJ can power ahead. With primary in-person voting commencing on

April 27 and finishing on May 19, SAGA will be irreparably harmed should an injunction pending appeal not issue.

MOTION

Plaintiff respectfully requests this Court enter an injunction pending appeal under Federal Rule of Appellate Procedure 8(a)(2).[1] Specifically, Plaintiff requests 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 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.

[1] Plaintiff's request for an injunction pending appeal from the district court under FRAP 8(a)(1) was denied on February 2, 2026.

Plaintiff further requests the Court find a bond is not necessary for the order to take effect.

This motion is time sensitive under 11th Cir. R. 27-1(b)(1). Each day that passes with Plaintiff unable to fundraise for the gubernatorial primary or coordinate with Brad Raffensperger's campaign for governor constitutes irreputable harm. With the looming primary election ending on May 19, immediate relief is necessary to afford meaningful relief. Accordingly, Plaintiff requests a briefing schedule that would allow the Court to decide this motion no later than February 17, 2026.[2]

JURISDICTIONAL STATEMENT

(a) The district court had jurisdiction over this matter under 28 U.S.C § 1331, as the Plaintiff-Appellant brought a constitutional challenge to Defendants-Appellees' enforcement of state campaign finance laws against Plaintiff.

(b) This Court has jurisdiction over the appeal of the denial of the request for a preliminary injunction pursuant to 28 U.S.C. § 1292(a)(1).

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[2] Plaintiff does not label this motion as an "emergency" because the issue will not be legally mooted if not decided within 7 days. 11th Cir. R. 27-1(b)(1)(A). However, the practical and equitable impact of an injunction pending appeal is lessened with each passing day an order is not issued, thus Plaintiff requests accelerated briefing and decision.

(c) The order denying the preliminary injunction was entered on January 27, 2026 and docketed on January 28, 2026. Plaintiff-Appellant filed its notice of appeal the same day. The appeal is timely pursuant to Fed. R. App. P. 4(a)(1)(A).

PROCEDURAL HISTORY

Plaintiff filed the underlying case on December 8, 2025 and filed an emergency motion for preliminary injunction the same day. The court heard arguments on January 14, 2026, and denied the motion via written order dated January 27, but entered on January 28.

The order found the challenged laws are likely unconstitutional:

> Georgia's election finance scheme functionally imposes no contribution limits for Jones but limits contributions for all other candidates in the primary. Because the scheme allows WBJ to accept unlimited contributions and to coordinate expenditures with the Jones campaign, the campaign may accept unlimited contributions to its campaign through WBJ. Meanwhile, although the scheme does not prevent SAG from accepting unlimited contributions, it caps SAG's coordinated expenditures with the Raffensperger campaign because the campaign may only accept contributions from SAG subject to the limits of § 21-5-41. This structure results in the "imposi[tion of] different contribution and coordinated . . . expenditure limits on candidates vying for the same seat"—a result "antithetical to the First Amendment."

Order at 13-14 (quoting *Perdue v. Kemp,* 584 F. Supp. 3d 1310, 1323 (N.D. Ga. 2022)); *Davis v. Fed. Election Comm'n*, 554 U.S. 724, 743-744 (2008).

The district court, however, refused to provide a remedy "because the relief SAG seeks is incongruous with the injury." *Id*. at 13. It found the requested relief to be *too narrow*. "[I]f this Court were to grant the requested injunction and prevent Defendants from enforcing the contribution limits against SAG, the unconstitutional structure created by the LC Statute would remain and privilege Raffensperger over the remaining primary candidates still subject to those limits." *Id*. at 15. Rather than fashion relief the district court found appropriately broad, affording the requested relief to all similarly situated committees, the district court instead denied any relief to Plaintiff and left the unconstitutional regime undisturbed. *Id*. at 16.

Plaintiff appealed the same day the order was entered and filed a motion for injunction pending appeal with the district court the next day. The district court denied that motion on February 2, 2026. Plaintiff informed opposing counsel and the Court of its intention to file this motion that same day.

FACTUAL BACKGROUND

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 ("an 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. Contributions to a PAC cannot be made or accepted "to bring about the nomination or election of a candidate for any office." O.C.G.A. § 21-5-30(a). SAGA is dually registered as both an independent committee and PAC, known as a hybrid PAC in Georgia campaign finance law.

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).

Neither entitles like Plaintiff nor leadership committees face contribution limits. 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 candidate campaign committees in unlimited amounts. The primary distinction between a leadership committee and a campaign committee is that the latter faces strict fundraising and coordination 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 Georgia Attorney General Chris Carr 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* Germany Decl. ¶ 2-3 and Exh. A. Germany registered Safe Affordable Georgia as a PAC on November 20, 2025. *Id*. at ¶ 3. Safe Affordable Georgia is chaired by Brad Raffensperger, Georgia's Secretary of State and a candidate in the 2026 Republican primary for governor. *Id*. 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. WBJ functions as a parallel campaign committee with unlimited fundraising abilities, alongside Jones's traditional campaign committee, Burt Jones for Georgia, Inc. *Id*. at ¶ 6. 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 as directed by Jones in support of his primary campaign. *Id*. at ¶ 7 and Exh. 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*.

A candidate with a leadership committee is statutorily bestowed a significant fundraising and expenditure advantage over a candidate who isn't allowed to set up a leadership committee. *Id*. at ¶ 8. A competing campaign committee cannot raise the funds that a leadership committee can raise. *Id*. at ¶ 9. And even if a competing candidate controls a hybrid PAC, that hybrid PAC cannot solicit contributions for the candidate or coordinate expenditures with the campaign or candidate. *Id*.

The 2026 legislative session began January 9, and is slated to run through April 6. During this time, Raffensperger and Jones cannot raise funds through their campaign committees during session under O.C.G.A. § 21-5-35. However, Jones may raise funds for use in the primary election through WBJ Leadership Committee.

Voters can request absentee ballots for the primary as soon as March 3. https://bit.ly/45GdGrQ. Absentee ballots will be mailed beginning April 20. *Id*. Early in-person voting will begin on April 27. *Id*. Primary election day is May 19. *Id*. Prompt intervention from this Court is needed so Plaintiff can fully participate, and so that the election campaign may be fair.

Safe Affordable Georgia intends, when allowed by law, to coordinate with Raffensperger, his campaign, and other candidates and campaign committees to the same extent WBJ can coordinate with Jones and other committees. Germany Decl. at ¶ 10. Safe Affordable Georgia intends, when allowed by law, 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 ¶ 11.

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*.

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 [movant] 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); 11th Cir. R. 27-1(b)(2).

ARGUMENT

I. SAGA is Substantially Likely to Prevail in This Appeal

The district court held that the challenged regulatory regime "is likely unconstitutional." Order at 13. In fact, the district court noted that Defendants did not even defend the disparity in the regulatory regime on the merits. *Id*. at n.7. This isn't a hard call. "[I]mposing

different contribution and coordinated party expenditure limits on candidates vying for the same seat is antithetical to the First Amendment." *Davis v. Fed. Election Comm'n*, 554 U.S. at 744. The opinion below followed three earlier district court decisions to find Georgia's incongruous fundraising regime to be unconstitutional. *See Perdue v. Kemp*, *supra*; *One Georgia, Inc. v. Carr*, 601 F. Supp. 3d 1291 (N.D. Ga. 2022); *Carr v. WBJ Leadership, Inc.*, No. 1:25-cv-04426-VMC, Order (N.D. Ga. Aug. 28, 2025).

This appeal is about the availability of a remedy. And the remedy is also rather obvious. "If the normally applicable limits on individual contributions and coordinated [ ] 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.

The district court, however, refused to afford this remedy because Plaintiff did not request this remedy be extended to similarly situated non-parties. *Order* at 13. ("the relief SAG[A] seeks is incongruous with the injury"); *Id.* at 15 ("[E]njoining enforcement of the contribution limits against Plaintiff would not prevent the unconstitutionality

caused by the LC Statute because contributors to candidates other than Jones and Raffensperger would still be subject to those limits").

It is at least rare for a preliminary injunction motion to be denied because the request was limited to remedying the harm to the plaintiff instead of also seeking universal preliminary relief on behalf of non-parties. In fact, the Supreme Court recently made clear that federal courts must narrowly tailor injunctive relief to address the harm suffered *only* by the plaintiff, and that broader "universal" relief cannot be granted. *Trump v. CASA, Inc.*, 606 U.S. 831 (2025). Granting relief to a non-party "would confound the established order of judicial proceedings." *Id.* at 844 (citation omitted). "Neither declaratory nor injunctive relief . . . can directly interfere with enforcement of contested statutes or ordinances except with respect to the particular federal plaintiffs" before the court. *Id.* (quotation and citation omitted).

The district court implicitly found the requested injunction would afford complete relief to Plaintiff when it stated, "if this Court were to grant the requested injunction and prevent Defendants from enforcing the contribution limits against SAG, the unconstitutional structure created by the LC Statute would remain and privilege Raffensperger

over the remaining primary candidates still subject to those limits." Order at 15.

However, the district court wrongly found the request to remedy the harm to the Plaintiff *alone* constituted an equitable infirmity warranting the denial of relief. "[T]he question is not whether an injunction offers complete relief to *everyone* potentially affected by an allegedly unlawful act; it is whether an injunction will offer complete *relief to the plaintiffs before the court*." *CASA,* at 852. "Extending the injunction to cover all other similarly situated individuals would not render [Plaintiff's] relief any more complete." *Id*. at 853. Granting injunctive relief *directly* to a nonparty "likely exceed[s] the authority conferred by the Judiciary Act." *Id.* at 860.

Plaintiff wants a level playing field for all committees. If it thought it could have sought an injunction on behalf of all similarly situated parties, it would have done so. However, recognizing that *CASA* prevented this, Plaintiff sought the appropriate narrower remedy. Plaintiff welcomes broader relief from any court that reads the Judiciary Act or another source of jurisdiction to afford it the power to do so.

That said, an injunction in favor of Plaintiff will benefit others. The practical effect of an injunction benefiting Plaintiff is that Defendants likely will not attempt to enforce the enjoined statutes against similar committees formed by other gubernatorial candidates in this primary election. However, if Defendants try, those committees can point to the injunction issued herein in their defense. Thus, an injunction here would indirectly benefit all potentially affected parties.

Granting the injunction Plaintiff seeks is the only remedy that would allow truly equal competition. WBJ has already had significant opportunity to raise and spend funds. This bell cannot be unrung. But this Court can afford Plaintiff, and by extension others similarly situated, the same opportunity as is afforded to WBJ.

As noted by the Northern District of Georgia in another case challenging this regime, a remedy could not be had to undo WBJ's prior spending or to order it not to take advantage of the law that allows it to freely raise and spend funds in support of Jones. That court reasoned that "[the Carr 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). That 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.

What's more, the state-actor defendant[3] in *Carr* argued that the statutes Plaintiff challenges 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. 18, 2025). The state Defendant was

[3] Carr sued Jones in his official capacity.

correct there—and prevailed. Plaintiff here merely seeks what the state Defendant in *Carr* (and also the primary opponent here) claimed was the proper relief.

Because the Constitutional violation here is caused by the operation of multiple statutes in collaboration, some have suggested in earlier cases, and the Defendants argued below, that the correct remedy is to strike the statute that more lightly regulates leadership committees. This isn't right. There are three statutes at play here. Two restrict Plaintiff's ability to fundraise and spend in the primary. The third states leadership committees are not restricted. The three statutes when read together create the problem. The leadership committee statute permits unlimited fundraising and coordination. A leadership committee is not available to all candidates for governor. The two statutes we challenge put caps on fundraising and coordination. These statutes cannot constitutionally co-exist with the leadership committee statute and still be constitutional.

The as-applied remedy has to be either: (i) ruling the leadership statute as applied here to be unconstitutional; or (ii) lifting, under the circumstances of this case, the contribution and coordination provisions

we attack. Based on *Davis, Riddel* and *Carr*, SAGA correctly requested the latter.

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 in *Carr*. Granting the injunction pending appeal would temporarily relieve Plaintiff of certain burdens placed on hybrid PACs that prevent Safe Affordable Georgia from fairly competing with WJB.

Once that is done, 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* 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. Second, *Riddle* struck the lower 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.

Plaintiff is substantially likely to prevail in this appeal. The district court plainly erred when it refused to grant an injunction to Plaintiff even after noting that the state's existing regulatory structure is likely unconstitutional. And the District Court's rationale that it could not enter the requested injunction because it would only remedy the unconstitutional situation as applied to Plaintiffs does not hold water. *See CASA,* 606 U.S. at 860. The district court should have issued the

requested injunction that it found would remedy the constitutional harm it found Plaintiff to suffer.

II. There is a Substantial Risk of Irreparable Harm to SAGA unless the Injunction is Granted

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). That irreparability is especially acute here. The primary election day is May 19, 2026, mail-in 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://bit.ly/45GdGrQ. Under current Georgia law, Plaintiff is not allowed to raise or expend funds in support of Raffensperger's campaign beyond the statutory contribution limit and Raffensperger is barred from raising funds for the primary election while the legislature is in session, which is expected to run until April 6. Meanwhile, WBJ can continue to raise funds and coordinate with Jones' campaign during the legislative session and beyond. Each day that Safe Affordable Georgia is handcuffed while WBJ is permitted to provide unlimited support to Jones presents an irreparable injury.

The injury goes beyond Plaintiff's loss of First Amendment rights and also speaks to holding a fair primary election on May 19, where all candidates are subject to the same rules.

Less than 12 weeks remain to raise funds and influence primary voters before in person voting begins. Only an injunction pending appeal can afford any relief prior to the primary election. And only immediate relief will afford an adequate remedy.

If the Court believes a broader remedy than what Plaintiff requests is warranted, it could, with respect to the injunction pending appeal, treat the case as a facial or quasi-applied challenge to afford relief to all candidates in the Republican primary. *Citizens United v. FEC*, 558 U.S. 310, 375-76 (2010).

III. Issuing an Injunction will not Harm the Defendants, Third Parties or the Public Interest

Plaintiff treats the last two factors together because "[t]he last two factors merge when the Government is the opposing party." *Nken v. Holder*, 556 U.S. 418, 435 (2009). The balance of harms favors issuing an injunction. 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). As discussed above, third-parties will benefit from the injunction because similarly situated campaigns and candidates will have this injunction to rely upon if Defendants attempt to enforce the enjoined laws against them. WBJ and Jones could not be said to be harmed because they are not constitutionally or equitably entitled to an unfair competitive advantage. Moreover, as discussed above, Jones in his capacities as Lieutenant Governor and gubernatorial candidate argued in a previous case that Plaintiff's "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." *Carr* at 22.

The public interest, the governmental interest, and third-party interests are served by the issuance of an injunction pending appeal.

IV. No Bond is Warranted

In the absence of proof showing a likelihood of harm, no bond is necessary. *BellSouth Telecomms., Inc. v. MCImetro 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. Defendants did not contend otherwise below. Therefore, any bond requirement should be waived.

CONCLUSION

Plaintiff respectfully requests that the Court determine that Plaintiff is likely to succeed on appeal and enter the requested injunction pending appeal.

Dated: February 4, 2026

Respectfully submitted,

/s/ Charles Miller

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WORD COUNT AND TYPEFACE CERTIFICATE

I hereby certify this document complies with F.R.A.P. 27(d) because it contains 4,692 words prepared in 14 pt. Century Schoolbook font.

/s/ *Charles Miller*
Charles M. Miller