No. 26-10312

In the United States Court of Appeals for the Eleventh Circuit

SAFE AFFORDABLE GEORGIA, INC.,
Plaintiff-Appellant,
v.

JAMES KREYENBUHL, ET AL.,
Defendant-Appellees.

On Appeal from the United States District Court
for the Northern District of Georgia
No. 1:25-cv-06985 (Ross, E.)

DEFENDANT-APPELLEES' RESPONSE TO MOTION FOR INJUNCTION PENDING APPEAL

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CERTIFICATE OF INTERESTED PERSONS

No. 26-10312, *Safe Affordable Georgia, Inc. v. James Kreyenbuhl, et al.*

The undersigned counsel of record certifies that the following listed persons and entities have an interest in the outcome of this case.

1. Anulewicz, Christoper S.
2. Balser, Alexander
3. Bradley Arrant Boult Cummings LLP
4. Burge, David, in his official capacity as member of the State Ethics Commission
5. Carr, Christopher M., in his official capacity as Attorney General of Georgia
6. Diment, Dana, in her official capacity as member of the State Ethics Commission
7. Dove, David B.
8. Georgia Attorney General's Office
9. Hicks, Elizabeth
10. Institute for Free Speech
11. Kreyenbuhl, James D., in his official capacity as Chair of the State Ethics Commission
12. Miller, Charles
13. Ross, Eleanor L., Hon.
14. Safe Affordable Georgia, Inc.

15. State Ethics Commission

16. Thompson, Rick, in his official capacity as Vice Chairman of the State Ethics Commission

17. Troutman Pepper Locke, LLP

18. Wise, Stan, in his official capacity as member of the State Ethics Commission

February 17, 2026

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TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

Page(s)

Cases

Statutes

Other Authorities

INTRODUCTION

The trial court appropriately denied appellant's motion for preliminary injunction because it failed to demonstrate its likelihood of success on the merits, among other reasons. Now, through its appeal, Safe Affordable Georgia, Inc. ("SAGA") attempts to achieve what it could not at the trial court by seeking an injunction from this Court.

The Court should deny SAGA's requested relief because it is incongruous with an appellate injunction, SAGA again fails to meet the burden to support an injunction, and SAGA advances new arguments to this Court that were not considered below (that this Court strike down contribution and coordination limits for *everyone*, not just the parties to this action).

As described below, SAGA fails to meet its very heavy burden of proving the laws are unconstitutional, that it will be irreparably harmed, and that the public interest will be served through the requested injunction.

Accordingly, the Court should reject SAGA's drastic request for an injunction pending appeal.

BACKGROUND

A. Georgia's Government Transparency and Campaign Finance Act.

Georgia's Government Transparency and Campaign Finance Act, O.C.G.A. §§ 21-5-1, *et seq.*, (the "Act") imposes limits on campaign contributions to candidates for statewide office. Adjusted for inflation, a person, corporation, political party, or political committee may give no more than $8,400 for a primary election, $8,400 for a general election, and $4,800 for a runoff election. O.C.G.A. §§ 21-5-41(a), (k); *see also Contribution Limits*, Ga. Gov't Transparency & Campaign Fin. Comm'n.[1]

The Act also creates several types of committees, including campaign committees, independent committees, political action committees ("PACs"), and leadership committees. A campaign committee is "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). Campaign committees are subject to the contribution limitations of Section 21-4-41(a).

[1] Available at https://ethics.ga.gov/contribution-limits.

An independent committee is "any committee" that is not "a campaign committee, political party, or political action committee," that "receives donations during a calendar year from persons who are members or supporters of the committee" and "expends such funds 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 cannot coordinate expenditures with an individual candidate or his campaign committee, as any coordinated expenditure "is considered a contribution which is subject to limits." Ga. Comp. R. & Regs, R. 189-6-.04. However, independent committees can raise and spend unlimited funds to influence Georgia elections if they do not coordinate their expenditures with a candidate or a candidate's committee. *Cf. id.*; O.C.G.A. §§ 21-5-3(15), 21-5-34(a)(1)(B). Independent committees need not even make any disclosures if they avoid explicitly seeking to affect the outcome of an election or do not explicitly advocate for the election or defeat of particular candidates. *Id.*

A "political action committee," or "PAC," is an organization that "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," and is subject to Section 21-4-41's contribution limits. O.C.G.A. § 21-5-3(20). Notably, PACs and independent committees are forbidden from coordinating expenditures with candidates for political office and cannot accept donations made to "bring about the nomination or election of any candidate for any office." O.C.G.A. § 21-5-30(a). Contributions and expenditures meant to advance specific candidates may only be made and accepted "directly to or by a candidate or such candidate's campaign committee." *Id.*

In 2015, the State Ethics Commission ("the Commission") issued an advisory opinion that permits single entities to register as both independent committees and PACs, so long as the committee maintains separate accounting. *See* State Ethics Comm'n, Advisory Op. No. 2015-02 (June 17, 2015).[2] Entities registered as both are referred to as "hybrid PACs." *Id.* Unlike other types of committees, hybrid PACs are not required to have a chairperson, *compare* O.C.G.A. § 21-5-34.2(a) *with id.* § 21-5-3(15), there is no limit on the number of committees organized by

[2] Available at https://ethics.ga.gov/advisory-opinion-no-2015-02/.

the same group of supporters, and if they are not engaging in direct electioneering communication in an election cycle, they can avoid disclosures. *Id.* §§ 21-5-3(15); 21-5-34(a)(1)(B).

Further, in 2021, the General Assembly amended the Act to authorize the formation of leadership committees. O.C.G.A. § 21-5-34.2(a). Leadership committees are limited in number. One is chaired by the Governor, one by the Lieutenant Governor, and one by each political party nominee for Governor and Lieutenant Governor. *Id.* The majority and minority caucuses in both the Georgia House and Senate may also establish leadership committees. *Id.*

Leadership committees may accept contributions year-round and raise and spend funds to "affect[] the outcome of any election," "advocat[e] for the election or defeat of any candidate," and "defray ordinary and necessary expenses" incurred by a public officer's fulfillment or retention of office. O.C.G.A. § 21-5-34.2(d). In this way, leadership committees more closely resemble traditional party organizations than candidate-specific campaign committees. *Cf. id.* § 21-5-41(j). Notably, like party organizations, leadership committees are not subject to the same contribution limits as campaign committees, *compare* O.C.G.A. § 21-5-

3(2) *with id.* § 21-5-34.2, and leadership committees have increased transparency, reporting,[3] and disclosure requirements,[4] such as a requirement to register each transaction over $500.00 with the Commission within ten days of receipt. O.C.G.A. § 21-5-34.2(e). The statute also does not prohibit the Governor and Lieutenant Governor from maintaining leadership committees during a primary election. O.C.G.A. § 21-5-34.2.

B. The present litigation.

SAGA is a hybrid PAC. Doc. 1 at ¶ 3. Republican candidate for governor, Secretary of State Brad Raffensperger is the chair of SAGA. Doc. 2-2 at ¶ 4; Doc. 1 at ¶ 22. Sitting Lieutenant Governor Burt Jones is also a candidate for governor and chairs WBJ Leadership Committee, which is duly registered as a leadership committee with the Commission. *Id.* at ¶ 23-24.

On December 8, 2025, SAGA filed this suit against the members of the Commission and Attorney General Chris Carr, alleging that Section 21-5-30(a)'s coordination ban and Section 21-5-41's contribution limits,

[3] *Compare* O.C.G.A. § 21-5-34(f)(1) *with id.* § 21-5-34(c).

[4] *Compare* O.C.G.A. § 21-5-34(f)(2) *with id.* § 21-5-34(b) per *id.* § 21-5-34.2(e).

as applied, violate its First Amendment right to free speech because WBJ Leadership Committee is not subject to the same limits that SAGA is in support of Mr. Raffensperger's campaign. Doc. 1 at 11–13.; *id.* at ¶ 44. That same day, SAGA sought an injunction prohibiting the enforcement of contribution and coordination limits against it. Doc. 2.

The court denied this request in an order issued on January 27, 2026, on the grounds that SAGA "ha[d] not met its burden of establishing a substantial likelihood of success on the merits of its claim." On January 29, 2026, SAGA filed an emergency motion for injunction pending appeal, Doc. 24, which the court likewise denied on February 2, 2026, because SAGA "provide[d] no persuasive reason for the Court to reconsider its decision[.]" Doc. 25.

SUMMARY OF THE ARGUMENT

This Court should deny SAGA's request for an injunction pending appeal. The purpose of an injunction pending appeal is to maintain the status quo during the pendency of an appeal. *Robinson v. Att'y Gen.*, 957 F.3d 1171, 1178 (11th Cir. 2020). However, SAGA's request is more akin to a mandatory injunction since enjoining the contribution and

coordination limits would fundamentally transform the operation of Georgia's campaign finance regulations in the middle of an election cycle.

Further, SAGA has not satisfied any of the prerequisites for injunctive relief. *First*, SAGA cannot show a substantial likelihood that it will prevail on the merits of the appeal because (a) SAGA's requested relief would not address its alleged underlying harm, (b) SAGA is not entitled to facial or quasi-applied relief, and (c) the challenged statutes are closely drawn to prevent corruption. *Second*, SAGA cannot show a substantial risk of irreparable injury because it has not articulated any First Amendment violation. *Third*, granting SAGA's request would harm the State and the public by upending norms in Georgia campaign finance, far outweighing any incidental impact campaign finance regulations may have on SAGA. If the injunction is granted, the state would be forced to create and implement an entirely new campaign finance regulatory regime for hybrid PACs only weeks before a statewide general primary election.

STANDARD OF REVIEW

For this Court to grant "the extraordinary remedy of an injunction pending appeal," SAGA must show: (1) a substantial likelihood that it

will prevail on the merits of the appeal; (2) a substantial risk of irreparable injury unless the injunction is granted; (3) no substantial harm to other interested persons; and (4) no harm to the public interest. *Touchstone v. McDermott*, 234 F.3d 1130, 1132 (2000). Because SAGA is seeking an injunction against the government, the final two requirements "can be consolidated[.]" *LaCroix v. Town of Fort Myers Beach*, 38 F.4th 941, 955 (11th Cir. 2022).

Whether a plaintiff has a substantial likelihood of success on the merits is "generally the most important" factor in the analysis. *Schiavo ex rel. Schindler v. Schiavo*, 403 F.3d 1223, 1232 (11th Cir. 2005). SAGA must show that it is "likely or probable" that it will succeed on the merits. *Schiavo*, 403 F.3d at 1292. Failure to do so is fatal. *See Church v. City of Huntsville*, 30 F.3d 1332, 1342 (11th Cir. 1994).

In weighing the balance of harms, a plaintiff must establish that "the threatened injury to the movant outweighs whatever damage the proposed injunction may cause the opposing party[,]" and that "if issued, the injunction would not be adverse to the public interest." *Siegel*, 234 F.3d at 1176. In its analysis, the Court "must balance the competing claims of injury and must consider the effect on each party of granting or

withholding the requested relief," paying "particular regard for the public consequences in employing the extraordinary remedy of injunction." *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 24 (2008).

ARGUMENT

This Court should deny SAGA's request for extraordinary relief pending appeal. Injunctive relief is "an extraordinary and drastic remedy" that should be granted only when the movant "clearly establishe[s]" the burden of persuasion for each of the four prerequisites. *Four Seasons Hotel & Resorts v. Consorcio Barr*, 320 F.3d 1205, 1210 (11th Cir. 2003). SAGA fails to do so.

Moreover, granting SAGA's motion will not maintain the status quo. SAGA's request is more akin to a mandatory injunction as enjoining the contribution and coordination limits will fundamentally change the operation of campaigns and the regulations undergirding Georgia's campaign finance regime in the middle of an election cycle.

I. SAGA fails to show a substantial likelihood that it will prevail on the merits.

SAGA fails to show a substantial likelihood of success on the merits for three independent reasons. *First*, SAGA seeks relief that would not remedy the underlying harm, thereby allowing it to "operate

unencumbered by coordination and contribution limits" applicable to others. Doc. 20, 14. *Second*, SAGA is not entitled to facial or quasi-applied relief because of the widespread constitutional application of coordination and contribution limits. *Third*, the challenged statutes withstand intermediate scrutiny because they are closely drawn to prevent corruption.

A. SAGA seeks relief that would not remedy any alleged underlying harm.

SAGA asks this Court to enjoin two constitutional statutes based on the allegedly harmful effect of a third statute—the leadership committee statute. Yet SAGA only has ever challenged the two statutes that prohibit it from (1) making unlimited contributions to Raffensperger's campaign while coordinating with the campaign, and (2) accepting contributions for the purpose of electing Raffensperger. *See* Doc. 20, 14; Mot. 20. As the district court emphasized, granting such relief would "privilege Raffensperger over the remaining primary candidates still subject to those limits." Doc. 20, 15. SAGA's requested relief would not remedy the alleged constitutional violation.

Injunctive relief must be "tailored to fit the nature and extent of the established constitutional violation." *Young Israel of Tampa, Inc. v.*

Hillsborough Area Regional Transit Authority, 89 F.4th 1337, 1351 (11th Cir. 2024) (citation omitted)). As a result, "the injunction must be no broader than necessary to remedy the constitutional violation." *Id.*

SAGA wrongly asks the Court to ignore the problem its requested relief would create by speculating that an injunction "would indirectly benefit all potentially affected parties." Mot. 18. SAGA does not attempt to tailor its request and simply guesses that if the Court granted its requested injunction, *all* potentially relevant nonparties immediately would seek to circumvent the challenged statutes. *See* Mot. 18. And even if *all* such nonparties did so, such challenges likely would implicate myriad circumstances unique to those nonparties that may or may not be implicated by any injunctive relief narrowly tailored to SAGA. Any such relief issued here would, at best, result in a cascade of legal challenges and patchwork administration, rather than the uniform relief that SAGA rosily conceptualizes.

B. SAGA is not entitled to facial or quasi-applied relief.

Despite bringing only an as-applied challenge below, SAGA asks this Court to treat its challenge "as a facial or quasi-applied challenged to

afford relief to all candidates in the Republican primary." Mot. at 24. SAGA's facial and quasi-applied challenges fail for two reasons.

First, SAGA waived these arguments by not raising them in the district court. "An issue not raised in the district court is waived and therefore is not properly before the court of appeals." *Chandler v. Sec'y of Fla. Dep't of Transp.*, 695 F.3d 1194, 1198 n.1 (11th Cir. 2012). "If a party wishes to preserve an argument for appeal—whether facial or as-applied—the party must press and not merely intimate the argument during the proceedings before the district court." *United States v. Morgan*, 147 F.4th 522, 526 (5th Cir. 2025) (quotations omitted). The Court should reject these new arguments. *Chandler*, 695 F.3d at 1198.

Second, the arguments also fail on the merits. As the Supreme Court made clear in *Moody v. NetChoice, LLC*, a facial First Amendment challenge is "hard to win" and "disfavored" because it requires an "inquiry into how a law works in all of its applications." 603 U.S. 707, 723, 744 (2024); *see also In re Georgia Senate Bill 202*, 160 F.4th 1171, 1176 (11th Cir. 2025). Under this "rigorous standard," *United States v. Hansen*, 599 U.S. 762, 769 (2023), the "question is whether 'a substantial number of [the law's] applications are unconstitutional, judged in

relation to the statute's plainly legitimate sweep.'" *Moody*, 603 U.S. at 723 (quoting *Americans for Prosperity Foundation v. Bonta*, 594 U.S. 595, 615 (2021)).[5]

SAGA does not come close to showing that "a substantial number" of the applications of coordination and contribution limits are unconstitutional. *Moody*, 603 U.S. at 723. Rather, the "plainly legitimate sweep" of the contribution and coordination limits involve constitutional applications. *Id*. In fact, courts have routinely recognized the constitutionality of coordination and contribution limits to combat *quid pro quo* corruption, the appearance of such corruption, and the undue influence of large donors on elected officials. *See supra* pp. 22.

SAGA incorrectly relies on Chief Justice Roberts' concurring opinion in *Citizens United v. FEC*, 558 U.S. 310 (2010), cherry-picking a passage that equates as applied and facial challenges in the discrete situation in which a statute would be effectively invalidated after an as applied challenge. Mot. 24. This logic is inapplicable here, where a myriad of

[5] SAGA must satisfy the standard for a facial challenge to receive quasi-applied relief. *See John Doe No. 1 v. Reed*, 561 U.S. 186, 186 (2010) (finding that to the extent plaintiff seeks relief beyond the reach of its circumstances, "they must satisfy this Court's standards for a facial challenge to the extent of that reach.").

circumstances exists in which campaign coordination and contribution limits would remain valid to combat quid pro quo corruption, even if SAGA could succeed on the merits of an as applied challenged (it cannot).[6]

C. The challenged statutes withstand intermediate scrutiny because they are closely drawn to prevent corruption.

The Court also should reject SAGA's extraordinary request for the independent reason that SAGA cannot succeed on the merits of its First Amendment claim because the challenged restrictions survive intermediate scrutiny.

For challenges to contribution limits and coordination limits, the Supreme Court has adopted an intermediate scrutiny test, applying "limits on coordinated expenditures by individuals and nonparty groups to the same scrutiny it applied to limits on their cash contributions." *Colo. Republican Fed. Campaign Comm.*, 533 U.S. at 446. This standard

[6] SAGA's reliance on *Trump v. CASA, Inc.*, 606 U.S. 831 (2025), is misplaced. Mot. 16. The Court in *CASA* addressed universal injunctions. The Court said nothing about whether a court should grant relief to a plaintiff that would elevate its interests over other similarly situated entities. That is particularly true where, as here, the challenged statutes are constitutional, and the plaintiff's true frustration lies with a law not challenged in the litigation.

of scrutiny requires "the limit to be closely drawn to match a sufficiently important interest." *Nixon*, 528 U.S. at 387–88 (quoting *Buckley*, 424 U.S. at 25) (cleaned up). The Supreme Court has explicitly recognized "preventing corruption or the appearance of corruption" as "sufficient to justify campaign-finance restrictions" under the closely-drawn standard. *FEC v. Nat'l Conservative PAC*, 470 U.S. 480, 496–97 (1985) (citations omitted). "The hallmark of corruption is the financial *quid pro quo:* dollars for political favors." *Id.* at 497.

The Second and Seventh Circuits have applied such precedent to uphold comparable coordination and contribution limits.

In *Upstate Jobs Party v. Kosinski*, an independent political organization challenged New York laws that distinguished between independent bodies and political parties. 106 F.4th 232, 238 (2nd Cir. 2024). Due to this distinction, independent bodies could neither "accept individual contributions as large as those that parties [could] accept, nor transfer as much money to their candidates as parties [could] transfer." *Id.* Additionally, New York law provided a "'housekeeping account' exception[,]" which allowed parties, but not independent bodies, "to accept unlimited contributions for maintaining permanent headquarters,

employing staff, and other activities that are not for the express purpose of promoting candidates." *Id.*

The Second Circuit held that these laws were "supported by a substantial anticorruption objective and are closely drawn to serve that goal." *Id.* The court explained that "political parties can be expected to run many candidates throughout the state in any given election cycle, thereby diffusing the corruptive potential or appearance of any large contribution." *Id.* at 251. Independent bodies, however, "typically serve as the alter ego of a single candidate or small group of candidates." *Id.* Therefore, the State had a "legitimate concern about an election in which small, closely held independent bodies running as few as one candidate . . . are able to obtain six-figure individual contributions." *Id.*

In *Proft v. Raoul*, a PAC challenged provisions of Illinois law that forbade coordinated spending with candidates and campaign contributions. 944 F.3d at 688–89. The PAC alleged that such provisions violated the First Amendment as applied to it when the law lifted contribution caps for other entities and individuals. *Id.* at 690–91.

The court rejected this challenge, holding that the contribution and coordination ban on independent expenditure committees served the

sufficiently important interest of preventing actual or apparent corruption while still leaving room for independent expenditure committees to engage in political speech. *Id.* at 693. Lifting the coordination and contribution ban in certain races would allow independent expenditure committees to use "unlimited contributions from any source to contribute unlimited sums of money to candidates and to coordinate unlimited spending with candidates." *Id.* at 691 (citation omitted). The court emphasized that "[a]llowing such large contributions to candidates would create manifest opportunities for corruption." *Id.* (citing *Buckley*, 424 U.S. at 46).

Further, the court noted that the Illinois law was specifically structured to prevent the use of PACs as conduits for contributing money to candidates for corrupt dealings. *Id.* at 691–92. Granting the requested relief would also open the door for corruption by allowing donors to circumvent the Code's disclosure regime. *Id.* Given these risks of actual or apparent corruption, the court held that the ban served a sufficiently important interest and, because it regulated only "the activities most likely to give rise to the prospect of corruption"—coordinated spending and contributions—it "employ[ed] means closely drawn." *Id.* at 693.

Here, the Act's campaign contribution and coordination limits in Sections 21-5-41 and 21-5-30(a) that apply to SAGA are "closely drawn" to serve the "sufficiently important interest" of preventing corruption or the appearance of corruption. As the Supreme Court and other courts have held, regulating contributions and coordination is a minimal restraint on speech, *Buckley*, 424 U.S. at 20, and so long as regulations prevent "the most blatant and specific attempts at corruption without curtailing wide swaths of other speech, they are presumptively valid even if "unskillful[ly] tailor[ed]." *Colo. Republican Fed. Campaign Comm.*, 533 U.S. at 463 & n. 26 (citing *Buckley*, 424 U.S. at 28); *see also, e.g.*, *Proft*, 944 F.3d at 693. The coordination and contribution limits at issue here do just that. They limit the amount of direct and indirect (coordinated expenditures) contributions that hybrid PACs may make to campaign committees and to candidates. Such limits prevent the large contributions to candidates that "would create manifest opportunities for corruption." *Id.* (citing *Buckley*, 424 U.S. at 46). If lifted, hybrid PACs like SAGA could use "unlimited contributions from any source to contribute unlimited sums of money to candidates and to coordinate unlimited spending with candidates." *Id.* at 691 (citation omitted).

Further, as applied to SAGA, there is an additional, even greater risk of corruption or the appearance of corruption if the Court enjoins Sections 21-5-41 and 21-5-30(a). SAGA would like to contribute unlimited amounts of money and coordinate unlimited expenditures with current Secretary of State Brad Raffensperger in support of his gubernatorial bid. Doc. 1, ¶¶ 31–32, 44; Doc. 2-1, 11–12. As an elected executive officer, Mr. Raffensperger cannot accept contributions from entities that he regulates, and such entities may not make contributions to him or his campaign committee or on his behalf. O.C.G.A. §§ 21-5-30.1(b), (c).[7] Mr. Raffensperger, as Secretary of State, uniquely exercises comprehensive regulatory authority over at least 20 licensed professions.[8] If the Court grants the requested injunction, it will, at

[7] The Lieutenant Governor's office does not have any registration or other oversight over the regulation of professions or professional licensing.

[8] Three professions must directly register with the Secretary of State. O.C.G.A. §§ 43-20A-4 (immigration assistance providers), 43-46A-2(a) (trauma scene waste management practitioners), 43-4A-5 (athlete agents). The Secretary of State further oversees a professional licensing boards division of his office that licenses at least 22 other professions. *Id.* § 43-1-2; *see also* Homepage, Licensing Division, Secretary of State's Office, available at https://sos.ga.gov/licensing-division-georgia-secretary-states-office (listing licensing boards overseen by the Licensing Division).

minimum, create the appearance of *quid pro quo* corruption by allowing regulated entities to contribute money to SAGA, which openly supports Mr. Raffensperger's campaign. Even if that money is not spent on Mr. Raffensperger's campaign, the appearance of corruption will exist.

SAGA's reliance on *Davis v. Federal Election Commission*, 554 U.S. 624 (2008), and now *Riddle v. Hickenlooper*, 742 F.3d 922, 932 (10th Cir. 2014), is misplaced. In *Davis*, the Court analyzed the statute's burden on "the exercise of the First Amendment right to use personal funds for campaign speech," *id.* at 740, which is subject to the more stringent "compelling state interest" test, *id.*, that does not apply here.[9] And just as the Second Circuit held in *Upstate Jobs Party*, *Riddle* is similarly "inapposite" because the "plaintiffs here are the independent body and its leadership, not would-be contributors," that resulted in a different analysis in the Equal Protective Claim at issue in *Riddle*. *Upstate Jobs Party*, 106 F.4th at 248.

[9] Assuming, *arguendo*, that strict scrutiny is the applicable standard of review (which it is not), the challenged statutes withstand strict scrutiny because they are narrowly tailored to achieve the compelling state interest of preventing corruption.

This Court should follow the more applicable logic of the Second and Seventh Circuits in holding that SAGA has not carried its burden in proving that the challenged statues are "likely or probabl[y]" unconstitutional. *Schiavo*, 403 F.3d at 1292. Enjoining the challenged restrictions would impermissibly gut the State's legitimate and constitutionally exercised interest in preventing corruption or the appearance of corruption, an interest which has been upheld as a constitutionally valid restriction on campaign contributions time and time again. *See Fed. Election Comm'n v. Colo. Republican Fed. Campaign Comm.*, 533 U.S. 431, 446 (2001) (citation omitted); *Buckley v. Valeo*, 424 U.S. 1, 46 (1976); *Proft v. Raoul*, 944 F.3d 686, 693 (7th Cir. 2019).

Enjoining a statute that has been enacted by the people's elected, democratically accountable representatives is a weighty matter. *See, e.g.*, *Cotton States Mut. Ins. Co. v. Anderson*, 749 F.2d 663, 667 (11th Cir. 1984) ("Federal courts must be slow to declare state statutes unconstitutional."). This Court should not enjoin two constitutional statutes when the appellant fails (for the second time) to advance arguments indicating there is a likelihood for success on the merits.

II. SAGA cannot show a substantial risk of irreparable injury.

The Court further should deny SAGA's Motion because SAGA has not articulated any viable First Amendment violation from which its alleged injury might arise, which is a necessary condition in a First Amendment challenge. *See supra* Sec. I.A. Further, SAGA does not particularize any specific chilling effect that the coordination and contribution rules may have beyond a general legal injury.

The "possibility" of irreparable harm is insufficient; rather, the plaintiff must "demonstrate that irreparable injury is likely in the absence" of relief. *Winter*, 555 U.S. at 2. In the First Amendment context, a plaintiff's alleged injury fundamentally depends on the merits of its case. The mere "assertion of First Amendment rights does not automatically require a finding of irreparable injury." *See Siegel*, 234 F.3d at 1178 (citation omitted). Instead, a plaintiff must show a "*direct penalization*, as opposed to incidental inhibition, of First Amendment rights" (emphasis added) to show irreparable injury. *Id.* (citation omitted). A direct penalty refers to government action that affirmatively suppresses speech or expression. *See, e.g.*, *KH Outdoor, LLC, v. City of*

Trussville, 458 F.3d 1261, 1270 (11th Cir. 2006); *Fla. Preborn Rescue, Inc., v. City of Clearwater*, 2025 WL 3484822 at *11 (11th Cir. 2025).

SAGA glosses over the "direct penalization" requirement and instead contends that "[i]n a First Amendment case, a plaintiff's injury is irreparable per se." Mot. 15 (citing *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). But this assertion is flatly contradicted by case law. *See Siegel*, 234 F.3d at 1175; *Ne. Fla. Chapter of Ass'n of Gen. Contractors of Am. v. City of Jacksonville*, 896 F.2d 1283, 1285 (11th Cir. 1990); *Cunningham v. Adams*, 808 F.2d 815, 821–22 (11th Cir. 1987). The challenged statutes here only incidentally inhibit coordination to prevent actual or apparent quid pro quo corruption. *FEC v. Nat'l Conservative PAC*, 470 U.S. 480, 496–97 (1985) SAGA does not, nor could it, contend that the challenged statutes directly penalize or suppress its speech because, as an independent committee, it may raise and spend unlimited funds in support of Mr. Raffensperger so long as it does not coordinate with him or his campaign committee. Accordingly, SAGA is not presumptively injured by the coordination and contribution limits.

SAGA cannot prove it is harmed by leadership committees, as it failed to introduce any evidence to support its theory of irreparable

injury. Moreover, SAGA assumes that leadership committees exist for the sole purpose of supporting its chair's campaign efforts; rather, they exist to provide a vehicle for party leaders to build coalitions, engage in sustained issue advocacy, and advance policy priorities. *See* O.C.G.A. § 21-5-34.2(d). SAGA attempts to argue that disparity is innately created between leadership committees and hybrid PACs based on how SAGA is attempting to engage in the political process. But SAGA must show that it is entitled to the same function and operation of a leadership committee, and then it must establish how the coordination and contribution limits curtail its speech. SAGA has failed to establish either.

Additionally, SAGA fails to prove how the contribution and coordination statutes operate to restrict its speech. It has not provided evidence that any committee, much less WBJ Leadership Committee, is engaging in political speech against SAGA or Mr. Raffensperger. Instead, it assumes as fact two unstated and unproven premises: (1) WBJ Leadership Committee is spending money to promote Mr. Jones in the 2026 gubernatorial primary election, and (2) Mr. Raffensperger is not coordinating with a leadership committee. But an assumption is not

sufficient to evidence harm; rather, "proof of irreparable injury is an indispensable prerequisite[.]" *Siegel*, 234 F.3d at 1179.

III. SAGA's requested relief would harm the public interest as it would lead to the appearance of corruption.

The Court further should deny SAGA's request for an injunction pending appeal because the harm to the State and to the public far outweighs any incidental impact campaign finance regulations may have on SAGA.

Granting the injunction pending appeal would erode the State's efforts to prevent corruption or the appearance of corruption. The State "indisputably has a compelling interest in preserving the integrity of its election process." *Purcell v. Gonzalez*, 549 U.S. 1, 4 (2006). Consistent with that interest, the State restricts coordination between candidates and independent committees to guard against *quid pro quo* corruption, the appearance of such corruption, and the undue influence of large donors on elected officials. Granting SAGA's requested relief, however, would effectively authorize "unlimited contributions from any source to contribute unlimited sums of money to [the] candidate[] and to coordinate unlimited spending" with Mr. Raffensperger, thereby creating "manifest opportunities for corruption." *Buckley*, 424 U.S. at 46.

In contrast, as quasi-party entities, the leadership committees exist to serve broad interests beyond any single candidate's electoral prospects. Leadership committees function as institutional vehicles by which party leaders may articulate and advance policy priorities, build and maintain coalitions, and engage in sustained issue advocacy. *See* O.C.G.A. § 21-5-34.2(d) ("A leadership committee . . . may defray ordinary and necessary expenses incurred in connection with a public officer's fulfillment . . . of such office."). They also provide state leaders with a mechanism to support candidates up and down the ticket who share common principles and policy goals. *Id.* ("A leadership committee may . . . make expenditures for the purpose of affecting the outcome of any election or advocating for the election or defeat of any candidate[.]"). In this way, leadership committees more closely resemble traditional party organizations than candidate-specific campaign committees. *Cf.* O.C.G.A. § 21-5-41(j).

Contrary to SAGA's assumptions, leadership committees' structure and mission diffuse political support across multiple races, issues, and election cycles; therefore, they do not present the same concentrated risks of actual or apparent *quid pro quo* corruption. In fact, the legislature

created leadership committees in response to fears of dark money's influence and to ensure transparency in the State's electoral process. *Hr'g on S.B. 221* at 3:42:00–3:48:40 ("Transparency is the word of the decade. . . . The main emphasis of this bill is transparency," and "[this bill will] make sure that every expenditure is disclosed, that every dollar that comes into the campaign . . . is disclosed."). As such, leadership committees further the public interest and deter actual or apparent corruption by "exposing large contributions and expenditures to the light of publicity." *Buckley*, 424 U.S. at 67.

SAGA only focuses on the benefit to itself and other unidentified campaigns "because similarly situated campaigns and candidates will have this injunction to rely upon if Defendants attempt to enforce the enjoined laws against them." Mot. 25. As discussed above, these future hypothetical challenges from unidentified candidates are pure speculation. *Supra* pp. 12. SAGA also fails to address the practical implications of enjoining Georgia's campaign and contribution limit statutes amid a hotly contested gubernatorial primary race. The harm to the administration of elections would be immense. The state would be forced to implement and regulate an entirely new committee type in the

middle of an election cycle, only weeks from a general primary election. This would open the floodgates to an unlimited number of potential new registrants who could identify and register as this newly recognized committee. An injunction to this effect would upend Georgia's entire campaign finance framework, causing disarray among candidates and citizens alike leading up to the primary election. This uncertainty would inevitably persist through Georgia's 2026 Gubernatorial Election. Accordingly, granting SAGA's requested relief would harm the Defendants, third parties, and the public interest.

CONCLUSION

The Court should deny Appellants' motion and, if it rules summarily, dismiss the appeal.

Respectfully submitted this 17th day of February, 2026.

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CERTIFICATE OF COMPLIANCE

This motion complies with the type-volume limitation of Federal Rule of Appellate Procedure 27(d)(2) because it contains 5,180 words, excluding the parts of the motion required by 11th Circuit Rule 32(f).

This motion 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 has been prepared using Microsoft Word in Century Schoolbook 14-point font.

February 17, 2026

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed this motion with the Clerk of the Court for the United States Court of Appeals for the Eleventh Circuit by using the appellate CM/ECF system on February 17, 2026. I served all counsel of record by CM/ECF.

February 17, 2026

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