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Executive Summary

In November 2024, the Maine electorate voted overwhelmingly to adopt common-sense contribution limits and disclosure requirements on SuperPACs—political action committees that make independent expenditures. The citizens' initiative caps contributions from individuals or business entities at $5,000 per year, 21-A M.R.S. §§ 1015(2)(C), (D), and requires that SuperPACs disclose the total amount they receive from each contributor, *id*. § 1019-B(4)(B). The initiative's sponsors explained that it was necessary to combat the recent explosion of SuperPAC funding in Maine elections and the actual and apparent risk of corruption those contributions present.

The Supreme Court has consistently upheld "contribution limits" under the First Amendment as "an accepted means to prevent *quid pro quo* corruption" and its appearance. *Citizens United v. F.E.C.*, 558 U.S. 310, 359 (2010). But at the request of two SuperPACs and their founder, a Maine district court recently enjoined the initiative relying on the Supreme Court's decision in *Citizens United* and a cluster of circuit-court decisions decided shortly thereafter. *Dinner Table Action v. Schneider*, No. 24-CV-00430, 2025 WL 1939946 (D. Me. July 15, 2025).

By way of background, *Citizens United* invalidated limits on political action committee's independent expenditures—like ad buys to support a candidate—because those expenditures are not coordinated with a candidate and therefore cannot serve as a basis for a corrupt *quid pro quo* deal. 558 U.S. at 360. Several courts, most notably the D.C. Circuit in *SpeechNow.org v. F.E.C.*, 599 F.3d 686 (D.C. Cir. 2010) (en banc), have held, without much analysis, that if independent expenditures cannot corrupt, contributions to PACs that make independent expenditures cannot corrupt either. *Id*. at 696. These decisions spawned SuperPACs as we know them today—entities capable of receiving unlimited contributions and making unlimited expenditures. With the passage of time, however, we also know that contributions to these entities *can* and indeed *have* contributed to corruption.

The Maine district court candidly recognized that basic premise, accepting that "contributions to independent expenditure PACs can serve as the quid in a quid pro quo arrangement." Op. 7. But it nevertheless concluded, based on *Citizens United* and related circuit precedent, that contributions to SuperPACs are "sufficiently removed" from candidates to pose any real threat of corruption. *Id*. at 8. Although the First Circuit has not weighed in on this question, it is not surprising that the

district court felt constrained by the out-of-circuit authority. Any trial court judge would have to give that authority serious weight. But the rationale on which those cases relied has not withstood the test of time, and the district court's ruling has key vulnerabilities on appeal as a result.

Discussion

The district court enjoined the Maine initiative based on the following logical syllogism: If *Citizens United* is correct that independent expenditures do not corrupt, then there is "no logical scenario in which making a contribution to a group that will then make an expenditure" could be more corrupting. Op. 8 (citation omitted). Though other courts of appeals have adopted that logic, the First Circuit has not. The district court's syllogism is deeply flawed, and there are compelling reasons for the First Circuit to reverse.

First, the district court failed as a threshold matter to recognize the distinction between contribution limits and expenditure limits. It assumed that *Citizens United*'s analysis of independent expenditure limits mapped directly onto contribution limits. But in case after case, the Supreme Court has held that contribution limits are subject to less rigorous First Amendment scrutiny than expenditure limits. *E.g.*, *Buckley v. Valeo*, 424 U.S. 1, 66 (1976); *F.E.C. v. Nat'l Right to Work Comm.*, 459 U.S. 197, 208 (1982); *Nixon v. Shrink Missouri Gov't PAC*, 528 U.S. 377, 397 (2000). And in case after case, it has upheld contribution limits, even as it has struck down expenditure limits based on the same asserted anticorruption interests. The district court's apparent assumption that the same interest balancing analysis applies to both expenditure and contribution limits is therefore deeply flawed.

Second, the district court's rationale that SuperPAC contributions are "removed" from candidates does not follow from *Citizens United* or any other precedent, and in any event is wrong. *Citizens United* was clear: "independent expenditures . . . do not give rise to corruption" because the expenditure "[b]y definition," "is not coordinated with a candidate." 558 U.S. at 357, 360. In other words, the lack of coordination is sufficient to demonstrate a lack of corruption. But nothing about an organization *making* independent expenditures ensures that it *receives* independent contributions. Imagine a scenario where an individual agrees to contribution $100,000 to a SuperPAC in exchange for political favors. As the district court acknowledged, the contribution would serve "as the quid in a quid pro quo arrangement," Op. 7—even though a SuperPAC may later expend those funds independently, without coordinating with a candidate. *Citizens United*'s logic has nothing to do with that scenario. The district court's rationale that "the danger of such corruption" is nonetheless diminished because candidates are "removed" from the contribution

itself, Op. 7, is irrelevant. Quid pro quo corruption just requires an exchange of a promise for a political favor—it occurs regardless of whether an elected official personally receives the contribution. *United States v. Correia*, 55 F.4th 12, 34-35 (1st Cir. 2022). Defenders of the Maine initiative presented that exact hypothetical, and the Court said nothing about it.

Third, the court made no attempt to square its rationale with real-world evidence that SuperPAC contributions *have served* as the basis for quid pro quo corruption. The parties pointed to multiple examples including the 2015 indictment of then-Senator Robert Menendez for soliciting $300,000 for a SuperPAC in exchange for advocacy at the Department of Health and Human Services, *United States v. Menendez*, 132 F. Supp. 3d 635, 640 (D.N.J. 2015), and the indictment of former Ohio House speaker Larry Householder for accepting payments to a SuperPAC in exchange for official action, *United States v. Householder*, No. 20-CR-77, 2023 WL 24090, at *5 (S.D. Ohio Jan. 3, 2023). In both of those cases—and others—courts declined to dismiss indictments based on the same theory of *Citizens United* the court adopted here. These actual examples directly undermine the district court's logical premise.

Fourth, the court overlooked the appearance of corruption that large SuperPAC contributions create, which is an independent basis to uphold the Maine initiative. The Supreme Court has "specifically affirmed" a government interest in preventing apparent corruption from "large financial contributions," *see Fed. Election Comm'n v. Nat'l Right to Work Comm.*, 459 U.S. 197, 208 (1982), and the parties adduced robust expert evidence that Mainers perceive an acute risk of corruption from SuperPAC contributions of $5,000 or more. But the court found that risk was categorically irrelevant based on the same flawed inference relied upon by *SpeechNow*. Its rationale put the cart before the horse. Fifteen-year-old prognostication about the potential for corruption cannot overcome evidence of its present appearance.

The First Circuit has ample reason to reverse for all those reasons and more. If it does so, there is a very high likelihood that the case will go up to the Supreme Court based on the resulting circuit split, where it will create significant campaign-finance precedent regarding SuperPAC regulation.