

Nos. 25-1705, 25-1706

IN THE
United States Court of Appeals
for the First Circuit

DINNER TABLE ACTION; FOR OUR FUTURE; ALEX TITCOMB,
Plaintiffs-Appellees,

v.

WILLIAM J. SCHNEIDER, in the official capacity as Chairman of the Maine Commission on Governmental Ethics and Election Practices; DAVID R. HASTINGS, III, in the official capacity as a Member of the Maine Commission on Governmental Ethics and Election Practices; DENNIS MARBLE, in the official capacity as a Member of the Maine Commission on Governmental Ethics and Election Practices; BETH N. AHEARN, in the official capacity as a Member of the Maine Commission on Governmental Ethics and Election Practices; AARON M. FREY, in the official capacity as Attorney General of Maine; SARAH E. LECLAIRE, in the official capacity as a Member of the Maine Commission on Governmental Ethics and Election Practices,

Defendants-Appellants,

EQUAL CITIZENS; CARA MCCORMICK; PETER MCCORMICK; RICHARD A. BENNETT,
Defendants.

DINNER TABLE ACTION; FOR OUR FUTURE; ALEX TITCOMB,
Plaintiffs-Appellees,

v.

EQUAL CITIZENS; CARA MCCORMICK; PETER MCCORMICK;
RICHARD A. BENNETT,
Defendants-Appellants,

WILLIAM J. SCHNEIDER, in the official capacity as Chairman of the Maine Commission on Governmental Ethics and Election Practices; DAVID R.

HASTINGS, III, in the official capacity as a Member of the Maine Commission on Governmental Ethics and Election Practices; DENNIS MARBLE, in the official capacity as a Member of the Maine Commission on Governmental Ethics and Election Practices; BETH N. AHEARN, in the official capacity as a Member of the Maine Commission on Governmental Ethics and Election Practices; AARON M. FREY, in the official capacity as Attorney General of Maine; SARAH E. LECLAIRE, in the official capacity as a Member of the Maine Commission on Governmental Ethics and Election Practices,
Defendants.

On Appeal from the United States District Court
for the District of Maine
No. 1:24-cv-00430-KFW (Karen Frink Wolf, J.)

**DEFENDANTS-APPELLANTS EQUAL CITIZENS, CARA MCCORMICK, PETER MCCORMICK, RICHARD A. BENNETT'S
OPPOSITION TO MOTION TO DISMISS APPEAL**

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INTRODUCTION

In 2024, Maine citizens voted overwhelmingly in favor of a ballot initiative entitled “An Act to Limit Contributions to Political Action Committees That Make Independent Expenditures.” The ballot initiative fights quid pro quo corruption in Maine politics by placing a common-sense contribution limit and disclosure requirement on entities that make the independent expenditures that increasingly shape Maine elections, commonly referred to as SuperPACs. When two SuperPACs and their founder sought to enjoin the Act, a group of the Act’s sponsors and proponents—State Senator Richard A. Bennett, Cara and Peter McCormick, and the fair election organization Equal Citizens (together, “Equal Citizens”)—promptly intervened to join Maine officials in defending the Act before the District Court. The District Court, following extensive briefing on the question, found that this group was a proper intervenor. The court then ordered briefing on the merits and oral argument, and Equal Citizens separately briefed and orally argued those merits.

Plaintiffs now assert that Equal Citizens is barred from participating in the appeal because the intervenors lack Article III standing. That contention is squarely foreclosed by Supreme Court precedent. In *Little Sisters of the Poor Saints Peter & Paul Home v. Pennsylvania*, 591 U.S. 657, 674 n.6

(2020), the Supreme Court held that it was “error” for a court of appeals to dismiss an intervenor on standing grounds where it sought the same relief as another party with established Article III standing. The Court explained that, under an earlier case, *Town of Chester v. Laroe Estates, Inc.*, 581 U.S. 433 (2017), an intervenor is required to demonstrate independent standing only when it seeks relief broader than the other parties, *id.* at 439; *Little Sisters of the Poor*, 591 U.S. at 674 n.6.

Here, Equal Citizens is appealing alongside the Maine State Defendants, and seeking the same relief as those Defendants, who indisputably have standing. It would therefore be “error” to “inquir[e] into [Equal Citizens’s] independent Article III standing.” *Id.* The two cases Plaintiffs rely on—*Hollingsworth v. Perry*, 570 U.S. 693 (2013), and *Arizonans for Official English v. Arizona*, 520 U.S. 43 (1997)—are readily distinguishable because they involve the distinct situation in which an intervenor seeks to appeal when the original party on whose side the intervenor intervened does not. Plaintiffs do not even mention *Little Sisters of the Poor*, which is dispositive. Accordingly, the motion to dismiss should be rejected.

I. FACTUAL BACKGROUND

Less than a month after Plaintiffs moved to permanently enjoin the Maine Act, Equal Citizens moved to intervene as-of-right pursuant to Rule 24(a) of the Federal Rules of Civil Procedure and, in the alternative, to intervene permissively pursuant to Rule 24(b). D. Ct. Dkt. No. 17. Equal Citizens argued that the District Court should grant intervention as-of-right because its intervention was timely, it has protectable interests directly impacted by this action, and Maine does not adequately represent Equal Citizens's interests. D. Ct. Dkt. No. 17, at 4-9. Alternatively, Equal Citizens argued that the District Court should grant permissive intervention because its intervention was timely, it is undisputed that Equal Citizens planned to raise defenses that share common questions of law with the main action, and there would be no delay or prejudice caused by Equal Citizens's intervention. D. Ct. Dkt. No. 17, at 9-10. Equal Citizens argued that permissive intervention was warranted because (1) Equal Citizens planned to advance an originalist defense of the Act that the State Defendants were not presenting; (2) Equal Citizens played a major role in advocating for adoption of the Act, and this "expertise and personal experience" would make it particularly "helpful in fully developing the case," D. Ct. Dkt. No. 17, at 11 (quoting *Daggett v. Comm'n on Governmental Ethics & Election Pracs.*, 172 F.3d 104, 113 (1st

Cir. 1999)); and (3) resolution of this action would directly and substantially impact Equal Citizens. D. Ct. Dkt. No. 17, at 9-11.

On February 25, 2025, the District Court granted Equal Citizens's motion to intervene permissively, without deciding whether Equal Citizens was also entitled to intervene as-of-right. D. Ct. Dkt. No. 51, at 3, 6. The District Court noted that "Fed. R. Civ. P. 24(b) gives courts broad discretion to allow the intervention of any party who has a claim or defense that shares with the main action a common question of law or fact," and courts "must consider whether the intervention will unduly delay or prejudice the adjudication of the original parties' rights," among "any other relevant factors." D. Ct. Dkt. No. 51, at 3 (cleaned up).

The District Court found that Equal Citizens satisfied the standard for permissive intervention. D. Ct. Dkt. No. 51, at 4. The District Court observed that Equal Citizens "clearly ha[d] a 'defense that shares with the main action a common question of law or fact,'" D. Ct. Dkt. No. 51, at 3 (quoting FED. R. CIV. P. 24(b)(1)(B)), but also that Equal Citizens would "offer a unique perspective from" the State Defendants by putting forth "a distinct originalist defense of the Act," which would "add value to this litigation" and therefore "weigh[] in favor of permitting intervention." D. Ct. Dkt. No. 51, at 4. And the District Court rejected Plaintiffs' argument that Equal Citizens could

simply raise its arguments in an amicus brief, specifically observing that an amicus brief would not be an appropriate vehicle for the originalist arguments Equal Citizens sought to press. D. Ct. Dkt. No. 51, at 4-5. Lastly, the District Court found that the intervention motion was timely filed and that granting it would not cause “any significant delay or prejudice” to Plaintiffs. D. Ct. Dkt. No. 51, at 5.

“Because the balance of the relevant factors weigh[ed] in favor of permitting intervention,” the District Court granted Equal Citizens’s motion to intervene. D. Ct. Dkt. No. 51, at 6. Equal Citizens therefore participated fully in the District Court proceedings, introducing evidence, submitting briefing, and participating in oral argument. It has been an intervenor for eight months. Now, Plaintiffs ask this Court to reverse that determination. The Court should not.

II. ARGUMENT

A. The sole basis for Plaintiffs’ motion to dismiss this appeal is flatly foreclosed by Supreme Court precedent. Despite the District Court granting Equal Citizens’s motion for permissive intervention below, Plaintiffs argue that Equal Citizens’s appeal must be dismissed for lack of Article III standing. But Plaintiffs do not and cannot dispute that the State Defendants, who have also appealed, have Article III standing to challenge the permanent

injunction that prevents them from enforcing the Maine Act. D. Ct. Dkt. Nos. 76, 77. And in *Little Sisters of the Poor Saints Peter & Paul Home v. Pennsylvania*, 591 U.S. 657, 674 n.6 (2020), the Supreme Court held that a court of appeals commits an “error” when it dismisses an intervenor’s appeal for lack of Article III standing where—as here—the intervenor seeks the same relief as another party who “clearly ha[s] standing” to invoke the court’s appellate jurisdiction.

In *Little Sisters of the Poor*, the Third Circuit had dismissed an intervenor’s appeal because the intervenor lacked Article III standing. The Supreme Court held that “[t]his was error” because Article III is satisfied so long as one party before the Court has standing to press “each claim for relief.” *Id.*; see *McConnell v. FEC*, 540 U.S. 93, 233 (2003) (“It is clear . . . that the [defendant agency] has standing, and therefore we need not address the standing of the intervenor-defendants, whose position here is identical to the [agency’s].”), *overruled in part on other grounds*, *Citizens United v. FEC*, 558 U.S. 310 (2010). In that case, the “Federal Government clearly had standing to invoke the Third Circuit’s appellate jurisdiction, and both the Federal Government and the [intervenors] asked the court to dissolve the injunction against the religious exemption.” *Little Sisters of the Poor*, 591 U.S. at 674 n.6.

Because the intervenor and the defendant sought precisely the same relief, the Supreme Court held that the Third Circuit “erred by inquiring into the [intervenors’] independent Article III standing.” *Id.* Thus, as the Court recognized in *Town of Chester v. Laroe Estates, Inc.*, 581 U.S. 433 (2017), an intervenor must establish standing if it “seeks additional relief beyond that which” is sought by the parties with established Article III standing. *Id.* at 439. But when the intervenor is asking for the same relief as a party with Article III standing, the intervenor cannot be dismissed on standing grounds. *Little Sisters of the Poor*, 591 U.S. at 674 n.6; see *Cal. Dep’t of Toxic Substances Control v. Jim Dobbas, Inc.*, 54 F.4th 1078, 1085 (9th Cir. 2022) (“Intervenors that seek relief that is broader than or different from the relief sought by existing parties to the case must possess constitutional standing . . . but intervenors that seek the same relief sought by at least one existing party to the case need not do so.”)

Here, Equal Citizens seeks the exact same relief on appeal that the State Defendants do: for this Court “to dissolve the injunction against” the Maine Act. *Little Sisters of the Poor*, 591 U.S. at 674 n.6. It would therefore be “error” to dismiss Equal Citizens for lack of Article III standing. *Id.*

B. In arguing to the contrary, Plaintiffs rely solely on *Hollingsworth v. Perry*, 570 U.S. 693 (2013), and *Arizonans for Official English v. Arizona*,

520 U.S. 43 (1997). But those cases both involved intervenors who sought to appeal *when the original defendants did not seek appeal*. See *Hollingsworth*, 570 U.S. at 705 (“[T]he state officials chose not to appeal. . . . The only individuals who sought to appeal . . . were petitioners, who had intervened in the District Court.”); *Arizonans*, 520 U.S. at 56 (“[Arizonans for Official English Committee (‘AOE’)] and Park alleged in support of their intervention motion the interest of AOE members in enforcement of Article XXVIII and Governor Mofford’s unwillingness to defend the measure on appeal.”). It is of course true that, where the party with established Article III standing does not appeal, the appellate court must assure itself that “the intervenor” who is pressing the appeal “independently ‘fulfills the requirements of Article III.’” *Wittman v. Personhuballah*, 578 U.S. 539, 543-544 (2016) (quoting *Arizonans*, 520 U.S. at 65). That accords with the basic principle that at least one party seeking relief must have Article III standing.

But that is *not* the situation here, because the State Defendants have also separately appealed to this Court. Therefore, Equal Citizens is not seeking an appeal “absent . . . the party on whose side the intervenor intervened.” *Didrickson v. U.S. Dep’t of Interior*, 982 F.2d 1332, 1338 (9th Cir. 1992). Plaintiffs never acknowledge this important distinction; still less

do they explain how their position is consistent with *Little Sisters of the Poor*. For that reason, Plaintiffs' jurisdictional argument must fail.

C. Moreover, even if Plaintiffs could somehow get past *Little Sisters of the Poor*, their standing argument would still lack merit because it ignores that Equal Citizens has an independent pocketbook injury. As it explained in its motion to intervene, without the Maine Act's contribution limits, Equal Citizen will be forced to divert significant resources to combat corruption in Maine—resources that Equal Citizens would otherwise put towards campaign-finance reform throughout the country. D. Ct. Dkt. No. 17, at 4-6; *see* D. Ct. Dkt. No. 17-4, at 4. As this Court has recognized, that is a legally protected interest that gives rise to associational standing. *See, e.g., Town of Milton v. FAA*, 87 F.4th 91, 99 (1st Cir. 2023) (finding Article III standing based on “diverted resources”).

CONCLUSION

Plaintiffs' motion to dismiss should be denied.

October 22, 2025

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

This brief complies with the 5,200-word type-volume limitation of Federal Rule of Appellate Procedure 27(d)(2)(A) because it contains 1,946 words, excluding the parts of the brief exempted by FED. R. APP. P. 27(a)(2)(b) and 32(f).

This brief also complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type-style requirements of FED. R. APP. P. 32(a)(6) because it has been prepared in a proportionally-spaced typeface (14-point Georgia) using Microsoft Word, the same program used to calculate the word count.

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