United States Court of Appeals
For the First Circuit

No. 25-1705

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 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.

On appeal from the United States District Court for the District of Maine

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Defendants.

BRIEF OF BRENNAN CENTER FOR JUSTICE AT NEW YORK UNIVERSITY SCHOOL OF LAW IN SUPPORT OF DEFENDANTS-APPELLANTS AND REVERSAL

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STATEMENT OF INTEREST OF *AMICUS CURIAE*[1]

The Brennan Center for Justice at New York University School of Law[2] (the "Brennan Center") is a not-for-profit, nonpartisan law and public policy institute that seeks to improve systems of democracy and justice. The Brennan Center has longstanding expertise on campaign finance regulation and related constitutional issues. The Brennan Center files this brief pursuant to Rule 29(a) of the Federal Rules of Appellate Procedure, and all parties to the appeal consent to the filing of this brief.

SUMMARY OF ARGUMENT

In reviewing state and federal campaign finance laws over nearly half a century, the U.S. Supreme Court has consistently recognized two important principles: (i) strong state interests in preventing the reality or appearance of *quid pro quo* corruption support reasonable limits on campaign contributions; and (ii) such contribution limits are qualitatively less burdensome of First Amendment interests than expenditure limits and thus subject to a more forgiving standard of

[1] All parties have consented to the filing of this brief. No party's counsel authored this brief in whole or in part; no party or party's counsel contributed money intended to fund the brief's preparation or submission; and no person other than amicus contributed money intended to fund the brief's preparation or submission. Neema Jyothiprakash, an attorney and a Brennan Center for Justice fellow, made substantial contributions to this brief.

[2] This brief does not purport to reflect the views, if any, of the New York University School of Law.

constitutional review. The Court's rulings in *Citizens United v. Federal Election Commission* and other cases, for all that we disagree with them, did not overrule these basic principles. *See* Gov't Appellants Br. 31–32, Equal Citizens Appellants Br. 14.

Relying on the Supreme Court's teachings, the people of Maine voted overwhelmingly to enact reasonable contribution limits for super PACs—outside groups that can generally fundraise and spend without limit—in November 2024. The initiative they passed, *An Act to Limit Contributions to Political Action Committees That Make Independent Expenditures* (the "Act"), received more votes than any other citizen initiative in Maine's history. Maine voters took this action at a time when super PACs have deployed massive amounts of money to influence American elections, including Maine elections. Despite being nominally "independent," they often spend in close coordination with candidates. Most of these funds come from a tiny group of the wealthiest donors and special interest groups, creating new avenues for political corruption, foreign influence, and other harms. In its ruling, the district court relied on decisions from other circuits that could not have fully grasped these ramifications because they were mostly decided immediately after the Supreme Court's decision in *Citizens United*. *See infra* Part I. This Court is not obligated to adopt those precedents.

The explosion in super PAC spending is especially impactful in a small state like Maine, where even modest expenditures can have an outsized impact and where the legislative record of the Act reflects real and widespread fears of corruption in politics. The decision of Maine voters to address the effects of super PAC spending on Maine elections by establishing reasonable contribution limits for these groups merits considerable deference from this Court. *See infra* Part II. At a minimum, if the Court is not prepared to uphold the constitutionality of the Act at this time, it should remand the case to the district court for the parties to create a comprehensive factual record establishing whether the judgment of Maine voters furnishes a constitutionally sufficient justification for implementing the Act. *See infra* Part III.

ARGUMENT

I. The experience of the last fifteen years weighs strongly against adopting the rulings of other circuits extending *Citizens United*.

For nearly half a century, the U.S. Supreme Court has recognized that reasonable limitations on campaign contributions are justified by important state interests in preventing corruption and the appearance thereof. While the ability to make a campaign contribution implicates important associational rights, the ability to make a contribution of any *amount* is less consequential. *See Buckley v. Valeo*, 424 U.S. 1, 21 (1976). And "[t]o the extent that large contributions are given to secure a political *quid pro quo* from current and potential office holders, the

integrity of our system of representative democracy is undermined," giving the government an important interest in imposing reasonable limits. *Id.* at 26–27 (emphasis added). The Supreme Court applied this reasoning in upholding contribution limits in multiple cases following *Buckley*. *See Nixon v. Shrink Mo. Gov't PAC*, 528 U.S. 377 (2000) (upholding state limits on contributions to state candidates); *FEC v. Beaumont*, 539 U.S. 146 (2003) (upholding the federal ban on corporate campaign contributions to federal candidates). *Citizens United v. Federal Election Commission*, 558 U.S. 310 (2010), which concerned the right of corporations (and by implication unions) to spend money directly on elections, did not overrule these cases, nor did any subsequent decision. *See* Gov't Appellants Br. 34–35.[3]

[3] The only subsequent case to invalidate a purported "contribution limit," *McCutcheon v. Federal Election Commission*, concerned so-called "aggregate" limits on how much an individual can give to all candidates, parties and PACs *combined*. 572 U.S. 185 (2014). The Court rejected this as an unnecessary "prophylaxis-upon-prophylaxis" because of the continued existence of other limits. *Id.* at 209, 221 (explaining that the "base limits remain the primary means of regulating campaign contributions"). Here, by contrast, there are no other limits. Rather than attempting to enact a "prophylaxis-upon-prophylaxis," Maine voters seek only to place one set of reasonable limits on groups that have become integral participants in the electoral process alongside candidates and parties. *See*, *e.g.*, Ian Vandewalker, *Since Citizens United, a Decade of Super PACs,* Brennan Center for Justice (Jan. 14, 2020), https://www.brennancenter.org/our-work/analysis-opinion/citizens-united-decade-super-pacs. The plurality in *McCutcheon* expressly disclaimed any need to "revisit *Buckley*'s distinction between contributions and independent expenditures and the corollary distinction in the applicable standards of review." *McCutcheon*, 572 U.S. at 199 (plurality opinion).

Nevertheless, the D.C. Circuit Court of Appeals extended the Supreme Court's analysis of independent expenditures in *Citizens United* to disallow limitations on *contributions* made to independent expenditure groups, reasoning that because "independent expenditures do not corrupt or create the appearance of *quid pro quo* corruption, contributions to groups that make only independent expenditures also cannot corrupt or create the appearance of corruption." *SpeechNow.Org v. FEC*, 599 F.3d 686, 693–94 (D.C. Cir. 2010). Other federal circuit courts have followed the D.C. Circuit's approach. *See*, *e.g.*, *Wis. Right to Life State Pol. v. Barland*, 664 F.3d 139, 153–54 (7th Cir. 2011); *Republican Party of N.M. v. King*, 741 F.3d 1089, 1095–97 (10th Cir. 2013); *N.Y. Progress & Prot. PAC v. Walsh*, 733 F.3d 483, 487 (2d Cir. 2013).

None of these decisions, which came in the months and immediate years following *Citizens United*, analyzed whether most super PAC spending would in fact be truly "independent" from candidates. In particular, in setting the precedent the district court followed here, *SpeechNow* did not evaluate how the lack of such independence or the many other unanticipated consequences of super PACs' proliferation in federal and state elections might factor in applying the more forgiving standard of constitutional review for direct contribution limits on such groups. *See SpeechNow*, 599 F.3d at 696; *see also* Gov't Appellants Br. 30–33.

This Court, with the benefit of hindsight, should not ignore the developments of the last fifteen years. *See infra* at 14.

Among the developments the Court should take into account:

New Avenues for Corruption. Fifteen years after *SpeechNow*, it is clear that many—and perhaps most—super PACs actually operate in tandem with candidates, opening up a notable vector for corruption.

From 2010 to 2024, super PAC spending in federal elections ballooned from $62 million to $2.7 billion. 2024 Outside Spending, by Super PAC, OpenSecrets.org, https://www.opensecrets.org/outside-spending/super_pacs (last accessed Oct. 29, 2025). Most of this money has come from a small group of the very wealthiest donors giving far more than the limit on direct contributions to candidates, which was $3,300 for individuals per election in 2024. Contribution Limits for 2023-2024, Fed. Election Comm'n (Feb. 2023), https://www.fec.gov/resources/cms-content/documents/contribution_limits_chart_2023-2024.pdf. During the 2024 presidential cycle, for instance, the largest super PACs supporting the major party nominees for president derived more than 75 percent of their funding from donors who gave $5 million or more. Ian Vandewalker, *Super PACs supporting Harris or Trump raised more than twice as much from donors giving at least $5 million compared to the last election,* Brennan Center for Justice (Nov. 1, 2024), https://www.brennancenter.org/our-work/analysis-opinion/megadonors-

playing-larger-role-presidential-race-fec-data-shows. President Trump has continued raising money for his designated super PAC, MAGA, Inc., since the election—$200 million as of the last reporting period—almost exclusively (96 percent) from donors of $1 million or more. Ian Vandewalker, *Unprecedented Big Money Surge for Super PAC Tied to Trump*, Brennan Center for Justice (Aug. 5, 2025), https://www.brennan center.org/our-work/analysis-opinion/unprecedented-big-money-surge-super-pac-tied-trump.

Like MAGA, Inc., many super PACs are anything but "independent" from candidates. Indeed, they often work together, hand-in-glove. In 2024, for instance, President Trump's campaign not only incorporated MAGA, Inc., it also worked closely with outside groups supported by his largest donor, Elon Musk, who spent approximately $250 million to help the president get elected. David Wright & Alex-Leeds-Matthews, *Elon Musk spent more than $290 million on the 2024 election, year-end FEC filings show,* CNN (Feb. 1, 2025), https://www.cnn.com/2025/02/01/politics/elon-musk-2024-election-spending-millions. Musk's groups took on many core campaign functions, including a vast ground game in key swing states that knocked on approximately 10 million doors. *See* Dan Merica, *Elon Musk's PAC Spent an Estimated $200 Million to Help Elect Trump, AP Source Says*, Associated Press (Nov. 11, 2024), https://apnews.com/arti-cle/elon-musk-america-pac-trump-d248547966bf9c6daf6f5d332bc4be66; *see also* Theodore

Schleifer, *Elon Musk and His Super PAC Face Their Crucible Moment*, N.Y. Times (Nov. 4, 2024), https://www.nytimes.com/2024/11/04/us/elections/musk-america-pac-trump-voters.html. Vice President Kamala Harris also relied on a designated super PAC, Future Forward PAC, funded by her largest donors (as well as many groups who kept their donors secret) for important research and voter surveys. *See* Theodore Schleifer & Shane Goldmacher, *Inside the Secretive $700 Million Ad-Testing Factory for Kamala Harris*, N.Y. Times (Oct. 17, 2024), https://www.nytimes.com/2024/10/17/us/elections/future-forward-kamala-harris-ads.html. These are only a few of many examples of candidates and super PACs working closely together. *See, e.g.*, Jessica Piper, *Super PACs keep testing the limits of campaign finance law*, Politico (Apr. 8, 2024), https://www.politico.com/news/2024/04/08/super-pac-fec-limits-00150672 (noting a super PAC supporting Robert F. Kennedy Jr.'s independent presidential run repeatedly accepted million-dollar contributions from a security consultant who was also his campaign's largest vendor); Sasha Issenberg, *Ron DeSantis' Super PAC Thinks It Has the Code on Delivering His Message*, Politico (Sept. 7, 2023), https://www.politico.com/news/magazine/2023/09/07/desantis-super-pac-texting-00113807 (describing how a super PAC backing Ron DeSantis' campaign in the 2024 presidential primary handled core campaign functions, including a canvassing operation in Iowa); *see also* Gabriel Foy-Sutherland & Saurav Ghosh, *Coordination in Plain Sight: The Breadth and*

Uses of "Redboxing" in Congressional Elections, 23 Election L.J. 149, (June 17, 2024).

The frequent close ties between candidates and outside groups like super PACs mean that such groups have become a notable vector for corruption. For example, in 2024, New Jersey Senator Robert Menendez was convicted in a bribery scheme involving, among other facts, a donor with close ties to the Egyptian government who made contributions to a super PAC earmarked for his reelection campaign. *See* Press Release, U.S. Att'y Off., Dep't of Just., Former U.S. Senator Robert Menendez Sentenced To 11 Years In Prison For Bribery, Foreign Agent, And Obstruction Offenses (Jan. 29, 2025), https://www.justice.gov/usao-sdny/pr/former-us-senator-robert-menendez-sentenced-11-years-prison-bribery-foreign-agent-and; *United States v. Menendez*, 132 F.Supp. 3d 610, 617–19 (D.N.J. 2015). Menendez had previously been charged with soliciting $600,000 in contributions to a super PAC which had been earmarked to support his campaign in exchange for intervening on the contributor's behalf in a federal administrative proceeding alleging Medicare fraud, although the jury deadlocked at trial. *See United States v. Menendez*, 291 F. Supp. 3d 606, 621 (D.N.J. 2018) (finding that exchange of an official act for a super PAC contribution can support a bribery charge). In North Carolina, insurance executive Greg Lindberg was recently convicted of attempting to bribe the state's insurance commissioner with $1.5

million funneled through a super PAC he controlled. Press Release, U.S. Att'y Off., Dep't of Just., Chairman Of Multinational Investment Company And Company Consultant Convicted Of Bribery Scheme At Retrial (May 16, 2024), https://www.justice.gov/archives/opa/pr/chairman-multinational-investment-company-and-company-consultant-convicted-bribery-scheme. And in Ohio, former state House Speaker Larry Householder was convicted in a major bribery scandal involving $60 million in contributions to his nonprofit dark money group, which he used in part to fund outside campaign ads in favor of allies who would support his bid for speaker. Press Release, U.S. Att'y Off., Dep't of Just., Former Ohio House Speaker Sentenced to 20 years in Prison for Leading Racketeering Conspiracy Involving $60 Million in Bribes (June 29, 2023), https://www.justice.gov/usao-sdoh/pr/former-ohio-house-speaker-sentenced-20-years-prison-leading-racketeering-conspiracy; *United States v. Householder*, 137 F.4th 454, 464–70 (6th Cir. 2025). These are among a number of prominent examples of lawbreaking tied to super PACs. *See* Ian Vandewalker, *10 Years of Super PACs Show Courts Were Wrong on Corruption Risks*, Brennan Center for Justice (Mar. 25, 2020), https://www.brennancenter.org/our-work/analysis-opinion/10-years-super-pacs-show-courts-were-wrong-corruption-risks.

New Avenues for Foreign Interference. Of particular note, super PACs have become a significant vehicle for illegal foreign campaign money to infiltrate

American elections. For instance, in 2017, former Miami Beach Commissioner Michael Grieco pleaded no contest to criminal charges after establishing a super PAC and accepting concealed donations from a Norwegian real estate developer. Joey Flechas & Nicholas Nehamas, *Beach commissioner pleads to criminal charge. But swears he didn't do it*., Miami Herald (Oct. 24, 2017), https://www.miamiherald.com/news/local/community/miami-dade/miami-beach/article180710691.html. In 2016, Mexican businessman Jose Susumo Azano Matsura was convicted of funneling $600,000—concealed through "corporate 'straw donor' contributions"—in illegal foreign money into the San Diego mayoral race through a shell company and super PAC with the hope of securing a lucrative development project in exchange. Press Release, U.S. Att'y Off., Dep't of Just., Mexican Businessman Jose Susumo Azano Matsura Sentenced for Trying to Buy Himself a Mayor (Oct. 27, 2017), https://www.justice.gov/usao-sdca/pr/mexican-businessman-jose-susumo-azano-matsura-sentenced-trying-buy-himself-mayor; *United States v. Azano Matsura*, No. 14-cr-388-MMA-1 (S.D. Cal. July 10, 2015), *aff'd*, 129 F. Supp. 3d 975 (S.D. Cal. 2015). Other examples abound. *See*, *e.g.*, *United States v. Cuellar*, No. 24-cr-00123 (S.D. Tex. May 3, 2024) (congressional representative indicted for accepting alleged bribes from Azerbaijan oil company and Mexican bank in exchange for influencing U.S. policy in favor of donors); Jimmy Cloutier et al., *Foreign-Influenced Corporate Money in State Elections*,

OpenSecrets (Jan. 23, 2024), https://www.opensecrets.org/news/reports/foreign-influenced-corporate-money.

Less Campaign Transparency. Super PACs have made it easier to circumvent federal campaign disclosure rules, which *SpeechNow* touted as a "less restrictive alternative to more comprehensive regulations of speech." 599 F.3d at 696 (quoting *Citizens United*, 558 U.S. at 369). Since 2010, there has been at least $4.3 billion in dark money spending in federal elections from groups that do not disclose their donors. *See* Anna Massoglia, *Dark Money Hit a Record High of $1.9 Billion in 2024 Federal Races*, Brennan Center for Justice (May 7, 2025), https://www. brennancenter.org/our-work/research-reports/dark-money-hit-record-high-19-billion-2024-federal-races. Initially, these groups prioritized spending on direct campaign ads, which had to be reported to the Federal Election Commission if the ads ran in the weeks leading up to an election (making the spending relatively straightforward to track, even if its source was opaque). But dark money groups' spending on campaigns is now mostly routed through super PACs, making such spending much harder to trace. There was more than $1.3 billion in such spending in the 2024 election cycle—much of it attributable to candidate-aligned super PACs. *Id.* For instance, the main super PAC backing Vice President Kamala Harris and the dark money groups donating to it were collectively responsible for $1 out of $6 in dark money spent. *Id.*

Loss of Public Confidence in Government. Finally, the growing prominence of super PACs that can raise unlimited funds appears to be helping undermine confidence in American democracy. One recent poll found that 7 in 10 Americans believe that "corporations and the wealthy control government and that politicians are only in it for themselves." Tom Rosenstiel, *While Politics Divides the Country, Americans Share a Profound Sense of Distrust*, NORC (Jan. 27, 2025), https://www.norc.org/research/library/while-politics-divide-country-americans-share-profound-sense-distrust.html. Likewise, 80 percent of respondents in a 2023 Pew Research Center survey said that large campaign donors have too much say in politics. Andy Cerda & Andrew Daniller, *7 Facts About Americans' Views of Money in Politics*, Pew Research Center (Oct. 23, 2023), https://www.pewresearch.org/short-reads/2023/10/23/7-facts-about-americans-views-of-money-in-politics/. As a result, 62 percent of Americans—including similar shares of Democrats and Republicans—said that "reducing the influence of money in politics should be a top policy goal." Anna Jackson, *State of the Union 2024: Where Americans stand on the economy, immigration and other key issues,* Pew Research Center (Mar. 7, 2024), https://www.pewresearch.org/short-reads/2024/03/07/state-of-the-union-2024-where-americans-stand-on-the-economy-immigration-and-other-key-issues/. But trust in the federal government to do the right thing has reached alarming lows, hovering around 22 percent (significantly

below where it was at the nadir of the Watergate scandal). *See* Susan K. Urahn, *Americans' Mistrust of Institutions*, Pew Research Center (Oct. 17, 2024), https://www.pew. org/en/ trend/archive/fall-2024/americans-mistrust-of-institutions.

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In short, the proliferation of super PACs that can raise and spend unlimited funds, often in tandem with candidates, has had serious negative consequences that were not, and perhaps could not have been, fully anticipated by *SpeechNow* and the other circuit court rulings on which the district court relied. This Court need not follow the same approach. *See Free Speech Coal., Inc. v. Paxton*, 606 U.S. 461, 489–492 (2025) (explaining that earlier internet speech precedents relied on decades-old factual findings and "could not have conceived of these developments" in widespread internet access before upholding an age-verification law); *Cent. Va. Cmty. Coll. v. Katz*, 546 U.S. 356, 363 (2006) ("Careful study and reflection" revealed erroneous assumptions such that the Court was "not bound to follow. . . dicta in a prior case in which the point now at issue was not fully debated.").[4]

[4] Of course, some of the negative effects of super PACs could be mitigated through other measures, such as stronger restrictions on coordination between candidates and outside groups. *See Components of an Effective Coordination Law*, Brennan Center for Justice (May 1, 2018), https://www.brennancenter.org/sites/default/files/stock/2018_10_MiPToolkit_CoordinationLaw.pdf. But determining whether

II. Maine voters had ample justification for limiting contributions to super PACs and their decision warrants deference.

The nationwide consequences of unlimited contributions to super PACs have plainly been felt in Maine, a small state where super PAC spending can have an outsized impact. Federal races in Maine have attracted enormous sums of money from outside groups since *SpeechNow* was decided. In 2024, one super PAC from Illinois spent $2.3 million on the race in Maine's Second Congressional District, most of which came from a single donor. AnnMarie Hilton, *Billionaire-backed Midwest super PAC spending millions on Maine's CD2 race*, Maine Morning Star (Sept. 23, 2024), https://mainemorningstar.com/2024/09/23/billionaire-backed-

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illegal coordination between a campaign and outside group has taken place is typically a fact-intensive inquiry that often necessitates far more laborious and intrusive investigations than are needed to enforce a straightforward and universally-applicable limit on contributions. *See*, *e.g.*, Kaveri Sharma, *Voters Need to Know: Assessing the Legality of Redboxing in Federal Elections*, 130 Yale L.J. 1898, 1920–26, 1942-46 (2021)**.** Campaign finance agencies around the country often struggle to enforce these rules. *See* Maia Cook, *Super PACs raise millions as concerns about illegal campaign coordination raise questions*, OpenSecrets (Aug. 18, 2023), https://www.opensecrets.org/news/2023/08/super-pacs-raise-millions-concerns-illegal-campaign-coordination-raise-questions/. Between 2010 and 2023, for instance, the U.S. Federal Election Commission appears to have initiated only a handful of investigations, none of which resulted in any fines. Daniel I. Weiner & Owen Bacskai, *The FEC, Still Failing to Enforce Campaign Laws, Heads to Capitol Hill,* Brennan Center for Justice (Sept. 15, 2023), https://www.brennancenter.org/our-work/analysis-opinion/fec-still-failing-enforce-campaign-laws-heads-capitol-hill (citing enforcement data provided by the Commission to the U.S. House Committee on Administration). Under these circumstances, it was reasonable for Maine voters to opt for straightforward and reasonable contribution limits for all outside election spenders.

midwest-super-pac-spending-millions-on-maines-cd2-race/. In 2020, outside groups spent over $91 million, mostly targeting the state's marquee Senate contest. Susan Cover, Darren Fishell, & Meg Robbins, *How record sums of money have shaped Maine's 2020 elections*, Maine Monitor (Oct. 25, 2020), https://themainemonitor.org/how-record-sums-of-money-have-shaped-maines-2020-elections/. Recent state elections in Maine have followed similar trends. In the state's gubernatorial elections between 2010 and 2022, outside group spending roughly quadrupled, from $3.5 million to $13.6 million, even while candidate spending dropped. Gov't Appellants Br. 18–19.

As in races elsewhere, there is evidence that candidates and outside groups often operate in tandem. *See*, *e.g.*, Andrew Perez, *Outside groups use Sen. Collins' own footage in ads boosting her campaign*, Maine Beacon (Nov. 4, 2019), https://mainebeacon.com/outside-groups-use-sen-collins-own-footage-in-ads-boosting-her-campaign/ (describing how a pro-Susan Collins super PAC aired advertisement footage "almost entirely comprised of footage that the campaign created"); Yuichiro Kakutani, *Ethics Complaint Filed Against Gideon Campaign,* Washington Free Beacon (Sept. 16, 2020), https://freebeacon.com/elections/ethics-complaint-filed-against-gideon-campaign/ (describing allegations that super PAC backing Collins' opponent Sara Gideon disseminated ads shaped by Gideon campaign tweets containing "highly specific suggestions" as to messaging). And

super PACs in Maine have also been linked to lawbreaking. *See, e.g.*, Nick Grube, *Court records tell story of a Hawaii defense contractor's attempts to influence Susan Collins and others*, Maine Monitor (June 25, 2023), https://themainemonitor.org/court-records-tell-story-of-a-hawaii-defense-contractors-attempts-to-influence-susan-collins-and-others/ (defense contractor pled guilty to federal crimes that included illegal straw donations to a super PAC as part of influence campaign targeting Senator Collins).

Unsurprisingly, Mainers' trust in both their national and state governments has fallen, following national trends. In 2024, Mainers' trust in the federal government was a mere 17 percent. Colby Coll. Goldfarb Center for Public Affairs et al., Strengthening Maine's Civic Life: Trust, Belonging, and the Future, Maine Community Foundation, https://www.mainecf.org/wp-content/uploads/2024/10/CG-Civic-Health-Report_final-digital.pdf. Their trust in state government, while better, was still only 37 percent, close to a record low. *Id.*

These facts, coupled with the broader national environment, provide essential context for Maine's overwhelming 74 percent vote in favor of the Act, which received more votes than any other citizens' initiative in Maine history. *See* Me. State Legis., Legislative History Collection, Citizen Initiated Legislation, 1911–Present, available at https://www.maine.gov/legis/lawlib/lldl/citizeninitiated/; *see also* An Act to Limit Contributions to Political Action Committees That Make

Independent Expenditures, H.R. 2232, 131st Leg., 2d Reg. Sess. (Me. 2024) (noting factors that influenced the legislature's decision to send the Act to voters for approval, including desire to prevent *quid pro quo* corruption and its appearance). This lopsided vote weighs in favor of judicial deference. Among other things, it is direct evidence of the voters' perception that corruption is a significant problem and that contribution limits are necessary to combat it. *See Nixon*, 528 U.S. at 394; *see also Daggett v. Comm'n on Governmental Ethics & Election Pracs.*, 205 F.3d 445, 458 (1st Cir. 2000) ("[W]e take note . . . of the fact that Maine voters approved the referendum imposing reduced contribution limits as indicative of their perception of corruption.").

III. Alternatively, the Court should remand the case to the district court to create a robust evidentiary record.

Even if this Court is not prepared to uphold Maine's contribution limits at this juncture, at minimum, it should remand the case to the district court for creation of a more fulsome factual record. The Supreme Court has relied upon a well-developed factual record when reviewing constitutional challenges to campaign contribution limits and similar rules.[5] *See Randall v. Sorrell*, 548 U.S.

[5] The fact that in more recent cases the Supreme Court evaluated campaign finance laws without a fully developed record, *see*, *e.g.*, *Citizens United*, 558 U.S. at 310; *McCutcheon*, 572 U.S. at 185, does not preclude this Court from remanding the case back to the district court here. Nothing in those cases forbids lower courts from developing factual records to aid them in applying the Court's more recent teachings, especially in the face of a campaign landscape that has shifted

230, 253 (2006) (noting the record must be "independently and carefully" examined "to determine whether [the Act's] contribution limits are 'closely drawn' to match the State's interests"); *see also McConnell* v. *FEC*, 540 U.S. 93, 150–52 (2003) (invoking a voluminous record, including congressional committee reports, witness testimony, and other documentary evidence of corruption); *FEC* v. *Colo. Republican Fed. Campaign Comm.*, 533 U.S. 431, 457 (2001) (concluding that "substantial evidence demonstrates how candidates, donors, and parties test the limits of the current law," and "how contribution limits would be eroded if inducement to circumvent them were enhanced by declaring parties' coordinated spending wide open").

The evidentiary record before this Court is sparse. This case was decided on a motion for permanent injunction, with limited fact-gathering. And as discussed above, the factual assumptions underlying older decisions of other circuits that bar contribution limits for super PACs have been seriously called into question. At minimum, the Court should require a factual record that reflects the post-*Citizens United*, super PAC-centered political landscape that is our reality today. Given the absence of such a record here, remand is warranted. *See Ashcroft v. ACLU*, 542

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substantially over the last fifteen years. As discussed *supra*, this case centers on Maine voters' overwhelming majority vote to advance a law to prevent corruption and its appearance. A record that either substantiates or disproves that vote should be developed and reviewed before a court were to weigh in on its merits.

U.S. 656, 671–72 (2004) (remanding because the factual record did not reflect the "current technological reality," which significantly affected the court's strict scrutiny analysis); *see also Thompson v. Hebdon*, 589 U.S. 1, 6–7 (2019) (remanding to the circuit court to determine whether the record showed any "special justification" to uphold Alaska's contribution limits). Expert testimony, additional legislative history, and other evidentiary materials would illuminate Maine's recent electoral history, the effects of super PACs on Maine voters' confidence in government, and whether less restrictive means—such as anti-coordination rules—can hope to achieve the State's anti-corruption interest. To that end, if the Court does not find for the State of Maine on the merits, the Court should at minimum grant the State the opportunity to properly shoulder its constitutional burden on the basis of an updated record.

* * *

This case presents a unique opportunity for the First Circuit to account for the lessons learned in the aftermath of *SpeechNow* and other decisions. The voters of Maine recognized the corruptive effects of allowing unlimited contributions to independent expenditure organizations and opted to impose reasonable limits. Their choice should not be set aside lightly. For these reasons, we urge the Court to reverse the judgment of the district court and uphold the Act.

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Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

This brief complies with the type-volume limitation of Federal Rule of Appellate Procedure 29(a)(5) and 32(a)(7) because it was prepared in a 14-point Times New Roman proportional font and contains 4,415 words, excluding the parts of the brief exempted by Federal Rule of Appellate Procedure 32(f).

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CERTIFICATE OF SERVICE

I, Robert G. Jones, hereby certify that on October 29, 2025, I electronically filed this Amicus Curiae Brief with the Court using the CM/ECF system. All parties are represented by CM/ECF users and will be served by the appellate CM/ECF system.

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