No. 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 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,
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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.

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

AMICUS CURIAE BRIEF OF CAMPAIGN LEGAL CENTER IN SUPPORT OF APPELLANTS AND REVERSAL

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CORPORATE DISCLOSURE STATEMENT OF *AMICUS CURIAE*

Pursuant to Federal Rule of Appellate Procedure 26.1, *amicus curiae* Campaign Legal Center makes the following disclosure regarding its corporate status:

Campaign Legal Center is a nonprofit corporation, has no parent corporation, and no publicly held corporation has any form of ownership interest in it.

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IDENTITY AND INTEREST OF AMICUS CURIAE[1]

Amicus Curiae Campaign Legal Center ("CLC") is a nonpartisan, nonprofit organization working for a more transparent, inclusive, and accountable democracy at all levels of government. *See About*, Campaign Legal Center, https://campaignlegal.org/about (last visited Oct. 29, 2025). CLC has substantial experience with the issues here, having participated in numerous cases addressing state and federal campaign finance requirements, as well as every major U.S. Supreme Court campaign finance case since *McConnell v. FEC*, 540 U.S. 93 (2003).

SUMMARY OF ARGUMENT

In November 2024, Maine voters resoundingly approved—by nearly 75 percent—a citizen-initiated bill entitled an "Act to Limit Contributions to Political Action Committees That Make Independent Expenditures" (the "Act"). JA51, 157-58. The Act is a modest, carefully tailored response to a serious and well-documented threat of quid pro quo corruption related to "super PACs," political committees empowered to accept unlimited contributions from virtually any source provided they spend those funds independently of candidates. The Act's core provision caps, at $5,000 per year, the aggregate amount any individual or entity

[1] Pursuant to Fed. R. App. P. 29(a)(4)(E), amicus curiae states that no party's counsel or person except amicus and its counsel authored this brief or contributed money to fund its preparation or submission. All parties have consented to the filing of this brief pursuant to Fed. R. App. P. 29(a)(2).

may give to a political committee "for the purpose of making independent expenditures." JA157. Far from burdening core political speech, this provision merely places a ceiling on large contributions—symbolic gestures the Supreme Court has long held may be limited to protect compelling anticorruption interests.

The district court erred by enjoining the Act in reliance on the D.C. Circuit's 2010 ruling in *SpeechNow.org v. FEC*, 599 F.3d 686, 696 (D.C. Cir. 2010) (en banc), and similar nonbinding appellate decisions foreclosing limits on contributions to super PACs. Those decisions give short shrift to decades of Supreme Court rulings recognizing that large financial contributions inherently create opportunities for quid pro quo exchanges, regardless of how the recipient ultimately spends the funds.

Not only that, but *SpeechNow* and its descendants also rest on the faulty assumption that contributions to super PACs cannot result in corruption or its appearance per se. That assumption, however, has been overtaken by more than a decade of real-world experience proving otherwise. Since 2010, super PAC contributions have repeatedly served as the quid in explicit quid pro quo exchanges, a fact directly reflected in criminal prosecutions, indictments, and public corruption scandals nationwide. Federal courts and juries have recognized that elected officials highly value super PAC largesse benefiting their candidacies, and are willing to trade official acts for it. This record confirms what common sense already suggests: the transfer of massive sums to a super PAC supporting a candidate creates indebtedness

on the part of that candidate. The Act therefore addresses an actual mechanism through which corruption now occurs, closing a channel of influence Congress could not have foreseen and which did not yet exist when *SpeechNow* was decided.

The Act is independently justified by Maine's compelling interest in preventing the appearance of corruption, an interest the Supreme Court has repeatedly recognized as coequal with preventing actual quid pro quos. A robust evidentiary record, including empirical scholarship and expert testimony below, shows that the public perceives super PAC contributions as corrupt, and that those perceptions spike dramatically once a contribution exceeds $5,000—the precise limit Maine adopted. The Act thus directly targets a known vector of perceived corruption and does so at the threshold where that risk becomes most acute in the eyes of the voting public.

Moreover, by preventing both the actuality and appearance of corruption, the Act also safeguards public confidence in the democratic process—an interest of the highest order in a democracy. As the Supreme Court has explained, "[d]emocracy works only if the people have faith in those who govern, and that faith is bound to be shattered when high officials . . . engage in activities which arouse suspicions of malfeasance and corruption." *Nixon v. Shrink Missouri Gov't PAC*, 528 U.S. 377, 390 (2000) (internal quotation marks omitted). The people of Maine reached the same judgment: by a record turnout and a 74.9% margin, they concluded that

limiting super PAC contributions is necessary to prevent corruption and restore faith in self-government.

Because Maine's $5,000 limit directly targets the demonstrated conduit for corrupt exchanges, leaves untouched independent advocacy and expenditures, and is supported by substantial legislative facts and voter judgment, it satisfies constitutional scrutiny. The district court's contrary ruling—resting on a categorical, a priori rejection of anticorruption evidence—should be reversed.

ARGUMENT

I. Limiting Contributions to Super PACs Is a Constitutionally Permissible Means of Preventing Actual and Apparent Quid Pro Quo Corruption.

Experience across the country since the advent of super PACs—"independent expenditure-only political committees" that can generally accept contributions in unlimited amounts from individuals as well as entities, including corporations, unions, and dark-money nonprofits—makes clear the risks these committees pose. Because Maine's limit advances compelling anticorruption interests while imposing only a modest First Amendment burden, the Act satisfies constitutional scrutiny.

A. The Act Is Supported by Valid—and Compelling—Anticorruption Interests that the District Court Failed to Credit.

Concerns about the corruptive potential of large financial contributions benefiting candidates—regardless of whether those funds are ultimately used for independent expenditures—are neither "novel nor implausible." *Shrink Missouri*,

528 U.S. at 391. As the Supreme Court has noted, "there is little reason to doubt that sometimes large contributions will work actual corruption of our political system, and no reason to question the existence of a corresponding suspicion among voters." *Id.* at 395.

Nevertheless, although the anticorruption interests animating the Act have long been recognized by the Supreme Court as both "legitimate and compelling," *FEC v. Nat'l Conservative PAC*, 470 U.S. 480, 496 (1985), the district court refused to credit them here. Instead, it doubled down on the faulty reasoning of *SpeechNow* and its nonbinding analogues from other Circuits, which collectively assumed that if "independent expenditures do not corrupt or give the appearance of corruption as a matter of law, then the government can have no anti-corruption interest in limiting contributions to" independent expenditure-only committees. *SpeechNow*, 599 F.3d at 696; *see* JA350-53. *See also, e.g.*, *Wis. Right to Life State PAC v. Barland*, 664 F.3d 139, 154 (7th Cir. 2011); *Texans for Free Enter. v. Tex. Ethics Comm'n*, 732 F.3d 535, 537-38 (5th Cir. 2013); *Republican Party of N.M. v. King*, 741 F.3d 1089, 1103 (10th Cir. 2013); *N.Y. Progress & Prot. PAC v. Walsh*, 733 F.3d 483, 487 (2d Cir. 2013); *Alaska Pub. Offs. Comm'n v. Patrick*, 494 P.3d 53, 58 (Alaska 2021).

Notwithstanding this apparent consensus in the lower appellate courts, in all of the Supreme Court's decisions involving contribution limits, "[t]he importance of the governmental interest in preventing [corruption] has never been doubted." *FEC*

v. Beaumont, 539 U.S. 146, 154 (2003) (second alteration in original) (citation omitted). Indeed, this Court today is presented with a much more compelling anticorruption case for limiting contributions to super PACs than was the D.C. Circuit fifteen years ago in *SpeechNow*, where there was no practical experience with super PACs and the plaintiff group in no way resembled how the median super PAC now operates. The plaintiffs in *SpeechNow* were a group of individuals who formed an unincorporated nonprofit association that lacked any ties to parties or candidates and planned to spend in support of multiple candidates. 599 F.3d at 689-90. In contrast, today, political operatives from candidates' inner circles routinely organize and run sophisticated single-candidate super PACs—a reality that significantly compounds the risk of quid pro quo corruption. *See, e.g.*, Fred Wertheimer, *The Case for Ending Individual-Candidate Super PACs*, Democracy 21 (Feb. 26, 2019), https://perma.cc/W2CL-V5EJ.

And while *Citizens United v. FEC*, 558 U.S. 310 (2010), provided the impetus for *SpeechNow* and similar lower court decisions, it did not address contribution limits or alter the longstanding framework for their review. Both before and after *Citizens United*, the Supreme Court has consistently subjected contribution limits to lesser scrutiny than expenditure ceilings because "the transformation of contributions into political debate involves speech by someone other than the contributor." *Buckley v. Valeo*, 424 U.S. 1, 21 (1976) (per curiam); *see, e.g.*,

McCutcheon v. FEC, 572 U.S. 185, 218 (2014) (applying closely drawn scrutiny to aggregate limit); *Beaumont*, 539 U.S. at 161 (upholding federal corporate contribution ban under closely drawn standard); *Buckley*, 424 U.S. at 20-23, 25. *See also, e.g.*, *Cal. Med. Ass'n v. FEC*, 453 U.S. 182, 196 (1981) (describing contributions to a PAC as "speech by proxy" that is "not . . . entitled to full First Amendment protection").

Further, the *Buckley* framework and its "relatively complaisant review," *Beaumont*, 539 U.S. at 161, applies to the analysis of a contribution limit regardless of how the recipient committee ultimately spends the money. So when the Supreme Court analyzed the federal ban on spending so-called "soft money" in *McConnell v. FEC*, 540 U.S. 93 (2003), it treated that "mechanism" as a contribution limit rather than a spending limit (and thus applied a lesser form of scrutiny) because "large soft-money contributions to national parties are likely to create actual or apparent indebtedness on the part of federal officeholders, *regardless of how those funds are ultimately used*." 540 U.S. at 138-39, 155 (emphasis added).

The Court has twice summarily affirmed that reasoning in later challenges to the soft-money restrictions, most recently in *Republican Party of Louisiana v. FEC*, 137 S. Ct. 2178 (2017) (mem.) (affirming three-judge federal court decision finding that contributions to political parties can corrupt even when the parties' expenditures do not). As Judge Srinivasan explained in his opinion for the three-judge panel, "the

inducement occasioning the prospect of indebtedness on the part of a federal officeholder is not the *spending* of soft money by a political party," but "instead comes from the contribution of soft money to the party in the first place." 219 F. Supp. 3d 86, 97 (D.D.C. 2016). The same principle holds here. Like other contribution limits, the Act does not "in any way limit[] the total amount of money [committees] can spend," *McConnell*, 540 U.S. at 139, but "merely" requires them "to raise funds from a greater number of persons." *Id.* at 136 (citing *Buckley*, 424 U.S. at 21-22).

Experience in the years since *SpeechNow* only further exposes the errors of that decision and its progeny, which did not consider or anticipate the mounting evidence that large contributions to super PACs do facilitate opportunities for corrupt quid pro quos. *See infra* Part I.B. Nor did most of those courts have the benefit of recent empirical research indicating that the explosion of multimillion-dollar contributions to super PACs creates the appearance of corruption and erodes public confidence in the democratic process. *See infra* Part II.

Therefore, the district court erred in assuming, following "the logic" of *Citizens United* and *SpeechNow*, JA353, that any factual record evincing the corruptive potential of super PAC contributions would be insufficient as a matter of law to sustain the Act. Assessing whether a given contribution limit is supported by valid and sufficiently weighty anticorruption interests is part and parcel of the

constitutional analysis under the applicable "closely drawn" standard of scrutiny. Whether political contributions pose a risk of corruption is a question of legislative fact, and courts tasked with answering it should consult the full range of relevant sources, including controlling precedent, the records in other cases, and available empirical studies and recorded experience. *See, e.g.*, *Ognibene v. Parkes*, 599 F. Supp. 2d 434, 448 (S.D.N.Y. 2009) ("[L]egislative facts" are to be considered "in determining whether a reasonable person would believe that corruption or the potential for corruption exists."), *aff'd*, 671 F.3d 174 (2d Cir. 2011). Maine's evidence was owed a fuller consideration.

The evidentiary record thoroughly substantiates Maine's concerns about corruption stemming from large contributions to super PACs, and refutes the proposition endorsed below that Maine's asserted anticorruption interests are categorically "not enough" to justify its adoption of a $5,000 limit. JA354.

B. The Corruptive Potential of Unlimited Contributions to Super PACs Is Amply Borne Out by the Empirical Record and Experience Since 2010.

Since 2010, real-world political practice has disproven the central factual premise on which *SpeechNow* and its progeny have rested. *SpeechNow* treated contributions to independent spenders as too attenuated from candidates to pose the risk of quid pro quo corruption or its appearance, reasoning that because *Citizens United* held that independent expenditures cannot result in corruption, donations to

entities that make only independent expenditures must likewise be harmless. *See* 599 F.3d at 696. But that assumption has now been overtaken by evidence.

Numerous high-profile cases, including criminal prosecutions, now reveal that contributions to super PACs can and frequently do constitute the "quid" in a corrupt quid pro quo transaction between a super PAC donor and public official. This is true even though contributions to super PACs do not directly line a public official's pockets or campaign coffers; evidence shows that candidates nevertheless value super PAC contributions enough to trade them for official acts. Candidates solicit super PAC contributions precisely because they believe that such contributions bolster their own electoral prospects. And donors route their payments through super PACs precisely because the magnitude of those sums—often millions of dollars—would be unlawful if made as direct campaign contributions to the candidate (currently limited to $3,500 per election at the federal level[2]).

This dynamic is amplified by the fact that donors may coordinate their contributions to super PACs with the candidates they seek to support. As Appellants emphasize, *Citizens United* treated independent expenditures as non-corrupting only because they are, "by definition," not coordinated with a candidate. *See* Equal Citizens Opening Br. 17 (quoting *Citizens United*, 558 U.S. at 360). But

[2] *See Contribution limits for 2025-2026*, FEC (Jan. 2025), https://perma.cc/XY62-69GQ.

contributions to super PACs are not subject to any comparable ban on coordination—candidates may even solicit them directly (within applicable hard-money limits at the federal level, *see* 52 U.S.C. § 30125)—so they can be traded for official acts. *See* Equal Citizens Opening Br. 13-14, 30-31. As one study of super PAC contributions observed, "[c]ritics of the *SpeechNow* ruling and its descendants have rightly argued that [the ruling's] analysis ignores the ability of contributors of unlimited funds to [super PACs] to communicate with candidates benefiting from those donations and thereby turns a blind eye to the danger of quid pro quo corruption and its appearance."[3]

Federal bribery cases in the past decade show conclusively that super PAC contributions can—and do—serve as the payable "quid" in an illicit bargain. Courts hearing these cases have refused to dismiss the indictments based on arguments invoking *SpeechNow*, recognizing that a super PAC donation can be the basis for corruption even when the super PAC purports to spend that money independently.

United States v. Menendez. Federal prosecutors alleged that Senator Robert Menendez solicited approximately $300,000 earmarked for a super PAC aligned with his reelection in exchange for intervening with federal regulators on behalf of

[3] Stephen R. Weissman, The *SpeechNow* Case and the Real World of Campaign Finance, Free Speech for People Issue Report 2016-02, at 10 (Oct. 2016), https://perma.cc/7LQL-XF65.

a donor. *United States v. Menendez*, 132 F. Supp. 3d 635, 640 (D.N.J. 2015). Senator Menendez moved to dismiss on the theory adopted in *SpeechNow*: that super PAC contributions are incapable of corruption because they fund "independent" expenditures. *See id.* at 639-40. The court rejected that argument, holding that a jury could find that Menendez "placed value, albeit subjective, on the earmarked donations" to the super PAC. *Id.* at 640. The indictment also alleged an "explicit quid pro quo." *Id.* at 643. The court later reaffirmed that a jury could convict Menendez of bribery based on super PAC contributions because "there was ample evidence available from which it could conclude either that Menendez placed subjective value on [the] contributions, or that Menendez (or his agents) solicited" the contributions. *United States v. Menendez*, 291 F. Supp. 3d 606, 622 (D.N.J. 2018).

United States v. Lindberg. The prosecution of North Carolina businessman Greg Lindberg confirms the same pattern. Lindberg and associates allegedly sought the removal of a state insurance regulator hostile to his interests and promised to put $1.5 million into a super PAC supporting the commissioner's reelection. *United States v. Lindberg*, No. 5:19-cr-22, 2020 WL 520948, at *2 (W.D.N.C. Jan. 31,

2020) (unpublished).[4] When defendants argued that such contributions are constitutionally noncorrupting, the court rejected the argument and declined to dismiss the indictment. *See id.* at *7 n.6. Lindberg was convicted in May 2024.[5]

United States v. Householder. In 2020, federal prosecutors charged former Ohio House Speaker Larry Householder and his associates with operating a racketeering conspiracy built around bribe payments routed to a super PAC. According to the indictment, the alleged bribe was a stream of roughly $60 million that electric utility FirstEnergy quietly paid to Generation Now, a dark-money nonprofit controlled by Householder's network. This money was then used to fund a Householder-aligned super PAC that spent heavily on advertising to elect Householder and candidates loyal to him, which in turn helped Householder to be elected speaker in 2019. *See United States v. Householder*, No. 1:20-CR-77, 2023 WL 24090 (S.D. Ohio Jan. 3, 2023) (unpublished).[6] The money funded advertising

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[4] *See also* Ames Alexander, *Watch secretly recorded videos from the bribery sting that targeted Durham billionaire*, The Charlotte Observer (Mar. 10, 2020), https://www.charlotteobserver.com/news/local/article241043236.html.

[5] *See Donor and consultant convicted again of trying to bribe North Carolina's insurance commissioner*, AP News (May 16, 2024), https://perma.cc/8VZN-ESDH.

[6] *See also* Matt Corley, *These Criminal Prosecutions Show What Citizens United Got Wrong About Corruption*, CREW (Mar. 19, 2024), https://www.citizensforethics.org/reports-investigations/crew-investigations/these-criminal-prosecutions-show-what-citizens-united-got-wrong-about-corruption.

and electioneering almost entirely to maintain Householder's political power and was structured as a continuing pipeline of political support exchanged for legislative duty. *See id.* at *1, *5-6. The court's refusal to dismiss the indictment, *see id.*, and Householder's later conviction, *see* Judgment, *United States v. Householder*, No. 1:20-cr-77 (S.D. Ohio July 6, 2023), ECF No. 288,[7] confirm that quid pro quo corruption does not require officials to pocket personal checks—just to direct vast political resources that they perceive will keep them in office.

United States v. Vázquez-Garced. Similarly, in the prosecution of former Puerto Rico Governor Wanda Vázquez-Garced, the indictment alleged that the scheme began while Bancrédito—an international bank owned by Venezuelan financier Julio Martín Herrera Velutini—was under examination by Puerto Rico's Office of the Commissioner of Financial Institutions ("OCIF"). Herrera Velutini allegedly sought to defuse that scrutiny by offering, through intermediaries, to provide major financial backing for Vázquez-Garced's 2020 reelection bid if she would remove the sitting OCIF commissioner and replace him with someone favorable to his bank's interests. *See* Indictment at 7-13, *United States v. Vázquez-Garced*, No. 3:22-CR-342 (D.P.R. Aug. 4, 2022). Prosecutors allege that Vázquez-

[7] *See also* Press Release, U.S. Att'y's Off., S. Dist. of Ohio, Jury convicts former Ohio House Speaker, former chair of Ohio Republican Party of participating in racketeering conspiracy (Mar. 9, 2023), https://perma.cc/83T6-NM68.

Garced accepted the bargain, ultimately forcing out the incumbent regulator and installing a former consultant to Bancrédito. *See id.* at 14-17. The indictment further alleges that Herrera Velutini conveyed his willingness to form and finance a super PAC supporting her campaign as part of the same quid pro quo. *See id.* at 17-21; *see also* Frances Robles, *Former Puerto Rico Governor Arrested on Corruption Charges*, N.Y. Times (Aug. 4, 2022), https://www.nytimes.com/2022/08/04/us/puerto-rico-wanda-vasquez-arrest.html (reporting DOJ allegation that Herrera "then formed a political action committee for Ms. Vázquez"). When Vázquez-Garced later lost her primary, Herrera Velutini allegedly shifted strategy, attempting to bribe the eventual winner—current Governor Pedro R. Pierluisi—by offering super PAC support in exchange for favorable regulatory treatment of Bancrédito. *See Robles*, *supra*.[8]

United States v. Parnas. In 2019, Lev Parnas and Igor Fruman funneled hundreds of thousands of dollars to America First Action, a high-dollar super PAC supporting President Trump, for the express purpose of "obtain[ing] access to

[8] In August 2025, Vázquez-Garced accepted a plea deal in which she pleaded guilty to illegally accepting a campaign contribution from a foreign national. *See Former Puerto Rico Gov. Wanda Vázquez pleads guilty to campaign finance violation*, AP News (Aug. 27, 2025), https://perma.cc/H6XW-TQ4W.

exclusive political events and gain[ing] influence with politicians."[9] They routed a $325,000 contribution through a shell LLC to disguise the true source of the funds and another $15,000 to a second super PAC. Prosecutors alleged—and trial evidence confirmed—that the scheme's purpose was to "buy potential influence with candidates, campaigns, and the candidates' governments." Sealed Indictment at 2, *United States v. Parnas*, 1:19-cr-00725 (S.D.N.Y. Oct. 9, 2019).

Zekelman Industries (MUR 7613). In 2022, the FEC imposed one of the largest fines in its history—$975,000—against entities controlled by Canadian billionaire Barry Zekelman for directing $1.75 million to the pro-Trump super PAC America First Action. *See* FEC, Factual & Legal Analysis and Conciliation Agreement (MUR 7613) (Zekelman Industries, Inc.), https://perma.cc/A2SP-Q9JS. The payoff was not subtle: shortly after the contribution, Zekelman was invited to a private dinner to discuss trade policy affecting his steel empire, which was soon followed by the administration imposing caps on steel imports from Zekelman competitors, like South Korea. *See* CLC, *New York Times Report on Canadian CEO Barry Zekelman Prompts Two CLC Complaints* (May 24, 2019), https://perma.cc/ED2E-H2KK.

[9] *See* Press Release, U.S. Att'y's Off., S. Dist. of N.Y., Lev Parnas Sentenced to 20 Months in Prison for Campaign Finance, Wire Fraud, and False Statement Offenses (June 29, 2022), https://perma.cc/W9XM-5FPM.

United States v. Azano Matsura. In 2016, a Mexican businessman and foreign national, Jose Susumo Azano Matsura, was sentenced to three years in federal prison after funneling $500,000 in illegal contributions to San Diego mayoral candidates via straw donors in an attempt to buy support for a waterfront development project and access to political figures.[10] $100,000 of the funds were routed through a super PAC created by Matsura and his associates to support the campaign of Bonnie Dumanis for Mayor.[11] Matsura worked with a campaign consultant and a former San Diego police detective to effect the contributions; both were also charged in the scheme.[12]

* * *

[10] *See* Press Release, U.S. Att'y's Off., S. Dist. of Cal., Mexican Businessman Jose Susumo Azano Matsura Sentenced for Trying to Buy Himself a Mayor (Oct. 27, 2017), https://perma.cc/4EA6-B8ET; John Hudson, *Feds: Mexican Tycoon Exploited Super PACs to Influence U.S. Elections*, Foreign Policy (Feb. 11, 2014), https://foreignpolicy.com/2014/02/11/feds-mexican-tycoon-exploited-super-pacs-to-influence-u-s-elections/ [https://archive.is/gPJCP#selection-1131.36.1131.61].

[11] Dave Maass, *New Dumanis super PAC backed by Mexican businessman*, San Diego CityBeat (May 23, 2012), https://web.archive.org/web/20140128114550/http:/www.sdcitybeat.com/sandiego/blog-914-new-dumanis-super-pac-backed-by-mexican-businessman.html.

[12] Craig Gustafson & Susan Shroder, *Feds: Illegal money funneled to SD pols*, The San Diego Union-Trib. (Jan. 21, 2014), https://web.archive.org/web/20140122053336/http:/www.utsandiego.com/news/2014/jan/21/feds-illegal-money-funneled-to-san-diego/#article-copy.

When viewed collectively, these cases demonstrate that super PAC contributions now routinely serve as the quid in corrupt, quid pro quo arrangements. Fifteen years ago, the D.C. Circuit in *SpeechNow* was not faced with the current reality of sophisticated super PACs acting as conduits for corruption. *See supra* at 6. The premise of *SpeechNow*—that contributions to independent spenders would be too far removed or too "independent" to be or appear corrupt—has been disproven. Unlimited sums create a functional marketplace for political favors in which donors trade large contributions for expected official benefit.

Recent conduct underscores just how far from reality *SpeechNow*'s factual premise has drifted. Elon Musk's relationship with the administration is paradigmatic. Musk spent nearly $300 million to support President Trump's 2024 campaign—funds routed primarily through a pro-Trump super PAC, America PAC—before being installed as the head of a newly created "U.S. DOGE Service," where he exercised direct authority over agencies with regulatory jurisdiction over his own companies. *See* CLC, Trump's Corrupt Transactions: How the 47th President Has Brazenly Traded Official Benefits for Personal and Political Gain at 3 (Oct. 15, 2025), https://perma.cc/6N7V-8QPR. The public record reflects subsequent regulatory and contracting benefits to Musk's businesses, including Starlink, Tesla, and xAI. *See id.* Longtime Trump donor Linda McMahon likewise contributed more than $20 million to the pro-Trump super PAC Make America Great

Again Inc. between late 2023 and 2024, before being named Secretary of Education. *See id.* at 4. In a similar vein, hedge fund executive Scott Bessent gave $1.4 million to Trump-affiliated super PACs and was promptly tapped to serve as Secretary of the Treasury. *See id.*

The same pattern extends to clemency decisions. For example, Paul Walczak received a presidential pardon shortly after his mother contributed $1 million at a MAGA Inc. fundraising dinner—an event tied to super PAC financing—and the pardon application expressly invoked that contribution. *See id.* at 11. These are not *post hoc* favors granted to supportive allies; they are official acts temporally and causally tethered to specific, seven- and eight-figure super PAC contributions. That linkage is the precise quid pro quo pattern *SpeechNow* and its descendants have deemed impossible. *See* 599 F.3d at 694.

Because the record now shows that unlimited super PAC contributions have become vehicles for trading official action, limits on those contributions should be permissible as the very kind of safeguard the Supreme Court has long recognized as essential to preventing the sale of public office.

II. The Act Is Independently Justified Because It Prevents the Appearance of Corruption and Promotes Public Faith in Self-Government.

The Act's contribution limit not only removes a clear avenue for corruption, but also, critically, insulates Maine elections from the dispiriting *appearance* of corruption associated with unrestrained super PAC giving. Preventing the

appearance of corruption is a well-established and compelling governmental interest, *see, e.g.*, *Buckley*, 424 at 25-29, and the record here fully demonstrates its validity and strength.

Although the Supreme Court has not yet had occasion to define the full scope of what constitutes the *appearance* of quid pro quo corruption,[13] it has indicated that voter sentiment is highly salient evidence of apparent corruption. *See Shrink Missouri*, 528 U.S. at 393-94. On this front, there is copious evidence to support the Act. As empirical studies consistently show, voters understand that big donors—including donors to super PACs—are a source of quid pro quo corruption. The same insight is reflected in the record below, which includes, *inter alia*, expert testimony validating that the Act prevents the appearance of corruption. And even if survey evidence and expert testimony would not be sufficient alone to substantiate the government's interest in preventing the appearance of corruption, here it is reinforced by the many criminal prosecutions of actual quid pro quos based on super PAC contributions, *see supra* Part I.

Maine voters considered their experience under the regime of unlimited super PAC contributions unleashed since *SpeechNow* and determined that limiting those

[13] In *McCutcheon*, 572 U.S. at 208, the Court stated that the "Government's interest in preventing the appearance of corruption is equally confined to the appearance of quid pro quo corruption," but it did not further elucidate what such appearances include.

contributions was necessary to prevent corruption and reinforce public confidence in democratic governance. This was a constitutionally permissible choice, and, given the compelling interests at stake, an appropriate one.

A. Preventing the Appearance of Corruption Is a Compelling Governmental Interest in Its Own Right.

The Supreme Court has repeatedly explained that preventing the appearance of corruption is a compelling governmental interest that can independently support campaign finance legislation:

> The public interest in countering th[e] perception [of corruption] was, indeed, the entire answer to the overbreadth claim raised in the *Buckley* case. This made perfect sense. Leave the perception of impropriety unanswered, and the cynical assumption that large donors call the tune could jeopardize the willingness of voters to take part in democratic governance. Democracy works "only if the people have faith in those who govern, and that faith is bound to be shattered when high officials and their appointees engage in activities which arouse suspicions of malfeasance and corruption."

Shrink Missouri, 528 U.S. at 390 (quoting *United States v. Mississippi Valley Generating Co.*, 364 U.S. 520, 562 (1961)). As the Court has long recognized, avoiding the appearance of corruption is "[o]f almost equal concern as the danger of actual quid pro quo arrangements," and "the avoidance of the appearance of improper influence 'is also critical . . . if confidence in the system of representative Government is not to be eroded to a disastrous extent.'" *Buckley*, 424 U.S. at 27 (quoting *CSC v. Letter Carriers*, 413 U.S. 548, 565 (1973)). Indeed, "[t]his interest exists even where there is no actual corruption, because the perception of corruption,

or of opportunities for corruption, threatens the public's faith in democracy." *Ognibene v. Parkes*, 671 F.3d 174, 186 (2d Cir. 2011).

These campaign finance holdings are consistent with the Supreme Court's other decisions involving the integrity of the nation's system of self-government and the essential role of public confidence in that system. *See, e.g.*, *Crawford v. Marion Cnty. Election Bd.*, 553 U.S. 181, 197 (2008) (recognizing that "public confidence in the integrity of the electoral process . . . encourages citizen participation in the democratic process") (internal quotation marks and citations omitted); *Purcell v. Gonzalez*, 549 U.S. 1, 4 (2006) ("Confidence in the integrity of our electoral processes is essential to the functioning of our participatory democracy."). As one scholar has observed, "[a]ppearances drive social trust, democratic legitimacy, and the constitutional stability of government. Legitimacy also facilitates voluntary compliance with the laws made under a political regime." Christopher T. Robertson et al., *The Appearance and the Reality of Quid Pro Quo Corruption: An Empirical Investigation*, 8 J. of Legal Analysis 375, 378 (2016) (citations omitted), *available at* https://academic.oup.com/jla/article/8/2/375/2502553.

The Supreme Court has similarly recognized the importance of appearances in cases concerning the judicial branch and the intersection of judicial impartiality and campaign finance. In *Caperton v. A.T. Massey Coal Co., Inc.*, 556 U.S. 868 (2009), the Court found a due process violation when a West Virginia State Supreme

Court Justice failed to recuse himself from a case in which one of the parties had spent exorbitant amounts in support of the Justice's campaign. The Court found that the public's perception of the judiciary is "a vital state interest" and explained that judicial codes "are the principal safeguard against judicial campaign abuses that threaten to imperil public confidence in the fairness and integrity of the nation's elected judges." *Id.* at 889 (internal quotation marks and citation omitted). And in *Williams-Yulee v. Florida Bar*, 575 U.S. 433, 453 (2015), the Court gave broad discretion to the legislature when the decision held that "Florida ha[d] reasonably determined that personal appeals for money by a judicial candidate inherently create an appearance of impropriety that may cause the public to lose confidence in the integrity of the judiciary."

B. The Public's Perception of Corruption Directly Affects the Strength and Vitality of American Democracy.

The Supreme Court has correctly understood that the public's perception of corruption can have a deep and consequential effect in our system of democratic self-government. Campaign finance regulation is a key bulwark supporting the strength of that system; indeed, a growing body of empirical evidence indicates that our underregulated campaign finance system has contributed to a steep decline in the public's faith in government. Anticorruption measures like the Act are thus all the more essential—because they counter the widespread perception that American democracy is for sale.

Especially during the past decade, as campaign finance law has been further deregulated, the public's perception of corruption has continued to grow and its confidence in government's fairness and integrity has plummeted. When a demographically representative study in 2014 tested the American population's attitude on specific campaign finance issues, the highly statistically significant results indicated that "citizens experience a decrease in their faith in democracy as the magnitude of reported election campaign contributions from organizations increases." Rebecca L. Brown & Andrew D. Martin, *Rhetoric and Reality: Testing the Harm of Campaign Spending*, 90 N.Y.U. L. Rev. 1066, 1089 (2015). And citizens "experience a greater decrease in their faith in democracy based on evidence of reelection campaign expenditures on behalf of a candidate, when those expenditures are coordinated with the candidate's campaign, as compared with when the expenditures are truly independent." *Id.*

As Professors Spencer and Theodoridis have summarized, "[n]ationally representative surveys report that most Americans believe corruption is widespread throughout the government and that campaign contributors have a 'great deal' of influence over public policy decisions. . . . Survey respondents also report that contributions from corporations and unions are more corrupting than contributions from individuals." Douglas M. Spencer & Alexander G. Theodoridis, *"Appearance*

of Corruption": Linking Public Opinion and Campaign Finance Reform, 19 Election L. J. 510, 510-11 (2020) (citations omitted).

Similarly, the Brennan Center for Justice has shared the following results of a national survey:

> The poll reveals that nearly 70 percent of Americans believe Super PAC spending will lead to corruption and that three in four Americans believe limiting how much corporations, unions, and individuals can donate to Super PACs would curb corruption. . . . [M]ost alarmingly, the poll revealed that concerns about the influence Super PACs have over elected officials undermine Americans' faith in democracy: one in four respondents—and even larger numbers of low-income people, African Americans, and Latinos—reported that they are less likely to vote because big donors to Super PACs have so much more sway than average Americans.

Brennan Ctr. for Justice, *National Survey: Super PACs, Corruption, and Democracy* (2012) (citations omitted), https://perma.cc/X6UJ-GJQ9.[14]

Other recent scholarship has shown that "perceived corruption of standard campaign practices is by no means limited to political cynics, experts, partisans, or any other narrow grouping," but rather "is a super-majority judgment of the

[14] In 1997, Common Cause Minnesota, in conjunction with St. Cloud State University, found similar results in a Minnesota survey. Almost one-third of those surveyed said "yes" when asked, "Are you personally less likely to vote or participate in politics because you believe that those who give political contributions have more influence over elected officials than you do?" Todd Paulson & David Schultz, *Bucking Buckley: Voter Attitudes, Tobacco Money, and Campaign Contribution Corruption in Minnesota Politics*, 19 Hamline J. Pub. L. & Pol'y 449, 469 (1998).

American citizenry." Matthew DeBell & Shanto Iyengar, *Campaign Contributions, Independent Expenditures, and the Appearance of Corruption: Public Opinion vs. the Supreme Court's Assumptions*, 20 Election L. J. 286, 297 (2021) (reporting a "relative invariance in the relationship between perceived corruption and political characteristics"). After testing several hypotheses about contributions, independent expenditures, and the perceptions of corruption they may create, the study found that "[p]erceptions of corruption increase consistently (monotonically) with the amount of money contributed or spent," and suggested that "current campaign finance laws may contribute to reduced trust in government and lower voter turnout." *Id.* at 296, 297.[15]

Although *Buckley* recognizes that "laws making criminal the giving and taking of bribes deal with only the most blatant and specific attempts of those with money to influence governmental action," 424 U.S. at 27-28, the relevant empirical research suggests that the public's perception of quid pro quo corruption is quite broad. For example, in one pair of studies involving jury simulations and fact patterns "designed to mimic ubiquitous behavior that virtually any of the 535 Members of Congress engage in every day . . . the vast majority of [the mock] grand jurors were willing to indict such everyday behavior under the federal bribery

[15] *See also* Pew Research Center, *The Public, the Political System and American Democracy* at 4 (2018), https://perma.cc/4HHV-L7K5.

statute," even though much of the described behavior is likely legal under current law. Robertson, *Appearance and Reality*, 8 J. of Legal Analysis at 380.[16] To deter the kind of cynicism that can erode participation in and support for democratic governance, this Court should adopt a definition of the appearance of quid pro quo corruption that accords with the public's actual attitudes.

C. Maine's Interest in Avoiding the Appearance of Corruption Is Confirmed by the Evidentiary Record.

In addition to the general empirical literature supporting Maine's interest in preventing perceived quid pro quo corruption, the Act also demonstrably effectuates that goal. The evidentiary record is replete with support for the proposition that limiting contributions to super PACs prevents apparent corruption, and confirms that Maine's limit is well tailored to that vital interest.

Perhaps most notably, the record includes expert testimony validating that the Act prevents apparent corruption. Employing vignette-based survey research methodology, Equal Citizens's expert found robust empirical support for several key propositions, including that contributions to super PACs foster the appearance of

[16] One example involved a congressman who initially met with a corporate lobbyist but declined to support a legislative rider that the company wanted; after the company contributed $50,000 to a 501(c)(4) organization that was running ads supporting the type of bills the congressman supported, he expressed a willingness to support the rider. No witness testified that the parties agreed to exchange anything, yet 73% of the jurors voted to indict. Robertson, *Appearance and Reality*, 8 J. of Legal Analysis at 395-97.

corruption; that "the amount of money matters"; and that perceptions of corruption spike "dramatic[ally]" at and above the precise level at which Maine's contribution limit is set ($5,000). JA205.

In one experiment, the study not only "found a clear relationship between the amount of money contributed and perceived likelihood that the elected official would sell a policy outcome," but also demonstrated that "$5,000 appears to be an inflection point in perceptions of quid pro quo corruption." JA205-206. In a second experiment simulating how the existence or absence of the contribution limit would affect perceptions of corruption, the researchers found that "a $5,000 cap on [super PAC] contributions has a significant and substantial effect on perceptions of quid pro quo corruption and that the cap supports broader perceptions of democratic legitimacy and effectiveness." JA210.

That the Act was adopted by Maine voters directly via citizen-initiated legislation is a particularly clear indication of public sentiment. In *Shrink Missouri*, which likewise considered contribution limits voters approved by statewide ballot measure, the Supreme Court noted that "the statewide vote . . . certainly attested to the perception relied upon here: [A]n overwhelming 74 percent of the voters of Missouri determined that contribution limits are necessary to combat corruption and the appearance thereof." 528 U.S. at 394 (internal quotation marks omitted). Considering this and other evidence, the Court concluded that "this case does not

present a close call" as to whether Missouri met its "evidentiary obligation." *Id.* at 393. Here, too, the Act garnered a record-breaking number of votes and passed with an overwhelming 74.9% margin of victory, JA156, demonstrating that the vast majority of Maine voters perceive large contributions to super PACs as a serious problem in need of correction. That "certainly attest[s] to the perception [of corruption] relied upon here." 528 U.S. at 394.

CONCLUSION

For the foregoing reasons, the district court decision should be reversed.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

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1. This brief complies with the type-volume limitation of Fed. R. App. P. 32(a)(7)(B) because: this brief contains 6,439 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(a)(7)(B)(iii).

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/s/ Megan P. McAllen
Megan P. McAllen

CERTIFICATE OF SERVICE

I hereby certify that on October 29, 2025, I electronically filed the foregoing Brief with the Clerk of Court for the United States Court of Appeals for the First Circuit by using the appellate CM/ECF system, thereby serving all persons required to be served.

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