

No. 25-1705

**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.

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

No. 25-1706

DINNER TABLE ACTION, FOR OUR FUTURE,
ALEX TITCOMB,

Plaintiffs-Appellees,

v.

EQUAL CITIZENS; CARA McCORMIK; PETER McCORMIC;
RICHARD A. BENNETT,

Defendants-Appellants,

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the Maine Commission on Governmental Ethics and Election
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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

CONSENT MOTION FOR LEAVE TO PARTICIPATE AS *AMICUS CURIAE*

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Pursuant to this Court’s August 10, 2026 order, Citizens for Responsibility and Ethics in Washington (“CREW”) hereby respectfully seeks prior leave of Court to participate as *amicus curiae* in support of Appellants with respect to supplemental briefing. The Court requested supplemental briefing on the “implications of [*National Republican Senatorial Committee v. Federal Election Commission* (“NRSC”), 146 S. Ct. 2404 (2026)], with an emphasis on [certain] passages” identified by this Court. Order, Doc. # 00118489288 (1st Cir. Aug. 10, 2026). As an amicus in both the original briefing in this case and before the Supreme Court in *NRSC*, and as a nonpartisan organization experienced in interpreting and applying the doctrines involved in both cases in numerous judicial and administrative actions, and in regulatory and legislative comments, CREW believes its amicus would be helpful to this Court in disposing this matter.

Specifically, CREW intends to submit an amicus explaining two passages this Court flagged from *NRSC*: those related to parties’ “broad[] and [] dispersed” interests and “earmarking.” Aug. 10 Order at 3. CREW addressed the earmarking rules in its amicus before the Supreme Court and can explain to this Court how those rules work with respect to political parties and why those rules, and discussion related to their application, have no bearing on the conduct Maine seeks to regulate here. CREW can further explain how *NRSC*’s endorsement of rules that are analogous, the limits on contributions to political committees with independent and

broad interests, support Maine's limit on contributions to other political committees here.

Although this Court ordered potential amici to seek leave before filing, CREW also conferred with the parties and they have consented to CREW's participation as amicus.

Date: September 11, 2026

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CERTIFICATE OF COMPLIANCE

Pursuant to Fed. R. App. P. 32, I certify that this motion complies with the type-volume limitation of Fed. R. App. P. 32(c) and 27 because it contains 278 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(f). In addition, this motion complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6) because it has been prepared in has been prepared in a proportionally spaced typeface using Microsoft Word 365 in Times New Roman 14-point font.

/s/ Stuart McPhail
Stuart McPhail

CERTIFICATE OF SERVICE

I certify that on September 11, 2026, the foregoing motion was electronically filed with the Clerk of this Court using the CM/ECF system. I further certify that all participants in this case are registered CM/ECF users and that service will be accomplished using the CM/ECF system.

/s/ Stuart McPhail
Stuart McPhail

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Defendants.

On Appeal from the United States
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BRIEF OF *AMICUS CURIAE* CITIZENS FOR RESPONSIBILITY
AND ETHICS IN WASHINGTON IN SUPPORT OF APPELLANTS

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CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure 26.1 and 29, Citizens for Responsibility and Ethics in Washington (“CREW”) submits its corporate disclosure statement.

(a) CREW has no parent company, and no publicly-held company has a ten percent or greater ownership interest in CREW.

(b) CREW is a non-profit, non-partisan corporation organized under section 501(c)(3) of the Internal Revenue Code. Through a combined approach of research, advocacy, public education, and litigation, CREW seeks to protect the rights of citizens to be informed about the activities of government officials and to ensure the integrity of those officials. Among its principal activities, CREW files complaints with the Federal Election Commission to ensure enforcement of federal campaign finance laws and to ensure its and voters’ access to information about campaign financing to which CREW and voters are legally entitled. CREW disseminates, through its website and other media, information it learns in the process of those complaints to the wider public.

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INTEREST OF AMICI¹

Citizens for Responsibility and Ethics in Washington (“CREW”) is a nonpartisan, section 501(c)(3) nonprofit corporation that combats government corruption. CREW served as amicus here and in *National Republican Senatorial Committee v. Federal Election Commission* (“NRSC”), 146 S. Ct. 2404 (2026). CREW’s amicus in *NRSC*, moreover, related to earmarking: one of the subjects this Court asked to be addressed. Through numerous judicial and administrative actions, as well as regulatory and legislative comments, CREW has extensive experience with earmarking provisions, their relation to different regulated entities, and how *NRSC*’s discussion relates to the issues before this Court.

ARGUMENT

This Court requested additional briefing to address the “implications of *NRSC*,” Order, Aug. 10, 2026, focusing, in relevant part, on passages characterizing political party “interests [as] broader and more dispersed” than candidates’, and “earmarking.” *Id.* at 3. As Appellants correctly argue, these passages do not support the district court’s decision below.

Indeed, understanding the context in which they arose, one specific to political parties, shows those statements do not undermine Maine’s law. Rather, they are specific to analyses where the corrupting risk hinges on the identity of the source of a

¹ No party’s counsel authored this brief in whole or in part, nor did they or any other person contribute money intended to fund its preparation or submission.

particular coordinated expenditure: a political party which the Court says cannot corrupt and thus may not be limited, or a donor who can corrupt who may be using the party to circumvent their own contribution limit. In that context, anti-circumvention and earmarking rules are central, and *NRSC*'s discussion of the degree of control necessary to apply them is relevant. But the Court's analysis is irrelevant to super PACs, which cannot make coordinated expenditures and which face the same limit on independent expenditures as their donors.

In contrast, *NRSC* endorsed contribution limits, even to "independent" groups that have "broad" and "dispersed" interests. 146 S. Ct. at 2419. Rejecting the idea that a contribution's corruption risk is derivative of any eventual expenditure's risk, the Court endorsed limits on groups it said cannot corrupt. Those limits are even more necessary here where, as Appellees now fatally concede, the "risk of corruption is ... not eliminated." Pls.-Appellee's Suppl. Reply 4, Sept. 4, 2026. Since the district court's entire analysis, and the precedent it blindly followed, all relied singularly on the absence of any risk, this concession and *NRSC* warrant reversal.

I. Where Limits Differ Because the Corruption Risk of a Source Differs, Anti-Circumvention Rules are Essential

In *NRSC*, the Supreme Court ruled that the federal limit on a political party's coordinated expenditures, but not those of others, was unconstitutional. 146 S. Ct. at 2423, *cf.* 52 U.S.C. § 30116. It did so by concluding that parties "occupy a unique position with 'a special relationship and unity of interest' with candidates," 146 S.

Ct. at 2425, and that “any influence a political party exerts over its candidates and officials ‘is not corruption,’” *id.* at 2418. Accordingly, corruption concerns could not justify the limits on a party’s coordinated expenditure.

But that makes it essential to know who is responsible for any particular coordinated expenditure. Where a political party is the responsible source, the Court believes there can be no corruption risk. Where someone else is the source, including a donor to a party that is using the party to “circumvent[]” their own coordinated expenditure limit, then the law permits limitations on the coordinated expenditures. *Id.* at 2420.

It was in explaining this process of identifying the source of certain coordinated expenditures that the Court discussed federal earmarking rules. *See id.* A party’s coordinated expenditure will be deemed a “contribution[] from [a donor] to such candidate” if the donor “in any way earmarked or otherwise directed [their funds] through an intermediary or conduit.” *Id.* In those situations, the coordinated expenditure maker is really the donor. In those situations, the Court found corruption concerns support limits. *Id.* at 2421.

In contrast, the Court said donors cannot be treated as the source for the coordinated expenditures if the donor “mere[ly] expect[s] or hope[s]” their contribution will go to support a particular candidate. *Id.* In those situations, the Court believed the political party is the source of the coordinated expenditure

because the party is an “independent actor” and the donor “lack[s] control over the funds once contributed to the party.” *Id.* at 2419, 2421. In those cases, the law did not permit a “limit[] on political party speech.” *Id.* at 2421.

Because the Court found that political parties cannot corrupt, identifying the source of the coordinated expenditure to determine that particular expenditure’s corruption risk is central to *NRSC*’s thinking. The case’s discussion of earmarking is specific to that context.

II. Where Limits Do Not Differ, Anti-Circumvention Rules are Inapplicable

Political parties are permitted to make contributions to and coordinate expenditures with candidates. Super PACs, by definition, cannot. *See SpeechNow.Org v. FEC*, 599 F.3d 686, 695 (D.C. Cir. 2010). Accordingly, there is no need to trace the source of a contribution or a coordinated expenditure made by a super PAC to determine whether those contributions or expenditures are circumventing some other limit: there will be none.

In contrast, both political parties and super PACs, even before *NRSC*, may make unlimited independent expenditures. *See Colo. Republican Fed. Campaign Comm. v. FEC*, 518 U.S. 604, 615 (1996); *Buckley v. Valeo*, 424 U.S. 1, 45 (1976); *see also* 21-A M.R.S.A. § 1015(5) (limiting amount of coordinated, but not independent, expenditures). The donors to both, moreover, may make their own

unlimited independent expenditures.² *See Buckley*, 424 U.S. at 45. Accordingly, regardless of whether the source of any particular independent expenditure is the political party, the super PAC, or their donors, no limit applies. There is therefore also no need to trace the source of an independent expenditure by a political party or super PAC to determine whether those independent expenditures are circumventing some other limit.

There is thus no need to apply anti-circumvention earmarking rules to impose any limit to super PAC disbursements, or decide whether there is sufficient “circumvention” of any such limits to impose a “limit on ... speech.” *NRSC*, 146 S. Ct. at 2421. Whether or not that circumvention takes the form of a direction or a “mere ... hope” is irrelevant to super PACs. *Id.* at 2421. There is thus no logical basis to apply earmarking rules, either for their own sake or as a “prophylaxes.” *Cf.* Pls.-Appellee’s Suppl. Br. 1, Aug. 24, 2026 (stating, erroneously, anti-circumvention earmarking rules “operate for IEs”). They cannot be a less restrictive alternative because they would be pointless to apply.³

² Subject to the ban on foreign involvement which prohibits foreign nationals from participating in U.S. elections, either by making independent expenditures or by contributing to entities that do, regardless of earmarking. *See* 52 U.S.C. § 30121.

³ Separate tracing rules apply as part of the obligation to disclose the true source of an expenditure. *See, e.g.*, 52 U.S.C. § 30122 (prohibiting contributions made in the name of another, including those made through an intermediary). But these were not the subject of *NRSC*’s discussion and do not “limit ... speech,” *NRSC*, 146 S. Ct. at 2421, so there is no constitutional basis to tie them to the risk of a quid pro quo, *see Buckley*, 424 U.S. at 81 (informational interest sufficient even though “[t]he

Accordingly, *NRSC*'s discussion of anti-circumvention earmarking rules, and the extent of direction a donor must exert to trigger them, is irrelevant here. Regardless of whether the source of any particular super PAC expenditure is the super PAC or a donor for which the super PAC is acting as a mere intermediary, the limits remain the same with or without the new law.

III. *NRSC* Endorsed Contribution Limits, Even to Groups with “Broad[]” and “Dispersed” Interests, and Independent of Any Interest in Limiting that Group’s Expenditures

In striking down limits on party coordinated expenditures, the Court relied on the sufficiency of a less burdensome alternative: “statutory limits on contributions to candidates or parties.” *NRSC*, 146 S. Ct. at 2417. It has recognized contributions, regardless of the recipient, are expressive acts carrying no more constitutional protection than any other financial transaction. *Buckley*, 424 U.S. at 20–21.

Since candidates value and may trade official acts, or appear to, for contributions to political parties, the Court has upheld limits on contributions to them. *See McConnell v. FEC*, 540 U.S. 93, 152 n.48, 188–89 (2003). It did so notwithstanding parties’ “independen[ce]” from their donors, and their interests being “broader and more dispersed” than their candidates’. *NRSC*, 146 S. Ct. at 2419. Moreover, it did so despite finding these same group’s expenditures (coordinated or independent) cannot corrupt. *Id.* at 2418. It did so because candidates do not just

corruption potential of these expenditures may be significantly different”).

value contributions as part of a “chain of attribution” for any eventual expenditure. *Cf. id.* at 2419. Rather, candidates value them for their own sake: they will solicit them, they will direct contributors to them, and they will trade official acts for them.⁴

The question is then will candidates trade official acts for large contributions to super PACs. The record below and discussed in CREW’s original amicus shows the answer is a resounding yes, candidates can and do take large super PAC contributions as bribes. *See* CREW Amicus 3–10. Even those candidates who are not convicted of bribery still value contributions and may trade, or appear to trade, official acts for them, and donors will seek to use super PAC contributions to facilitate such trades. *See id.* at 10–16 (describing candidates fundraising for super PACs, endorsing them, designating trusted surrogates to run them, and coordinating campaign activities with them; and noting donors have risked criminal prosecution to make super PAC contributions because of this value).⁵ Candidates value

⁴ *See, e.g.,* Br. of *Amicus Curiae* CREW in Supp. of Appellants at 6–7, Oct. 29, 2025 [hereinafter “CREW Amicus”] (discussing bribery conviction involving, in part, a contribution to state political party). Contrary to the Appellees claim, quid pro quo corruption is not limited to “contributions that a candidate can touch or control.” Pls-Appellee Suppl. Br. 6. Rather, bribery extends beyond transfers to officials, to “any other person” the official values. 18 U.S.C. § 201(b); *see United States v. Ridley-Thomas*, 185 F.4th 903, 914 (9th Cir. 2026) (affirming conviction based on quid of benefits to official’s adult son).

⁵ Despite being supposedly independent, candidates have multiple methods to direct super PAC spending. *See* Headquarters (@HQNewsNow), X (Aug. 7, 2026 at 10:40 am), <https://tinyurl.com/Trumpcontrol> (President Trump stating he “control[s]” a supposedly independent super PAC); Yvonne Wingett Sanchez, Michael Scherer & Ashley Parker, *Trump Plans to Buy Midterm Ads About His Own Record*, The

contributions to super PACs because these entities are, by definition, designed to benefit them. *See* 21-A M.R.S.A. § 1052(5). Candidates value them even if the super PACs act independently from their donors (the independence is in fact valuable, as it not only puts spending in hands of trusted and experienced surrogates, but permits hiding donors by replacing their names on an on-ad disclaimer with an anodyne super PAC). And while many super PACs focus on only one or two candidates and a single type of political activity,⁶ candidates still value contributions to super PAC's with "broader" and "more dispersed" interests, *NRSC*, 146 S. Ct. at 2419; *see, e.g.*, *CREW Amicus 5* (discussing contributions to multi-candidate super PAC on which candidate placed "subjective value").

As with political party contributions, super PAC contributions are valuable regardless of whatever value a downstream expense has. A candidate knows to whom to "attribut[e]" a contribution, *cf. NRSC*, 146 S. Ct. at 2419, even if they do not know who to thank for an expense those funds eventually support. A limit on contributions to super PACs is therefore not a "prophylaxis-upon-prophylaxis." *Contra* Pls-Appellee Suppl. Br. 17. The limit applies directly and only to the category of corrupting transfers itself: the super PAC contribution.⁷

Atlantic (Aug. 25, 2026), <https://tinyurl.com/Trumpbuysads> (describing super PAC spending plan directed by President Trump).

⁶ *See* Suppl. Br. for Defs-Appellees Equal Citizens, *et al.*, 9, Aug. 24, 2026.

⁷ Since criminal law cannot discover and prosecute every corrupting contribution, particularly where the enforcing agents are subject to the same corruption, it cannot

Indeed, Appellees now concede the “risk of corruption is ... not eliminated” with super PAC contributions. Pls.-Appellees Reply 4. That is fatal. The lower court’s entire analysis, and all the authority on which it relied, depended on the impossibility of corruption. *See* CREW Amicus 3, Oct. 29, 2025. If corruption is possible through Super PACs, then Maine may constitutionally pursue methods to “prevent” it. *McCutcheon v. FEC*, 572 U.S. 185, 199 (2014). The court below never examined whether Maine’s law does and so its decision is inadequate.

This concession also undermines Appellees attempt to convert *NRSC*’s passing reference to *SpeechNow* into more than background. *See* Pls.-Appellees Supp. Br. 1 (quoting *NRSC* 146 S. Ct. at 2425). First, it is indisputably wrong as a statement of the law—super PACs cannot have a “right to receive ... unlimited money” since they cannot take foreigners’ money, *cf.* *NRSC*, 146 S. Ct. at 2426; *see Bluman v. FEC*, 800 F. Supp. 2d 281, 288 (D.D.C. 2011), *aff’d*, 565 U.S. 1104 (2012)—an obvious mistake the Court would unlikely make if attempting to set forth authoritative law. Second, any such right is the same as for all expressive acts:

“prevent[] quid pro quo,” *McCutcheon*, 572 U.S. at 199, and the Court has never relied on “vigilant enforcement” of criminal law as the country’s sole bulwark, *cf.* *NRSC*, 146 S. Ct. at 2422 (enforcement of earmarking rather than bribery law); *see also Buckley*, 424 U.S. at 27 (criminal bribery law is insufficient alternative); *Liber-tarian Nat’l Comm., Inc. v. FEC*, 924 F.3d 533, 543–44 (D.C. Cir. 2019) (same); *see also* Saurav Ghosh & Maha Quadri, *Seeking Pardon, Foreign Billionaire Allegedly Funneled Millions to Trump Super PAC*, Campaign Legal Center (Feb. 17, 2026), <https://tinyurl.com/superpacpardon> (super PAC donor charged with bribing governor pardoned after another super PAC contribution supporting President Trump).

they have a “right to receive ... unlimited money” so long as it does not risk a harm legitimately targetable by the government. *See United States v. O’Brien*, 391 U.S. 367, 376 (1968). Whether and when those harms arise is a matter of fact that will depend on context: it cannot be answered in a sweeping generalization.

By relying on and endorsing limits on contributions to political parties, while striking down a limit on party coordinated expenditures, *NRSC* underlined the distinction Maine draws here: limits on contributions do not extend from or rely on limits on expenditures. A group whose expenditures, even when coordinated with a candidate, pose *no* “potential for abuse,” *cf. Citizens United v. FEC*, 558 U.S. 310, 908 (2010), may still have their contributions limited. What matters is whether contributions are sufficiently valuable to risk quid pro quo corruption that the limit is proportionate to the state’s compelling interest to prevent it, *see NRSC*, 146 S. Ct. at 2416, independent of whatever corrupting risk its expenditures may raise. The court below never examined the record here establishing it or applied the proper analytical framework, and therefore should be respectfully reversed.

CONCLUSION

The passages of *NRSC* this Court highlighted either do not apply to super PACs, and thus have no application here, or support reversal because they endorse the sort of contribution limit that Maine’s voters imposed.

Date: September 11, 2026

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