No. 26-10312

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

SAFE AFFORDABLE GEORGIA, INC.,

Plaintiff-Appellant,

v.

CHAIRMAN OF THE STATE ETHICS COMMISSION, ET AL.,

Defendants-Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
Case No. 1:25-cv-06985-ELR

BRIEF OF *AMICUS CURIAE* CAMPAIGN LEGAL CENTER SUPPORTING DEFENDANTS-APPELLEES AND AFFIRMANCE

Tara Malloy
tmalloy@campaignlegalcenter.org
CAMPAIGN LEGAL CENTER
1101 14th Street, NW, Suite 400
Washington, D.C. 20005
(202) 736-2200

Counsel for *Amicus Curiae*

CERTIFICATE OF INTERESTED PERSONS AND CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure 26.1 and Eleventh Circuit Rules 26.1-1 and 26.1-2, the undersigned counsel for *Amicus Curiae* submits the following statement of its corporate interests:

Amicus Curiae Campaign Legal Center has neither a parent corporation nor issues stock. There are no publicly held corporations that own ten percent or more of the stock of Campaign Legal Center.

Under Federal Rule of Appellate Procedure 26.1 and Eleventh Circuit Rules 26.1-1 through 26.1-3 and 28-1(b), *Amicus* further certifies that the following persons have an interest in the outcome of this case:

1. Anulewicz, Christopher Scott, *Counsel for Plaintiff-Appellant*
2. Attorney General, State of Georgia, *Defendants-Appellees*
3. Balser, Alexander, *Counsel for Defendants-Appellees*
4. Bradley Arant Boult Cummings, LLP
5. Burge, David, *Defendant-Appellee*
6. Carr, Christopher M., *Defendant-Appellee*
7. Chairman of the State Ethics Commission, *Defendant-Appellee*
8. Diment, Dana, *Defendant-Appellee*
9. Dove, David Blanton, *Counsel for Defendants-Appellees*

10. Hendrix, Rachel Diane, *Counsel for Defendants-Appellees*

11. Hicks, Elizabeth, *Counsel for Defendants-Appellees*

12. Institute for Free Speech

13. Kreyenbuhl, James D., *Defendant*

14. Miller, Charles M., *Counsel for Plaintiff-Appellant*

15. Safe Affordable Georgia, Inc., *Plaintiff-Appellant*

16. Thompson, Rick, *Defendant*

17. Troutman Pepper Locke, LLP

18. Vice Chairman of the State Ethics Commission, *Defendant-Appellee*

19. Wise, Stan, *Defendant-Appellee*

/s/ Tara Malloy
Tara Malloy

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INTERESTS OF AMICUS CURIAE[1]

Campaign Legal Center ("CLC") is a nonprofit, nonpartisan organization that works in the areas of campaign finance, ethics, and election law to ensure government is accountable, accessible, and transparent. CLC has participated in numerous cases addressing campaign finance issues, and in particular, the constitutionality of limits on campaign contributions, including *McConnell v. FEC*, 540 U.S. 93 (2003), *McCutcheon v. FEC*, 572 U.S. 185 (2014) and *Davis v. FEC*, 554 U.S. 724 (2008).

CLC files this brief to respectfully advise this Court that Georgia's "base" contribution limits at O.C.G.A. § 21-5-41 should not be enjoined as applied to plaintiff Safe Affordable Georgia ("SAG") because, in fact, any constitutional harm SAG has suffered is a consequence of different provisions of Georgia law, pertaining to the creation and operation of leadership committees, *see* O.C.G.A. § 21-5-34.2(a)-(e) (the "leadership committee provisions"). Although CLC thus does not support the relief requested by SAG, CLC also believes that the leadership committee provisions are likely unconstitutional as applied to the facts of this case. CLC's legal perspective thus diverges from that of any party who may argue that the application of O.C.G.A. § 21-5-34.2 at issue here is constitutional.

[1] Pursuant to Fed. R. App. P. 29(a)(4)(E), *amicus* affirms that no party's counsel authored the brief in whole or in part, and no person – other than the *amicus* – contributed money that was intended to fund the brief.

Given this complex procedural background, however, the district court correctly held that a preliminary injunction of the base limits, as requested by SAG, was a form of relief that was both incongruous to the alleged injury and unjustified from a First Amendment perspective. CLC thus urges this Court to affirm the lower court's denial of SAG's motion for preliminary relief and in favor of the outcome requested by state defendants below.

SUMMARY OF ARGUMENT

Georgia, like most states, sets limits on how much an individual, political party, or political action committee ("PAC") can contribute to state candidates for elective office. *See* O.C.G.A. § 21-5-41. But Georgia is unique in that it permits its Governor and Lieutenant Governor, O.C.G.A. § 21-5-34.2(a), to establish and run a "leadership PAC" that can make contributions to state candidates *without limit* by coordinating expenditures and otherwise defraying the campaign expenses of such candidates, *id.* § 21-5-34.2(d).

Under Georgia law, a leadership PAC, and the few officeholders who control them, are thus in the enviable position of occupying an explicit exception to the "base limits" on contributions to state candidates. O.C.G.A. § 21-5-34.2(e). While Georgia need not regulate all committees stringently—a campaign finance law need not "strike at all evils at the same time," *Buckley v. Valeo*, 424 U.S. 1, 105 (1976) (internal quotations omitted)—the fatal defect in the law is that the leadership PAC

provisions permit the incumbent Governor and Lieutenant Governor to use a leadership PAC to fund their *own* campaign without complying with the contribution limits that apply to their opponents in the primary election. This "leadership PAC loophole" thus creates an asymmetry in the law by "imposing different contribution and coordinated . . . expenditure limits on candidates vying for the same seat," which "is antithetical to the First Amendment.'" *Davis*, 554 U.S. at 738, 743-44.

It is thus unsurprising that SAG—a hybrid PAC chaired by Brad Raffensperger, Republican candidate for Governor—objects to Lieutenant Governor Burt Jones's use of a leadership PAC to finance his campaign against Raffensperger in the Republican gubernatorial primary. Where Raffensperger errs, however, is that he trains his fire not on the loophole that allows this asymmetry, but on the base limits at § 21-5-41 that otherwise uniformly apply to contributions to state candidates. Instead of requesting an injunction on the operations of Jones's leadership PAC, WBJ Leadership Committee, Raffensperger asked that SAG be permitted to operate as a leadership PAC also exempt from the limits at § 21-5-41.

As the court below correctly held, "the relief SAG seeks is incongruous with the injury." Order at 13, *Safe Affordable Georgia, Inc. v. Kreyenbuhl*, No. 1:25-cv-06985 (N.D. Ga. Jan. 27, 2026), ECF No. 20 ("Order"). SAG misfired when it sought to enjoin the indisputably valid base contribution limits at § 21-5-41, *see, e.g.*, *Buckley*, 424 U.S. at 25-29, and not the leadership PAC loophole which Georgia

courts have repeatedly deemed likely unconstitutional, *see infra* at 7-11. Worse, the relief SAG requested would *compound* the First Amendment violation it alleges here by *extending* "the unconstitutional structure created by [the leadership PAC provisions]" to yet another candidate in the Republican gubernatorial primary. Order at 15.

Plaintiff's entire appeal thus reduces to an attempt to escape the consequences of its own faulty litigating decisions. Whether through error—or a desire to free itself from contribution limits against which it had no valid constitutional claim—SAG failed to request the relief that was appropriate for its injury.

Indeed, the availability of appropriate relief was underscored by the grant of a temporary restraining order in a challenge to the same law brought by another 2026 Republican gubernatorial candidate, Rick Jackson. Slip Op., *Jackson v. Jones*, No. 1:26-cv-00782-TWT (N.D. Ga. Feb. 27, 2026), ECF No. 48. There, the district court enjoined Jones' leadership PAC from continuing to fundraise or spend in connection to his campaign in the Republican primary election. *Id.* The court thus effectively granted the remedy that SAG should have requested and thereby ensured a level playing field for all candidates in the Republican gubernatorial race, including Raffensperger. Indeed, the TRO in *Jackson* would all but moot this appeal—if that court had not later stayed the ensuing preliminary injunction to allow the parties

there to appeal its ruling. Order, *Jackson v. Jones*, No. 1:26-cv-00782-TWT (N.D. Ga. Mar. 19, 2026), ECF No. 70.

For these reasons, the lower court's decision should be affirmed. Plaintiff has not even attempted to offer any reason why the uniform base limits at § 21-5-41 are unconstitutional.

ARGUMENT

I. As the District Court Correctly Held, Plaintiff Requested the Wrong Relief.

The leadership PAC loophole has incited legal challenges in successive Georgia elections, with a line of candidates charging that the loophole creates a competitive advantage for incumbents in violation of the First Amendment. All courts to have considered the merits of these challenges have determined that the leadership PAC loophole is likely unconstitutional. But, in contrast to the relief requested by SAG here, the parties in those related cases requested a remedy that addressed the offending leadership PAC provisions, and the consistent relief offered by the courts was an injunction barring the incumbent's leadership PAC from receiving contributions or making expenditures until after relevant primary election. As argued by Richard Jackson, another Republican candidate for Governor and plaintiff in his parallel lawsuit challenging the loophole, "The appropriate relief is enjoining the incumbent's leadership committee from raising and spending unlimited money unless and until the incumbent wins the nomination." Mot. for

Prelim. Inj. at 9, *Jackson v. Jones*, No. 1:26-cv-00782-TWT (N.D. Ga. Feb. 11, 2026), ECF No. 12-1. SAG offers no valid reason why it failed to follow this well-trodden pathway to the same "appropriate relief" in its action.

A. The leadership PAC loophole effectively generates a system of asymmetrical contribution limits without constitutional justification.

As *Davis* noted, the Supreme Court has never approved a campaign finance law "that imposes different contribution limits for candidates who are competing against each other." 554 U.S. at 738. Multiple courts have applied *Davis* to find that Georgia's leadership PAC provisions likewise create an impermissible, two-tiered system of limits in electoral races because only the incumbent Governor or Lieutenant Governor is able to operate a leadership PAC to finance their campaign in the primary election outside of the state's contribution limits.

In *Davis*, the Supreme Court reviewed the "Millionaires' Amendment," a provision that tripled the contribution limits for those federal candidates who faced wealthy opponents who spent over a threshold amount of their own personal funds on their campaigns, *see* 2 U.S.C. § 441a-1 (2002). Because this provision "burden[ed] . . . the exercise of the First Amendment right to use personal funds for campaign speech," 554 U.S. at 740, the Court applied strict scrutiny. Notably, however, strict scrutiny review did not yield an automatic declaration that the law was unconstitutional, but instead entailed the analysis of whether the Amendment was supported by any compelling governmental interest. As the Court observed, the

only state objective sufficiently important to justify a contribution limit was the interest in "eliminating corruption or the perception of corruption," but the government had not defended the Amendment on that basis. *Id.* Instead "the chief interest proffered in support of the asymmetrical contribution scheme" was "leveling electoral opportunities," but this interest "cannot justify the infringement of First Amendment interests." *Id.* at 740 n.7.

Georgia law provides that the "the Governor, the Lieutenant Governor, [and] the nominee of a political party for Governor selected in a primary election," but no other candidates, may establish and chair a leadership committee. O.C.G.A. § 21-5-34.2(a). The leadership PAC "may accept contributions or make expenditures for the purpose of affecting the outcome of any election" including "defray[ing] ordinary and necessary expenses incurred in connection with any candidate's campaign for elective office." *Id.* § 21-5-34.2(d). Crucially, the law also states that the otherwise uniformly applicable "contribution limits in Code Section 21-5-41 shall not apply to contributions to a leadership committee or expenditures made by a leadership committee in support of a candidate." *Id.* § 21-5-34.2(e).

Multiple Georgia courts have applied *Davis* to find that the leadership PAC loophole, by "imposing different contribution and coordinated . . . expenditure limits on candidates vying for the same seat," is "antithetical to the First Amendment." *Davis*, 554 U.S. at 738, 744.

First, in 2022, gubernatorial candidate Senator David Perdue sued Governor Brian Kemp, arguing that Kemp's exploitation of the leadership PAC loophole with his committee, Georgians First, effectively created an unconstitutional advantage for the incumbent in the 2022 Republican primary. *Perdue v. Kemp*, 584 F. Supp. 3d 1310, 1323 (N.D. Ga. 2022). The court agreed, ruling that the leadership PAC loophole "effectively negates" the contribution limits for Kemp although "all [other] candidates for Governor in the primary election are bound." *Id.* at 1323. As required by *Davis*, the court then considered whether any evidence indicated that the leadership PAC provisions were intended to prevent corruption or its appearance. It ultimately concluded, however, that the law in fact "risks *more* corruption" because "O.C.G.A. § 21-5-34.2 removes the regulatory contribution limit safeguards that were previously established to combat quid pro quo corruption." *Id.* at 1326 (emphasis added).

Unlike plaintiffs here, Perdue requested and the court granted an order enjoining Kemp's leadership PAC from making contributions or expenditures supporting Kemp's campaign in the primary election. *Id.* at 1329. As the Court explained, "[s]uch relief would redress [Perdue's] alleged injury" because it "place[s] both the incumbent and his challengers under the same contribution limitation for the primary election." *Id.* at 1320.

Senator Perdue's action was followed by a similar lawsuit by Stacey Abrams, who sought to establish her own leadership PAC before becoming the Democratic nominee for Governor in the 2022 elections. *One Georgia, Inc. v. Carr*, 601 F. Supp. 3d 1291 (ND. Ga. 2022). She argued that the law unfairly permitted the incumbent Kemp to raise unlimited funds through his leadership PAC *prior* to nomination, while she was barred from doing so until she won her primary and became her party's nominee. Even though Kemp's advantage in *One Georgia* was simply that he got a "head start" in fundraising for his leadership PAC, the court adopted the reasoning of *Perdue* to find that the leadership PAC loophole nonetheless "amounts to an impermissible restraint on speech on all candidates other than the incumbent who run for Governor of Georgia." *Id.* at 1306 (citing *Perdue*, 584 F. Supp. 3d at 1322-23).

In terms of relief, the court followed *Perdue* and enjoined Kemp's leadership PAC from soliciting or receiving contributions until and unless Kemp became the Republican Party nominee for Governor. *Id.* at 1309. Importantly, however, at an earlier phase of the case, the court had refused to grant Abrams the relief sought by SAG here—namely, an order permitting Abrams's leadership PAC to raise and spend funds prior to her nomination in the Democratic primary election. Such relief "would not address the purported unconstitutionality of the [leadership PAC] Statute," the court explained, "which is that Governor Kemp's leadership committee,

Georgians First, is able to raise unlimited funds during a period when Abrams is not permitted to do so." *Id.* at 1300.

In a third case, Ryan Graham, the 2022 Libertarian nominee for Lieutenant Governor, made a similar mistake in framing the relief he sought: he requested, as SAG does here, that he be permitted to establish and chair a leadership PAC—although Georgia law precludes this option entirely for nominees of "political bodies," such as the Libertarian Party. *Graham v. Carr*, 634 F. Supp. 3d 1343 (N.D. Ga. 2022), *vacated, appeal dismissed sub nom. Graham v. Att'y Gen., State of Ga.*, 110 F.4th 1239 (11th Cir. 2024). Although the facts of *Graham* thus differ from the other Georgia cases, the district court nonetheless found that the leadership PAC provisions "as applied to Graham [are likely] an impermissible infringement of Plaintiffs' First Amendment rights." *Graham*, 634 F. Supp. 3d at 1356. But the court there similarly faulted Graham for "paradoxically seek[ing] injunctive relief that would allow Graham to form a leadership committee," noting that granting this relief "would require this Court to effectively rewrite the [leadership PAC] Statute to permit all 'political bodies' to form leadership committees." *Id.* The court declined to take this step.[2]

[2] In two other cases, the district court determined that the respective plaintiffs lacked standing to challenge the leadership PAC loophole and did not reach the merits. Order, *Democratic Party of Ga., Inc. v. Kemp*, No. 1:24-cv-03154-MHC (N.D. Ga. Sep. 19, 2024), ECF No. 23; Order, *Carr v. WBJ Leadership Comm., Inc.*, No. 1:25-cv-04426-VMC (N.D. Ga. Aug. 28, 2025), ECF No. 22. *But see also Graham v.*

Finally, most recently, a Georgia district court ruled in favor of Republican gubernatorial candidate Rick Jackson, granting a TRO barring Lieutenant Governor Jones' leadership PAC from raising or spending any money to support Jones's gubernatorial campaign during the primary election. Slip Op., *Jackson v. Jones*, No. 1:26-cv-00782-TWT (N.D. Ga. Feb. 27, 2026), ECF No. 48. As the court found, the defendants demonstrated "no underlying purpose behind the [leadership PAC] Statute arising out of a need to combat corruption because the statute has no such purpose." Slip Op. at 18-19. Following the TRO proceedings, the court granted in part Jackson's motion for a preliminary injunction to bar the operation of Jones' leadership PAC in the primary election, but stayed this ruling pending resolution of the parties' anticipated appeals to the Eleventh Circuit. Order, *Jackson v. Jones*, No. 1:26-cv-00782-TWT (N.D. Ga. Mar. 19, 2026), ECF No. 70.

Thus, in all cases to have considered the constitutionality of the leadership PAC provisions, the presiding court has found that these provisions "run[] afoul of the First Amendment," *id.* at 18, but the relief offered was to enjoin the activities of the leadership PAC in question, not the indisputably constitutional contribution limits at § 21-5-41.

Carr, 634 F. Supp. 3d 1343, 1356 (N.D. Ga. 2022) ("Plaintiffs in this case are likely to be able to show that the [leadership PAC] Statute as applied to Graham is an impermissible infringement of Plaintiffs' First Amendment rights.").

B. The requested relief does not address the alleged constitutional injury.

Following these Georgia precedents, the lower court here acknowledged that the leadership PAC provisions are "likely unconstitutional," Order at 13, but denied preliminary relief because plaintiffs did not ask it to enjoin the *leadership PAC provisions* nor the activity of Jones' leadership PAC, but rather the base limits at § 21-5-41. As the court observed, the relief SAG sought was simply "incongruous with the injury." Order at 13.

Plaintiff's principal attack on this holding is to claim that the Supreme Court in *Davis* had instructed that the "remedy" in cases of asymmetric contribution limits "is to raise or eliminate those limits." SAG Br. at 14 (quoting *Davis*, 554 U.S. at 743). This reading of *Davis* is flatly wrong. After finding that the Millionaire's Amendment served no valid anti-corruption interest, the Supreme Court invalidated the *Amendment*, *i.e.*, the provision that tripled a candidate's limits in response to a self-financing opponent, and left in place the federal base contribution limits that otherwise applied to all candidates in the relevant congressional race. The *Davis* Court thus did the *opposite* of what SAG demands here: it did not "level[] up" all federal candidates to a trebled contribution limit, SAG Br. at 20, but rather struck down the asymmetric Millionaire Amendment and retained the lower uniform base limits.

Beyond invoking *Davis*, plaintiff makes no attempt to explain why it did not simply request the relief granted in all past related Georgia cases that ruled for the plaintiff: an injunction barring the incumbent's leadership PACs from exploiting O.C.G.A. § 21-5-34.2 in the primary election. SAG notes that "[t]hree statutes are at play here"—two that comprise the uniform contribution limits that "restrict Plaintiff's ability to fundraise and spend in the primary" and the third that "states that leadership committees are not restricted." SAG Br. at 22. This point is self-evident, but does not explain why a court should invalidate the first two statutes, which are indisputably valid, and leave standing the third which has been found "likely unconstitutional" in multiple cases.[3]

[3] SAG offers virtually no factual grounds for its preferred relief either. It complains that Jones's leadership PAC "has already had significant opportunity to raise and spend funds" so stopping it "from spending more does not undo the past harm." SAG Br. at 20. But the relief SAG requests would not address the monetary advantage Jones would enjoy prospectively given that WBJ Leadership Committee had over $14 million cash on hand as of its last filing. *See* WBJ Committee, 2026 Jan 31 Report (available by searching PeachFile at https://peachfile.ethics.ga.gov/login). This amount far exceeds the cash on hand reported by SAG in December 2025. *See*, SAG, Dec 31 2025 Report (available by searching GA Campaign Finance System at https://recordsearch.ethics.ga.gov/login) (reporting net balance of approximately $200,000). Allowing Jones' leadership PAC to continue to finance his campaign with this war chest—countered only by the possibility that SAG could try to catch up and do the same—would not even necessarily make *Raffensperger* more competitive, much less remedy the asymmetry in the law that constitutes the First Amendment injury.

Plaintiff also objects that the lower court, in declining to authorize SAG to operate as a leadership PAC, improperly considered the effects of the requested relief on "similarly situated non-parties." SAG Br. at 17. The district court had noted that exempting SAG from the base contribution limits would "privilege Raffensperger," as well as Jones, "over the remaining primary candidates still subject to those limits," thus compounding "the unconstitutional structure created by [the leadership PAC provisions]." Order at 15. Plaintiff mischaracterizes this discussion as the court's attempt to "[g]rant[] injunctive relief directly to a nonparty." SAG Br. at 19. But the court referenced the requested relief's potential effects on non-parties to explain why this injunction would constitute an improper remedy. Allowing SAG to exploit the leadership PAC loophole—to the detriment of all other non-incumbents in the gubernatorial race—would only compound the unconstitutional asymmetry that SAG identified. It is black-letter law that a court cannot offer relief that itself is unlawful, *see Marbury v. Madison*, 5 U.S. 137, 175–76, 2 L. Ed. 60 (1803) (declining to issue a writ of mandamus because the statute authorizing this relief conflicted with Constitution); by the same principle, a court should not provide a remedy that would perpetuate the constitutional violation it is asked to cure.

Finally, the relief SAG requested goes far beyond the scope of an appropriate judicial remedy. Its demand would require the court to rewrite Georgia law,

effectively "cutting-and-pasting" new types of committees, such as hybrid PACs, into the existing leadership PAC provisions at O.C.G.A. § 21-5-34.2. *See Graham*, 634 F. Supp. 3d at 1356-57 (declining to "rewrite" leadership PAC provisions to authorize minor party nominees to form leadership PACs) (citing *Virginia v. Am. Booksellers Ass'n, Inc*., 484 U.S. 383, 397 (1988) (holding that courts "will not rewrite a state law to conform it to constitutional requirements")). A judicial attempt to "rewrite" the law at issue here as SAG demands would similarly usurp the legislature's role. *United States v. Stevens*, 559 U.S. 460, 481 (2010) (declining to construe statute prohibiting depictions of animal cruelty to avoid constitutional doubt where this would "require[] rewriting, not just reinterpretation" of law); *Reno v. Am. C.L. Union*, 521 U.S. 844, 884 (1997) (refusing to "rewrite" provisions of Communications Decency Act beyond severing unconstitutional terms). This Court should decline to undertake "textual surgery" on Georgia's statute. *Id.* at 883.

II. Base Contribution Limits Are Fundamental to Campaign Finance Laws at the State and Federal Level.

Plaintiff asks that the Court enjoin the contribution limits at § 21-5-41 as applied to SAG, but this relief is not only "incongruous" with the alleged constitutional injury but would also require an as-applied invalidation of the base contribution limits. But such limits are indisputably valid, *see Perdue*, 584 F. Supp. 3d at 1326, and plaintiff makes no suggestion to the contrary. Nor does SAG attempt to argue that the existence of the leadership PAC provisions renders Georgia's

broader system of contribution limits underinclusive. The nature of the relief that SAG requests thus seems to serve as backdoor way of ridding itself of base contribution limits that it has no plausible way to challenge directly. This Court should not indulge this workaround.

A. Base limits like Georgia's are a widely-recognized tool to combat quid pro quo corruption in politics.

Limits on contributions to candidates for elective office are a well-recognized measure of advancing the government's vital interests in preventing corruption and the appearance of corruption.[4] Indeed, "base limits remain the primary means of regulating campaign contributions." *McCutcheon*, 572 U.S. at 209.

Georgia law sets uniform limits on campaign contributions in state elections, providing, for instance, that no person, corporation, political committee, or political party may make a contribution exceeding $5,000 per election to a candidate for statewide office, O.C.G.A. § 21-5-41(a), or a contribution exceeding $2,000 per election to a candidate for the General Assembly, *id.* § 21-5-41(b).

The Supreme Court has consistently affirmed the importance and constitutionality of base limits like Georgia's. *Buckley* upheld the federal system of

[4] In parallel to the contribution limits that regulate federal elections, *see* 52 U.S.C §§ 30116, 30118, the vast majority of states have also enacted contribution limits and/or source restrictions for their state elections. *See State Limits on Contributions to Candidates 2025-2026 Election Cycle* (updated May 2025), Nat'l Conf. of State Legislatures, https://documents.ncsl.org/wwwncsl/Elections/State-Limits-on-Contributions-to-Candidates-2025-2026.pdf.

contribution limits for individuals and political committees, and established the basic framework for judicial review of such limits. 424 U.S. at 29. There, the Court explained that contribution limits were subject to intermediate scrutiny because they represented a relatively "marginal restriction" on speech and association, *id.* at 20, and further, that limits were justified by the important governmental interest in preventing "corruption and the appearance of corruption spawned by the real or imagined coercive influence of large financial contributions," *id.* at 25. *See also Nixon v. Shrink Mo. Government PAC*, 528 U.S. 377, 387-88 (2000).

Subsequent decisions reinforced *Buckley*'s holding and applied its analysis to other types of limits, such as restrictions on how much a donor could contribute to a political party or PAC, and how much the political party or PAC in turn could contribute to a candidate. *See McConnell*, 540 U.S. at 154, 156 (upholding limits on contributions to federal political party committees); *FEC v. Colo. Republican Fed. Campaign Comm.*, 533 U.S. 431 (2001) (upholding limits on contributions from political parties to candidates in the form of coordinated expenditures); *Cal. Med. Ass'n v. FEC*, 453 U.S. 182, 197-99 (1981) (upholding limits on contributions to non-independent PACs).

Although recent decisions of the Supreme Court have questioned other types of campaign finance laws—such as restrictions on independent expenditures—the Court has consistently affirmed the constitutionality of base contribution limits. So,

while the Court struck down the longstanding ban on corporate expenditures in federal elections in *Citizens United v. FEC*, 558 U.S. 310, 356-57 (2010), it simultaneously noted that contribution limits, by contrast, are valid measures to "ensure against the reality or appearance of corruption." *See also McCutcheon*, 572 U.S. at 225 (noting that "*Buckley* made clear that the risk of corruption arises when an individual makes large contributions to the candidate or officeholder himself.").

Plaintiff makes absolutely no attempt to grapple with the overwhelming weight of precedent supporting the limits at § 21-5-41. As state defendants explained below, effectively SAG "asks the Court to address the alleged unconstitutionality of the [leadership PAC provisions] by enjoining the enforcement of two *constitutional* [contribution limits]." Order at 12-13 (emphasis added). Further, SAG makes this baseless request in the face of copious precedent "uph[olding] similar contribution and coordination limits." *Id.*

B. Georgia's system of contribution limits is constitutional.

Nor does plaintiff attempt to argue that the leadership PAC provisions undermine or render underinclusive Georgia's broader system of base contribution limits. Its reluctance is understandable: "[i]t is always somewhat counterintuitive to argue that a law violates the First Amendment by abridging too *little* speech," *Williams-Yulee v. Fla. Bar*, 135 S. Ct. 1656, 1668 (2015) (emphasis added).

In First Amendment cases, regulating "too little . . . speech" is typically deemed an advantage, not a defect. *Ill. Liberty PAC v. Madigan*, 904 F.3d 463, 470, 473-74 (7th Cir. 2018) (rejecting the argument that the state's "more generous" contribution limits as to certain groups "fatally undermines the anticorruption rationale" for other, lower contribution limits). Accordingly, the Supreme Court in *Williams-Yulee* rejected claims that Florida's restrictions on judicial campaign fundraising were underinclusive because they prohibited only a judge's personal solicitation of contributions, not his campaign's solicitation of the same. It concluded the Court does not strike down laws simply because they "conceivably could have restricted even greater amounts of speech in service of their stated interests." *Williams-Yulee*, 135 S. Ct. at 1668.

Plaintiff has not even attempted to claim that Georgia's contribution limits are deficient because they regulate "too little speech." As state defendants noted, SAG below "barely mentions the two [contribution limit] statutes it has challenged" at all. Defs' Response to Mot. for Prelim. Inj. at 16-17, *Safe Affordable Georgia, Inc. v. Kreyenbuhl*, No. 1:25-cv-06985 (N.D. Ga. Dec. 23, 2025), ECF No. 14.

Further, many applications of the leadership PAC provisions raise little in the way of constitutional concerns. Federal law and the laws of many states permit officeholders to create leadership committees, *i.e.*, PACs not affiliated with the officeholder's authorized campaign committee and used to support the campaigns

of *other* candidates. *See, e.g.*, 11 C.F.R. § 100.5(e)(6); 52 U.S.C. § 30104(i)(8)(B). But the key distinction between these laws and Georgia's is that leadership PACs are typically not permitted to coordinate with or otherwise support the *officeholder's own campaign* (or must comply with the base limits applicable to contributions to the officeholder's campaign). *See* 11 C.F.R. § 110.1(d). *See also* FEC, *Leadership PACs*, https://www.fec.gov/help-candidates-and-committees/registering-pac/types-nonconnected-pacs/leadership-pacs/. By contrast, Georgia's law is unique because it exempts leadership PACs from the otherwise applicable contribution limits at § 21-5-41 and does so even with respect to the leadership PAC's contributions to the controlling officeholder's own campaign.

Georgia's decision to allow for leadership PACs is thus not itself problematic; instead, any constitutional concerns arise from the specific structure of the leadership PAC provisions that allows incumbents who control these PACs to advantage themselves in competitive electoral races. The relief that would best target the constitutional flaw in these provisions—as well as stem the ceaseless tide of near-identical cases challenging these provisions—would be to eliminate § 21-5-34.2(e)'s *exemption* of leadership PACs from Georgia's uniform base contribution limits; or at least, to eliminate the exemption with respect to contributions from the leadership PAC to the campaign(s) of its controlling officeholder. While this remedy may well be outside of the scope of this appeal, this Court should consider instructing the

district court—and the parties—to consider relief in the form of striking down the exemption at § 21-5-34.2(e) as applied to any leadership PAC that seeks to make contributions, coordinated expenditures or payments to "defray[] ordinary and necessary expenses" of the campaign(s) of the officeholder who established the leadership PAC and/or controls, directs or chairs its operations. This relief would be both "congruous" with the constitutional injury and durable in effect.

CONCLUSION

For these reasons, the district court's decision denying SAG's motion for preliminary injunction should be affirmed.

Dated: April 9, 2026

/s/ Tara Malloy
Tara Malloy
tmalloy@campaignlegalcenter.org
CAMPAIGN LEGAL CENTER
1101 14th Street, NW, Suite 400
Washington, D.C. 20005
(202) 736-2200

Counsel for *Amicus Curiae*

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Dated: April 9, 2026

/s/ Tara Malloy
Tara Malloy

CERTIFICATE OF SERVICE

I hereby certify that on April 9, 2026, I electronically filed a copy of the foregoing Brief *Amicus Curiae* using the CM/ECF system, which will send notification of this filing to all counsel of record.

Dated: April 9, 2026

/s/ Tara Malloy
Tara Malloy