No. 19-122

In the Supreme Court of the United States

DAVID THOMPSON, AARON DOWNING, and JIM CRAWFORD,

Petitioners,

v.

HEATHER HEBDON, in Her Official Capacity as the Executive Director of the Alaska Public Offices Commission, and ANNE HELZER, ROBERT CLIFT, RICHARD STILLIE, SUZANNE HANCOCK, and VAN LAWRENCE, in Their Official Capacities as Members of the Alaska Public Offices Commission,

Respondents.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit

RESPONDENTS' BRIEF IN OPPOSITION

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QUESTION PRESENTED

The Court's longstanding test for campaign contribution limits requires them to be "closely drawn" to further a "sufficiently important" governmental interest. *See Buckley v. Valeo*, 424 U.S. 1, 25 (1976). The prevention of quid pro quo corruption or its appearance is a sufficiently important interest. *McCutcheon v. FEC*, 572 U.S. 185, 207 (2014).

The courts below applied this well-established law to uphold Alaska's $500 individual-to-candidate and individual-to-group contribution limits after a seven-day trial canvassing extensive evidence about the unique 49th state, which only recently recovered from a public corruption scandal implicating ten percent of its legislature. The evidence at trial showed that Alaska is particularly vulnerable to corruption, that its contribution limits affect only a small number of people, that candidates—including challengers in competitive races against incumbents—can and do amass sufficient resources to wage effective campaigns under the limits, that campaign costs do not rise in lockstep with inflation, and that it is not getting more expensive to run campaigns in Alaska. The district court found the plaintiffs' contrary evidence—including a concededly flawed expert analysis—not to be credible.

The question presented is:

Whether the evidence at trial was sufficient to show that Alaska's $500 individual-to-candidate and individual-to-group contribution limits are closely drawn to further Alaska's important interest in preventing quid pro quo corruption or its appearance.

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INTRODUCTION

Campaign contribution limits have been an approved anti-corruption tool for decades, ever since *Buckley v. Valeo*, 424 U.S. 1 (1976). Alaska, like most other states, uses this tool. The Ninth Circuit's decision upholding Alaska's limits is a faithful application of longstanding precedent to a state-specific record.

That record shows—and the petitioners do not seriously contest—that Alaska faces a genuine threat of quid pro quo corruption. Alaska's evidence described, among other things, a sordid 2006 corruption scandal that ensnared ten percent of the Alaska Legislature, including one long-serving member who—as the petitioners themselves put it below—was willing to sell his votes for "as little as $200, or candy." CA9.Dkt. 11 at 46-47.

Thus, the only real question in dispute is whether Alaskan voters selected an acceptable dollar level for their contribution limits. That fact-bound, state-specific question does not warrant this Court's review.

Like every other court of appeals to consider a similar challenge to the precise dollar value of a contribution limit, the Ninth Circuit followed the framework maintained over decades of this Court's campaign finance precedents, first announced in *Buckley* and reaffirmed and refined in the decades since. *See California Medical Association v. FEC*, 453 U.S. 182 (1981), *Nixon v. Shrink Missouri PAC*, 528 U.S. 377 (2000), *Randall v. Sorrell*, 548 U.S. 230 (2006), *McCutcheon*, 572 U.S. 185.

The Ninth Circuit's *Lair/Eddleman* test is an application of—not a departure from—these precedents. There is no conflict between the Ninth Circuit's test and *Randall* because both assess a contribution limit's tailoring using—as the petitioners themselves put it below—"extremely similar factors." CA9.Dkt. 11 at 20. Indeed, the outcome of this case would have been the same even if the Ninth Circuit had explicitly used the "danger signs" and "considerations" discussed in *Randall*, making this case a poor vehicle for resolving any arguable differences between the standards.

Randall and the decision below are both simply applications of *Buckley*'s basic instruction to assess whether limits are so low that they inhibit campaigning, *see Randall*, 548 U.S. at 248 ("Following *Buckley*, we must determine whether [a law's] contribution limits prevent candidates from 'amassing the resources necessary for effective [campaign] advocacy.'"), and the record below amply supports the district court's and the Ninth Circuit's conclusion that Alaska's limits do not have this effect. Indeed, the expert the plaintiffs employed to show otherwise admitted on the witness stand that he "didn't do a very sophisticated analysis" or "didn't do it well, shall we say, or completely." Pet. App. 17-18. Even his inflated estimates of lost campaign income here were significantly lower than those that concerned this Court's *Randall* plurality.

The petition ignores and contradicts the record—for example, asserting that it is especially expensive to campaign in Alaska, Pet. i, 1, 14-15—but this Court is

not the proper forum to dispute the trial court's fact-finding and witness credibility determinations.

Last year, the Court denied certiorari after the Fifth Circuit rejected a First Amendment challenge to the City of Austin's $350 campaign contribution limit. *Zimmerman v. City of Austin, Tex.*, 139 S. Ct. 639 (2018). Earlier this year, the Court denied certiorari in the Montana case that the Ninth Circuit relied on below. *Lair v. Mangan*, 139 S. Ct. 916 (2019); Pet. App. 2. The Court should similarly deny certiorari here.

STATEMENT OF THE CASE

1. The State of Alaska has used campaign contribution limits as one of the tools in its anti-corruption toolbox since 1974. *See* 1974 Alaska Laws Ch. 76 § 1. Alaska's original campaign finance laws limited an individual's contributions to a political candidate to $1,000 annually, and also limited total campaign expenditures. *See* former Alaska Stat. § 15.13.070(a) and (f), repealed by 1986 Alaska Laws Ch. 85 § 45.

In 1976, this Court upheld federal campaign contribution limits in *Buckley v. Valeo*, 424 U.S. at 143. The Court distinguished contribution and expenditure limits, reasoning that compared to an expenditure limit, a contribution limit "entails only a marginal restriction upon the contributor's ability to engage in free communication." *Id.* at 20. Alaska repealed its expenditure limits in 1985, but left its contribution limits in place. *See* 1986 Alaska Laws Ch. 85 § 45.

In 1996, the Alaska Legislature passed legislation to "substantially revise Alaska's campaign finance laws in order to restore the public's trust in the electoral process and to foster good government." 1996 Alaska Laws Ch. 48 § 1(b). This legislation imposed $500 annual limits on individual contributions to a candidate or a group that was not a political party, and aggregate limits on total contributions a candidate could accept from nonresidents. *Id*. at §§ 10-11. The legislation was based on a proposed ballot initiative; by passing a similar law, the legislature prevented the initiative from going before the voters. *See* Alaska Const. Art. 11, § 4. CA9.Dkt. 12-2 at 178-79; 21-2 at 222-30.

In 2003, the Alaska Legislature relaxed some of the contribution limits put in place by the 1996 legislation, including by raising the individual-to-candidate and individual-to-group limits from $500 to $1,000. 2003 Alaska Laws Ch. 108, §§ 8-10. CA9.Dkt. 21-2 at 237.

But in 2006, Alaskan citizens successfully lowered those limits back to $500 by ballot initiative. 2006 Alaska Laws Initiative Meas. 1, § 1. The voter information packet included a statement describing the initiative's anti-corruption purpose:

> Corruption is not limited to one party or individual. Ethics should be not only bipartisan but also universal. From the Abramoff and Jefferson scandals in Washington D.C. to side deals in Juneau, special interests are becoming bolder every day. They used to try to buy elections. Now they are trying to buy the legislators themselves. CA9.Dkt. 21-2 at 253.

Seventy-three percent of Alaska voters voted in favor of the measure. CA9.Dkt. 21-2 at 256.

2. In November 2015, three individuals and a subunit of the Alaska Republican Party (collectively, "Thompson") filed this First Amendment challenge to four provisions of Alaska's campaign finance laws: (1) the $500 annual limit on individual contributions to a candidate, Alaska Stat. § 15.13.070(b)(1); (2) the $500 annual limit on individual contributions to a group that is not a political party, Alaska Stat. § 15.13.070(b)(1); (3) the annual limits on total contributions a candidate may accept from nonresidents, Alaska Stat. § 15.13.072(a)(2) and (e); and (4) the annual limits on what a political party (including its local subdivisions) may contribute to a candidate, Alaska Stat. § 15.13.070(d) and § 15.13.400(15). The nonresident and party limits are no longer at issue here.[1]

The district court held a seven-day bench trial in April and May of 2016. DC.Dkt. 119-25. The court heard from eighteen witnesses, including current and former Alaska politicians and seven experts. DC.Dkt. 119-25. The court also admitted nearly one hundred exhibits, including a video clip of a state legislator accepting a bribe. CA9.Dkt. 15-2; 21-3 at 638.

3. In a November 2016 decision, the district court rejected all of Thompson's claims. Pet. App. 45-76. The court applied the Ninth Circuit's version of the

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[1] The State prevailed on the party limits, and Thompson did not include that issue in the petition; the political party plaintiff has dropped out of the litigation. Thompson prevailed on the nonresident limits, and the State did not cross-petition.

longstanding intermediate scrutiny test for campaign contribution limits, examining whether the challenged limits were "closely drawn" to further an "important state interest." *Id*. at 49-50 (citing *Montana Right to Life Association v. Eddleman*, 343 F.3d 1085 (2003)). The court found that they were.

Describing the State's interest, the court found that "several factors" make Alaska "highly, if not uniquely, vulnerable to corruption in politics and government," including the very small size of its legislature, its heavy dependence on a single industry, its small population, and its large geographical area. Pet. App. 52. The court noted the evidence of the "widely publicized VECO public corruption scandal, in which approximately ten percent of the Alaska Legislature" were implicated for accepting money from an oilfield services firm in exchange for votes and other political favors. *Id*. at 54. It found that "the risk of quid pro quo corruption or its appearance in Alaska politics and government is both actual and considerable" and "pervasive and persistent," and that Alaska's limits further the interest in preventing it. *Id*. at 52 & 56.

As for the tailoring of Alaska's $500 limits, the district court found that they are "likely more effective at furthering the State's interest in preventing quid pro quo corruption or its appearance than a hypothetical $750 or $1,000 limit." Pet. App. 60. Regarding the effect on campaigns, the court rejected the testimony of expert Clark Bensen—an expert this Court relied on in *Randall*, 548 U.S. at 253-54—who had opined that "candidates in competitive campaigns often spend more than they raise" and "would be able to raise more

money if the $500 limits were instead $750 or $1,000" but who admitted that his analysis was flawed. *Id*. at 64. The court credited the testimony of Alaskan campaign consultants who opined that "candidates, whether challengers or incumbents, can run effective campaigns under the current limits." *Id*. at 65. The court also credited their testimony that campaign costs do not rise in lockstep with inflation, that "it is not, in fact, getting more expensive to run campaigns," and that "evolution in fundraising techniques and in social media and digital advertising has significantly improved both the cost-efficiency and effectiveness of campaigns, particularly at the local level." *Id*. at 66.

4. Thompson appealed to the Ninth Circuit, which affirmed the district court's rulings as to all but the nonresident limits. The Ninth Circuit agreed that the $500 limits "are narrowly tailored to prevent quid pro quo corruption or its appearance and thus do not impermissibly infringe constitutional rights." Pet. App. 2.

a. The Ninth Circuit observed that this Court has "limited the type of state interest that justifies a First Amendment intrusion on political contributions," and that "[i]t no longer suffices to show that the limitation targets 'undue influence' in politics." *Id*. at 8. But the court opined that this "does not necessarily undermine the government's ability to cap contributions made directly to a candidate" given such contributions' inherent potential to appear corrupt. *Id*. at 9.

The Ninth Circuit noted that under its decision in *Eddleman*, "the quantum of evidence necessary to justify a legitimate state interest is low," in that "the

perceived threat must be merely more than 'mere conjecture' and 'not . . . "illusory." ' " *Id.* at 9-10 (quoting *Eddleman*, 343 F.3d at 1092). The court mused that "*McCutcheon* and *Citizens United* created some doubt as to the continuing vitality" of this low evidentiary standard. *Id.* at 10 n.2. But the court did not opine that the State's evidence would have failed to satisfy a higher standard. On the contrary, the court recognized that "Alaska proffered substantial evidence of attempts to secure votes for contributions." *Id.* at 10. Among other evidence, the court noted the VECO scandal. *Id.* at 11.

b. As for the tailoring of Alaska's limits, the Ninth Circuit opined that "[c]onsistent with the intermediate scrutiny we apply to contribution limits, the fit need not be 'perfect, but reasonable.' " *Id.* at 14 (quoting *McCutcheon*, 572 U.S. at 218).

The Ninth Circuit concluded that Alaska's $500 individual-to-candidate limit was not unreasonably low, observing that it "affects only the top 12.6% of contributions" to candidates, *id.* at 14, is "not an outlier", *id.* at 15, "does not hobble contributors' ability to affiliate with candidates," *id.* at 16, and "allows candidates to amass sufficient funds to run an effective campaign," *id.* at 19. The court held that the district court was correct to discredit the testimony of Mr. Bensen, whose estimates of lost campaign income were "exaggerated" and whose analysis was "unpersuasive" and "analytically unsound." *Id.* at 17-18. The court noted the State's evidence that "it is not—contrary to Thompson's experts' testimony—getting more expensive to run campaigns, and that the limits do not

favor incumbents over challengers," *id*. at 18, as well as the State's evidence that "even if a candidate spent the maximum estimated expenditure" on campaign elements, "she would still spend less than $100,000"—a sum that can be raised under the current limits, *id*. at 18-19.

The Ninth Circuit also rejected Thompson's cursory, barely briefed challenge to Alaska's $500 individual-to-group limit, reasoning that this limit furthers the State's important interest in preventing circumvention of the individual-to-candidate limit because "any two individuals could form a 'group,' which could then funnel money to a candidate." *Id*. at 21. The court relied on *California Med. Ass'n v. Fed. Elec. Comm'n*, 453 U.S. 182, 198 (1981), in which this Court upheld an analogous federal individual-to-group limit as a permissible anticircumvention measure.

REASONS FOR DENYING THE PETITION

I. Alaska's contribution limits are constitutional under this Court's precedents.

The Ninth Circuit carefully reviewed an extensive trial court record, applying this Court's longstanding legal standards to conclude that Alaska's campaign contribution limits are "closely drawn" to further a "sufficiently important" government interest, Pet. App. 19-20, *McCutcheon*, 572 U.S. at 197 (citing *Buckley*, 424 U.S. at 25), and don't "prevent candidates from 'amassing the resources necessary for effective [campaign] advocacy." Pet. App. 19, *Randall*, 548 U.S. at 248 (quoting *Buckley*, 424 U.S. at 21). Thompson

disagrees with the Ninth Circuit's application of the law to the facts—and contradicts some of the district court's findings about campaigning in Alaska—but he fails to identify a conflict with this Court's precedent.

A. The Ninth Circuit's decision is consistent with *Randall v. Sorrell*.

Randall v. Sorrell reaffirmed *Buckley*'s longstanding test for campaign contribution limits, which requires them to be "closely drawn" to further a "sufficiently important interest"—the same test the Ninth Circuit applied here. *Randall,* 548 U.S. at 241-48; Pet. App. 10. The *Randall* plurality applied this test to strike down certain Vermont campaign contribution limits, noting four "danger signs" and "five sets of considerations" in the process. *See id.* at 249-61.

The petition's lead argument (at 20-28) faults the Ninth Circuit for not going through and applying the *Randall* plurality's "danger signs" and "considerations" to this case, and assumes that Alaska's limits would fail if it had. But *Randall* and the Ninth Circuit's decisions are not inconsistent—they are both applications of *Buckley*'s instruction that courts consider whether limits inhibit effective campaigning. *See Randall*, 548 U.S. at 248 ("Following *Buckley*, we must determine whether [a law's] contribution limits prevent candidates from 'amassing the resources necessary for effective [campaign] advocacy.' "). Indeed, below Thompson argued that *Randall* and the Ninth Circuit's decisions in *Lair* and *Eddleman* "do not conflict" and "utilize extremely similar factors." CA9.Dkt. 11 at 20.

But even if the Ninth Circuit was wrong not to explicitly apply the factors discussed in *Randall*,[2] "[t]his Court reviews judgments, not statements in opinions," *California v. Rooney*, 483 U.S. 307, 311 (1987) (per curiam) (quoting *Black v. Cutter Laboratories*, 351 U.S. 292, 297 (1956), and the Ninth Circuit's judgment was correct. This case thus does not present a good opportunity to parse any arguable differences between the standards. *Cf. McCutcheon*, 572 U.S. at 199 (declining to "parse the differences" between two legal standards when the outcome would be the same under either). Although the Ninth Circuit commented that *Randall* "may aid Thompson's position," it did not opine that Alaska's limits would fail under it. Pet. App. 16 n.5. They would not.

The four "danger signs" the *Randall* plurality saw in Vermont's contribution limits were:

> (1) The limits are set per election cycle, rather than divided between primary and general elections; (2) the limits apply to contributions from political parties; (3) the limits are the lowest in the Nation; and (4) the limits are below those we have previously upheld.

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[2] The Ninth Circuit correctly observed that "*Randall* is the epitome of a splintered decision" and that the plurality opinion does not represent a "common denominator of the Court's reasoning" enjoying "the assent of five Justices." *Lair v. Bullock*, 697 F.3d 1200, 1205 (9th Cir. 2012).

548 U.S. at 268 (Thomas, J., concurring) (listing the plurality's "danger signs"). These "danger signs" do not call into question Alaska's limits.

First, Alaska's limits apply on a calendar year basis. Alaska Stat. § 15.13.070(b), (d). This means anybody can declare candidacy in the year before the election and receive two maximum contributions from any donor—effectively doubling the limits. This renders Alaska's limits much less burdensome than the limits that *Randall* struck down, which covered a full two-year election cycle. *See* 548 U.S. at 238.

Second, Alaska's limits do not share the aspect of Vermont's limits that most troubled the *Randall* plurality: imposition of the same low contribution limits on political parties (including their subunits) as on individuals. *See Randall*, 548 U.S. at 257 ("The Act applies its $200 to $400 limits—precisely the same limits it applies to an individual—to virtually all affiliates of a political party taken together as if they were a single contributor. . . . That means, for example, that the Vermont Democratic Party, taken together with all its local affiliates, can make one contribution of at most $400 to the Democratic gubernatorial candidate . . . .") & 254 (the "contribution limits would cut the party contributions by between 85% (for the legislature on average) and 99% (for governor)") & 259 ("the Act's contribution limits 'would reduce the voice of political parties' in Vermont to a 'whisper.' ") & 261 (the "contribution limits mute the voice of political parties"). Alaska's party limits are much higher than its individual limits, allowing parties to perform their traditional function. *See* Alaska Stat. § 15.13.070(d).

Third, Alaska's limits, though on the lower side, are not the lowest in the nation. Montana's per-election limits—which this Court left undisturbed in *Lair*—are $680 for gubernatorial races, $340 for other statewide office, and $180 for other offices. *See* Mont. Code Ann. § 13-37-216(1)(a).[3] Colorado and Maine have $200 and $400 per-election individual limits, respectively, for legislative candidates. Colo. Const. Art. 28, § 3(b); Me. Rev. Stat. tit. 21-A § 1015.[4] Kansas has a $500 per-election individual limit for state house candidates. Kan. Stat. § 25-4153(a)(2). Several cities with total populations similar to Alaska's have limits as low or lower: for example, Seattle ($500 under Seattle Municipal Code Section 2.04.370); Austin ($350 under Austin City Charter, Article III § 8(A)(1));[5] San Francisco ($500 under San Francisco C&GC Code Section 1.114(a)); and Santa Cruz County ($400 under Santa Cruz Municipal Code Chapter 2.10.065). And Arkansas, Delaware, Georgia, Hawaii, Idaho, Maine,

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[3] *See also* State of Montana, *Political Campaign Contribution Limits Summary – Applicable to 2018 Campaigns*, https://politicalpractices.mt.gov/Portals/144/2018forms/Contribution%20Limits%20for%202018%20Election.pdf?ver=2017-12-08-090756-320 (Dec. 8, 2017) (inflation-adjusted limits).

[4] *See also* Maine Commission on Governmental Ethics & Election Practices, *Contributing Information and Rules*, https://www.maine.gov/ethics/political-activity/contributing-information (effective Jan. 1, 2019) (inflation-adjusted limits).

[5] *See also Zimmerman v. City of Austin, Texas*, 881 F.3d 378, 388 (5th Cir.) (upholding limit), *cert. denied sub nom. Zimmerman v. City of Austin*, Tex., 139 S. Ct. 639 (2018)

Nevada, and New Mexico allow political parties to contribute less to candidates than Alaska permits.[6]

Fourth, although Alaska's limits are below some the Court has previously upheld, its $500 annual limit is higher than at least one of the Missouri limits the Court upheld in *Shrink Missouri*. 528 U.S. at 382-97 (upholding per-election limits from $275 to $1,075). Moreover, because Alaska's population is so small compared to other states, when evaluated on a dollar-per-voter basis, Alaska's individual limits are considerably more generous than the federal limits.[7]

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[6] *See* Ark. Code § 7-6-203; Del. Code tit. 15 § 8010(b); Ga. Code § 21-5-41; Haw. Rev. Stat. § 11-357; Idaho Code § 67-6610A; Me. Rev. Stat. tit. 21-A § 1015; Nev. Rev. Stat. § 294A.100; N.M. Stat. § 1-19-34.7.

[7] An average Alaska house district has about 2.6 percent of the population of an average federal house district. *Compare* Alaska Department of Labor and Workforce Development, *Alaska Population Overview: 2017 Estimates*, http://live.laborstats.alaska.gov/pop/estimates/pub/chap3.pdf at 1 (average Alaska house district population is 18,441) *with* U.S. Census Bureau, *Congressional Apportionment*, https://www.census.gov/prod/cen2010/briefs/c2010br-08.pdf (November 2011) (average federal house district population is 710,767). 2.6 percent of the federal contribution limit of $5,400 is $140.40, which is lower than Alaska's $500 limit. And although in statewide races, Alaska's $500 limit might seem low compared to the $5,400 federal limit as it applies to candidates for Alaska's U.S. Senate and House seats, that federal limit is the same for every state, regardless of population, including, for example, California. *See* U.S. Census Bureau, *QuickFacts: California*, https://www.census.gov/quickfactsfact/table/CA,US/PST045216 (population of 37,253,956 in 2010). Alaska's population is about 1.9 percent of California's; 1.9 percent of $5,400 is $102.60. Thus, Alaska's limit is considerably higher than the federal limit when evaluated on a dollar-per-resident basis.

But even if Alaska's limits bore *Randall*'s "danger signs," that would not conclude the inquiry. The plurality said that if these danger signs exist, the Court must look to "five sets of considerations," which the petition largely ignores:

> (1) whether the "limits will significantly restrict the amount of funding available for challengers to run competitive campaigns"; (2) whether "political parties [must] abide by exactly the same low contribution limits that apply to other contributors"; (3) whether "volunteer services" count toward the contribution limits; (4) whether the "contribution limits are ... adjusted for inflation"; and (5) "any special justification that might warrant a contribution limit so low or so restrictive."

Randall, 548 U.S. at 253-62. Alaska's limits pass muster under these five considerations.

The only one of these five considerations that seemingly supports Thompson's position—and indeed, the petition belabors it—is that Alaska's limits are not adjusted for inflation. But the district court considered this, and its findings support the State. The court found that campaign costs do not rise in lockstep with inflation, and the lack of inflation adjustments does not prevent effective campaigns. Pet. App. 66. Thompson disagrees, insisting that "campaigns for elected office have gotten substantially more expensive," Pet. 24, and that "the cost of campaigns and advertising expenses has outstripped general rates of inflation," citing an online corporate report that is not in the record, Pet. 22. But the district court expressly found the contrary,

and the record supports its findings. Pet. App. 66; CA9.Dkt.21-1 at 55-56; 12-2 at 252-53. For example, postage has gotten more expensive, but computer equipment and video production have gotten much cheaper. DC.Dkt 121 at 16. Because Thompson's real objection is to the district court's factual findings, not the legal standards applied, discretionary review is unwarranted—this Court does not exist to correct perceived factual errors in trial court findings.

Moreover, *Randall* makes inflation adjustment only one of several considerations—not a stand-alone constitutional requirement. Such a requirement would be inconsistent with the recognition in *Shrink Missouri* that the First Amendment issue "cannot be truncated to a narrow question about the power of the dollar, but must go to the power to mount a campaign with all the dollars likely to be forthcoming." 528 U.S. at 397.

With that in mind, the most important remaining *Randall* consideration is the limits' effect on campaigns, and Alaska's limits do not significantly restrict the amount of funding available for challengers to run competitive campaigns. Pet. App. 65-66. The *Randall* plurality noted that Vermont's limits reduced challengers' funds by "amounts ranging from 18% to 53% of their total campaign income," particularly because Vermont's political party limits were so low and parties provided a "significant percentage of the total campaign income" in competitive races. 548 U.S. at 253-54. But in Alaska, the limits do not have a comparable impact. Thompson's expert acknowledged that even his inflated estimates of lost campaign revenue here—which he conceded were "definitely

overestimated" and "[p]robably almost twice as high as they should be"—were much lower than the numbers that concerned the *Randall* plurality. CA9.Dkt. 21-1 at 42-43.

No data supported Thompson's claim that Alaska's limits disadvantage challengers. CA9.Dkt. 21-1 at 179-83. The evidence showed that incumbents win reelection at a high rate across the country, regardless of contribution limits. CA9.Dkt. 21-3 at 36-39. And although Alaska's recent history created a natural experiment—because its limits were doubled during the 2004 and 2006 election cycles—the incumbent success rate did not drop when the limits rose. CA9.Dkt. 12-2 at 278; 21-3 at 24-27. Nor were there more competitive elections. CA9.Dkt. 21-1 at 175-67; 21-3 at 28-31. Nor did lowering the limits have a disparate impact on challenger fundraising. CA9.Dkt. 21-1 at 40-41.

Quite the opposite: the evidence showed that higher limits benefit incumbents because they typically have more maximum donors. CA9.Dkt. 21-2 at 280-82, 115-36; 12-2 at 254, 298, 21-1 at 55, 67, 166-67. In election cycles since 2002, in the state house, the incumbent fundraising advantage—i.e., the disparity in average funds raised by incumbents and challengers from individual donors—did not drop when the limits doubled: to the contrary, it was significantly higher when the limit was $1,000. CA9.Dkt.21-1 at 177-78; 21-3 at 32-33. In the state senate, challengers actually outraised incumbents in 2008 and 2010, when the limit was $500; in all other cycles since 2002, including when the limit was $1,000, incumbents raised more than

challengers from individual contributors. CA9.Dkt. 21-1 at 177-78; 21-3 at 33.

Alaska's limits therefore do not trigger the *Randall* plurality's main concern that contribution limits might "harm the electoral process by preventing challengers from mounting effective campaigns against incumbent officeholders." *Randall*, 548 U.S. at 248-49.

Thompson fares no better with the remaining *Randall* considerations. Alaska does not require political parties to abide by the same contribution limits. *See id.* at 256; Alaska Stat. § 15.13.070(d). Nor does it count volunteer services toward the limits. Alaska Stat. § 15.13.400(4)(B)(i); 2 Alaska Admin. Code 50.250(d). Finally, special justifications exist for lower limits in Alaska: the district court found that the small state is particularly vulnerable to corruption. Pet. App. 52; CA9.Dkt.21-1 at 75-79, 92-95, 157-58; 21-2 at 205-21. The petitioners may disagree, but again, this Court does not exist to correct district court factual findings.

Thus, Alaska's limits satisfy *Randall* too, meaning the Ninth Circuit's view of *Randall* was not "outcome determinative" as the petition asserts. Pet. 36.

B. The Ninth Circuit's decision is consistent with other precedent, including *Citizens United v. FEC* and *McCutcheon v. FEC*.

Contribution limits like Alaska's have long "been an accepted means to prevent *quid pro quo* corruption," *Citizens United v. FEC*, 558 U.S. 310, 359 (2010). *Citizens United* and *McCutcheon* did not change that—they just clarified the meaning of corruption, as

the Ninth Circuit has duly recognized. *See Lair v. Bullock*, 798 F.3d 736, 746 (9th Cir. 2015) (observing that *Citizens United* and *McCutcheon* narrowed the anti-corruption rationale to cover quid pro quo corruption only). Here, the Ninth Circuit correctly ruled that Alaska presented "substantial evidence of attempts to secure votes for contributions," Pet. App. 10, and that Alaska's limits are closely drawn to target the risk of quid pro quo corruption that Alaska's evidence amply demonstrated.

1. At the first stage in the analysis of a contribution limit—identifying an important state interest—the State's burden is low because "[t]he importance of the governmental interest in preventing [corruption] has never been doubted," *FEC v. Beaumont*, 539 U.S. 146, 154 (2003) (alteration in original) (quoting *First Nat'l Bank of Boston v. Bellotti*, 435 U.S. 765, 788 n.26 (1978)), and ever since *Buckley*, this interest has been consistently recognized as supporting contribution limits. "*Buckley* demonstrates that the dangers of large, corrupt contributions and the suspicion that large contributions are corrupt are neither novel nor implausible." *Shrink Missouri*, 528 U.S. at 391. "[T]here 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 394-95. A state justifying limits on this theory thus bears a lesser burden than one advancing a less well-established justification. *See id.* ("The quantum of empirical evidence needed to satisfy heightened judicial scrutiny of legislative judgments will vary up or down with the novelty and plausibility of the justification

raised."). Requiring more extensive evidence would be unworkable because many jurisdictions have employed limits for decades. As the D.C. Circuit has observed, "we would not expect to find—and we cannot demand—continuing evidence of large-scale quid pro quo corruption" in the face of a longstanding limit designed to prevent it. *Wagner v. FEC*, 793 F.3d 1, 14 (D.C. Cir. 2015) (en banc).

In *Eddleman*, the Ninth Circuit cited *Buckley* and *Shrink Missouri* in support of its holding that the State's burden is low at this first stage in the analysis. 343 F.3d at 1092. In its opinion in this case, the Ninth Circuit suggested that perhaps *Citizens United* and *McCutcheon* "created some doubt as to the continuing vitality of the standard for the evidentiary burden [it] announced in *Eddleman*," under which the "quantum of evidence necessary to justify a legitimate state interest" is low, in that the "perceived threat" of corruption "must be merely more than 'mere conjecture' and 'not ... "illusory." ' " Pet. App. 10 n.2.

But even if the Ninth Circuit's "not illusory" hurdle from *Eddleman* is too low, Alaska's evidence cleared it by a mile, making this issue not outcome determinative and this case a poor vehicle to address it. Neither court below thought that Alaska's evidence about corruption was just barely sufficient. On the contrary, the district court found that "the State put forward evidence that the risk of quid pro quo corruption or its appearance in Alaska politics and government is both actual and

considerable." Pet. App. 51-52.[8] And the Ninth Circuit likewise observed that "Alaska proffered substantial evidence of attempts to secure votes for contributions." Pet. App. 10. Alaska's evidence included live testimony from current and former politicians, information about a 2006 public corruption scandal, and a video clip of a legislator taking a bribe. Pet. App. 53-55. Other cases may involve weak or speculative evidence of corruption risk, but this one did not.

And despite the Ninth Circuit's footnote about *Citizens United* and *McCutcheon*, those cases do not cast doubt on its analysis of the State's interest.

Citizens United said that "[w]hen *Buckley* identified a sufficiently important governmental interest in preventing corruption or the appearance of corruption, that interest was limited to *quid pro quo* corruption." *Id*. The Ninth Circuit invoked only this valid state interest here. Pet. App. 8. Other than clarifying this aspect of *Buckley*, *Citizens United* did not change the legal landscape for contribution limits because it did not involve—and explicitly distinguished—contribution limits. The question before the Court was the constitutionality of a law prohibiting corporations from using general treasury funds for independent expenditures in elections. *Citizens United*, 558 U.S. at

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[8] Amicus the National Republican Senatorial Committee argues that the district court improperly relied on public opinion polling to support its findings. But Thompson did not make that argument below (nor in the petition), so it is not before this Court and is not a reason to grant certiorari. *See* CA9.Dkt 11. Moreover, the district court's decision did not hinge on the particular piece of evidence the amicus complains of—it was just one piece among many.

318-19. The Court distinguished contribution limits from the law at issue, explaining that in *Buckley*, the "potential for *quid pro quo* corruption distinguished direct contributions to candidates from independent expenditures," *id.* at 345, in part because the "absence of prearrangement and coordination" in the latter both "undermines the value of the expenditure to the candidate" and "alleviates the danger that expenditures will be given as a *quid pro quo*." *Id.* at 357 (quoting *Buckley*, 424 U.S., at 47). The Court observed that "contribution limits . . . unlike limits on independent expenditures, have been an accepted means to prevent *quid pro quo* corruption," *id.* at 359, and noted that the plaintiffs had "not suggested that the Court should reconsider" the scrutiny applicable to contribution limits. *Id.*

Nor does *McCutcheon* cast doubt on the Ninth Circuit's analysis of the State's interest. *McCutcheon* acknowledged both the lesser standard of review that applies to contribution limits (as compared to expenditure limits) and the continued legitimacy of the governmental interest in preventing corruption or its appearance. *See McCutcheon*, 572 U.S. at 197 (explaining that "contribution limits impose a lesser restraint on political speech" and are thus subject to a "lesser but still 'rigorous standard of review.'") (quoting *Buckley*, 424 U.S. at 21); *id.* at 199 ("[W]e see no need in this case to revisit *Buckley*'s distinction between contributions and expenditures and the corollary distinction in the applicable standards of review"); *id.* at 206-07 ("This Court has identified only one legitimate governmental interest for restricting campaign finances: preventing corruption or the

appearance of corruption."); *id.* at 199 ("*Buckley* held that the Government's interest in preventing *quid pro quo* corruption or its appearance was 'sufficiently important,' … we have elsewhere stated that the same interest may properly be labeled 'compelling,' …") (internal citations omitted). Those are precisely the standard of review and the approved governmental interest that the Ninth Circuit invoked here. Pet. App. 8-10.

McCutcheon also acknowledged that the State's interest is not just in preventing actual quid pro quo corruption, but also in preventing the *appearance* of such corruption "stemming from public awareness of the opportunities for abuse inherent in a regime of large individual financial contributions." *McCutcheon*, 572 U.S. at 207 (quoting *Buckley*, 424 U.S. at 27). An appearance of quid pro quo corruption may exist in even an innocent situation, yet preventing apparent corruption—in addition to actual corruption—is vital to averting erosion of public confidence. *See Buckley*, 424 U.S. at 27. This is because "[d]emocracy works 'only if the people have faith in those who govern.' " *Shrink Missouri*, 528 U.S. at 390 (quoting *United States v. Miss. Valley Generating Co.*, 364 U.S. 520, 562 (1961)). "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." *Id.*

The Ninth Circuit's ruling that Alaska's evidence satisfied the first part of the contribution limit analysis—demonstrating a sufficiently important state interest—is thus consistent with both *Citizens United*

and *McCutcheon*. Although the petition complains that the Ninth Circuit used too low an evidentiary standard at this stage, Pet. 26, it does not seriously argue that Alaska's evidence was actually insufficient.

2. With Alaska's important state interest well established, the only question is tailoring—i.e., whether the limits are too low to be "closely drawn." But although there is a lower bound for the dollar amount of contribution limits, "such distinctions in degree become significant only when they can be said to amount to differences in kind." *Buckley*, 424 U.S. at 30. As *Buckley* observed, "a court has no scalpel to probe, whether, say, a $2,000 ceiling might not serve as well as $1,000." 424 U.S. at 30 (quoting court of appeals). *McCutcheon* acknowledged that contribution limits do not have to be perfect. *See McCutcheon*, 134 S. Ct. at 1456-57 (saying courts require "a fit that is not necessarily perfect, but reasonable") (quoting *Bd. of Trustees of State Univ. of N.Y. v. Fox*, 492 U.S. 469, 480 (1989)). In *Williams-Yulee v. Florida Bar*, this Court did not require perfection even for a campaign-related law subject to strict scrutiny, noting "[t]he impossibility of perfect tailoring." 135 S. Ct. 1656, 1671 (2015).

a. The petition complains that the Ninth Circuit required only that Alaska's limits not be "so radical in effect as to render political association ineffective, drive the sound of the candidate's voice below the level of notice, and render contributions pointless," Pet. 27—a standard gleaned from *Shrink Missouri*, 528 U.S. at 397—but neither the district court nor the Ninth Circuit thought that Alaska's evidence scraped the bottom of this standard. The district court found that

candidates in Alaska, including challengers in competitive races, can and do raise enough money to campaign effectively. Pet. App. 65-67. The Ninth Circuit agreed, based on its own independent review. *Id*. at 18-20. Neither court saw the evidence as borderline.

To try to get around the lower courts' view of the evidence, Thompson simply contradicts the record. The petition repeatedly implies that Alaska's limits are hamstringing candidates because campaigns are especially expensive in Alaska, citing only a website from outside the record indicating that Anchorage and Fairbanks are different "media markets." Pet. i, 1, 14-15. But there is not a shred of record evidence that races in Alaska are especially expensive—to the contrary, the record shows that they are relatively inexpensive. DC.Dkt 122 at 108-12; CA9.Dkt 21-2 at 294; Pet. App. 18-20. The district court observed that "the cost of campaigns for state or municipal office are relatively low." Pet. App. 61. Alaskan candidates have fewer voters to reach because—at well below one million people—the entire state is smaller than many U.S. cities. *See* U.S. Census Bureau, *QuickFacts: Alaska*, https://www.census.gov/quickfacts/fact/table/AK,US/PST045218 (population of 710,231 in the 2010 Census). The record contains no evidence of difficulties related to the unremarkable observation that Alaska's two largest cities, Anchorage and Fairbanks—home to

just 291,826 and 31,535 people, respectively[9]—may be different "media markets." Nor does the record contain evidence that these relatively small media markets are particularly expensive to advertise in. The district court found that Alaskan candidates are not having any trouble campaigning. Pet. App. 65-67. A petition for certiorari is not the place to dispute these facts.

b. The Ninth Circuit's conclusion that Alaska's limits are closely drawn does not conflict with *McCutcheon* as the petition asserts. Pet. 27-28. The limits struck down in *McCutcheon* were not standard ones like those upheld here—they were aggregate limits on how much one individual could contribute in total to all candidates. *See* 572 U.S. at 192-93 ("This case does not involve any challenge to the base limits, which we have previously upheld as serving the permissible objective of combatting corruption."). Such aggregate limits raise a host of different concerns, and the reasoning the Court used to strike them down—for instance, that they limited how many candidates an individual could affiliate with—does not apply here. *See id.* at 204.

Thus, the Ninth Circuit applied well-established law to uphold Alaska's limits based on the evidence presented at trial, and it did so in a manner consistent with *Citizens United* and *McCutcheon*.

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[9] *See* U.S. Census Bureau, *QuickFacts: Anchorage*, https://www.census.gov/quickfacts/anchoragemunicipalityalaska county; U.S. Census Bureau, *QuickFacts: Fairbanks*, https://www.census.gov/quickfacts/fact/table/fairbankscityalaska ,fairbanksnorthstarboroughalaska/PST045218.

C. The Ninth Circuit correctly upheld Alaska's individual-to-group limit under *California Medical Association v. FEC*.

The Ninth Circuit also correctly upheld Alaska's individual-to-group limit as an anti-circumvention measure. Pet. App. 20. Thompson's Ninth Circuit briefing on this issue was a cursory afterthought. CA9.Dkt 11 at 61-62, 44 at 46-47. The Ninth Circuit's decision was consistent with *California Medical Ass'n v. FEC (CalMed)*, in which this Court rejected arguments like those Thompson summarily made below. 453 U.S. 182, 195-99 (1981).

In the petition, Thompson raises new arguments about the individual-to-group limit—including asserting that *CalMed* is inapplicable or distinguishable, Pet. 31-32—but the Court should not grant review on the basis of arguments never briefed below. Below, when the State asserted that *CalMed* compelled rejection of Thompson's arguments, CA9.Dkt 25 at 86-87, Thompson's reply did not even cite *CalMed*, let alone explain why the Ninth Circuit should not rely on that case. CA9.Dkt 44 at 46-47. Nor did Thompson suggest the alternative anti-circumvention measures that he now advocates in the petition. *Id.*; Pet. 33-34.

In any event, the Ninth Circuit was correct in that *CalMed* supports upholding the individual-to-group limit as a way to inhibit the use of groups as pass-through devices to exceed the individual-to-candidate limit. Pet. App. 20-21. Thompson notes that the individual-to-group limit at issue in *CalMed* was higher than the individual-to-candidate limit, Pet. 32, but the

Court's analysis in *CalMed* did not mention, much less depend on, that fact. 453 U.S. at 197-99. And Thompson's argument that the State could use less restrictive means of preventing circumvention is answered by *CalMed*'s observation that under *Buckley*, contribution limits are not subject to strict scrutiny and therefore need not be the least restrictive means. *Id*. at 199 n.20.

II. The Ninth Circuit's judgment does not conflict with that of any other circuit.

The petition alleges a circuit split, suggesting that other circuits would have applied the analysis in the *Randall* plurality opinion to strike down Alaska's campaign contribution limits. Pet. 21, 22, 30, 28-29. But the cited decisions reveal no conflict.

In fact, all of the decisions the petition cites in support of the alleged conflict are similar to the Ninth Circuit's in that they *rejected* challenges to campaign finance laws. Pet. 28 n.3. The petition does not point to a single decision that struck down a law like Alaska's on a record like this—let alone a decision that employed the *Randall* plurality opinion to do so.

The petition's asserted conflict over the status of the *Randall* plurality opinion is illusory. Pet. 28-29. The Ninth Circuit has held that the plurality opinion is not controlling under *Marks v. United States*, 430 U.S. 188, 193 (1977) because it did not represent a common denominator of the Court's reasoning. *Lair v. Bullock*, 697 F.3d 1200, 1204-05 (9th Cir. 2012). The petition implies that other circuits have held the opposite, Pet. 28, but in fact, no other circuit has done this *Marks*

analysis. Thus, no circuit split exists over whether *Randall* is binding despite being a splintered decision.

Nor is the petition correct that "[e]very other court to consider *Randall* has correctly recognized that it must follow the reasoning of the plurality opinion." Pet. 28. Most of the cited cases do not "follow the reasoning of the plurality opinion," which makes sense because *Randall* is simply an application of *Buckley*—which the circuits uniformly follow—not a brand new test. Thus, the cited decisions either invoke *Randall* to support background principles dating back to *Buckley*, e.g. *Indep. Inst. v. Williams*, 812 F.3d 787, 791 (10th Cir. 2016); *Ala. Democratic Conference v. Att'y Gen. of Ala.*, 838 F.3d 1057, 1069-70 (11th Cir. 2016); *Ill. Liberty PAC v. Madigan*, 904 F.3d 463, 469-70 (7th Cir. 2018); to distinguish *Randall*, e.g. *Nat'l Org. for Marriage v. McKee*, 649 F.3d 34, 60-61 (1st Cir. 2011); *Preston v. Leake*, 660 F.3d 726, 739-40 (4th Cir. 2011); *Minn. Citizens Concerned for Life v. Swanson*, 640 F.3d 304, 319 n.9 (8th Cir. 2011); *Holmes v. FEC*, 875 F.3d 1153, 1165 (D.C. Cir. 2017); or to reject isolated *Randall*-based arguments, e.g. *Ognibene v. Parkes*, 671 F.3d 174, 192 (2d Cir. 2011).

Even in the two cited cases in which circuit courts to some extent "follow[ed] the reasoning of the plurality opinion," Pet. 28—*Zimmerman v. City of Austin*, 881 F.3d 378, 387 (5th Cir. 2018) and *McNeilly v. Land*, 684 F.3d 611, 617-20 (6th Cir. 2012)—they did so in *rejecting* challenges to contribution limits, and their analysis would not lead to different outcomes than the Ninth Circuit would reach. In *Zimmerman*, the Fifth Circuit discussed some *Randall* "danger signs" in

upholding a limit lower than Alaska's. 881 F.3d at 387-88. Its summary of *Randall* was that "[u]ltimately, a contribution limit is closely drawn so long as it does not 'prevent candidates from "amassing the resources necessary for effective [campaign] advocacy" ' or 'magnify the advantages of incumbency to the point where they put challengers to a significant disadvantage.' " *Id*. This is consistent with the Ninth Circuit's approach and the district court's findings here. *See* Pet. App. 16-29, 60. In *McNeilly*, the Sixth Circuit discussed the *Randall* plurality's five "considerations" in concluding that a plaintiff seeking a preliminary injunction was not likely to succeed on the merits of his *Randall*-based challenge to Michigan contribution limits of $500 for state house and $1,000 for state senate candidates. 684 F.3d 617-20. Like the Fifth Circuit, the Sixth Circuit considered it particularly important that the limits were not inhibiting campaigns. *Id*. at 620. Again, this is consistent with the Ninth Circuit's approach.

This Court's intervention is not warranted merely because courts have expressed slightly different reasons for reaching the same outcome. And as explained above, even if there were uncertainty about *Randall*, this case would be a poor vehicle for resolving it because Alaska's limits would pass muster regardless.

III. The Ninth Circuit's Alaska-specific ruling is neither of exceptional importance nor a good vehicle for revisiting contribution limits.

Given that contribution limits have been an approved anti-corruption measure for decades, and that Alaska is indisputably home to a risk of quid pro quo corruption, the only real question here is whether Alaskan voters selected the correct dollar amount. This question is not of exceptional importance, nor is this case a good vehicle for answering it because (1) the plaintiffs have a standing problem; (2) Alaska is too unique to craft a national rule; and (3) the handful of people affected by the limits have ample alternative avenues for spending money on political campaigns.

1. The petition emphasizes statewide races, suggesting that a $500 limit is especially low when applied to such races and compared to other states' limits for such races. Pet. 13. But the plaintiffs did not bring an "as applied" challenge to the limits in the statewide context. And indeed, they would not have had standing to do so, because none of them contributed—or even alleged a desire to contribute—to any candidates for statewide office, much less made maximum contributions to such candidates. Pet. 15; DC.Dkt. 42-1 at 3-6; *cf. United States v. Raines*, 362 U.S. 17, 21 (1960) (noting "the rule that one to whom application of a statute is constitutional will not be heard to attack the statute on the ground that impliedly it might also be taken as applying to other persons or other situations in which its application might be unconstitutional"). Moreover, Alaska has only

two statewide elected offices—governor and lieutenant governor—so in the vast majority of applications, the limits are not statewide.

2. The decisions below were specific to an extensive Alaska-specific factual record that canvassed the Alaskan political landscape from contribution statistics to the on-the-ground mechanics of campaigning in Alaska. Pet. App. 51-67; 10-19. The district court found that "several factors" make Alaska "highly, if not uniquely, vulnerable to corruption," including its small legislature, heavy dependence on a single industry, and sparse population. *Id*. at 52. The court considered the "widely publicized VECO public corruption scandal." *Id*. at 54. The court also observed that in Alaska, "the cost of campaigns for state or municipal office are relatively low." *Id*. at 61. The court credited the testimony of Alaskan campaign managers that candidates, including challengers, can and do run effective campaigns under the current limits, *id*. at 65, and that technological advances have "significantly improved both the cost-efficiency and effectiveness of campaigns, particularly at the local level." *Id*. at 66. For its part, the Ninth Circuit observed that the district court "weighed expert testimony from both sides" in concluding that Alaska's limits are not too low. *Id*. at 16. And it opined that "[a]dditional record evidence" supported the State, including evidence about the cost of campaign elements like TV ads in Alaska. *Id*. at 18-19.

Because the rulings below were specific to Alaska's unique set of facts (including its unique vulnerability to corruption), and because whether a limit's dollar

amount is set too low depends on such local factors, this case is not of exceptional importance.

3. This case is also not of exceptional importance because Alaska's limits restrict only a small amount of activity by a small number of people.

a. The limits restrict only a small amount of activity because they limit only contributions that implicate the State's quid pro quo corruption concerns, leaving open ample avenues for political association and expression, including unlimited spending. The petition asserts that "[a]n individual of modest means who wants to participate in the political process in Alaska in a meaningful manner is foreclosed at nearly every turn," and that Alaska's limits "foreclose[]" the "right to associate with candidates and groups that support them." Pet. 34. But in fact, any individual is free to associate with as many candidates and groups as he chooses. Because a contribution of even a nominal amount serves to "associate" a contributor with a candidate or group, the $500 limits are no burden on the First Amendment's associational element.

As for the First Amendment's expressive element, contributors who are restricted by the $500 limits remain free to further express the intensity of their support for candidates in other ways, including by spending as much money as they wish. Following *Citizens United*, they may make unlimited independent expenditures and unlimited contributions to groups that make only independent expenditures. They are only restricted in the type of spending that implicates the State's quid pro quo corruption concerns.

The challenged limits also leave many other avenues of political participation besides spending money untouched. *Cf. Wagner*, 793 F.3d at 25 ("[I]t is also important to consider how much the statute leaves untouched. . . . The plaintiffs are free to volunteer for candidates, parties, or political committees; to speak in their favor; and to host fundraisers and solicit contributions from others."); *Williams-Yulee*, 135 S. Ct. at 1670 (observing that a law challenged under the First Amendment "leaves judicial candidates free to discuss any issue with any person at any time. Candidates can write letters, give speeches, and put up billboards. They can contact potential supporters in person, on the phone, or online. They can promote their campaigns on radio, television, or other media").

b. The limits impact few people because most Alaskans are not restricted by them: only about one to three percent contribute any money to political campaigns, DC.Dkt. 121 at 15, and of those, the number of maximum contributions represents just 12.6 percent of the total number of individual contributions in the election cycles since Alaska voters restored the $500 limit in 2006. Pet. App. 14.

The limits thus pose only a minimal burden on a small fraction of people in a modestly populated, unusual state that is highly vulnerable to corruption.

CONCLUSION

For these reasons, the Court should deny the petition for a writ of certiorari.

Respectfully submitted,

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