

No. 24-621

In the Supreme Court of the United States

NATIONAL REPUBLICAN SENATORIAL
COMMITTEE, et al.,
Petitioners,

v.

FEDERAL ELECTION COMMISSION, et al.,
Respondents.

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

**BRIEF FOR AMICUS CURIAE FORMER SENATOR
RUSS FEINGOLD IN SUPPORT OF RESPONDENTS**

Rachel E. Snyder*
Jeffrey A. Mandell
LAW FORWARD, INC.
222 West Washington Avenue,
Suite 680
Madison, WI 53703
608.285.2485
rsnyder@lawforward.org
**Counsel of Record*

Counsel for Amicus Curiae

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INTEREST OF AMICUS CURIAE¹

Amicus Russ Feingold served as a United States Senator from Wisconsin from 1993 to 2011. Before his election to Congress, Senator Feingold served from 1983 to 1993 as a Wisconsin state senator. Across his legislative career, Senator Feingold paid particular attention to campaign finance issues, notably pledging from 1992 through 2010 that a majority of his U.S. Senate campaign support would derive from local Wisconsinites rather than sources outside his home state. And once in office, Senator Feingold, a Democrat, took up the mantle of combatting money in elections, joining forces across the aisle with the late Senator John McCain, a Republican from Arizona, to develop and shepherd to enactment the Bipartisan Campaign Reform Act (commonly referred to as “McCain-Feingold”). Enacted in 2002, McCain-Feingold amended the Federal Election Campaign Act in an effort to ameliorate the effects of “soft money” on federal elections.

Although subsequent judicial decisions have significantly limited McCain-Feingold’s impact, Senator Feingold continues to believe that money flooding into our elections undermines the democratic process, incentivizing politicians to be disproportionately responsive to wealthy individuals and organizations over the majority of their

¹ No party’s counsel authored this brief in whole or in part; no party’s counsel contributed money intended to fund preparing or submitting the brief; and no person—other than *amicus*—contributed money to fund preparing or submitting the brief.

constituents. Senator Feingold’s objective in filing this brief is not partisan, but patriotic, motivated by his longstanding commitment to public service and fundamental principles of good governance as well as his continuing belief that reasonable campaign finance regulation is essential to a healthy democracy.

SUMMARY OF ARGUMENT

For a representative democracy to thrive, elected officials must be responsive to their constituents and avoid even the appearance of corruption. Campaign finance regulation exists to reinforce these guardrails. Yet, for years, opponents of regulation have persistently chiseled away at the limits established to prevent excessive campaign cash from corrupting our elections. Predictably, the resulting erosion of regulation has facilitated an alarming increase in the amount of money flowing through elections, giving wealthy donors an outsized voice in the political process, reducing the public’s faith in their elected representatives, and diminishing voters’ willingness to continue participating in the political process and their respect for its outcomes.

Petitioners now ask this Court to strike down yet another limitation on the funding of federal elections, arguing that limits on coordinated contributions from political parties to candidates are unconstitutional and no longer serve any purpose. This dangerous position rests largely on an assumption that other limits—particularly limits on

the size of permissible contributions to political parties—will sufficiently prevent individual donors from making excessive donations to political parties as a way to circumvent the limits on contributions to candidates.

Amicus cautions the Court against accepting this assumption. Petitioners’ challenge is the latest in a long line of successful challenges to campaign finance regulation that have incrementally, but effectively, dismantled the bulwarks protecting our elections from corruption. The Court should be wary of Petitioners’ position—that limits on contributions to political parties offer adequate protection on their own—because if Petitioners succeed here, another challenge will almost certainly follow to strike down those limits. The regulation limiting contributions to political parties is just as vulnerable to challenge by emboldened parties as the regulation at issue here, or will certainly become so if Petitioners are successful in this case.

The Court need look no further than Wisconsin to see the deleterious results that follow extreme deregulation of campaign financing in general—and eliminating the strictures that Petitioners challenge here in specific. Since 2015, Wisconsin’s campaign finance system has placed no limits on individual contributions to political parties and no limits on coordinated contributions from political parties to candidates. Extraordinarily wealthy individuals have taken full advantage, regularly making maximum contributions to candidates and also giving amounts magnitudes larger to political parties. In turn,

political party donations to candidates have grown exponentially. With each election cycle, the total contributions made, especially for statewide candidates, grows at a shocking rate, incentivizing candidates to court the wealthiest donors. And, as Wisconsin elections have drawn more and more national attention, the pool of prospective donors has expanded to include increasing numbers of millionaires and billionaires residing in other states. Thus, the cycle continues. The flood of money into Wisconsin's elections has bred accusations of corruption and threatens to drown out—if not completely silence—the voices of average voters.

Amicus urges the Court to recognize that Petitioners' claim is part of a decades-long effort to eradicate all barriers against unlimited election contributions and spending. For the sake of preserving our representative democracy and limiting corruption, the Court should reject that claim.

ARGUMENT

I. Eliminating existing limits on coordinated contributions from political parties to candidates is the next step in the march toward allowing unlimited money to swamp American elections and drown out the will of the voters.

Petitioners ask this Court to conclude that applying contribution limits to political party expenditures coordinated with candidates is

unconstitutional. (Pet’rs’ Br. 13, 16) This is no surprise. Congress and this Court have been dismantling McCain-Feingold, piece by piece, for the past twenty years. Both Petitioners and the FEC acknowledge as much. (Pet’rs’ Br. 2–3, 29–30, 34–37; Resp’ts’ Br. 12–16, 33–42) And now Petitioners aver that the regulatory framework has been decimated to the point that continuing to limit how much money political parties can funnel directly to candidates is both unconstitutional and pointless. Petitioners assert that the limits on how much each donor can give to a political party obviate any need for limits on the size of contributions from political parties to candidates. (Pet’rs’ Br. 23) But this argument is disingenuous in the context of what has happened in recent Wisconsin elections and the long history of virulent opposition (including by Petitioners) to even the most modest campaign finance regulations.

McCain-Feingold erected a dam to restrict the corrosive influence of excessive campaign money in our elections. And ever since McCain-Feingold’s enactment, opponents have been punching holes in that dam, one case and legislative enactment at a time. The first blow struck limits on certain corporate-funded electioneering communications. *FEC v. Wis. Right to Life*, 551 U.S. 449 (2007) (holding corporate-funded electioneering ban unconstitutional as applied to ads not functionally equivalent to express advocacy). With a second swing, the Court eliminated limits on independent (i.e., uncoordinated) corporate political spending. *Citizens United v. FEC*, 558 U.S. 310 (2010) (holding limits on corporate independent expenditures unconstitutional). Then the Court

struck down federal aggregate contribution limits, *McCutcheon v. FEC*, 572 U.S. 185 (2014), while in the same year Congress created specific exceptions to the limits on coordinated political-party expenditures, 52 U.S.C. § 30116(d). Petitioners’ request is merely the latest attack in this sustained assault on campaign finance restrictions of any kind.

Although enfeebled by nearly twenty years of attack, the core purpose of campaign finance regulation still rings true. Since *Buckley v. Valeo*, courts have recognized that contributions to candidates and parties can be limited to guard against corruption or the appearance of corruption. 424 U.S. 1, 26–27 (1976). The public and legislatures—from Congress to statehouses across the nation—recognize the import of such limits to retain public confidence. And this Court upheld McCain-Feingold’s central provision—a ban on direct corporate and labor union contributions to political parties—on the basis that such contributions may give rise to corruption or the appearance of corruption. *McConnell v. FEC*, 540 U.S. 93, 156 (2003) (“The Government’s strong interests in preventing corruption, and in particular the appearance of corruption, are thus sufficient to justify subjecting all donations to national parties to the source, amount, and disclosure limitations of FECA.”). This ban on corporate and labor contributions to political parties remains in effect. 52 U.S.C. § 30125. And the ban on unlimited coordinated contributions from political parties to candidates serves the same purpose.

Yet, Petitioners baldly insist that even proponents of campaign finance regulation agree with them, citing for this proposition a single 2015 report from the Brennan Center for Justice (Pet’rs’ Br. 4), which posited that strengthening political parties with public financing and certain changes to campaign finance regulation could have some benefits for the democratic process. But Petitioners fail to acknowledge the caveats within that report, namely, that limits still serve the legitimate purpose of preventing donors from circumventing existing contribution limits by funneling contributions in excess of applicable limits to candidates through donations to political parties. *See* Ian Vandewalker & Daniel I. Weiner, *Stronger Parties, Stronger Democracy: Rethinking Reform*, BRENNAN CENTER FOR JUSTICE 14–15 (2015).² The risks of

² Petitioners argue this Court concluded in *McCutcheon*, 572 U.S. 185, that circumvention of contribution limits is not a legitimate purpose supporting the imposition of certain contribution limits. (Pet’rs’ Br. 1, 21–24) But the Court reached this conclusion with respect to aggregate caps on political contributions due in no small part to the existence of other limits enacted after the Court first considered in *Buckley v. Valeo*, 424 U.S. 1 (1976), the constitutionality of aggregate limits. *McCutcheon*, 572 U.S. at 200 (“statutory safeguards against circumvention have been considerably strengthened since *Buckley* was decided, through both statutory additions and the introduction of a comprehensive regulatory scheme”). Notably, the Court seemed particularly persuaded that the existence of limits on contributions to political parties adequately prevented individual donors from making donations to political parties to circumvent candidate contribution limits. *Id.* at 201 (“Because a donor’s contributions to a political committee are now limited, a donor cannot flood the committee with ‘huge’ amounts of money

circumvention and of apparent (and even actual) corruption is especially acute in circumstances where contribution limits to political parties either do not exist or are not enforced. *Id.* Although federal law currently limits how much a donor may give to a political party, this limit is not a permanent bulwark, as the trend of deregulation over the past several decades demonstrates. This Court should take note of how easily the protection of contribution limits can be repealed—and it should acknowledge the results that would follow from the veritable flood of concomitant political spending.

II. Some of the wealthiest individuals in our nation regularly use Wisconsin’s extremely permissive campaign finance regulations to circumvent contribution limits.

For nearly a decade now, Wisconsin law has permitted coordination between state political parties and state candidates—the same coordination that Petitioners seek to allow for federal elections—and has also authorized unlimited individual contributions to political parties. This combination has prompted concerns about corruption.³ Those

so that each contribution the committee makes is perceived as a contribution from him.”).

³ See, e.g., Patricia Simms, *Wisconsin gets D grade in 2015 State Integrity Investigation*, THE CENTER FOR PUBLIC INTEGRITY, Nov. 9, 2015, available at <https://perma.cc/8ARR-5U3R> (last visited Sept. 29, 2025); *The Wisconsin Supreme Court vote is getting national attention and millions from Musk*, NPR, Mar. 31, 2025, available at <https://perma.cc/45A9-8HDR>. (last visited Sept. 29,

concerns now grow, in reach and in severity, with every election cycle in Wisconsin, as campaign spending in the state continues to grow in ways previously unimaginable.⁴ Recent judicial elections highlight how such lax regulation creates an environment in which contribution limits (already extremely high in comparison to their federal-law counterparts) are regularly and easily circumvented by exceptionally wealthy individuals.

2025); News Release, MARQUETTE UNIVERSITY LAW SCHOOL POLL, *A month before the election, large percentages of registered voters lack opinions of candidates for Wisconsin Supreme Court, state superintendent of public instruction* (Mar. 5, 2025), available at <https://perma.cc/NE5Y-9UDG> (last visited Sept. 29, 2025) (finding that 61% of voters believe large party contributions to candidates reduces judicial independence).

⁴ Massive increases in election-related spending have been further exacerbated by the adoption of more competitive legislative district maps following litigation challenging the state's heavily gerrymandered district maps. *See* Vanessa Kjeldsen, *Wisconsin sees unprecedented television ad spending in state legislative races*, WMTV15, Oct. 14, 2024, available at <https://perma.cc/LNG3-25BZ> (last visited Sept. 29, 2025). Even nonpartisan races that historically are not very competitive, like the statewide election for State Superintendent of Public Instruction, are drawing unprecedented spending, especially by political parties. *See* Anya Van Wagtendonk, *DPI candidates receive millions from political parties*, WPR, Mar. 26, 2025, available at <https://perma.cc/58VU-CY32> (last visited Sept. 29, 2025).

a. Wisconsin law allows unlimited coordination of expenditures between political parties and candidates, while eschewing limits on individual contributions to political parties.

Between 2010 and 2015, Milwaukee County Executive Scott Walker was thrice elected Wisconsin Governor.⁵ Several individuals and organizations associated with his recall and re-election campaigns were investigated over allegations that they had violated state campaign finance regulations.⁶ In part, Governor Walker's campaign during the recall election was accused of illegally coordinating with corporate entities that made purportedly independent expenditures to help him fight off the recall effort.⁷ In

⁵ Scott Walker was first elected Governor of Wisconsin in 2010. In 2012, he faced and survived a recall election initiated by opponents who took issue with legislation Walker championed and signed into law to severely limit the collective bargaining rights of public sector employees. Then, in 2014, he was elected to a second term as Governor. *Vote for Wisconsin governor in general elections since 1848*, Wisconsin Blue Book 2023–2024, 483–84; *The History of Recall Elections in Wisconsin*, WISCONSIN HISTORICAL SOCIETY, available at <https://perma.cc/BA8U-TFF7> (last visited Sept. 29, 2025).

⁶ Scott Bauer, *AP Explains: John Doe investigations involving Scott Walker*, ASSOCIATED PRESS, Dec. 17, 2017, available at <https://perma.cc/YG9G-HM56> (last visited Sept. 29, 2025).

⁷ Matt Corley, *The five money-in-politics lessons from the Wisconsin John Doe investigation leak*, CITIZENS FOR RESPONSIBILITY AND ETHICS IN WASHINGTON, Sept. 15, 2016, available at <https://perma.cc/2VQ9-4BLS> (last visited Sept. 29, 2025).

July of 2015, the Wisconsin Supreme Court ultimately shut down the second investigation in a 4–2 decision widely perceived, then and now, as motivated more by politics than by sound legal reasoning.⁸

The Wisconsin Legislature subsequently took drastic action, overhauling Wisconsin campaign finance regulations within a few short months.⁹ By

⁸ Tara Malloy, *Judicial Oblivion: How the Wisconsin Supreme Court Ignored Legal Precedent to End the John Doe Investigation*, CAMPAIGN LEGAL CENTER, July 28, 2015, available at <https://perma.cc/9EGE-UKXC> (last visited Sept. 29, 2025).

⁹ The Legislature may also have been inspired by the effects of a related federal court ruling. In September 2014, U.S. District Court Judge Rudolph Randa ruled unconstitutional a provision of Wisconsin law that limited the aggregate amount of funding a candidate could receive from committees required to file campaign finance reports, including political party committees. Decision and Order, *CRG Network v. Barland, et al.*, No. 14-C-719 (E.D. Wis. Sept. 5, 2014). The ruling had the effect of also lifting the limits on contributions to political parties. Shortly after this ruling, donors started giving large sums to political parties, with the Republicans taking the lead. One donor contributed \$650,000 to the Republican Party of Wisconsin. The very same day, the party gave \$450,000 to the Walker campaign. Shawn Johnson, *Walker Raises \$10.4M, Burke \$9.3M in Latest Reporting Period*, WPR, Oct. 28 2014, available <https://perma.cc/434S-VAFQ> (last visited Sept. 29, 2025). Since 2014, the Democratic Party of Wisconsin has caught up to, and in some instances has surpassed, the Republican Party of Wisconsin in raising massive contributions from extremely wealthy donors. Rich Kremer, *Wisconsin Democrats outspend Republicans by more than 2-to-1 in latest filing*, WPR, Oct. 1, 2024, available at <https://perma.cc/3DTT-HLXZ> (last visited Sept. 29, 2025).

December of 2015, the law had undergone a sea change that rendered it dramatically less restrictive. Relevant here, the Legislature made the following changes that remain current law:

- Eliminated limits on contributions individuals may make to political parties (Wis. Stat. § 11.1104(4));
- Allowed for unlimited transfers of funds from political parties to candidates (Wis. Stat. § 11.1104(5));
- Imposed no limits on the coordination of expenditures between political parties and candidates (Wis. Stat. § 11.1203(1));¹⁰
- Specified that coordination of expenditures by actors other than political parties (political action committees, independent expenditure committees (Wisconsin’s version of a SuperPAC), and certain others) for purposes of express advocacy is an in-kind contribution, thus making coordinated

¹⁰ The Legislature also eliminated limits on contributions from individuals to legislative campaign committees (Wis. Stat. § 11.1104(3)), allowed for unlimited transfers of funds from legislative campaign committees to candidates (Wis. Stat. § 11.1104(5)), and imposed no limits on the coordination of expenditures between legislative campaign committees and candidates (Wis. Stat. § 11.1203(1)). Doing so simply gave extremely wealthy donors another option for funneling funding that far exceeds contribution limits to their preferred candidates, exacerbating the problem.

expenditures for express advocacy legal to the extent that the value of any such expenditures does not exceed the applicable contribution limit (Wis. Stat. § 11.1203); and

- Provided that any communication that does not expressly advocate for the election or defeat of a clearly identified candidate is not an in-kind contribution, thus allowing unlimited candidate coordination of expenditures for issue advocacy, including coordination with corporations and labor unions that are prohibited from making contributions to candidates for express advocacy (Wis. Stat. §§ 11.0101(8)(b)9., 11.1203(3)(b)).

These changes had immediate consequences, which have compounded exponentially across the past decade.

The resulting influx of money into Wisconsin elections, especially from wealthy individuals, has been without precedent. Take for example the two most recent gubernatorial elections. Wisconsin limits any individual's contribution to a candidate for governor to \$20,000. Wis. Stat. § 11.1101(1)(a). In the run up to the 2018 election for governor, approximately 27 individual donors made maximum contributions to incumbent Scott Walker's campaign, amounting to \$540,000, and also made additional contributions to the Republican Party of Wisconsin, each totaling or exceeding the candidate contribution limit, for a combined total of \$7,620,000—or more

than 1400% of the aggregate candidate limit.¹¹ During that election campaign, the Republican Party of Wisconsin transferred over \$5 million directly to Walker's campaign.¹²

This is not limited to the GOP. In the run up to the 2022 election for governor, approximately 42 individual donors made both maximum contributions to incumbent Tony Evers's campaign, amounting to \$840,000, and gave additional contributions to the Democratic Party of Wisconsin, each totaling or exceeding the candidate contribution limit, for a combined total of nearly \$23 million—or more than 2700% of the aggregate candidate limit.¹³ In that election campaign, the Democratic Party of Wisconsin gave over \$18 million to Evers's campaign, an

¹¹ See Friends of Scott Walker campaign finance reports for transactions dated January 1, 2016 through December 31, 2018, available at <https://perma.cc/JKU7-HXH5> (last visited Sept. 29, 2025); Republican Party of Wisconsin campaign finance reports for transactions dated January 1, 2016 through December 31, 2018, available at <https://perma.cc/JL56-3KK6> (last visited Sept. 29, 2025).

¹² Shawn Johnson, *Republicans rewrote Wisconsin's fundraising laws. Democrats have used them to their advantage.*, WPR, Sept. 30, 2024, available at <https://perma.cc/R477-G7GG> (last visited Sept. 29, 2025).

¹³ See Tony for Wisconsin campaign finance reports for transactions dated January 1, 2019 through December 31, 2022, available at <https://perma.cc/9L9J-4LJA> (last visited Sept. 29, 2025); Democratic Party of Wisconsin campaign finance reports for transactions dated January 1, 2019 through December 31, 2022, available at <https://perma.cc/FE5F-WQ37> (last visited Sept. 29, 2025).

enormous increase from the \$700,000 the Party had given Evers during his gubernatorial campaign against Walker in 2018.¹⁴

Without limits on individual contributions to political parties or limits on coordinated contributions from political parties to candidates, extremely wealthy individuals can essentially render moot Wisconsin's already generous limits on contributions to candidates, giving the impression—and potentially risking the reality—that Wisconsin's election results are for sale to deep-pocket donors.

b. Wisconsin's two most recent Supreme Court elections illustrate the corrupting influence of money in elections featuring unlimited coordinated contributions from a political party to its candidates.

Twice in the past three years— in April 2023 and April 2025—Wisconsin has held statewide elections for its Supreme Court. Each election more than doubled the combined expenditures of its immediate predecessor, establishing and then shattering the record for most expensive judicial race ever, not just in Wisconsin but anywhere in the nation.¹⁵ The individual contribution limit to a

¹⁴ Johnson, *supra* note 12.

¹⁵ Tom O'Connor, *Record \$100M spent on Wisconsin Supreme Court race raises concerns over judicial independence*, WISCONSIN EXAMINER, May 12, 2025, available at <https://perma.cc/68J8-4SKJ> (last visited Sept. 30, 2025).

candidate for Justice of the Wisconsin Supreme Court is \$20,000.¹⁶ Wis. Stat. § 11.1101(1)(a). In 2023, total spending on the race, including independent expenditures, coordinated expenditures, and campaign expenditures totaled nearly \$51 million.¹⁷ And, as was true in the preceding elections for Governor, extremely wealthy donors contributed a significant majority of the total funding, making both maximum individual contributions to candidates and much larger contributions to political parties that, in turn, transferred funds to the (nonpartisan) candidates. For example, in 2023, a Wisconsin billionaire gave the maximum \$20,000 to incumbent Justice Dan Kelly, and then also gave ten times as much—\$200,000—to the Republican Party of Wisconsin.¹⁸ Likewise, in the same election, an out-of-state billionaire and her daughter each gave \$20,000 to challenger Janet Protasiewicz, after which they also gave twenty-five times as much—a combined

¹⁶ Few Wisconsin voters have the financial means to make the maximum contribution, let alone to make a maximum contribution to a candidate and then give up to millions more to the political party supporting the same candidate. According to the U.S. Census Bureau, the 2024 median household income in Wisconsin was \$77,488. <https://perma.cc/BZE3-FTQ5> (last visited Sept. 30, 2025).

¹⁷ *Wisconsin Supreme Court Race Cost Record \$51M*, WISCONSIN DEMOCRACY CAMPAIGN, July 18, 2023, available at <https://perma.cc/64MP-WGCN> (last visited Sept. 29, 2025).

¹⁸ Jacob Resneck, *Mega donors fuel over \$40 million in donations for record-shattering 2023 Wisconsin Supreme Court race*, WISCONSIN WATCH, April 3, 2023, available at <https://perma.cc/2FAK-RB47> (last visited Sept. 29, 2025).

total of \$1,000,000—to the Democratic Party of Wisconsin.¹⁹ The Democratic Party of Wisconsin contributed over \$8.3 million to the Protasiewicz campaign.²⁰ And though the Kelly campaign refused direct cash contributions from the state GOP, arguing that Kelly was not “bought and paid for” by a political party,²¹ the campaign received nearly \$850,000 in in-kind contributions from the Republican Party of Wisconsin.²² Notably, the Supreme Court race was the only statewide candidate election on the ballot that year.²³

¹⁹ Peter Cameron, *UPDATED: Top campaign donors to Janet Protasiewicz, left-wing candidate for Wisconsin Supreme Court*, THE BADGER PROJECT, Mar. 29, 2023, available at <https://perma.cc/7CK6-5XWL> (last visited Sept. 29, 2025).

²⁰ See Janet for Justice campaign finance reports for contributions from the Democratic Party of Wisconsin in 2023, available at <https://perma.cc/SVG9-T2SG> (last visited Sept. 29, 2025).

²¹ Molly Beck and Corrinne Hess, *5 takeaways from the only Supreme Court election debate. Daniel Kelly and Janet Protasiewicz take the gloves off.*, MILWAUKEE JOURNAL SENTINEL, Mar. 21, 2023, available at <https://perma.cc/C3MA-Z2W9> (last visited Sept. 29, 2025).

²² See Friends of Justice Dan Kelly campaign finance reports for contributions from the Republican Party of Wisconsin from January 1, 2022 through May 31, 2023, available at <https://perma.cc/B6ER-N269> (last visited Sept. 29, 2025).

²³ Tamia Fowlkes, *Wisconsin 2023 spring election; How late polls are open, where to vote, referendum questions and more*, MILWAUKEE JOURNAL SENTINEL, Mar. 14, 2023, available at <https://perma.cc/2NLW-KRTG> (last visited Sept. 29, 2025).

The 2023 judicial race was astonishing, with the combined spending for the four candidates²⁴ campaigns quintupling the previous spending record for a Wisconsin judicial election—a record that had been set just three years earlier.²⁵ But spending for the 2025 judicial race, with only half as many candidates, doubled the 2023 total, pushing the national record north of \$100 million.²⁶ The established pattern held. Extremely wealthy individuals not only made maximum contributions directly to the candidates but also then funneled significantly larger sums to the political party supporting their favored (nonpartisan) candidate. In turn, each political party transferred millions to the candidate it preferred.²⁷

Unfortunately for Wisconsinites, this is nothing new. But what became clear in the lead up to Election Day 2025 is that extraordinarily wealthy

²⁴ Four candidates ran for Wisconsin Supreme Court in 2023. Two were eliminated at the primary election held on February 21, 2023. *Wisconsin 2023 primary election results: Supreme Court, state Senate District 8*, MILWAUKEE JOURNAL SENTINEL, available at <https://perma.cc/PTS5-7TT4> (last visited Sept. 19, 2025).

²⁵ Wisconsin Democracy Campaign, *supra* note 17.

²⁶ *Buying Time 2025 – Wisconsin*, BRENNAN CENTER FOR JUSTICE, Jan. 23, 2025 (updated Apr. 4, 2025), available at <https://perma.cc/JX82-WW4A> (last visited Sept. 29, 2025).

²⁷ *FINAL REPORT: Top donors using political party loophole in Wis Supreme Court race*, THE BADGER PROJECT, Mar. 27, 2025, available at <https://perma.cc/3XCV-U8EC> (last visited Sept. 29, 2025).

donors—Elon Musk in this instance but potentially others in the future—have no qualms about not only essentially mooting the candidate contribution limits through unlimited contributions to political parties, but also injecting massive sums into political action committees and even offering highly suspect, direct financial incentives to voters.²⁸ Indeed, some estimates are that Musk alone, directly and via affiliated organizations, contributed almost as much in the 2025 race as the total of all spending in the 2023 race.²⁹ And because a tiny number of exceptionally wealthy individuals with strong political and policy preferences have effectively limitless financial resources, candidates and political parties no longer have to appeal to average Wisconsin voters for financial support. It is hardly surprising that following a review of the 2025 spring election results, the Republican Party of Wisconsin concluded, in part, that it must increase out-of-state contributions and better coordinate spending and messaging with outside groups to improve its future electoral prospects.³⁰ Candidates, judicial and

²⁸ Reid J. Epstein, *Liberal Wins Wisconsin Court Race Despite Musk's Millions*, NY TIMES, Apr. 1, 2025, available at <https://perma.cc/A27J-4M5M> (last visited Sept. 29, 2025).

²⁹ Daniel Bice & Alison Dirr, *Elon Musk group that was active in Wisconsin spent more than \$47 million in the first half of the year*, MILWAUKEE JOURNAL SENTINEL, Aug. 1, 2025, available at <https://perma.cc/73MQ-CBDK> (last visited Sept. 29, 2025).

³⁰ Anya Van Wagtendonk, *After disappointing spring, Wisconsin GOP reconsiders fundraising, messaging strategy*, WPR, Aug. 28, 2025, available at <https://perma.cc/RFM7-VZJ6> (last visited Sept. 29, 2025).

otherwise, are humans, susceptible to the influence of those most likely to help them succeed in their endeavors. In the political space, reelection is often of paramount concern. So, the cycle of very large political contributions, which are much more likely than small donations to come with strings attached, perpetuates itself, and both the voters and public policy suffer the consequences.

* * *

Petitioners are simply wrong that lifting the limits on coordinated contributions from political parties to candidates is harmless. To the contrary, doing so would propel the nation another step toward limitless, corruption-inducing contributions in elections, further down a path that centralizes true political power in the hands of the wealthiest few to the detriment of everyone else.

CONCLUSION

Senator Feingold respectfully encourages the Court to affirm the decision of the U.S. Court of Appeals for the Sixth Circuit in this matter.

Respectfully submitted,

October 6, 2025

Rachel E. Snyder*
Jeffrey A. Mandell
LAW FORWARD, INC.
222 West Washington Avenue,
Suite 680
Madison, WI 53703
608.285.2485
rsnyder@lawforward.org

**Counsel of Record*

Counsel for Amicus Curiae