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**Pro hac vice motions to be submitted*

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

PHILLIP LEMONS; SUSAN JARRETT;
MYRNA HINES; JAY SHERMAN; ROBERT
BOLLING; HENRY SCOTT; JULIE EPPLE;
MICHAEL CLARK; EUGENE ARNAUTOV;
ROBERT DRESSEN; JOEL HERNANDEZ;
JESSE TORAN; KEVIN EVERS;
JONATHAN LARSEN; PETER O'BRIEN;
ROGER WILLIAMS; KYLE SHROY;
ORIAH LONGANECKER; RANDY
KOOZER; JANITH YTURN; ERIC
JACOBSEN; PAULA CEDILLO; ROY
PRISZNER; LAURA BAKER; THOMAS
RICHARDSON; TORREY LEWIS; AND
DISENFRANCHISED SIGNERS NOS. 1-50,

Plaintiffs,

v.

BILL BRADBURY, Secretary of the State of
Oregon, in his official and individual capacity;
ANNETTE NEWINGHAM, Lane County
Clerk, in her official and individual capacity;
JAN COLEMAN, Yamhill County Clerk, in her
official and individual capacity; **SHERRY
HALL**, Clackamas County Clerk, in her official
and individual capacity; **SANDRA BERRY**,
Hood River County Clerk, in her official and
individual capacity; **JAMES MORALES**,
Benton County Clerk, in her official and
individual capacity; **GEORGETTE BROWN**,
Josephine County Clerk, in her official and
individual capacity; **STEVEN
DRUCKENMILLER**, Linn County Clerk, in his
official and individual capacity; **KATHY
BECKETT**, Jackson County Clerk, in her official
and individual capacity; **BILL BURGESS**,
Marion County Clerk, in his official and

Case No. **CV'07-1782-MO**

COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF

individual capacity; **MICKIE KAWAI**, Washington County Clerk, in her official and individual capacity; **VAL UNGER**, Polk County Clerk, in her official and individual capacity, **JOHN KAUFFMAN**, Multnomah County Director of Elections, in his official and individual capacity

Defendants.

Plaintiffs request declaratory and injunctive relief on the ground that Defendants and their agents have unlawfully refused to accurately verify signatures for Referendum 303 relating to the repeal of HB 2007. In support of this Complaint, Plaintiffs allege the following:

PARTIES

1. The Plaintiffs, individually and collectively, are disenfranchised signors of Oregon Referendum 303, titled “Relating to same-sex relationships; creating new provisions; and amending ORS 107.615, 192.842, 205.320, 409.300, 432.005, 432.235, 432.405 and 432.408.”

2. The Plaintiffs, individually and collectively, voluntarily and freely signed Oregon Referendum 303 while they were registered voters in one of twelve (12) Oregon counties: Benton, Clackamas, Hood River, Jackson, Josephine, Lane, Linn, Marion, Multnomah, Polk, Washington, or Yamhill. At the time that they signed Referendum 303, they were registered in the county of the referendum sheet they signed.

3. The Defendant, Bill Bradbury, is the Oregon Secretary of State, an elected official, and a resident of the State of Oregon who may be served with process in accordance with Oregon law.

4. The Defendants, the County Clerks and/or elections officials of Benton, Clackamas, Hood River, Jackson, Josephine, Lane, Linn, Marion, Multnomah, Polk, Washington, and

Yamhill counties, are residents of the State of Oregon who may be served with process in accordance with Oregon law.

STATEMENT OF JURISDICTION AND VENUE

5. This is an action under the First and Fourteenth Amendments to the Constitution of the United States. As a result, jurisdiction is conferred on this Court by 42 U.S.C. § 1983 and 28 U.S.C. §§ 1331 and 1343(3), with supplemental jurisdiction over any and all state law or other claims under 28 U.S.C. § 1367.

6. In addition, this action seeks a declaratory judgment that the actions of the Defendants violate the United States and Oregon constitutions. As a result, jurisdiction is conferred on this Court by 28 U.S.C. § 2201.

7. The Plaintiffs and/or their agents have fully and completely exhausted any and all administrative means and measures available to them and have been left with no other choice but to seek judicial relief.

8. The Defendants and their offices are all located within the Oregon federal district. Thus, jurisdiction is venue is proper in the district of Oregon under 28 U.S.C. §§ 1391(b)(1) and 1391(b)(3). Moreover, a substantial part of the events or omissions giving rise to this claim occurred in this judicial district, making venue proper under 28 U.S.C. § 1391(b)(2).

STATEMENT OF FACTS AND RELEVANT LAW

9. Referendum 303 is a referendum on a bill enacted by the Oregon Legislature, HB 2007, which would create a domestic partnership union structure that grants same-sex couples the same rights, benefits, and duties as married couples under Oregon law. If the Referendum 303 petitioners have submitted sufficient valid signatures of Oregon registered voters, then HB 2007 shall not take effect, until and unless it is approved by a majority of Oregon voters voting on the

question on the November 2008 general election ballot. If too few valid signatures have been submitted on Referendum 303, then HB 2007 will take effect on January 1, 2008.

10. Oregon Constitution, Article IV, § 1(4)(a) sets forth the requirements for the initiative and referendum process. These requirements assign to the Secretary of State the responsibility for instituting a fair and accurate initiative and referendum petition verification process.

11. Oregon law also mandates that the Secretary of State is the chief officer regarding elections, initiatives, and referendums. In this regard, the Secretary of State has a duty to maintain uniformity in the application, operation, and interpretation of the elections, initiatives, and referendums laws, through which Oregonians exercise their rights and participate in the democratic process. ORS 246.110. As part of this process, the Secretary of State is required to adopt rules in order to facilitate and achieve a maximum degree of correctness, including the issuance of directives to Oregon's County Clerks. ORS 246.120, 246.150.

12. The total number of signatures required to put Referendum 303 on the ballot was 55,179. On September 26, 2007, Proponents of Referendum 303 submitted approximately 62,000 signatures to the Secretary of State's office for verification. (*See Exhibit A attached*). Under the Oregon Constitution, Article IV, § 1, public officials are afforded thirty (30) days to complete the signature verification process.

13. The process for signature verification is regulated by statute. Pursuant to statute, the Secretary of State conducts two statistical samplings, through which only a certain number of signatures are randomly chosen for verification. Invalid signatures found in this random sample are then extrapolated to the entire population of signatures.

14. ORS 250.105 directs the Secretary of State to designate by rule a statistical sampling technique to be used in the verification process. The Secretary of State conducted two samplings

of the signatures submitted, as prescribed by ORS 250.105(4), to determine their validity. The specific procedures used for the statistical sampling are outlined in O.A.R. 165-014-0030.

15. The total number of signatures sampled in both the first and second sampling for Referendum # 303 was 5.01% of the total signatures. (See Petition Processing Statistical Report attached as Exhibit B). After the Elections Division of the Secretary of State's Office selected those 5.01% of petition signatures for verification, it distributed them to county election officials for verification. O.A.R. 165-014-0030(7)-(8), (11).

16. Article IV, § 1 of the Oregon Constitution expressly provides a thirty (30) day window for the Defendants to verify and/or authenticate signatures on a referendum. On June 15, 2000, the Oregon Constitution was amended to increase the window of verification from fifteen (15) days to thirty (30) days. "The Secretary of State and the County Clerks, who must verify the signatures, asked for the additional 15 days. The extra time will allow them to respond to the unexpected issues that sometimes arise in the verification process and to ensure the utmost integrity in the process while still meeting the constitutional timeline. The Legislature agrees that this is a reasonable request." (See <http://www.oregonvotes.org/may162000/guide/mea/m78/78leg.htm> and <http://www.oregonvotes.org/may162000/guide/mea/m78/78ex.htm>.) Thus, the Defendants were concerned about having enough time to ensure the "utmost integrity" of the process and enabling every registered Oregonian a fair opportunity to properly participate in the democratic process. The Defendants also lobbied for the change to be able to address "unexpected issues" that may arise, as when signatures are improperly excluded and citizens make efforts to demonstrate to the Defendants the errors that were made or otherwise rehabilitate their signatures that they knowingly and deliberately made.

17. Yet, though the Defendants lobbied for and had a full thirty (30) days (through October 26, 2007) to complete the signature verification process, the Secretary of State publicly announced on October 8, 2007 (only 12 days into the process) that the verification of signatures was complete, and that there were not enough signatures to sustain the referendum. (See Exhibit A attached). This was also reported in several media outlets. With 55,179 signatures required to carry the referendum, the Secretary of State's office initially determined that 55,063 valid signatures had been submitted, and that the proponents had fallen 116 signatures short of qualifying the referendum for the ballot. Because of the nature and processing of the statistical sampling employed by law, the proponents of Referendum 303 were short by only six (6) sampled signatures, and had eighteen (18) days to review and rehabilitate only six (6) signatures to qualify the referendum for the ballot by the October 26, 2007 deadline.

18. Moreover, the Defendant County Clerks, individually and collectively, who were approached and otherwise contacted (as described herein) by the Plaintiffs and their agents, refused to take any efforts to uphold the "utmost integrity" of the process and address the "unexpected issues" of signatures that were improperly excluded. Rather, the Defendant County Clerks repeatedly denied knowledge of the 30-day window for which they had lobbied, and advised the Plaintiffs that (a) no errors were made, and (b) there did not exist any basis, in fact or law, for the reconsideration and/or rehabilitation of excluded signatures. This 30-day window mirrors the 30-day time frame which County Clerks have in exercising their discretion and authority to complete self-initiated recounts of election ballots in an effort to ensure the "utmost integrity" of the elections process. *See* O.A.R. 165-007-0270.

19. Prior to the expiration of the 30-day window, Defendant, Mickie Kawai, Washington County Clerk, did reinstate one of the many signatures improperly excluded by her office. This

reinstatement was reported to and accepted by the Secretary of State, thereby reducing the total number of additional valid sampled signatures required to certify Referendum 303 to the ballot to only five (5).

20. Upon review of the signature sheets and statistical reports regarding the counties referenced herein, the proponents of Referendum 303 discovered that the signatures of the Plaintiffs and others had been improperly and illegally excluded by Defendants.

21. Upon a detailed review of the state's voter registration records for every county, and comparing that information to the signature sheets that were remitted to the Defendants, it was discovered that voter registration information existed to verify the signatures of several signors whose signatures were nonetheless ruled invalid as "not matching" information in the voter registration records. Several signors whose signatures were excluded as not being registered voters were, in fact, registered voters. Additionally, others reasons for excluding the signatures of Oregonians exercising their voice in the democratic process were also found to be improper.

22. Moreover, the proponents of Referendum 303 also discovered that, of the 254 signatures that were rejected from the 3,033 statistical sample on or before only the 12th day, none of those individuals were contacted by the defendants, in any way, to notify them that their signatures were excluded, or to provide an opportunity to rehabilitate their signatures.

23. Only by the efforts of the proponents of Referendum 303 were several of the rejected signors notified of their signature being excluded. Following these notifications, Plaintiffs who were able to do so, individually and collectively, made efforts to ensure that their voices and signatures would be counted. These efforts included, but are not limited to, updating their current voter registrations, personally speaking to the county clerks that excluded their signatures, hand-delivering and/or mailing letters, affidavits, and statements of explanation and

concern regarding their signatures, calling the defendants, e-mailing the defendants, and other efforts to ensure that their voice and right to participate in the democratic process was respected and upheld. All of these efforts by the Plaintiffs and their agents were conducted during the 30-day window expressly provided by the Oregon Constitution to help ensure the fairness and accuracy of the Oregon referendum process.

24. The Defendants, collectively and individually, wholly failed and refused to consider the voices, efforts, and evidence of Plaintiffs and/or make any efforts to accurately verify or rehabilitate the signatures of Plaintiffs that were improperly excluded, all within the 30-day constitutional window for signature verification.

25. Because, on or after October 8, 2007, the 30-day constitutional window for signature verification had yet to expire, and because Oregon law provides the Defendants with the authority to verify signature accuracy at any time within that constitutional 30-day window, individuals whose signatures were improperly excluded began making efforts to ensure that their right to participate in the initiative process was properly honored, including Plaintiffs herein.

26. In an effort to ensure that their signatures were properly counted, Plaintiffs personally presented themselves to the elections offices to attempt to personally address the allegedly improper information and basis upon which their signatures were improperly excluded. Plaintiffs also made phone calls, sent e-mails, executed new voter registration cards, provided proof of identification, offered affidavits, and remitted handwritten notes. However, the Defendants refused to consider any of the offered evidence, and pleas of the signors, instead choosing to arbitrarily cut short the 30-day window in their county and remove the upholding of the “utmost integrity” from the signature verification process. This conduct by the Defendant County Clerks continued even after they were advised, in writing, by the Defendant Secretary of

State that they could exercise signature verification discretion at any time within the 30-day constitutional window.

27. The Defendants County Clerks, and their agents, refused properly to consider and reconsider the validity of signatures during the entirety of the 30-day window. In that the 30-day window is a constitutional provision, and exists for the protection of the voters and signors, the Defendants usurped the constitutional rights of Plaintiffs by arbitrarily shortening a constitutional time period that they had no authority to shorten.

28. The Defendant Secretary of State, and his agents, has refused to accurately verify, or direct the County Clerk to accurately verify, the signatures contained in the statistical sampling for Referendum 303. Furthermore, the Defendant Secretary of State wrongfully advised the Defendant County Clerks that their ability to reconsider, rehabilitate, or otherwise verify valid signatures within the 30-day window was limited to only considering information that already existed in their offices and not any affidavits, statements, or personal appearances by those whose signatures had been wrongfully excluded.

29. At the end of the 30-day period, on October 26, 2007, the Defendant Secretary of State issued its Final Referendum Signature Verification Results for 303. (See Exhibit C attached). As to Referendum 303, the Defendant Secretary of State reported that only 55,083 of the required 55,179 signatures were deemed valid. This means that, of the 254 signatures excluded in the statistical sample (Exhibit B), only five (5) signatures would need to be rehabilitated, reinstated, or otherwise declared valid for Referendum 303 to be sustained and gain ballot access. In Oregon, during an elective or democratic process, the state allows signatures to be rehabilitated or verified through multiple, various means. For example, if an elector who votes by mail has his or her signature disqualified, he or she is given notice that the signature did not

match and is given an opportunity to rehabilitate the signature through other means. The Secretary of State has described this process as follows:

- The process involves, briefly, the county challenging a ballot for which signature does not match voter registration signature, they send letter to elector giving them 10 days to resolve issue with ballot so ballot may still be counted.
- If the county gets no response, they are to send it to Secretary of State, per VBM manual. In all of these cases, the non-response of the elector resulted in the county not being able to count the ballot.
- We send inquiry letter and if we receive a reasonable explanation, we admonish and advise – for instance if signature has changed, then the elector needs to update voter registration.
- If they inform us they actually voted their own ballot but allowed another person (such as spouse) to sign, and this hasn't happened before, we advise them this is not allowable and it resulted in their ballot not being counted and admonish them to never do this again.
- If no response is received, we send second and third inquiries by certified mail and attempt to call as well.

Dr. Paul Gronke, Ballot Integrity and Voting by Mail: The Oregon Experience, A Report for the Commission on Federal Election Reform, p. 12 (http://www.sos.state.or.us/executive/votebymail/pdf_files/CarterBaker.pdf). The Secretary of State's own Vote by Mail Manual (p. 59) instructs the county elections offices thusly:

- If the signature does not match the voter registration card:
 - Send a challenge notice and a registration card to the voter indicating that the signature does not match.

- Must provide 10-day notice. Notice must be sent not later than the 3rd business day after the date of the election.
- Resolution requires voter providing sufficient proof in-person or by mail with an updated registration card reflecting the voter's signature for matching purposes.

See http://www.sos.state.or.us/elections/vbm/vbm_manual. Further, on handling a challenge due to signatures not matching, it states (p. 66):

- If the signature does not match the voter registration card, send a challenge notice and a new registration card to the voter indicating that the signature does not match. The notice must be resolved no later than the 10th calendar day after the date of the notice.
- If the voter returns the registration card or provides sufficient evidence that the voter signed the return identification ballot envelope, count the ballot.
- After the election has been certified, process the new registration in order to capture the new signature.
- If the voter does not respond to the notice or if the signatures on the return identification ballot envelope and the new registration card still do not match, do not count the ballot. The ballot is placed with the unaccepted ballots and does not count toward a 50% ballots cast requirement.

In addition, O.A.R. 165-014-0270(5)(c) provides that if a petition certifier does not have an exemplar on file, the chief petitioner is notified and the certifier's signature can be verified by other means. According to John Lindback, Oregon's Elections Director, "[w]hen signatures don't match, voters are asked to explain." (See http://www.portlandtribune.com/news/story.php?story_id=26923). Yet, Oregonians whose signatures were thrown out regarding

Referendum 303 were not only given no opportunity to explain, but the Defendants refused to honor their pleas and other efforts to validate their signatures as described herein.

COUNT 1

VIOLATION OF DUE PROCESS UNDER THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION

**(Declaratory and Injunctive Relief Requested, pursuant to
Fed. R. Civ. P. 57 and 65, and pursuant to 42 U.S.C. § 1983)**

30. Plaintiffs reallege all of the preceding paragraphs herein the same as if pleaded in full.

31. The Defendants have a mandatory, non-discretionary duty to accurately and properly verify signatures on referendum petitions. *See* O.A.R. 165-014-0030(8) & (11); *see also* State Initiative and Referendum Manual at 24-25 (adopted by O.A.R. 165-014-0005). The Defendants owe the Plaintiffs a legal duty to accurately verify petition signatures for Referendum 303.

32. The Defendants' failure to include valid signatures in the report to the state has resulted in the unconstitutional and improper disenfranchisement of Referendum 303 signors.

33. The Secretary of State also has a clear, non-discretionary legal duty accurately verify whether a Referendum petition contains the required number of signatures of electors to be placed on the ballot. ORS 250.105. Moreover, "[t]he Secretary of State is the chief elections officer of this state, and it is the secretary's responsibility to obtain and maintain uniformity in the application, operation and interpretation of the election laws." ORS 246.110.

34. The Secretary of State's failure to fulfill his duty has resulted in the unconstitutional and improper disenfranchisement of valid Referendum 303 signatures.

35. Plaintiffs have certain procedural rights under existing State law which the Defendants failed to apply. Specifically, that the 30-day verification period exists for the express and implicit purpose of insuring that each signature is given full consideration, "to respond to the

unexpected issues that sometimes arise in the verification process, and to ensure the utmost integrity in the process.” Thus, all signatures that were excluded should have been reconsidered if evidence was presented to rehabilitate them, and the Defendants had no right or basis in law to ignore the evidence that was presented to them.

36. Additionally and alternatively, Oregon law is devoid of the minimally required due process safeguards, including mechanisms for rehabilitation of signatures within the 30-day window that the Defendants helped establish. Specifically, Defendants failed to provide notice and any meaningful opportunity to rehabilitate. Defendants have acted under the color of state law to deprive Plaintiffs the right to due process by failing to afford any procedure or relief by which disenfranchised petition signers may have notice and opportunity to rehabilitate their signatures. Any such procedure would not constitute a burden, administrative or otherwise, or a minimal burden at most since the remedies required to provide due process are already in existence and utilized by the Defendants in general elections which involve a much larger and greater scale of participants.

COUNT 2

**VIOLATION OF THE EQUAL PROTECTION CLAUSE OF THE
FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION**

**(Declaratory and Injunctive Relief Requested, pursuant to
Fed. R. Civ. P. 57 and 65, and pursuant to 42 U.S.C. § 1983)**

37. Plaintiffs reallege all of the preceding paragraphs herein the same as if pleaded in full.

38. Defendants have acted under the color of state law to deprive Plaintiffs of their rights to equal protection.

39. Defendants have reconsidered the validity of signatures in previous initiatives and/or referendums, and have thus treated similarly situated individuals differently in violation of the right to equal protection of the laws.

40. State law allows for pre-deprivation notice and opportunity to rehabilitate signatures in other election contexts, such as vote by mail. For example, where an unsigned ballot is returned, “the County Elections Official shall attempt to notify the voter that the ballot cannot be processed unless the envelope is signed” and various remedies which include various forms and uses of other and outside evidence are provided to ensure that the Oregon voter is not disenfranchised. (See Oregon Vote By Mail Procedures Manual at http://www.sos.state.or.us/executive/votebymail/pdf_files/vbm_manual.pdf - pages 57, 59, 66). Moreover, Oregon state law is also concerned with determining the fulfilling the intent of each voter. (See Oregon Vote By Mail Procedures Manual at http://www.sos.state.or.us/executive/votebymail/pdf_files/vbm_manual.pdf - pages 76-77). (State law also permits recount procedures in elections to ensure a “maximum degree of effectiveness.” O.A.R. 165-007-0270. Moreover, recount procedures are permitted within a 30-day window following the election, a timeline identical to that provided for initiatives and referendums. O.A.R. 165-007-0270(3).

41. Defendants employ different standards and procedures from county to county to determine signature validity, being more stringent in some counties than others. Moreover, Defendants employ different standards as to how mistakes may be rectified within the 30 day window for signature verification.

42. Thus, Defendants have treated similarly situated individuals differently in violation of equal protection of the laws.

COUNT 3

VIOLATION OF THE RIGHT TO VOTE UNDER THE FIRST AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION

**(Declaratory and Injunctive Relief Requested, pursuant to
Fed. R. Civ. P. 57 and 65, and pursuant to 42 U.S.C. § 1983)**

43. Plaintiffs reallege all of the preceding paragraphs herein the same as if pleaded in full.

44. Defendants have violated the Plaintiffs right to vote by improperly disenfranchising them. Each of the Plaintiffs has confirmed that they signed the petitions, yet Defendants improperly excluded their petition signatures and have refused to grant them the opportunity to rehabilitate their signatures. Thus, Plaintiffs have been unconstitutionally deprived of their right to vote.

COUNT 4

VIOLATION OF PRIVILEGES AND IMMUNITIES UNDER OREGON CONSTITUTION ARTICLE 1, § 20

**(Declaratory and Injunctive Relief
Requested, generally and under ORS 247.171)**

45. Plaintiffs reallege all of the preceding paragraphs herein the same as if pleaded in full.

46. Defendants have reconsidered the validity of signatures in previous initiatives and/or referendums, and have thus treated similarly situated individuals differently in violation of the laws and equal privileges and immunities.

47. State law allows for pre-deprivation notice and opportunity to rehabilitate signatures in other election contexts, such as vote by mail. For example, where an unsigned ballot is returned, “the County Elections Official shall attempt to notify the voter that the ballot cannot be processed unless the envelope is signed” and various remedies which include various forms and uses of other and outside evidence are provided to ensure that the Oregon voter is not disenfranchised. (See Oregon Vote By Mail Procedures Manual at

http://www.sos.state.or.us/executive/votebymail/pdf_files/vbm_manual.pdf - pages 57, 59, 66). Moreover, Oregon state law is also concerned with determining the fulfilling the intent of each voter. (See Oregon Vote By Mail Procedures Manual at http://www.sos.state.or.us/executive/votebymail/pdf_files/vbm_manual.pdf - pages 76-77). (State law also permits recount procedures in elections to ensure a “maximum degree of effectiveness.” O.A.R. 165-007-0270. Moreover, recount procedures are permitted within a 30-day window following the election, a timeline identical to that provided for initiatives and referendums. O.A.R. 165-007-0270(3). Thus, Defendants have treated similarly situated individuals differently in violation of equal protection of the laws.

48. Defendants employ different standards and procedures from county to county to determine signature validity, being more stringent in some counties than others. Moreover, Defendants employ different standards as to how mistakes may be rectified within the 30 day window for signature verification.

49. Thus, Defendants have treated similarly situated individuals differently in violation of equal protection of the laws.

COUNT 5

VIOLATION OF THE RIGHT TO THE RIGHT TO VOTE UNDER OREGON CONSTITUTION ARTICLE II, §§ 1 and 8

(Declaratory and Injunctive Relief Requested, generally and under ORS 247.171)

50. Plaintiffs reallege all of the preceding paragraphs herein the same as if pleaded in full.

51. Defendants have violated the Plaintiffs’ right to exercise their voice in the democratic process by improperly disenfranchising them. Each of the Plaintiffs signed the petitions, yet Defendants improperly excluded their signatures and have refused to grant them the opportunity

to rehabilitate their signatures. Thus, Plaintiffs have been unconstitutionally deprived of their right to have their voice heard.

COUNT 6

VIOLATION OF FIRST AMENDMENT RIGHT TO ENGAGE IN EFFECTIVE CORE POLITICAL SPEECH AND OF THE RIGHT OF FREE EXPRESSION UNDER OREGON CONSTITUTION ARTICLE I, § 8

(Declaratory and Injunctive Relief Requested, generally and pursuant to Fed. R. Civ. P. 57 and 65, 42 U.S.C. § 1983, and ORS 247.171)

52. Plaintiffs reallege all of the preceding paragraphs herein the same as if pleaded in full.

53. Plaintiffs possess rights to engage in effective core political speech, in part through Oregon's referendum process, but the current practices by the Defendants make it less likely that Plaintiffs will garner the number of signatures necessary to place the matter on the ballot, thus limiting their ability to make the matter the focus of statewide discussion.

COUNT 7

VIOLATION OF THE RIGHT OF FREE EXPRESSION UNDER OREGON CONSTITUTION ARTICLE I, § 8

(Declaratory and Injunctive Relief Requested, generally and pursuant to ORS 247.171)

54. Plaintiffs reallege all of the preceding paragraphs herein the same as if pleaded in full.

55. Plaintiffs possess rights to freely express their voices, in part through Oregon's referendum process, but the current practices by the Defendants limit the rights of the Plaintiffs, and Oregon citizens, to freely express their voices, especially in matters of high importance which are the focus of statewide discussion.

PRAYER FOR RELIEF

Plaintiffs respectfully request that this Court issue an order:

A. Declaring that Defendants have violated Plaintiffs' state and federal rights, as set out herein;

B. Declaring that the various statutes, regulations, and rules, administrative or otherwise, upon which the Defendants rely to improperly disenfranchise the Plaintiffs are unconstitutional on their faces and as applied, as set out herein;

C. Directing the Defendants to review Plaintiffs' signatures and give notice to the named Plaintiffs and others whose signatures were excluded and a meaningful opportunity to rehabilitate their signatures;


D. Directing the Defendants to review Plaintiff's signatures, and others whose signatures were excluded, and reinstate those signatures as improperly excluded based on proper evidence and/or principles of estoppel;

E. Declaring that Referendum 303 contains adequate signatures and certifying the petition for the November 2008 ballot;

F. Award costs and attorney's fees to Plaintiffs for their defense of the constitutional rights of themselves and other petition signors pursuant to 42 U.S.C. § 1988, and under Oregon law, to wit: *Deras v. Myers*, 272 Or. 47, 535 P.2d 541 (1975) and other applicable law;

G. Imposing any other and further relief as to which Plaintiffs may be entitled and which the Court may deem just and equitable.

Respectfully submitted this the 30 day of December, 2007.



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**Pro hac vice motions to be submitted*

Attorneys for Plaintiffs

EXHIBIT A



Oregon Secretary of State Elections Division Initiative, Referendum, and Referral Search

Detailed Display: 1 records

Search Date: Wednesday 10/31/2007

Election	Keyword	Active	Qualified	Rejected	Withdrawn	Approved	Will Pay	Statutory	Constitu
Year	2008	303
						to	Circulators		
						Circulate			
								Y	Y

Detailed Information For : 303/2008

Initiative Number	Date Filed	Will Pay Petitioners	Statutory/ Constitutional	Signatures Required	Approved For Circulation	Current Status
303	05/16/2007	Yes	Statutory	55,179	05/18/2007	

Chief Petitioner Details

Name	Janice Bentson	Name	Aleksandr Voronko	Name	Carolyn Wendell
Address	6495 Windsor Is. RD N Keizer, OR 97303	Address	2520 Suffolk LN NE Salem, OR 97303	Address	1540 N 4th Stayton, OR 97383
Contact Information	Phone: ()- Fax:()-	Contact Information	Phone: ()- Fax:()-	Contact Information	Phone: ()- Fax:()-

Ballot Titles

Subject (Provided by chief petitioners) (view <u>complete text</u> of Referendum)
Referral Of HB 2007
Draft Ballot Title
** No Draft Ballot Title Found **

Certified Ballot Title

** No Certified Ballot Title Found **

Amended Ballot Title

Notes

9/26/07 Signatures submitted for verification. 62,000 unverified signatures.
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10/8/07 Signature verification complete. Did not qualify for ballot.
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END OF SEARCH

[Elections Division Home Page](#)

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EXHIBIT B

Petition Processing Statistics Report

Number :2008-303 Title :Relating to same-sex relationships; creating new provisions; and amending ORS 107.615, 192.842, 205.320, 409.300, 432.005, 432.235, 432.405 and 432.408 Types : Initiative

Petition Information

Petition Name : Relating to same-sex relationships; creating new provisions; and amending ORS 107.615, 192.842, 205.320, 409.300, 432.005, 432.235, 432.405 and 432.408

Petition Date : 05/29/2007

Date Filed : 05/16/2007

End Circulation Date : 09/26/2007

Minimum Signatures Required : 55179

Accepted Of Minimum : (5.5%)

Total Signatures Processed : 3033

Processing Summary Sample: All

Total Accepted Signatures :	2756	(91%)	Of Those Processed
Accepted Registrant :	2756	(100%)	Of Those Accepted
Total Rejected Signatures :	254	(8%)	Of Those Processed

Accepted Reason	Total	(% Rejected)
Valid Signature	2778	(99.96%)
Accepted - Duplicate	1	(.03%)

Rejected Registrant :	180	(71%)	Of Those Rejected
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Rejected Reason	Total	(% Rejected)
Out of County	40	(15.7%)
Inactive When Signed	1	(.3%)
Inactive Due to Moving	41	(16.1%)
Signatures Do Not Match	55	(21.6%)
Inactive Due to Not Voting	6	(2.3%)
Inactive Other or Reason Not Known	7	(2.7%)
Not Registered (Includes Cancelled)	95	(37.4%)
Printed Signature, No Attestation on File	1	(.3%)
Signed Before Date Registered to Vote (Too Late)	6	(2.3%)
Illegible Signature (Can Not Read Signature or Handwritten Name)	2	(.7%)

EXHIBIT C



OFFICE OF THE SECRETARY OF STATE

NEWS RELEASE

BILL BRADBURY

For Immediate Release:
October 26, 2007

Contact: Summer Davis
Elections Division
(503) 986-1518

ELECTIONS DIVISION ANNOUNCES FINAL REFERENDUM SIGNATURE VERIFICATION RESULTS FOR #303 AND #304

SALEM – Today the Elections Division of the Secretary of States Office announced the final results of signature verification for referendum petitions #303 and #304 submitted for the November 4, 2008 General Election ballot.

The result of the signature verification is referendum #303 **did not contain enough valid signatures** to qualify to the ballot. Referendum #303 was filed on HB 2007 passed by the 2007 Oregon Legislature.

This proposed referendum required 55,179 valid signatures to gain ballot access. The referendum contains 55,083 valid signatures, or 91.00% of the 60,531 total unverified signatures submitted for verification.

The result of the signature verification is referendum #304 **did not contain enough valid signatures** to qualify to the ballot. Referendum #304 was filed on SB 2 passed by the 2007 Oregon Legislature.

This proposed referendum required 55,179 valid signatures to gain ballot access. The referendum contains 53,875 valid signatures, or 90.15% of the 59,761 total unverified signatures submitted for verification.