

App.1a

**ORDER DENYING REVIEW, SUPREME
COURT OF THE STATE OF OREGON
(OCTOBER 3, 2024)**

IN THE SUPREME COURT OF THE
STATE OF OREGON

ROBERT R. PARKER, JR.,

*Plaintiff-Appellant,
Petitioner on Review,*

v.

JOHN D. BURNES ET AL.,

*Defendants,
and*

JOHN D. BURNS; MILLER NASH, LLP;
JOHN KITZHABER; CHEVRON INDUSTRIES;
UNION OIL COMPANY OF CALIFORNIA;
TEXACO, INC.;
and EXXON MOBIL CORPORATION,

*Defendants-Respondents,
Respondents on Review.*

Oregon Court of Appeals A178691

S070983

Before: BUSHONG, J., Meagan A. FLYNN,
Chief Justice.

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ORDER DENYING REVIEW

Upon consideration by the court.

The court has considered the petition for review
and orders that it be denied.

/s/ Meagan A. Flynn

Chief Justice, Supreme Court

October 03, 2024

Bushong, J., not participating.

c: Robert Roosevelt Parker Jr.
 Sarah J Ryan
 Anthony Copple
 B John John Casey
 Rachelle Collins
 Jeff J Payne
 Paul A C Berg
 Shayna Rogers

**OPINION, COURT OF APPEALS
OF THE STATE OF OREGON
(FEBRUARY 22, 2024)**

IN THE COURT OF APPEALS OF THE
STATE OF OREGON

ROBERT R. PARKER, JR.,

*Plaintiff-Appellant,
Petitioner on Review,*

v.

JOHN D. BURNES ET AL.,

Defendants,

and

JOHN D. BURNS; MILLER NASH, LLP;
JOHN KITZHABER; CHEVRON INDUSTRIES;
UNION OIL COMPANY OF CALIFORNIA;
TEXACO, INC.;
and EXXON MOBIL CORPORATION,

*Defendants-Respondents,
Respondents on Review.*

No. A178691

Multnomah County Circuit Court
880502842

Judith H. Matarazzo, Judge

Argued and submitted September 29, 2023

Before: EGAN, Presiding Judge, and MOONEY,
Judge, and KAMINS, Judge.

EGAN, P. J.

Affirmed.

Plaintiff appeals an order denying his motion to set aside a judgment and reinstate his defamation claims, which he brought against defendants and voluntarily dismissed in 1988. Plaintiff argues that the trial court erred, because he was entitled to relief from the judgment pursuant to ORCP 71 B and C. In addition, plaintiff argues that, due to systemic racism and bias in the Oregon courts, he has not been able to resolve his claims against defendants for over 30 years.

The legal question before us is a narrow one: whether the trial court erred when it denied plaintiff's motion to vacate the judgment and reinstate his defamation claims. We conclude that it did not err, because the Oregon Rules of Civil Procedure compelled it to reach that result.

At the outset, however, we highlight that in 2021, the Legislative Assembly in Senate Concurrent Resolution 22 ("SCR 22") determined that plaintiff was damaged by the allegations that underlie his defamation claims, that those allegations were "grounded in discrimination and racism," and that those allegations have been "determined to be unfounded[] or [have] been dismissed or vacated." It bears mention that SCR 22 is a legislative resolution, not a judicial determination of wrongdoing reached after a trial on the merits. We also highlight that the trial court stated that the result in this case—the denial of plaintiff's motion to set

aside the 1988 judgment and reinstate his defamation claims—did not provide what it “would consider to be justice” to plaintiff.

We do so because, although this court is aware of the need for stability and predictability in the administration of justice, and aware of the need for litigants to have a measure of finality when they receive a judgment, we are also cognizant of the historical and ongoing harm caused by racism, institutional and otherwise. This case is difficult, because it demonstrates that our desire for stability, predictability, and finality in the law, can, at times, operate to deny people, such as plaintiff, the opportunity to prove their allegations in court and obtain appropriate redress upon such proof.

Nevertheless, as noted, the legal question before us is a narrow one: whether the trial court erred when it denied plaintiff’s motion to vacate the judgment and reinstate his defamation claims. We affirm the order on appeal because the trial court did not err when it determined that the Oregon Rules of Civil Procedure compelled it to deny plaintiff’s motion to vacate and set aside the 1988 judgment.¹

STANDARD OF REVIEW

We review “whether a moving party has asserted a cognizable ground for relief under ORCP 71 B * * * for errors of law.” *Kerridge v. Jester*, 316 Or App 599, 604, 502 P3d 1206 (2021), *rev den*, 369 Or

¹ Although plaintiff has no remedy through the court, our decision does not foreclose the possibility of a legislative remedy for the harms that plaintiff alleges he experienced over the last 30 years.

507 (2022). “[I]f we determine on appeal that the moving party has not asserted a valid basis for relief, our inquiry ends there.” *Id.* at 604-05. If the moving party has asserted a valid basis for relief, then we review the trial court’s determination for granting relief from a judgment under ORCP 71 B for abuse of discretion. *Id.* at 604. Likewise, “[w]e review a court’s ruling under ORCP 71 C for abuse of discretion.” *A.B.A. v. Wood*, 326 Or App 25, 26, 530 P3d 522 (2023) (citing *Hill v. Hill*, 323 Or App 458, 459, 523 P3d 163 (2022)).

I. Background

The following summary of allegations are in plaintiff’s First Amended Complaint and other pleadings filed in plaintiff’s state and federal lawsuits. In the 1987 legislative session, Senator Jim Hill hired plaintiff to serve as the Committee Administrator for the Oregon Senate’s Business Housing and Finance Committee of which Hill was the chair. During that session, Senate Bill 664 (“SB 664”) was referred to the Committee, and various oil companies—including Chevron Industries, Union Oil Company, Texaco, Inc., and Exxon Mobil Corporation—opposed the bill. Shortly afterwards, plaintiff was accused of improperly soliciting money from lobbyists to start a business, using his legislative position to influence parking tickets, and using a lobbyist’s credit card. On May 29, 1987, two uniformed officers with the Oregon State Police stopped plaintiff when he arrived at work, and the officers denied plaintiff entry into his office. Then-Senate President John Kitzhaber informed plaintiff that he was placed on administrative leave pending the outcome of an investigation into plaintiff’s activities.

The Oregon Attorney General's Office, the Oregon State Police, and the Marion County District Attorney's Office began widely publicized investigations of plaintiff based on those allegations. Plaintiff resigned from his position as committee administrator due to the "excruciating pressure" stemming from the investigations. The Marion County District Attorney's Office subsequently submitted the case to a grand jury for a felony indictment against plaintiff on three separate occasions, and the grand jury did not indict him. Afterwards, plaintiff was charged with three "unrelated" misdemeanors for filing false financial statements. The misdemeanor charges were later dismissed.²

After failing to indict plaintiff, the district attorney transmitted the investigation file to the Executive Director of the Oregon Government Ethics Commission ("OGEC") Betty Reynolds, and the OGEC prepared a report in which Reynolds included "highly inflammatory, prejudicial, derogatory, and irrelevant personal and private information about plaintiff * * * ." Reynolds released the report to the press and the public—without plaintiff's consent—before the OGEC had approved the report and before confirming any of the allegations contained in the report. On December 8, 1987, plaintiff appeared at a probable cause hearing before the OGEC and responded to the allegations in the report. Plaintiff

² To resolve those charges, plaintiff signed a statement from the district attorney's office that "relieve[d]" Marion County District Attorney Date Penn and Attorney General David Frohnmayer "from racially motivated intent by their conduct in the investigation and bringing of the criminal charges against plaintiff * * * ." The statement also said that plaintiff admitted to gross errors in judgment regarding credit applications that served as the basis for those charges.

made a motion to strike the irrelevant background information as prejudicial and inflammatory. Without taking testimony, the commission passed a motion to accept Reynolds' recommendation that probable cause existed that plaintiff had violated the Oregon Ethics in Government Act.

In May 1988, plaintiff filed a defamation claim in the Multnomah County Circuit Court, naming as defendants John Burns,³ Miller Nash LLP, Senate President John Kitzhaber, Chevron Industries, Union Oil Company, Texaco Inc., and Exxon Mobil Corporation.⁴ Burns worked as a lobbyist and lawyer with defendant Miller Nash, and in that role, he represented the oil companies named as defendants. Plaintiff alleged that Burns told Kitzhaber that plaintiff solicited money from Burns to start a business, and that that allegation led to the investigations against plaintiff. Plaintiff also alleged that defendants' conduct cost him his job with the Oregon Senate Committee, and

³ Although the case caption spells Defendant John Burns's name as "John *Burnes*," we spell Defendant Burns's last name as "Burne throughout this opinion, because the "John Burns and Miller Nash Answering Brief" spells his name as such and, throughout the trial court record, his name is spelled as "Burns."

⁴ Defendants Chevron Industries, Union Oil Company, Texaco Inc., and Exxon Mobil Corporation—who are named in this appeal—are referred to as the "oil companies" in this opinion. Plaintiff's 1988 complaint also named as defendants the Secretary of State Barbara Roberts, Attorney General David Frohnmayer, Marion County District Attorney Dale Penn, Executive Director of the OGEBC Betty Reynolds, Mobil Oil Corp., Shell Oil Co., Atlantic Richfield Co., Jason Boe, the Oregon Petroleum Marketers Association, and Donald Fordyce.

that defendants' lies triggered a probe by the OGE.⁵ In September 1988, plaintiff voluntarily dismissed the lawsuit pursuant to ORCP 54 A(1).⁶ The court entered a judgment dismissing plaintiff's claims and imposed sanctions against plaintiff for failing to appear for a court-ordered deposition.

Then, in 1988, plaintiff filed claims against defendants in the United States District Court for the District of Oregon based on the same allegations. The federal district court struck and dismissed most of the defendants and claims—although it denied Burns's motion to dismiss plaintiff's claim for tortious interference. The parties worked to settle that claim, and plaintiff signed a settlement agreement and release of claims on December 20, 1989, in exchange for \$500. In that document, plaintiff released certain defendants "from any and all causes of action, * * * including but not limited to any claims in any way connected with or arising out of [plaintiff's] employment with or severance from employment with the Oregon State Legislature."⁷ Plaintiff filed unsuccessful appeals in both the Multnomah County case and the federal district court case. Plaintiff also sought to void the release and

⁵ Plaintiff brought several claims against defendants including claims for conspiracy, ORICO, abuse of process, defamation, and tortious interference with economic relations.

⁶ ORCP 54 A(1) permits a plaintiff to "dismiss an action in its entirety," and "upon notice of dismissal or stipulation under this subsection, * * * the court shall enter a judgment of dismissal."

⁷ That release specifically named the following defendants: John Burns, Miller Nash LLP, the Oil Companies, and Richard Cantlin. Cantlin was not named as a defendant, but he was the subject of some of plaintiff's allegations.

reinstate his complaint in the federal district court. The district court denied those motions and the Ninth Circuit affirmed those decisions.

In 1990, plaintiff passed the Oregon State Bar Examination. The Board of Bar Examiners conducted an examination into plaintiff's character and fitness, and following the board's recommendation, the Oregon Supreme Court denied plaintiff's admission. Plaintiff argues that his admission was denied due to the false allegations against him.

Over 30 years later, the Oregon legislature passed SCR 22 during the 2021 Regular Session. In SCR 22, the Senate issued a formal apology to plaintiff for the role that racism and discrimination had played in the ultimately unfounded investigations against plaintiff and for the "31 years of damage wrongfully done" to plaintiff. The Senate made the following findings in SCR 22: (1) opponents of SB 664 sought to derail enactment of that legislation by making the false allegations against plaintiff; (2) the investigations into those allegations failed to yield evidence of an indictable offense, as the grand jury refused to indict plaintiff on three separate occasions; (3) the OGEK investigated plaintiff based on a letter from the Marion County District Attorney in which he expressly acknowledged that the letter was not a complaint, and without a complaint, the OGEK did not have proper jurisdiction to undertake that investigation; (4) the OGEK's investigation report contained references to plaintiff's race, faith, and interracial dating; (5) when plaintiff sought bar admission, the Board of Bar Examiners undertook an investigation to determine whether plaintiff had the requisite character and fitness, and members of that investigation team included people who had participated in past

allegations against plaintiff and who had been named as defendants in plaintiff's previous lawsuits; and (6) plaintiff suffers from the impacts of unfounded, dismissed, or vacated allegations "that are grounded in discrimination and racism." SCR 22 requested that the Supreme Court vacate its decision denying plaintiff's admission to the Oregon Bar and order plaintiff's admission. On December 23, 2021, the Supreme Court admitted plaintiff to the Oregon State Bar.

After SCR 22, plaintiff filed motions to vacate and set aside the judgment of dismissal and reinstate the 1988 defamation claim in Multnomah County Circuit Court. The court held a hearing, and plaintiff argued that ORCP 71 B⁸ and C⁹ gave the court authority to

⁸ ORCP 71 B(1) states:

"[t]he court may relieve a party * * * from a judgment for the following reasons: (a) mistake, inadvertence, surprise, or excusable neglect; (h) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 64 F; (c) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party[.] * * * The motion shall be made within a reasonable time, and for reasons (a), (b), and (c) not more than one year after receipt of notice by the moving party of the judgment."

⁹ ORCP 71 C states:

"This rule does not limit the inherent power of a court to modify a judgment within a reasonable time, or the power of a court to entertain an independent action to relieve a party from a judgment, * * * or the power of a court to set aside a judgment for fraud upon the court."

(Emphasis added.)

reinstate his defamation case. He argued that he had obtained new evidence (ORCP 71 B(1)) and that there had been a fraud upon the court based on a 1989 deposition of then-Governor Barbara Roberts, who testified that two defendants "may have participated in starting the story" (ORCP 71 C). Plaintiff requested that the court hold a hearing for the presentation of the new evidence.

The trial court rejected plaintiff's arguments. As it related to ORCP 71 B, the trial court determined that plaintiff's motion was untimely, because the rule gives only one year for a plaintiff to present new evidence after receiving the notice of the judgment. As for ORCP 71 C, the court determined that plaintiff's motion was too late based on the statute of limitations of each claim. In so ruling, the trial court judge stated that although Oregon Rules of Civil Procedure required that result, it did not provide "what [the trial court] would consider to be justice" to plaintiff.

The trial court then entered an order denying plaintiff's motion to vacate and reinstate his claim. Plaintiff now appeals that order.

II. Discussion

On appeal, plaintiff argues that the trial court erred in denying his motion to vacate the previous judgment. He argues that (1) the trial court did not give appropriate weight to SCR 22 in evaluating his motion under ORCP 71 B and C, and (2) the trial court erred in determining that the time limitations of ORCP 71 precluded relief. We determine that plaintiff was not entitled to relief under ORCP 71, but that, even if he were, the release that plaintiff signed to resolve

the federal district court claims precludes relief in this case as to most defendants.

We begin by addressing plaintiff's arguments relating to ORCP 71 B(1). That rule permits a court to relieve a party from a judgment due to "newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 64(f)." ORCP 71 B(1)(4). Motions based on "newly discovered evidence" must be made within one year of a party's notice of the judgment. ORCP 71 B(1).

Plaintiff argues that the one-year time limitation of ORCP 71 B was tolled due to defendants' "fraudulent concealment" of evidence. In *MAT, Inc. v. American Tower Asset Sub, LLC*, a breach of contract case, we determined that, "a party claiming tolling based on fraudulent concealment must show that (1) the breaching party fraudulently concealed the fact of their breach and (2) notwithstanding reasonable diligence on the part of the nonbreaching party, the breaching party's wrongful conduct prevented the discovery of the breach." 312 Or App 7, 16, 493 P3d 14 (2021) (citing *Chaney v. Fields Chevrolet*, 264 Or 21, 26-27, 503 P2d 1239 (1972)).

We have never, however, applied equitable tolling based on fraudulent concealment to ORCP 71 B. Assuming without deciding that fraudulent concealment could toll the one-year time limit of ORCP 71 B, we conclude that plaintiff has not submitted evidence that would support a finding of fraudulent concealment. Fraudulent concealment requires a plaintiff show that (1) the defendants fraudulently concealed the facts of the case, and (2) "notwithstanding reasonable diligence on the part of the [plaintiff], the [defendant's] wrongful conduct prevented the discovery of the [cause of action]."

MAT, Inc., 312 Or App at 17. On appeal, plaintiff argues that defendants fraudulently concealed evidence in their possession—"the very evidence relied upon by the Oregon Legislature during its consideration of SCR 22 and Oregon Supreme Court in its Conditional Admission to the Practice of Law of the Appellant[.]" But plaintiff does not provide information about what evidence the legislature relied on for SCR 22. Plaintiff also argues that the 1989 deposition of then-Governor Barbara Roberts, taken by plaintiff, shows that defendants fraudulently concealed the defamation claim, because Roberts said that Burns and Boe "may have participated in starting the story." But plaintiff knew that fact when he took the deposition in 1989, and it was one of the allegations that he made in his original complaint, so that "fact" was not concealed from plaintiff. In addition, plaintiff cannot meet the second requirement for fraudulent concealment. Plaintiff has filed numerous state and federal claims against defendants, which indicates that defendants' conduct did not prevent plaintiff from discovering the claims. Thus, even if we were to accept plaintiff's argument that fraudulent concealment tolls the one-year time limit of ORCP 71 B, plaintiff has not met the requirements for fraudulent concealment.

We also conclude that the trial court did not abuse its discretion in determining that ORCP 71 C does not provide plaintiff a basis for relief. Before the trial court, plaintiff argued that defendants lied about the purposes of the investigations against him. That type of "intrinsic fraud" does not provide a ground for setting aside the judgment. See *Dept. of Human Services v. M. M. R.*, 296 Or App 48, 51, 437 P3d 1233, *rev den*, 365 Or 194 (2019) ("A court's inherent authority does

not extend to setting aside a judgment for intrinsic fraud, that is, fraud that consists of acts that pertain to the merits of the case, such as perjured testimony." (Citations and internal quotation marks omitted.)). Indeed, in *A. B. A.*, 326 Or App at 27, we concluded that a trial court lacks authority entirely to grant a motion under ORCP 71 C in circumstances such as these. We conclude that the trial court did not err in denying plaintiff's motion to reinstate under ORCP 71 C.¹⁰

Finally, plaintiff signed a release in his federal case in which he agreed to release

"any and all claims asserted, or which could have been asserted, in Civil No. 88-1089-FR in the United States District Court for the District of Oregon and in Case No. A8805-02842, initially filed in Multnomah County Circuit Court and transferred to Marion County Circuit Court, together with any appeal thereof."¹¹

Even if ORCP 71 B or C provided plaintiff a basis to set aside the judgment, which they do not, plaintiff's claims against most of the defendants would have been barred by his signed release that covered the defamation claim. *See Rista v. Wescold, Inc.*, 318 Or

¹⁰ Because the trial court lacked authority to grant the motion under ORCP 71 C, we do not need to discuss the trial court's rationale for denying the motion.

¹¹ As we previously noted, that release specifically named Burns, Miller Nash LLP, the Oil Companies, and Cantlin. Kitzhaber was not included in the release, and the claims against him had already been dismissed at the time of the release; but as we previously concluded, the trial court did not err in denying reinstatement under ORCP 71 B and C.

383, 387, 868 P2d 1331 (1994) (“[Wile will enforce an unambiguous release that covers the claim at issue.”).

III. Conclusion

In the end, we conclude that the trial court did not err when it denied plaintiff's motion to vacate and reinstate his defamation claim. As explained above, that result is required by the Oregon Rules of Civil Procedure.

Given the determinations in SCR 22, including the determination that the allegations against plaintiff were grounded in racism and discrimination and caused 31 years of damage to plaintiff, we emphasize that we share the trial court's view that the result in this case, although required, does not provide substantial justice to plaintiff. Indeed, this case may demonstrate that the law, as it stands, is an imperfect instrument in the pursuit of racial justice. Nevertheless, given the law and the record, we are compelled to affirm the trial court's ruling.

Affirmed.

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**ORDER, CIRCUIT COURT OF THE
STATE OF OREGON FOR THE
COUNTY OF MULTNOMAH
(MAY 3, 2022)**

**IN THE CIRCUIT COURT OF THE STATE OF
OREGON FOR THE COUNTY OF MULTNOMAH**

ROBERT R. PARKER, JR.,

Plaintiff,

v.

JOHN D. BURNES ET AL.,

Defendants.

Case No. 880502842

Before: Judith H. MATARAZZO, Judge.

On April 25, 2022, this matter came before the court for a hearing on plaintiff's motions to vacate and set aside judgments and for reinstatement. Robert R. Parker Jr., plaintiff, appeared on his own behalf. Paul A. C. Berg appeared on behalf of defendants John D. Burns and Miller Nash LLP. Marc Abrams appeared on behalf of defendant John Kitzhaber. B. John Casey and Rachelle D. Collins appeared on behalf of defendants Chevron Industries, Union Oil of California, and Texaco, Inc. Anthony Copple appeared on behalf of defendant Exxon Mobil Corporation.

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The court, having considered the parties' written submissions and oral arguments, ORDERS that plaintiff's motion to vacate and set aside judgments and for reinstatement is DENIED.

/s/ Judith H. Materazzo
Circuit Court Judge

**ORCP 71 - RELIEF FROM
JUDGMENT OR ORDER**

A. Clerical mistakes. Clerical mistakes in judgments, orders, or other parts of the record and errors therein arising from oversight or omission may be corrected by the court at any time on its own motion or on the motion of any party and after such notice to all parties who have appeared, if any, as the court orders. During the pendency of an appeal, a judgment may be corrected as provided in subsection (2) of section B of this rule.

B. Mistakes; inadvertence; excusable neglect; newly discovered evidence, etc.

B(1) By motion. On motion and upon such terms as are just, the court may relieve a party or such party's legal representative from a judgment for the following reasons: (a) mistake, inadvertence, surprise, or excusable neglect; (b) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 64 F; (c) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party; (d) the judgment is void; or (e) the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application. A motion for reasons (a), (b), and (c) shall be accompanied by a pleading or motion under Rule 21 A which contains an assertion of a claim or defense. The motion shall be made within a reasonable time, and for reasons (a), (b), and (c) not more than one year after receipt of notice by the moving party of the judgment. A copy of

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a motion filed within one year after the entry of the judgment shall be served on all parties as provided in Rule 9 B, and all other motions filed under this rule shall be served as provided in Rule 7. A motion under this section does not affect the finality of a judgment or suspend its operation.

B(2) When appeal pending. A motion under sections A or B may be filed with and decided by the trial court during the time an appeal from a judgment is pending before an appellate court. The moving party shall serve a copy of the motion on the appellate court. The moving party shall file a copy of the trial court's order in the appellate court within seven days of the date of the trial court order. Any necessary modification of the appeal required by the court order shall be pursuant to rule of the appellate court.

C. Relief from judgment by other means. This rule does not limit the inherent power of a court to modify a judgment within a reasonable time, or the power of a court to entertain an independent action to relieve a party from a judgment, or the power of a court to grant relief to a defendant under Rule 7 D(6)(f), or the power of a court to set aside a judgment for fraud upon the court.

D. Writs and bills abolished. Writs of coram nobis, coram vobis, *audita querela*, bills of review, and bills in the nature of a bill of review are abolished, and the procedure for obtaining any relief from a judgment shall be by motion or by an independent action.

**SENATE CONCURRENT RESOLUTION 22
APOLOGIZING TO ROBERT PARKER FOR
INSTITUTIONAL DISCRIMINATION
(2021 SESSION)**

81st OREGON LEGISLATIVE ASSEMBLY—2021
Regular Session

Sponsored by Senator FREDERICK

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure as introduced.

Apologizes to Robert Parker for 31 years of suffering injuries and effects of racism and institutional bias that has denied him admission to Oregon State Bar and urges Oregon Supreme Court to admit Robert Parker to bar.

CONCURRENT RESOLUTION

Whereas the people of Oregon and of this nation have begun to address past issues of discrimination and are attempting racial reconciliation; and

Whereas the history of this state includes many dark chapters of egregious racial discrimination; and

Whereas racial reconciliation cannot occur without public acknowledgement of past discriminatory, unfair and unlawful treatment of those who came to Oregon and who made Oregon their home and yet who faced

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adversity and challenges on account of their race from the moment they arrived in this state; and

Whereas one such individual is Robert R. Parker, Jr.; and

Whereas Robert Parker is an African American man born in 1955 in Flint, Michigan; and Whereas Robert Parker had a hardscrabble childhood that veered into experiencing severe poverty following his father's death when Robert Parker was 13; and

Whereas Robert Parker's teenage years were turbulent, including dropping out of high school and being committed to reform schools; and

Whereas through perseverance and determination, Robert Parker turned his life around, obtaining his GED certificate, attending community college and then attending the University of Michigan; and

Whereas Robert Parker continued his string of academic successes by attending and graduating from North Carolina Central University School of Law; and

Whereas following law school graduation, Robert Parker worked for an insurance company and for a prosecutor in the midwest and south before following countless others to the west coast; and

Whereas in 1987, Robert Parker accepted a job offer from Senator Jim Hill to serve as the committee administrator of the Senate Business, Housing and Finance Committee, of which Senator Hill was the chair; and

Whereas Robert Parker took and passed the bar examination for admission to the Oregon State Bar; and

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Whereas Robert Parker had a vision for creating a first-in-the-nation property and casualty insurance company to provide insurance services to the African-American community nationwide; and

Whereas many who come to Oregon and rapidly obtain professional employment, successful professional test results and a business plan to fill a needed niche find this to be a recipe for success, that success was withheld from Robert Parker because of the specter of racism and discrimination; and

Whereas opponents of major legislation before the committee (Senate Bill 664 (1987)) sought to derail enactment or implementation of the legislation by making allegations that Robert Parker was using his committee administrator position unethically and illegally; and

Whereas these allegations lacked credibility but were made to a receptive audience, including Senate leadership; and

Whereas without legal authority, Senate leadership caused the Oregon Department of Justice to investigate Robert Parker; and

Whereas the Department of Justice investigation and an additional investigation undertaken by a county district attorney failed to yield evidence of an indictable offense, and the district attorney's presentation to a grand jury on three separate occasions failed to result in any indictment of Robert Parker; and

Whereas a letter the district attorney wrote to the Oregon Government Ethics Commission caused the commission to undertake its own investigation into Robert Parker, even though the district attorney

expressly acknowledged in his letter that it was not a complaint; and

Whereas the absence of a complaint or motion left the commission without proper jurisdiction to undertake an investigation of Robert Parker, but the commission investigation went forward anyway; and

Whereas the investigation report contained references on Robert Parker's race and Muslim faith and contained references to interracial dating, all being racially charged extraneous material not common to such reports; and

Whereas the central findings of the investigation were based on wholly circumstantial evidence; and

Whereas Robert Parker appealed the commission's order on grounds of absence of jurisdiction and on the merits, but both the Oregon Court of Appeals and the Oregon Supreme Court affirmed the commission's order without written opinion; and

Whereas Robert Parker ultimately prevailed and obtained a final order from the commission vacating the initial commission order, but Robert Parker was unable to have the Court of Appeals and Supreme Court judgments vacated even though there no longer existed a valid agency order on which an appellate judgment could be based; and

Whereas Robert Parker took and passed the bar exam in 1990, but unbeknownst to Robert Parker, prominent members of the legal profession and public officials were unable to set aside the racial bias and exclusionary orientation that had, by 1989, limited membership in the Oregon State Bar by African Americans to a mere 48 individuals; and

Whereas the Board of Bar Examiners undertook an extensive multiyear investigation to determine whether Robert Parker possessed the requisite moral character and fitness to practice law in Oregon; and

Whereas many who participated in the bar investigation had themselves participated in prior investigations, been named as defendants in proceedings brought by Robert Parker challenging investigation findings or had business relationships or affiliations with others who had so participated or been named as defendants; and

Whereas the Board of Bar Examiners voted 10-3 to recommend that Robert Parker be denied admission to the bar on character and fitness grounds and the Oregon Supreme Court duly adopted the board's recommendations; and

Whereas the record the board based its decision on was replete with unproven assertions of ethical and criminal misconduct, including the flawed Oregon Government Ethics Commission findings that were without jurisdiction, that contained pervasive institutional bias and that were ultimately vacated; and

Whereas the Oregon Supreme Court has original jurisdiction and inherent power to regulate the practice of law, including the power to admit or deny admission to those seeking to practice law; and

Whereas principles of basic jurisprudence provide that a decision of a court serves as precedential authority that governs a similar case or similar question of law that arises later; and

Whereas the Oregon Supreme Court routinely applies precedent in arriving at decisions but failed to

apply precedent in determining to deny Robert Parker's application for admission to the bar on character and fitness grounds; and

Whereas the improper and unjustifiable decision of the Supreme Court to deny Robert Parker admission to the bar has prevented Robert Parker from practicing law for the past 31 years; and

Whereas each and every allegation or assertion made against Robert Parker has ultimately been determined to be unfounded, or has been dismissed or vacated, and yet Robert Parker to this day suffers from the impacts of these unfounded, dismissed or vacated allegations and assertions that are grounded in discrimination and racism; now, therefore,

Be It Resolved by the Legislative Assembly of the State of Oregon:

That we, the members of the Eighty-first Legislative Assembly, find that Robert Parker has engaged in no wrongdoing or unethical conduct; and be it further

Resolved, That we issue to Robert Parker an official apology of the Legislative Assembly for 31 years of damage wrongfully done to Robert Parker; and be it further

Resolved, That we respectfully request the Oregon Court of Appeals and the Oregon Supreme Court to vacate their decisions affirming the initial order of the Oregon Government Ethics Commission, in light of the commission's final order vacating the commission's initial determination; and be it further

Resolved, That we respectfully request the Oregon Supreme Court to exercise its original jurisdiction and

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inherent authority to regulate the practice of law so
as to vacate the court's initial decision and order
Robert Parker's admission to the Oregon State Bar.

**SETTLEMENT AGREEMENT
AND RELEASE OF ALL CLAIMS
(DECEMBER 30, 1989)**

**SETTLEMENT AGREEMENT AND
RELEASE OF ALL CLAIMS**

1. Definitions

(a) As used herein "Parker" shall mean Robert R. Parker, Jr., his spouse, heirs, executors, administrators and assignees.

(b) As used herein, "Defendants" shall mean John D. Barnes, Richard A. Cantlin, Miller, Nash, et al, Mobil Oil Corp., Shell Oil Co., Chevron Industries, Exxon Corp., Union Oil of California, Atlantic Richfield Co., and Texaco, Inc., their spouses, heirs, executors, parent corporation(s), subsidiaries, affiliates and related corporations and all past and present officers, directors, partners, employees and agents in both their individual and representative capacities.

2. For and in consideration of the payment of \$500.00 (Five Hundred Dollars) by Defendants to Parker, receipt of which is hereby acknowledged as a full and complete satisfaction and compensation for all claims, including fees and costs. Parker releases and forever discharges Defendants from any and all causes of action, suits, damages, claims, liabilities and demands ("claims") whatsoever which Parker ever had from the beginning of time or now has against Defendants, directly or indirectly, known or unknown, including but not limited to any claims in any way connected with or arising out of Parker's employment with or severance from employment with the Oregon State Legislature or any other employers, any interruption

of or interference with business or economic relations, and any damage or claimed damage arising any of any investigation of Parker by the Oregon Government Review Commission, the Attorney General of any federal, state or local police organization. This release specifically includes any and all claims asserted, or which could have been asserted, in Civil No. 88-1089-FR in the United States District Court for the District of Oregon and in Case No. A8805-02842, initially filed in Multnomah County Circuit Court and transferred to Marion County Circuit Court, together with any appeal thereof.

3. Parker agrees that the **** and evidenced hereby are done and granted to compromise doubtful and disputed claims and in addition to avoid further costs in connection with litigation and are not an admission with litigation and are not an arises of liability on the part of Defendants, by whom liability has been and is expressly denied.

4. Parker agrees to execute whatever documentation is necessary to affect the dismissal with prejudice within costs to any party of the appeal now pending in the Court of Appeals for the State of Oregon, CA No. A8805-02842, and Civil No. 88-1089-FR.

5. Parker warrants that he has carefully read this agreement, knows the contents thereof, and has voluntarily executed it after an opportunity for consulting with any advisers of his own choosing.

6. Parker acknowledge that the terms of this agreement are confidential and agrees that unless compelled by subpoena he will not publish, display, discuss, release or reveal its contents to anyone specifically including but not limited to his former employer, Senator Jim

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Hill, and others associated with the Oregon legislature, the lobby and the press.

7. This agreement, which shall be effective immediately upon its execution, reflects the entire agreement of the parties relative to the subject matter thereof, supersedes all prior or contemporaneous oral or written understandings, statements, representations or promises, and is intended fully to integrate the agreement among the parties with respect to the matters described herein.

Dated this 30th day of December, 1989.

/s/ Robert R. Parker, Jr.

STATE OF OREGON

COUNTY OF MULTNOMAH

On this 30th Day of December, 1989, personally appeared before me the above-named Robert Parker, R. Jr., known to me to be the plaintiff herein. He has acknowledged to me that he has read the foregoing agreement, knows the contents thereof, and that he voluntarily enters into this agreement.

/s/ Notary Public Signature not legible



SUPREME COURT
PRESS