

8/26/24

NO. 24-447

**IN THE SUPREME COURT OF THE
UNITED STATES**

—
MEI WONG; AND DANA HINDMAN-ALLEN,
PETITIONERS

v

FAGAN, ET AL., RESPONDENTS
—

On Petition for a Writ of Certiorari to the United
States Court of Appeals For
The Ninth Circuit
—

PETITION FOR A WRIT OF CERTIORARI
—

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(State of) Oregon [97086]

QUESTIONS PRESENTED FOR REVIEW

- 1) This petition presents related issues of Exceptional Importance to the American Public, due process, election integrity, discrimination, and the integrity of the Judicial system. In this matter, Respondents' (Defendants') counsel made select statements in their joint Motion to Dismiss, such as "*Mere fraud will not render an election invalid*", and "*In general, garden variety election irregularities do not violate the Due Process Clause, even if they control the outcome of the vote or election.*" This was a direct reference to Petitioner's (Plaintiffs) accusation(s) with evidence, of the misprint of over 60% of the ballots, and vote tallies going down by thousands. *UNITED STATES v THROCKMORTON*, via Mr. Wells' work on Res Judicata, stated in sect. 499, "*Fraud vitiates every thing, and a judgment equally with a contract; that is, a judgment obtained directly by fraud, and not merely a judgment founded on a fraudulent instrument; for, in general, the court will not go again into the merits of an action for the purpose of detecting and annulling the fraud...*". Based upon the above-stated, and upon proof and evidence presented by Petitioners, if there were "fraud" and/or "fraudulent activity" in the 2022 Oregon Primary Elections, does the opinion and ruling of Magistrate Judge Stacie F. Beckerman, and

accordant ruling of Chief District Judge Marco A. Hernandez, then the judgment of the court of appeals, in adjudicating and therein directly or indirectly vindicating the Defendants still lawfully stand with merit, while at the same time, upholding the Constitution of the United States, The Constitution of Oregon, The Laws of the United States, The Laws of Oregon, The Statutes and Codes of the United States of America, The Statutes and Codes of Oregon, in general, preserving the integrity of the election process for the benefit of the People of the State of Oregon and the People of the United States of America?

- 2) Another question arises whether a magistrate judge can only resolve a limited scope of disputes (*Huber Engineered Woods LLC v Louisiana-Pacific Corporation*, C.A. No. 19-342-VAC-SRF (D.Del.)) where said Court held that a motion to strike infringement contentions is outside the scope of the magistrate judge referral. On April 5, 2023, Magistrate Judge Stacie Beckerman struck a Judicial Notice submitted by the Plaintiffs. The Petitioners therefore ask: Should the Judicial Notice be addressed only after the assignment of an Article III Judge?
- 3) It is a maxim of law, "*When the will of the people is circumvented or abrogated, the delegation of authority granted by the people, is null and void ab initio.*" The Defendants are fiduciaries

(trustees) of the public trust, in this case, holding office-in-charge over the electoral process to see that said process is fair, just, integral, and fully transparent to the voters (People/Beneficiaries). In *John Gomez v. Charles Clemons, Jr. (FBT-CV23-6127336-S)*, the Court orders a new primary and agrees with plaintiffs: *"Rather, the plaintiff submits that the court should accept the totality of the evidence to support such a scale of violations that call the result of the primary election into substantial doubt."* Therefore, if the Defendants, while active in their appointed/elected offices, participate and/or engage in actions that compromise the integrity of a fair, just and open election process, or in the alternative, are briefed with evidence, by one of the People or a running candidate, of fraudulent and/or negligent activity in an election process, and said fiduciaries refuse and/or neglect to address and fix the issue(s), does the authority, and resulting decisions of said fiduciaries (Defendants), still stand and thus certify the results of an election as valid?

- 4) In Defendants' joint motion to dismiss, counsel claimed "sovereign immunity" under the Eleventh Amendment of the Constitution of the United States in response to Petitioners' accusation(s). *Warnock v. Pecos County. Tex. 88 F .3d 341 (5th Cir. 1994)* affirmed: *"Eleventh Amendment does not protect state officials from claims for prospective relief when it is alleged that state*

officials acted in violation of federal law." Magistrate Judge Stacie Beckerman concludes "The Defendants argue that the Plaintiffs' complaint should be dismissed for lack of jurisdiction," because they cannot satisfy the injury in fact and redressability requirements. (Def.' Mot. At 9.) The Court disagrees. The Court concludes that the Plaintiffs' alleged discrimination and equal protection claims are sufficiently particularized and concrete to plead an injury in fact. Defendants separately argue that Plaintiffs' claims for damages and injunctive relief do not satisfy the redressability requirement. (Defs.' Mot. At 11-16.) The Court disagrees. Plaintiffs' claims are based on the Defendants' alleged discrimination, denial of equal protection, and conspiracy to violate their rights, and in part on Wong's status as a minority candidate. Defendants' mootness arguments fail adequately to address all of Plaintiffs' allegations, including those pertaining to alleged discrimination of a minority candidate. In summary, Defendants have not carried their heavy burden of demonstrating that Plaintiffs' claims for declaratory and injunctive relief are moot, and therefore the Court finds that those claims satisfy the redressability requirement. For these reasons, the Court concludes that Plaintiffs satisfy the redressability requirement, and Plaintiffs have Article III standing to bring their claims in federal court."

Based upon the allegation(s), the Defendants not only violated state laws, but congruent Federal laws. Therefore, can the Defendants claim of "sovereign immunity" stand pursuant to the Eleventh Amendment when Defendants have acted in complete contradiction to the Law, their individual prescribed duties, oaths and bonds?

- 5) *"Equal justice is for all. Like cases are treated alike. All people are treated equally."* - Attorney General Merrick Garland. Justice as a rule of law relies on honest officials and prosecutors to follow evidence and make impartial determinations as to accountability. The entire premise of this case was "as a right of candidates" to request the Oregon Secretary of State's Office and the Clackamas County Clerk's Office to open a complaint and do a hand recount of the ballots for the 2022 primary elections due to many security concerns and irregularities during the election. *The first amendment affords people the right to petition the government for a redress of grievances.* The fourteenth amendment states, *"No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."* Therefore, under what possession of status, and actual accordant law(s), do the Defendants and latter courts act to circumvent

and abrogate the law and due process and why, at every turn, were the Plaintiffs denied due process under the law, and treated unequally?

PARTIES TO THE PROCEEDING

Petitioner(s), Appearing Pro Se and Propria Persona, Mei Wong; Dana Hindman-Allen were Plaintiffs in the district court.

Respondent(s) Shemia Fagan, Debra Scroggin, Alma Whalen, Bob Roberts, Sherry Hall, Rebekah Doll, Clackamas County Clerk's Office and The Office of the Secretary of the State of Oregon were Defendants in the district court.

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PETITION FOR WRIT OF CERTIORARI

Mei Wong and Dana-Hindman-Allen, Pro Se/Propria Persona Litigants, respectfully petition this court for a writ of certiorari to review the judgment of the United States Court of Appeals for the Ninth Circuit in this case, by and through the findings and conclusions of Magistrate United States District Judge, Stacie F. Beckerman on June 30, 2023, and concurrent Order on September 4, 2023 by United States District Court (9th) Chief Justice Marco A. Hernandez. After receipt of the order from the US Supreme Court, the US Court of Appeals for the Ninth Circuit dismissed the claim for lack of jurisdiction on January 18, 2024, and subsequent motion for reconsideration on June 5, 2024.

OPINIONS BELOW

The opinion of the court of appeals (24-77), in denying/dismissing Mei Wong and Dana Hindman-Allen's complaint is reported as Mei Wong v. Fagan, 3:22-cv-01714-SB (D. Or. Jun. 30, 2023). United States District Court Chief Justice Marco A. Hernandez, concurred on September 4, 2023. (*See Appendix for Magistrate Beckerman's Findings and Conclusions and Chief Justice Hernandez' concurrent Order issued on September 4, 2023.*)

JURISDICTION

The judgment of the court of appeals was entered on Jan. 18, 2024. A motion for reconsideration was denied on June 5, 2024 (App., 1a). The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATEMENT OF THE CASE

Mei Wong and Dana Hindman-Allen are seeking to petition this court for a writ of certiorari to review the judgment of the US Court of Appeals Ninth Circuit and the US District Court for the District of Oregon to dismiss with prejudice. The Constitution states that the Supreme Court has both original and appellate jurisdiction. Appellate jurisdiction shows that the Court has the authority to review the decisions of lower courts. Parties who are not satisfied with the decision of a lower court must petition the U.S. Supreme Court to hear their case. A Petition for Writ of Certiorari was sent to Justice Brett Kavanaugh on November 16, 2023, under Rule 22.2. A letter from the Clerk of the Court dated November 27, 2023, was received on December 5, 2023, stating the case must first be appealed to the US Court of Appeals. Plaintiffs (Appellants) submitted a notice of appeal to the US Ninth Circuit Court of Appeals on January 4, 2024. The US Court

of Appeals Ninth Circuit dismissed the appeal on January 18, 2024 and a motion for reconsideration on June 5, 2024 for lack of jurisdiction as Petitioners did not file the appeal within 30 days after the District Court's judgment. Although we submitted the appeal within 30 days after the court order from the US Supreme Court. According to Appellate Court Rule 4(a)(1)(A), a civil case, except as provided in Rules 4(a)(1)(B), 4(a)(4), and 4(c), the notice of appeal required by Rule 3 must be filed with the district clerk within 30 days after entry of the judgment or order appealed from.

During the Oregon Primary Elections on May 17, 2022 the following was observed to have taken place and/or occurred:

- Over 60% of the ballots sent to voters in Clackamas County had "faulty barcodes."
- People were allowed into the Clackamas County Elections Office prior to office hours.
- Clackamas County updated erred and/or invalid numbers to the Secretary of State's website.
- Captured screenshots were taken of "vote tallies" in Candidate Mei Wong's race going down by the thousands, minutes apart; not just once, but on multiple occasions on the Secretary of State's Website. One occasion occurred during Memorial Weekend Sunday

from 4:36am to 4:44am the votes went down by 6371 votes.

The question that was emphatically repeated in communication with electoral personnel was, "who is/was responsible for changing and/or updating the votes during that time? This further calls into question the security of the elections in Oregon. Subsequently, as rights afforded to candidates, Petitioners (Plaintiffs) requested to open a complaint, do an investigation, a risk-limiting audit prior to certification, and a full hand recount after certification. Defendants claimed other races had fluctuations with the votes but did not provide proof of other races with fluctuations. It is Petitioners' belief that the Defendants should have been compelled to provide validation and verification that there was an overall issue and/or error, be it procedural and/or technical, that would cause such a fluctuation of the vote tallies.

The Defendants opened a complaint for one candidate and refused to open a complaint for Wong & Hindman-Allen. Complainant (Petitioner) Wong is a woman of color. Electoral personnel continued to show biased behavior by refusing to do a full hand recount of the original ballots. The original ballots of the Oregon Primary Elections on May 17, 2022 are, by policy, to be destroyed 22 months after the election. Due to the delays of over 2 years from both the US District Court and the US Court of Appeals

for the Ninth Circuit, due process was denied violating the Petitioners first amendment rights. Petitioners may not be able to review the ballots from the 2022 Primary Elections.

A FOIA request was submitted by the Petitioners for the ballot images on February 27, 2024, but the Clackamas County Election's office demanded payment of \$10,495 to scan 63,000 ballots. Pursuant to Oregon law, Petitioners believe the ballots should have already been scanned and uploaded to the records system, which begs the governing inquiry, why were they not? Then the same Election's Office gave cost estimates of \$5500 and \$3000 to others requesting the same information, violating Oregon anti-trust laws. An appeal against the cost of the payment was procedurally circumvented and of course denied.

The Defendants' claim and statement of lack of future injury and that Plaintiffs will not run for office again is false. Dana Hindman-Allen ran for Clackamas County Commissioner again. During the 2024 Oregon Primary Elections, her fellow candidate and incumbent Martha Schrader sent out mailers to the voters stating she was endorsed by the Local 290 Plumbers and Steamfitters Union, when Dana Hindman-Allen was the endorsed candidate. A SEL-400 endorsement form was submitted to the Oregon Secretary of State for Dana Hindman-Allen a week before the mailer was sent. Candidate Hindman-

Allen filed a campaign finance complaint with the Secretary of State's Office and was told it was not within the jurisdiction of the Division to investigate or remedy and to file a claim in circuit court.

Clearly there were/are security concerns about the 2022 primary elections, when screenshots show vote tallies going down by over 6000 votes on multiple occasions, misprint of over 60% of the ballots, and the Secretary of State's website was hacked prior to the elections. Also, during the election processing of the May 2022 primary, Clackamas County uploaded incorrect numbers of votes to the State website thus causing the vote counting to halt until they were able to reconcile the accuracy of the number of votes. After they allegedly halted and supposedly corrected the problem, the votes still went down by the thousands which the screenshots revealed. When Petitioners further addressed this issue prior to the presentation of this Petition, were "assured" again that the issue(s) had been resolved and also claimed that they had proof of such. To date, no such proof has been disclosed, even by way of numerous requests.

Regarding the screenshots, Petitioners sought to clarify the Defendants attempt to minimize the serious nature of the screenshots. Statement of the Defendants in their Joint Motion(s) to Dismiss alleged that the screenshots were images of "unofficial results." Whether said results are unofficial or official, votes posted to the State website

should never statistically or technologically go down by thousands without validation or verification as to the cause. Commonly, votes always move upwards as new daily results come in until the last vote is counted. Petitioners also questioned if foreign actors or manipulation was involved but to no avail. In the early stages of inquiry to the State and County on what would cause the votes to go down by thousands on the State website, Dana Hindman-Allen had a conversation with the election manager for Clackamas County Becky Doll. Doll explained that the County inputs the daily results securely to the States website, then the State site is refreshed with the new tallies. The State does not alter any of the results. This called into question, once the results were inputted, why, how and who was altering the State's website at 4:44am Sunday on Memorial Day weekend?

Plaintiffs sent several necessary notices, requests and inquiries from June 6, 2022, to August 3, 2022 following the Oregon statutes below:

ORS 246.046 – Secretary of State and county clerks to seek out evidence of violations:

The Secretary of State and each county clerk shall diligently seek out any evidence of violation of any election law. [Formerly 260.325]

ORS 258.161(1) – Filing demand for recount with Secretary of State, states the following:

A candidate or an officer of a political party on behalf of a candidate of the political party may file a demand requiring the Secretary of State to direct that a recount be made in specified precincts in which votes were cast for the nomination or office for which the candidate received a vote.

Also, ORS 258.161(3) states the following:

A county clerk may file a demand requiring the Secretary of State to direct that a recount be made in specified precincts in which votes were cast for the nomination or office for which a candidate received a vote or on any measure that appeared on the ballot. The cash deposit requirement of subsection (5) of this section shall not apply to a demand made under this subsection. The cost of a recount conducted under this subsection shall be paid by the county of the county clerk making the demand.

Although Defendants implied a cash deposit was required along with the request for a hand recount, Clackamas County Elections Office was to provide a quote and never did so. Plaintiffs needed a cost amount for deposit because prior to the election, the state of Oregon was redistricted and unclear what precincts were in Ms. Wong's & Ms. Hindman-Allen's

races. The Plaintiffs were within their rights and following the laws set forth in Oregon.

A provision that provides a process for the County Clerk to conduct a risk-limiting audit. The Plaintiffs filed a complaint according to ORS 258.016(6), which states:

The nomination or election of a person, the result of a recall election or the approval or rejection of a measure may be contested by any elector entitled to vote for the person, recall or measure, by any person who was a candidate at the election for the same nomination or officer, by the public officer subject to the recall, by the Secretary of State if the contest involves a state measure, the recall of a state officer or a candidate for whom the Secretary of State is the filing officer, or by the county clerk who conducted the election, only for the following causes:

(6) Nondeliberate and material error in the distribution of the official ballots by a local elections official, as the term defined in ORS 246.012 (Definitions), or a county clerk.

The Clackamas County Clerk's office sent out ballots for the May 2022 election, with over 60% of the ballots with faulty barcodes. On June 9, 2022, the Secretary of State directed the county clerk to do a hand recount of random races. It conducted a recount of 9% of candidate Dana Hindman-Allen's race with

three other candidates and recounted 151,004 precinct committee votes. No recount was done for candidate Mei Wong's race. Petitioners were told explicitly they will receive a quote from the County to do a hand recount of the original ballots. After two months of discussions and emails, all requests were denied. The denials are blatantly discriminatory and non-equitable, and the risk-limiting audit set forth by the Secretary of State did not rise to the level of scrutiny needed to address Wong and Hindman-Allen's original complaints. Due to the severity of the original complaints filed to the State and County, Plaintiffs believe the request for a full hand recount of the original ballots and an investigation of the screenshots were fully warranted and justified to remedy and redress grievances.

Demands for a recount were sent to the Secretary of State's office as per ORS 258.161(8) and were made within the timeframe and as afforded by the laws of Oregon. Both Bob Roberts and Alma Whalen from the Secretary of State's office subsequently referred Plaintiffs to the Clackamas County Clerk's office. There are no specific timelines for requests to Oregon counties for a hand recount.

Prior to the election, the Secretary of State's ORESTAR program was hacked. It was brought forth to the public that some of the candidate's information was compromised. To add further complications, over 60% of the Clackamas County ballot barcodes were

unreadable. During the process of remedying the problem they compounded matters by scrambling "to certify the results in time", The County required hundreds of additional staff and emergency response from the State and County government, added security measures, several revisions to the security plan and increase oversight by the Secretary of State's office, *"and the need "t(o) verify the accuracy and uniformity under the circumstances, the Secretary ordered the County to "conduct additional recounts as outlined in th(e) directive and attached instructions(.)"*. Petitioners know these statements to be categorially false. The hundreds of additional state and county staff sent to hand remark ballots had laptops and cell phones in the ballot remarking area. It also seemed odd to remark ballots with voters' intent, rather than the more prudent option of doing a full hand recount of the original ballots. The Clackamas County Clerk realized that the ballots had faulty barcodes three days prior to the election and had ample time to recount the original ballots.

Due to the many security concerns, the Plaintiffs should at least be able to receive a hand recount of original ballots. By not allowing a complaint and investigation to be opened, do a risk limiting audit, and a full hand recount of original ballots, such does violate the "Due Process Clause" and is in clear violation of the candidates' civil rights and the rights of the voters. Defendants seem to be

oddly comfortable with the notion of fraud being present in any given election cycle and show no desire or concern to investigate the security issues surrounding the May 2022 primary elections.

Correspondence from Bob Roberts, Alma Whalen, and Sherry Hall directed Ms. Wong & Hindman-Allen to appeal the decisions of denial in circuit court or get an attorney to pursue the matter further. It is evident by the experiences, being citizens and candidates that dare to assert their rights afforded to them to question government actions or inactions, the default response of these agencies is to immediately direct someone to court to have things remedied, is simply a direct dereliction of the duties of their offices held. Consequently, this results in the immediate barring of many Oregonians the ability to pursue solutions and therefore to redress their grievances. This is increasingly harmful to the people who are socio-economically disadvantaged, the people who are underserved, who do not have the means or experience to navigate the legal system and cannot afford an attorney. Petitioners went through every plausible, congenial means by which to redress grievances without going through legal challenges. The Secretary of State's office immediately said (after the first letter asking for a full recount of the original ballots as well as a thorough investigation into the screenshots) that if Petitioners do not agree with their decision, then it

can be challenged in court. No alternatives were given by the State and County, and no attempt to acknowledge the concerns and discoveries whatsoever. This hostile temperament from the State and County further solidifies the discriminatory customs being promulgated by the government officials, and only seeks to further erode public trust and respect for the rights as citizens per 18 U.S. Code § 595.

Plaintiff(s), were left with no recourse but to file a necessary lawful complaint with the US District Court in the pursuit of justice.

REASONS FOR GRANTING THE WRIT

- A. To avoid the erroneous deprivations of the right to seek redress for grievances in which this Honorable Court can grant relief and to resolve any uncertainties including, but not limited to, disputes of law, applicability of law, statute and code, status and standing of parties, confirmation, affirmation and/or refutation/disproval of material defenses, and any other clarifications this court may find and/or deem necessary.**

The First Amendment of the Constitution is explicitly clear regarding the right to petition the government in the event of a redressable issue and/or grievance as it states:

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.
(emphasis added)

The Plaintiffs, based upon their own comprehension, clearly exercised said secured Constitutional rights to its fullest extent. It is further believed, based on the testimony and evidence presented, that the Defendants circumvented and abrogated every delegated responsibility to perform their sworn duties to not only attend to lawful, valid complaints, but also ensure an open, integral election process that is unencumbered by fraud. In short, they not only fail the Plaintiffs, but also the voters of Clackamas County, the State of Oregon, and ultimately, the United States of America.

Furthermore, prior to the unanimous Declaration of the thirteen United States of America, IN CONGRESS, July 4, 1776, herein the Declaration of Independence, our forefathers saw "the writing on the wall." So, it was unanimously agreed:

"When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with

another, and to assume among the powers of the earth, the separate Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain inalienable (unalienable) Rights, that among these are Life, Liberty and the pursuit of Happiness. —

That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, — That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness. Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and accordingly, all experience hath shewn, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, it

is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security." (emphasis added)

Based on what was witnessed first-hand by the Founding Fathers of this nation: taxation without representation, peonage, slavery, decreed usurpations of God-given Rights by and through the hands of tyrants clothed as if they were trusted vicars and ministers, the Founding Fathers and others allegiant, escaped and separated from the aforementioned horrors, and knew that something had to change. In short, it was something that was worth fighting for. Which is why, We, the Petitioners, humbly come before this Honorable Court to do what which may be unpopular in the face of the current political stigma, but to do that which is right and permit the law to shed light on not only an issue of state, but a national situation of emergency, the destruction of a fair, just, and integral electoral process.

- B. Where there are allegations and evidence of fraud, a detailed forensic investigation is mandatory, and if the allegations are founded in fact, then the results of the investigation should be affirmed and warrant swift justice.**

In Petitioners' first "Questions Presented for Review", the citation from *UNITED STATES v. THROCKMORTON*, via Mr. Wells' work on Res Judicata stands firm. "*Fraud vitiates every thing...*" Petitioners have clearly shown enough evidence to warrant a proper and necessary investigation and recount. Respondents (Defendants) have served up every possible tactic of avoidance to ignore Petitioners' critical notices and warnings, be they blatant denials to investigate and/or demands of payment of inordinate amounts of tender for disclosure of records. These records, being of public interest and trust, are eligible for a waiver of fees. That concession was denied to the Petitioners. Respondents, in their pleadings before the latter court, asserted that they fully addressed the Petitioners' concerns as well as provided validation and verification that Petitioners' suspicions were unfounded. Petitioners, in their pleadings before the latter court, requested pertinent disclosure of the Respondents regarding these so-called findings, which to date, have never been disclosed.

Respondents' citations from their joint Motion to Dismiss shed the necessary light regarding fraud. "*Mere fraud will not render an election invalid*", and "*In general, garden variety election irregularities do not violate the Due Process*

Clause, even if they control the outcome of the vote or election." While case law and/or common law may serve as an "authority" of the past to determine present and future outcomes, we oft must examine the past rulings to see if it is righteous and its dictates "righteously" affect the present and the future. Fraud implies there is deception involved. If someone purchases a new automobile that is "guaranteed", and a mile out of the dealership it breaks down, is not the dealership and/or manufacturer liable? True, the "entire" car may not need to be replaced, but certainly there is a part of the automobile that has malfunctioned and must be addressed and repaired. In the same vein, if there exists irregularities, variations and fluctuations in the collection of votes, and evidence is presented to validate and verify such a claim, shouldn't the authorities charged with the obligations and duties of supervision of the election process act honorably to address such a serious issue and repair it? More importantly, shouldn't the public trust, the people, have the confidence that "a vote cast, is a vote accounted for" in its right and proper place?

In 2018, Republican candidate Mark Harris, for North Carolina's 9th Congressional District had beaten his democratic opponent in what was originally described as a very close race. Harris

had won by 905 votes, which was a margin of 0.3 percent of the ballots cast. Or so everyone thought. The state's Board of Elections refused to certify the results when evidence surfaced of "concerted fraudulent activities related to absentee by-mail ballots," including illegal vote harvesting by a political consultant and his associates. The board's investigation yielded so many cases of fraudulent activity, including forged signatures and widespread ballot harvesting, that a new election was ordered in the congressional race as well as two local races. A new candidate, Dan Bishop, took Harris' place and went on to win the seat in a special election in 2019. The Wake County grand jury later indicted the political consultant on charges of felony obstruction of justice, conspiracy to obstruct justice, possession of absentee ballots, and perjury.

The outcome of the 2016 Wetumpka County Council's District 2 election, which was decided by three votes in favor of Percy Gill, was later overturned by a judge when at least eight absentee ballots were discovered in which signatures had been forged or not notarized or witnessed as required by state law. Kaufman County Court at Law No. 1 Candidate, Tracy Booker Gray alleged "systematic, fraudulent use of the ballot system in the use of absentee ballots

“possibly illegally facilitated by members of the [Ballot] Board.” As votes began to tally on election day, Gray led early voting by 2,989 to 2,977 votes and election day voting by 2,227 to 2,096 votes, which was a 143-vote lead. Of 664 absentee ballots, incumbent Judge Dennis Jones led by nearly a 2-to-1 margin with 404 to 260 votes which was enough for a mere one vote lead. The election results were certified by the Kauffman County Republican Party on March 15, 2018. Gray alleged that at least eleven of the ballots “did not satisfy statutory requirements to be counted as part of the Contested election.” Additionally, there were at least forty-five more that fit the pattern as the prior eleven which bore investigation through discovery for illegal and fraudulent voting. At the close of the proceedings, a new election was ordered by a judge due to vote harvesting and absentee ballot fraud.

In St. Louis, Missouri, a 2016 Democratic primary election was overturned due to absentee ballot fraud. The incumbent, Penny Hubbard, appeared to win the race by ninety votes, but her opponent, Bruce Franks, challenged the results because of a large and suspicious number of absentee ballots cast for Hubbard. A judge ordered a special election after determining that many improper absentee ballots had been cast. Franks actually won that special election by a 3:1 margin.

In a 2018 mayor race in Mission, Texas, a judge overturned the initial results after hearing two weeks of testimony about bribery and manipulated absentee ballots by the campaign of incumbent Armando O' Cana. The judge later found and affirmed that over 158 ballots were cast illegally.

Bret Warren of Casselberry, Florida, pleaded no contest to two felony voter fraud charges. His scheme was uncovered after five residents in a neighboring town did not receive their absentee ballots for the 2016 election but were surprised to discover that they had been filled out, signed and returned. Warren's fingerprints and saliva were found on said ballots.

Connecticut State Rep. Barnaby Horton pleaded guilty to ballot fraud after he was caught inducing elderly residents to cast absentee ballots for him. The State Election Commission imposed a fine of \$10,000 after determining that Horton had gone from room to room in a housing facility for low-income, elderly people passing out absentee ballots and telling said residents to vote for him. Deisy Cabrera pleaded guilty for her involvement as an absentee "ballot broker" in a large absentee voter fraud scheme. Cabrera was paid by more than half-dozen candidates for judicial office and had several absentee ballots in her possession at the time of her arrest and kept a notebook with

over 500 names and addresses of voters whom she targeted. Most of these elderly Hispanics, known to her notes as “Deisy’s Voters”, included information whether the voter was illiterate, blind, deaf, or had Alzheimer’s.

Electoral fraud is more common than the average person may be aware of. Plainly, wherever fraud is alleged and proved to exist, SERIOUS scrutiny and investigation should follow, even if it means reversal of an entire process *ab initio*.

C. Petitioners’ Judicial Notice should have not been “struck” and/or dismissed. Pursuant to FRCP Rule 201, Petitioners had status and standing to issue said notice before the court concerning certain paramount facts and evidence.

On March 29, 2023, Petitioners filed a Judicial Notice pursuant to FRCP Rule 201, to provide notice to the court regarding certain facts that were paramount to the court finding and affirming cause to proceed for trial. Magistrate Judge Stacie F. Beckerman struck the Judicial Notice on April 5, 2023, which Petitioners believe to be highly premature regarding the law. In the case of *Huber Engineered Woods LLC v Louisiana-Pacific Corporation*, C.A. No. 19-342-VAC-SRF (D.Del.) it was held and affirmed that *a motion to strike infringement contentions is outside of the scope of*

the magisterial judge referral. Rule 201(b) clearly states:

b) the court may judicially notice a fact that is not subject to reasonable dispute because:

can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.

Also, Rule 201(d) states:

d) The court may take judicial notice at any stage of the proceeding.

In response to numerous presumptions, assertions and citations in Respondents' Motion(s) to Dismiss, Petitioners thought it crucially important to enlighten the court to certain paramount facts, evidences (new and reiterated), that should promulgate a necessary ruling for trial. Petitioners comprehend that Judge Beckerman's striking of the judicial notice does not warrant disqualification or recusal pursuant to 28 U.S. Code § 455. However, Petitioners believe that Judge Beckerman should have exercised more prudent discretion when being presented with adjudicative facts that, according to Findings of Facts and Conclusions of Law, and according to the Strict Standards of the Rules of Evidence, should have moved the court to rule in favor of the Petitioners and set a date for trial. *Akhtar v. Mesa*, 698 F.3d 1202, 1212 (9th Cir.

2012) ("A district court should not dismiss a pro se complaint unless it is absolutely clear that the deficiencies of the complaint could not be cured by amendment." Petitioners filed a complaint Pro Se and were never afforded the opportunity to amend the complaint and therefore should not be dismissed with prejudice.

D. "When the will of the people is circumvented or abrogated, then the delegation of the authority granted by the people, is null and void *ab initio*."

Petitioners' good will was to be part of a fair election with transparent results, ensuring all votes were accurately counted, and were shocked when votes mysteriously decreased without explanation. Petitioners believe winning is based on running a fair race, not entitlement. The only expectation was/is a fair election process where voters can participate and have faith in the integrity of the election.

Judge Beckerman's findings did not contest Petitioners' facts, evidence, status, and standing. It is clear that if Respondents (Defendants) are proven to be involved in electoral fraud, their authority is deemed invalid, making any results uncertified, unlawful, and illegal.

E. Respondents' claim of "sovereign" and/or "qualified" immunity is erroneous if they acted in violation of federal law.

Warnock v. Pecos County, Tex. 88 F .3d 341 (5th Cir. 1994) is clear. "*Eleventh Amendment does not protect state officials from claims for prospective relief when it is alleged that state officials acted in violation of federal law.*" Respondents, in their joint Motion to Dismiss, oft referred to the Eleventh Amendment as if it was their remedy in law to skip over responsibility for their actions, or lack thereof.

Sternly, the Eleventh Amendment is not a state or federal official's "*ruby slipper*", like in the *Wizard of Oz*, that can take an official "back to Kansas" whenever there is trouble afoot, especially if it is by their own actions and/or negligence. The amendment specifically prohibits federal courts from hearing cases in which a state is sued by an individual from another state or another country. However, this case comes from individuals from within the state. Article VI, Paragraph 2, of the Constitution of the United States is commonly referred to as the Supremacy Clause. It establishes that the federal constitution, and federal law generally, takes precedence over state laws, and even state constitutions. It also prohibits states from interfering with the federal government's exercise of its constitutional powers,

and from assuming any functions that are exclusively entrusted to the federal government. However, it does not allow the federal government to review or veto state laws before they take effect.

In accordance with *Warnock v. Pecos County, Tex.*, Petitioners believe, based upon facts, evidence and conclusions of law, that Respondents have not only violated state law, but federal law as well, and thus gives this Honorable Supreme Court and any latter United States Court, authority and jurisdiction to not only hear this matter, but execute justice and grant due remedy as the law deems fair, just, equitable and appropriate.

CONCLUSION

The objective of this action at law and in equity is to obtain an unprejudiced determination of the Plaintiffs' civil rights as candidates, to protect the rights of all candidates and citizens in Clackamas County, State of Oregon, and United States, and Certiorari should be granted. To correct discriminatory and unjust behaviors. The Secretary of State of Oregon and Clackamas County Elections Office denied any recourse or redress of grievances with requests for a hand recount as afforded by Oregon law ORS 246.046, ORS 254.529 (1)(3)(4)(5), ORS 254.532(1)(3) (4(e))(4(f))(4(g))(5), ORS 258.016(6), ORS 258.161(1)(3), and Oregon SOS Directive 2021-2. By doing so, the Defendants

violated Plaintiffs' civil rights under 42 U.S.C. § 1983, 42 USC § 1985, The Civil Rights Act of 1964, and 18 U.S.C. § 241 & § 242. Also, the First, Ninth, Fourteenth, and Fifteenth Amendment. The current consensus of the citizens of the United States has concerns surrounding election security, elections process, and that their votes matter and count. It is of importance to all the fairness and equity of elections as *US v. West Monroe, LA* found discriminatory practices surrounding a certain group of people. Therefore, a consent decree was reached and issued to allow the election system to be "fair, adequate and reasonable" and "not the product of collusion between the parties." *Cotton v. Hinton*, 559 F.2d 1326, 1330 (5th Cir. 1977).

By doing so, we must review the Order on June 30, 2023, referring Findings and Recommendations to Article III Judge, Hernandez by the Magistrate Judge, Stacie Beckerman. Then on September 4, 2023, Judge Marco A. Hernandez adopted Magistrate Judge Beckerman's Findings and Recommendations, granting Defendants' Joint Motion to Dismiss without opinions or statements. There were contradictions in her actions and words.

In reviewing the Findings and Recommendations by Magistrate Judge Stacie F. Beckerman, in the first half of the document, Magistrate Beckerman confirms that the Defendants indeed violated Petitioners' First Amendment Rights

and that Petitioners (Plaintiffs) have subject matter jurisdiction. The court further concluded that Petitioners (Plaintiffs) alleged discrimination and equal protection claims are sufficiently particularized and concrete to plead an injury in fact. The court, however, does not evaluate the Defendants' proffered immunity defenses to determine redressability under 12(b)(1). Defendants have not carried their heavy burden of demonstrating that Petitioners' (Plaintiffs') claims for declaratory and injunctive relief are moot. Therefore, the court finds that those claims satisfy the redressability requirement. For these reasons, the court concludes that Petitioners (Plaintiffs) satisfy the redressability requirements and Petitioners (Plaintiffs) have Article III standing to bring their claims in Federal Court.

Magistrate Beckerman unexpectedly reverses her initial findings, advising District Chief Justice Hernandez to dismiss the complaint with prejudice for not stating a claim where relief can be granted. Petitioners (Plaintiffs) express serious apprehension over Beckerman's contradictory findings.

Petitioners are appealing to the Supreme Court of the United States to uphold Constitutional standards of government conduct and righteousness. The importance of public employees, or fiduciaries, following laws and policies cannot be overstated, as covert and subliminal double standards erode public trust in government institutions. Petitioners have

raised serious concerns about election security, only to be oppressed and denied their right to address these grievances. Elected officials and their administrators must fulfill their oaths to serve constituents honestly, openly and constitutionally. Despite filing their case in 2022, Petitioners have not been offered a chance to properly and effectively address their concerns. The Defendants unnecessarily spent taxpayer money to avoid practical and responsible remedies to achieve a full recount of original ballots from the May 2022 election, as well as a forensic investigation into suspicious vote discrepancies.

The Petitioners seek Justice as they believe certain and numerous misdeeds may be hidden. Petitioners hope the Supreme Court Justices will fulfill their duty to uphold the Constitution and Laws of the United States of America. Time is crucial, with the potential destruction of May 2022 ballots imminent. The truth is clear, and Petitioners seek relief through sincere belief in the Supreme Court's discernment.

As the Court unanimously held a self-represented litigant complaint, "however in-artfully pleaded," must be held to "less stringent standards than formal pleadings drafted by lawyers" and can only be dismissed for failure to state a claim if it appears "beyond doubt that the [plaintiff] can prove no set of facts in support of his claim which would

entitle him to relief." Id., at 520 521. See, Haines vs. Kerner, et al. 404 U.S. 519,92 S.Ct. 594,30 L. Ed. 2d 652. "Pro Se pleadings are to be considered without regard to technicality; pro se litigants' pleadings are not to be held to the same high standards of perfection as lawyers." - (*Picking v. Pennsylvania R. Co.* 151 Fed. @nd 240; *Pucket v. Cox* 456 @nd 233.) "Additionally, pro se litigants are to be given reasonable opportunity to remedy the defects in their pleadings." - *Reynoldson v. Schilinger* 907F .2d 124 126 (10th Circuit 1990; See also *Jaxon v. Circle K. Corp.* 773 F .2d 1138. 1140 (10th Cir. 1985(1)).

It is the prayer of the Petitioners that the Supreme Court of the United States will see Petitioners' cause for truth and justice and further see the following be instructed and done in good faith:

1. Enter an Order for a Full Hand Recount of the original, NOT duplicated, ballots of the May 2022 Primary Election at the expense of the County of Clackamas.
2. Enter an Order for a full forensic investigation of the time-stamped screen shots of the decrease in votes of the May 2022 Primary Election at the expense of the County of Clackamas.
3. Enter an Order temporarily and preliminarily enjoining and restraining any person or entity acting at their direction or on their behalf, from

destroying, altering, concealing or otherwise interfering with documentation relevant to discovery of the 2022 primary election results.

4. Enter a permanent injunction, upon proper motion, requiring Clackamas County Elections Office and Oregon Secretary of State Elections Office to adopt appropriate policies related to hiring and supervision of its staff in regards to Complaints, Public Records Requests, Ballot Security, and recourse for Candidates rights.
5. Grant to Plaintiffs such other and further relief as may be just and proper under the circumstances, including but not limited to appropriate injunctive relief.

For the foregoing reasons, We, the Petitioners, respectfully request that this Honorable Court issue a Writ of Certiorari to review the judgment of the US Court of Appeals Ninth Circuit and US District Court in the District of Oregon.

Respectfully submitted,

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