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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MARION

SETH WOOLLEY, an Oregon Elector,)	Case No.
and	)	COMPLAINT
PACIFIC GREEN PARTY OF OREGON,	)	DECLARATORY RELIEF
a certified Oregon political party,	)	(ORS 28.010 et seq.)
Plaintiffs,	)	APPEAL OF SECRETARY OF
v.	)	STATE ACTION (ORS 246.910)
KATE BROWN,	)	APPEAL OF DECISION IN
Secretary of State of Oregon,	)	OTHER THAN CONTESTED
Defendant.	)	CASE (ORS 183.484)
	)	COMPEL AGENCY ACTION
	)	REQUIRED BY LAW
	)	(ORS 183.490)
	)	(Not Subject to Mandatory
	)	Arbitration)

PLAINTIFFS allege as follows:

1.

Plaintiff Seth Woolley is an individual, who, at all relevant times, was, is and intends to remain an Oregon citizen, elector, taxpayer and member of the Pacific Green Party of Oregon.

(a) Plaintiff Woolley was nominated by the Pacific Green Party of Oregon as the party's candidate for Oregon Secretary of State in 2008 and received 2.99% of the vote in the November 4, 2008 general election.

(b) Plaintiff Woolley is an announced candidate for the nomination of the Pacific Green Party of Oregon for Oregon Secretary of State for the November 6, 2012, general election.

(c) Plaintiff Woolley is adversely affected and aggrieved by Defendant's determination that the

1 Pacific Green Party of Oregon is not qualified to place candidates on the November 6, 2012,
2 ballot.

3 2.

4 Plaintiff Pacific Green Party of Oregon (PGP), at all relevant times, was, is, and intends to
5 remain a political party organized pursuant to Oregon state election law.

6 (a) Plaintiff PGP nominated Plaintiff Woolley and placed Plaintiff Woolley on the November 4,
7 2008, general election ballot.

8 (b) Plaintiff PGP intends to nominate and place candidates on the ballot for United States
9 President and Vice President, United States Congress, and for Oregon statewide and other
10 offices.

11 (c) Plaintiff PGP is adversely affected and aggrieved by Defendant's determination that the
12 Pacific Green Party of Oregon is not qualified to place candidates on the November 6, 2012,
13 ballot.

14 3.

15 Defendant Kate Brown is Secretary of State of the State of Oregon (Secretary).

16 4.

17 This Court has jurisdiction of this action under ORS 183.484, ORS 183.490, ORS 246.910, and
18 ORS 28.010, et seq.

19 5.

20 Venue for actions against Defendant under these statutes is in the Marion County Circuit Court.

21 6.

22 At the November 2, 2010, general election, Plaintiff PGP nominated and placed on the general
23 election ballot Michael Meo as a candidate for United States Congress in Oregon's Third
24 Congressional District. Candidate Meo received 6197 votes.

25 7.

26 One percent of the total of the vote for all candidates for Presidential elector in the Third

1 Congressional District in the November 2, 2010, general election was 3644 votes.

2 8.

3 At the November 2, 2010, general election, Plaintiff PGP nominated and placed on the general
4 election ballot Mike Beilstein as a candidate for United States Congress in Oregon's Fourth
5 Congressional District. Candidate Beilstein received 5125 votes.

6 9.

7 One percent of the total of the vote for all candidates for Presidential elector in the Fourth
8 Congressional District in the November 22, 2010, general election was 3739 votes.

9 10.

10 At the November 2, 2010, general election, Plaintiff PGP nominated and placed on the general
11 election ballot Chris Lugo as a candidate for United States Congress in Oregon's Fifth
12 Congressional District. Candidate Lugo received 7557 votes.

13 11.

14 One percent of the total of the vote for all candidates for Presidential elector in the Fifth
15 Congressional District in the November 2, 2010, general election was 3566 votes.

16 12.

17 The vote total for all candidates for Governor at the most recent election at which a candidate
18 for Governor was elected to a full term was 1,453,548.

19 13.

20 One-tenth of one percent of the total votes for all candidates for Governor at the most recent
21 election at which a candidate for Governor was elected to a full term equals 1454.

22 14.

23 The PGP currently has 8632 registered voters enrolled as party members.

24 15.

25 On behalf of the Secretary and in response to a verbal request from Plaintiff Woolley, Stephen
26 N. Trout, the Director of Elections, sent an email to Plaintiff Woolley, on April 30, 2012, which

1 included an attachment of a letter to Mr. Trout from the Oregon Department of Justice (DOJ)
2 (Exhibit 1) written in response to a request from Mr. Trout. Mr. Trout and the Secretary have
3 adopted the DOJ position stated in this letter as their position. The Secretary's position is that
4 she will not recognize the qualifying votes received by the PGP candidate for Oregon Secretary
5 of State in 2008 and the qualifying votes received by PGP candidates for United States
6 Congress in 2010 as sufficient to maintain the Pacific Green Party of Oregon's right to place
7 candidates on the November 6, 2012, general election ballot.

8
9 FIRST CLAIM FOR RELIEF
(Declaratory Judgment)

10 Count 1
11 (The PGP is a statewide ballot qualified political party)

12 16.

13 Plaintiffs reallege paragraphs 1 through 15, above, as though fully set forth herein.

14 17.

15 ORS 248.008 determines how "minor" political parties initially qualify to place candidates on the
16 general election ballot and how minor political parties maintain and lose this ability.

17 (a) After a party initially qualifies for the ballot, there are two ways to maintain the ability to place
18 candidates on the ballot—known as "ballot access." ORS 248.008(4)(a) and ORS
19 248.008(4)(b).

20 (b) The first method requires a combination of membership registration levels, determined by
21 voter registration, and of votes cast for party candidates. ORS 248.008(4)(a).

22 (c) The required membership number is determined by ORS 248.008(4)(a)(A):

23 Following each general election, at any time during the period beginning on the date of the
24 next primary election and ending on the 90th day before the next general election, a number
25 of electors equal to at least one-tenth of one percent of the total votes cast in the state or
26 electoral district for all candidates for Governor at the most recent election at which a
candidate for Governor was elected to a full term must be registered as members of the party;

///
///

2 The PGP qualifies as a minor political party eligible to run candidates in the November 6, 2012,
3 general election under ORS 248.008(4)(a).

4 (a) First, ORS 248.008(4)(a)(A) requires that the party have a number of registered members
5 "equal to at least one tenth of one percent of the total votes cast in the state or electoral district
6 for all candidates for Governor at the most recent election at which a candidate for Governor
7 was elected to a full term." That minimum required number of members is 1,454, which is
8 exceeded by the current membership of PGP.

9 (b) Second, ORS 248.008(4)(a)(B) requires that: "A candidate or candidates of the party must
10 poll a number of votes described in subsection (1)(b) of this section at each subsequent general
11 election." The "number of votes described in subsection (1)(b)" is ORS 248.008(1)(b):

12 (b) When the affiliation of electors has polled for any one of its candidates for any
13 public office in the electoral district at least one percent of the total votes cast in the electoral
14 district for all candidates for:

14 (A) Presidential elector at the last general election at which candidates for
15 President and Vice President of the United States were listed on the ballot; or

15 (B) Any single state office to be voted upon in the state at large for which
16 nominations by political parties are permitted by law at the most recent election at which a
17 candidate for the office was elected to a full term.

17 (c) PGP currently meets the requirement for the "number of votes described in subsection
18 (1)(b)." In 2008, PGP candidate for Secretary of State, Seth Woolley, received 2.99% of the
19 votes cast for Secretary of State. In 2008, PGP candidate for Attorney General, Walt Brown,
20 received 5.09% of the votes cast for Attorney General. The 2008 election was "the most recent
21 election at which a candidate for the office [Secretary of State or Attorney General] was elected
22 to a full term." ORS 248.008(1)(b)(B) does not say "at the most recent election at which any
23 statewide candidate was elected to a full term." It specifically refers to "Any single state office"
24 and "the most recent election at which a candidate for the office was elected to a full term."

25
26 By refusing to acknowledge these qualifying acts and recognize the PGP as a party eligible to

1 place candidates on the November 6, 2012, general election ballot, the Secretary is in violation
2 of her duty as the "chief elections officer of this state," ORS 246.110, and is infringing on
3 Plaintiffs' right of association as guaranteed by the First Amendment and Fourteenth
4 Amendment of the United States Constitution.

5 20.

6 Pursuant to ORS 248.008, ORS 246.110, ORS 28.010, ORS 28.020, ORS 28.050, ORS
7 183.484, ORS 183.486 and ORS 246.910, Plaintiffs Woolley and PGP are entitled to, and
8 hereby seek, a declaration that the PGP is qualified and eligible to place candidates statewide
9 on the November 6, 2012, general election ballot.

10 21.

11 Plaintiffs Woolley and PGP have brought this claim to vindicate their rights and the rights of all
12 Oregonians, in accordance with the requirements of the Oregon and United States constitutions,
13 and not for any personal or pecuniary gain or profit.

14 Count 2

15 (The PGP is a ballot qualified political party
16 in the Third, Fourth and Fifth Congressional Districts)

17 22.

18 Plaintiffs reallege paragraphs 1 through 18, above, as though fully set forth herein.

19 23.

20 ORS 248.008(1) specifically provides that an affiliation of electors may qualify as a political party
21 "in the state, a county or other electoral district...and in any other electoral district wholly
22 contained within the electoral district."

23 24.

24 The PGP placed candidates on the 2010 general election ballot for U.S. Congress in the First,
25 Third, Fourth and Fifth Congressional Districts.

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25.

Each PGP congressional candidate in the Third, Fourth and Fifth Congressional Districts received more than 1% of the votes cast for Presidential electors in each of their respective congressional districts.

26.

In 1998, the Socialist Party was ballot qualified statewide in Oregon. The Socialist Party failed to earn 1% for a statewide candidate and ceased to exist as a statewide political party.

27.

In 1998, the Socialist Party candidates for U.S. Congress received over 1% of the vote in the Second, Third and Fourth Congressional Districts.

28.

In 2000, the Socialist Party nominated candidates for U.S. Congress for the Third and Fourth Congressional Districts. The Socialist Party did not nominate a candidate for U.S. Congress in the Second Congressional District.

29.

In 2000, on the basis of the candidates for the Socialist Party earning over 1% of the vote in the Third and Fourth Congressional Districts in 1998, the Secretary qualified the Socialist Party as a minor political party in the Third and Fourth Congressional Districts and placed the candidates of the Socialist Party on the general election ballot.

30.

In 2000, candidates for the Socialist Party earned over 1% of the vote in the Third and Fourth Congressional Districts.

31.

In 2002, the Socialist Party nominated a candidate for U.S. Congress for the Third Congressional District. The Socialist Party did not nominate a candidate for U.S. Congress in the Fourth Congressional District.

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32.

In 2002, on the basis of the candidate for the Socialist Party earning over 1% of the vote in the Third Congressional Districts in 2000, the Secretary qualified the Socialist Party as a minor political party in the Third Congressional Districts and placed the candidate of the Socialist Party on the 2002 general election ballot.

33.

In 2002, the candidate for the Socialist Party earned over 1% of the vote in the Third Congressional District.

34.

In 2004, the Socialist Party nominated a candidate for U.S. Congress for the Third Congressional District.

35.

In 2004, on the basis of the candidate for the Socialist Party earning over 1% of the vote in the Third Congressional Districts in 2002, the Secretary qualified the Socialist Party as a minor political party in the Third Congressional Districts and placed the candidate of the Socialist Party on the 2004 general election ballot.

36.

The Socialist Party did not nominate any candidates in the Third Congressional District after 2004.

37.

The portion of Oregon's ballot access laws which determine that a political party may qualify as a political party "in the state, a county or other electoral district...and in any other electoral district wholly contained within the electoral district[]" have not changed substantively since 1998.

38.

By refusing to acknowledge the qualifying acts and recognize the PGP as a party eligible to

1 place candidates on the November 6, 2012, general election ballot in the Third, Fourth and Fifth
2 Congressional Districts, the Secretary is in violation of her duty as the chief elections officer of
3 this state “to obtain and maintain uniformity in the application, operation and interpretation of the
4 election laws.” ORS 246.110.

5 39.

6 By applying one set of standards to one political party and yet another set to another party, the
7 Secretary is acting inconsistently with prior agency practice and has not explained this
8 inconsistency. ORS 183.484(5)(b)(A).

9 40.

10 By applying one set of standards to one political party and yet another set to another party, the
11 Secretary is applying the law in an arbitrary, capricious, unfair, anti-democratic and inequitable
12 manner contrary to the Oregon Constitution, Article II, Section 1; Article I, Section 20; and the
13 First Amendment and Fourteenth Amendment of the United States Constitution.

14 41.

15 Pursuant to ORS 248.008, ORS 246.110, ORS 28.010, ORS 28.020, ORS 28.050, ORS
16 183.484, ORS 183.486, ORS 246.910, the Oregon Constitution, Article II, Section 1, and Article
17 I, Section 20, and the First Amendment and Fourteenth Amendment of the United States
18 Constitution, Plaintiffs Woolley and PGP are entitled to, and hereby seek, a declaration that the
19 PGP is qualified and eligible to place candidates on the November 6, 2012, general election
20 ballot in the Third, Fourth and Fifth Congressional Districts and in any other electoral district
21 wholly contained within these electoral districts.

22 42.

23 Plaintiffs Woolley and PGP have brought this claim to vindicate their rights and the rights of all
24 Oregonians, in accordance with the requirements of the Oregon and United States constitutions,
25 and not for any personal or pecuniary gain or profit.

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2 SECOND CLAIM FOR RELIEF
(Injunctive Relief)

3 Count 1
4 (The PGP is a statewide ballot qualified political party)

5 43.

6 Plaintiffs reallege paragraphs 1 through 21, above, as though fully set forth herein.

7 44.

8 Plaintiffs and other Oregon residents and electors are irreparably harmed by Defendants' refusal
9 to acknowledge and place qualified and eligible candidates of the PGP on the November 6,
10 2012, general election ballot.

11 45.

12 Plaintiffs and other Oregon residents and electors are harmed by not being able to exercise the
13 right to associate with, support and vote for candidates of their choosing.

14 46.

15 The Secretary's failure to follow the law and acknowledge the ballot-qualified status of Plaintiff
16 PGP harms the PGP by vastly restricting the party's ability to recruit candidates, raise funds and
17 to organize timely campaigns in support of the party's candidates and principles.

18 47.

19 The Secretary's failure to follow the law and acknowledge the ballot-qualified status of Plaintiff
20 PGP harms Plaintiff Woolley by denying Plaintiff Woolley a place on the general election ballot
21 and by vastly restricting Plaintiff's ability to participate in debates, raise funds and to organize a
22 timely campaign in support of Plaintiff Woolley's positions and principles.

23 48.

24 Pursuant to ORS 28.080 et seq., ORS 183.484, ORS 183.486, ORS 183.490, and ORS
25 246.910, Plaintiffs are entitled to, and hereby seek, an order directing Defendant to place all
26 properly nominated candidates of the PGP on the November 6, 2012, general election ballot.

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49.

Plaintiffs have no adequate remedy at law for the injuries complained of.

50.

Plaintiffs have brought this claim to vindicate their rights and the rights of all Oregonians, in accordance with the requirements of the Oregon and United States constitutions, and not for any personal or pecuniary gain or profit.

Count 2

(The PGP is a ballot qualified political party
in the Third, Fourth and Fifth Congressional Districts)

51.

Plaintiffs reallege paragraphs 1 through 18, and 23 through 42, above, as though fully set forth herein.

52.

Plaintiffs and other Oregon residents and electors are irreparably harmed by Defendant's refusal to acknowledge and place qualified and eligible candidates of the PGP in the Third, Fourth and Fifth Congressional Districts, and in any other electoral district wholly contained within these electoral districts, on the November 6, 2012, general election ballot.

53.

Plaintiffs and other Oregon residents and electors are harmed by not being able to exercise the right to associate with, support and vote for candidates of their choosing in the Third, Fourth and Fifth Congressional Districts, and in any other electoral district wholly contained within these electoral districts.

54.

The Secretary's failure to follow the law and acknowledge the ballot-qualified status of Plaintiff PGP in the Third, Fourth and Fifth Congressional Districts harms the PGP by vastly restricting the party's ability to recruit candidates in the Third, Fourth and Fifth Congressional Districts, and

1 in any other electoral district wholly contained within these electoral districts, and to raise funds
2 and to organize campaigns in support of the party's candidates and principles in these electoral
3 districts.

4 55.

5 The Secretary's failure to follow the law and acknowledge the ballot-qualified status of Plaintiff
6 PGP in the Third, Fourth and Fifth Congressional Districts, and in any other electoral district
7 wholly contained within these electoral districts, harms Plaintiff Woolley by denying Plaintiff
8 Woolley a place on the general election ballot in the Third, Fourth and Fifth Congressional
9 Districts and by vastly restricting Plaintiff's ability to participate in debates, raise funds and to
10 organize a campaign in support of Plaintiff Woolley's positions and principles in these electoral
11 districts.

12 56.

13 Pursuant to ORS 28.080, et seq., ORS 183.484, ORS 183.486, ORS 183.490, and ORS
14 246.910, Plaintiffs are entitled to, and hereby seek, an order directing Defendants to place all
15 properly nominated candidates of the PGP in the Third, Fourth and Fifth Congressional Districts,
16 and in any other electoral district wholly contained within these electoral districts, on the
17 November 6, 2012, general election ballot.

18 57.

19 Plaintiffs have no adequate remedy at law for the injuries complained of.

20 58.

21 Plaintiffs have brought this claim to vindicate their rights and the rights of all Oregonians, in
22 accordance with the requirements of the Oregon and United States constitutions, and not for
23 any personal or pecuniary gain or profit.

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1 WHEREFORE, Plaintiffs pray for a judgment:

2 (a) Declaring that:

3 1. The PGP is a ballot qualified Oregon political party statewide pursuant to ORS
4 248.008(4)(a).

5 2. In the alternative, declaring that the PGP is a ballot qualified Oregon political party in
6 the Third, Fourth and Fifth Congressional Districts, and in any other electoral district wholly
7 contained within these electoral districts, pursuant to ORS 248.008(4)(a) and/or ORS
8 248.008(1)(b).

9 (b) Ordering:

10 1. Defendant to place all properly nominated candidates of the PGP on the November 6,
11 2012, general election ballot.

12 2. In the alternative, ordering Defendant to place all properly nominated candidates of
13 the PGP in the Third, Fourth and Fifth Congressional Districts, and in any other electoral district
14 wholly contained within these electoral districts, on the November 6, 2012, general election
15 ballot.

16 (c) Awarding Plaintiffs their reasonable attorney fees and costs pursuant to:

17 (1) ORS 183.486, ORS 183.497, ORS 20.105(1), ORS 20.120, and/or ORS 20.190.

18 (2) *Deras v. Myers*, 272 Or 47 (1975); *Armatta v. Kitzhaber*, 327 Or 250 (1998); *Lehman*
19 *v. Bradbury*, 334 Or 579, 583 (2002); *Swett v. Bradbury*, 335 Or 378 (2003).

20 (3) *Coastal Management, Inc. v. Washington County*, 159 Or App 533 (1999); *Jansen v.*
21 *Atiyeh*, 87 Or App 617 (1987), *opinion modified on reconsideration* 89 Or App 557 (1988),
22 *review denied* 305 Or 576 (1988); *Umrein v. Heimbigner*, 53 Or App 871 (1981); *Williams v. City*
23 *of Astoria*, 43 Or App 745 (1979); and *Gettings v. City of Elgin*, 16 Or App 140 (1974).

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1 (d) Granting such other relief the Court deems just and equitable.

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DATED this 23rd day of May, 2012.

Respectfully submitted,

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Attorney for Plaintiffs

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