

1 ROSS A DAY Oregon State Bar ID Number: 002395
Internet E-mail Address: ross@oia.org
2 OREGONIANS IN ACTION LEGAL CENTER
P.O. Box 230637
3 Tigard, Oregon 97281-0637
8255 SW Hunziker Road, #200
4 Tigard, Oregon 97223-2318
Telephone Number: 503.620.0258
5 Facsimile Number: 503.639.6891
Attorney(s) for Plaintiffs Dean Grudzinski, O. Keith Cyrus, David Olson and Stop Taking Our
6 Property Political Action Committee

7
8 UNITED STATES DISTRICT COURT
9 DISTRICT OF OREGON

10 DEAN GRUDZINSKI, O. KEITH CYRUS,
11 DAVID OLSON, STOP TAKING OUR
PROPERTY POLITICAL ACTION
12 COMMITTEE, an Oregon non-profit political
action committee,

13 Plaintiffs,

CV. _____

14 v.

15 BILL BRADBURY, in his official capacity as the
Secretary of State of Oregon, TAMARA J.
16 GREEN, in her official capacity as Baker County
Clerk, JAMES MORALES, in his official capacity
17 as Manager of Records/Elections, Benton County,
SHERRY HALL, in her official capacity as
18 Clackamas County Clerk, Elections Division,
NICOLE WILLIAMS, in her official capacity as
19 Clatsop County Clerk, ELIZABETH HUSER, in
her official capacity as Columbia County Clerk,
20 TERRI TURI, in her official capacity as Coos
County Clerk, DEANNA BERMAN, in her official
21 capacity as Crook County Clerk, RENEE KOLEN,
in her official capacity as Curry County Clerk,
22 NANCY BLANKENSHIP, in her official capacity
as Deschutes County Clerk, BARBARA
23 NIELSEN, in her official capacity as Douglas
County Clerk, RENA KENNEDY, in her official
24 capacity as Gilliam County Clerk, KATHY
MCKINNON, in her official capacity as Grant
25 County Clerk, MARIA ITURRIAGA, in her
official capacity as Harney County Clerk,
26 SANDRA BERRY, in her official capacity as

COMPLAINT
(Complaint for Declaratory Relief, 28
U.S.C. §2201; Complaint for Civil
Rights Violations, Injunctive Relief,
and Attorney Fees, 42 *U.S.C. §1983*, 42
U.S.C. §1988)

DEMAND FOR JURY TRIAL

OREGONIANS IN ACTION LEGAL CENTER

P O Box 230637
8255 SW Hunziker Rd., #200
Tigard, OR 97223
Telephone: (503) 620-0258
FAX: (503) 639-6891

1 Director, Records/Assessment, Hood River
2 County, KATHY BECKET, in her official capacity
3 as Jackson County Clerk, KATHY MARSTON, in
4 her official capacity as Jefferson County Clerk,
5 GEORGETTE BROWN, in her official capacity as
6 Josephine County Clerk, LINDA SMITH, in her
7 official capacity as Klamath County Clerk,
8 STACIE GEANEY, in her official capacity as Lake
9 County Clerk, ANNETTE NEWINGHAM, in her
10 official capacity as Chief Deputy County Clerk for
11 Lane County, DANA JENKINS, in her official
12 capacity as Lincoln County Clerk, STEVEN
13 DRUCKENMILLER, in his official capacity as
14 Linn County Clerk, DEBORAH R. DELONG, in
15 her official capacity as Malheur County Clerk,
16 BILL BURGESS, in his official capacity as Marion
17 County Clerk, BOBBI CHILDERS, in her official
18 capacity as Morrow County Clerk, JOHN
19 KAUFFMAN, in his official capacity as Director
20 of Elections for Multnomah County, VALERIE
21 UNGER, in her official capacity as Polk County
22 Clerk, LINDA CORNIE, in her official capacity as
23 Sherman County Clerk, TASSI O'NEIL, in her
24 official capacity as Tillamook County Clerk,
25 PATTI CHAPMAN, in her official capacity as
26 Director of Elections, Umatilla County, ROBIN
CHURCH, in her official capacity as Union
County Clerk, DANA ROBERTS, in her official
capacity as Wallowa County Clerk, KAREN
LEBRETON COATS, in her official capacity as
Wasco County Clerk, MICKIE KAWAI, in her
official capacity as Manager of the Elections
Division of Washington County, BARBARA S.
SITTON, in her official capacity as Wheeler
County Clerk, JAN COLEMAN, in her official
capacity as Yamhill County Clerk

Defendants.

20

21 Plaintiffs allege:

22 I. INTRODUCTION

23

1.

24

25

26

Oregon has a proud and deserved reputation for being a leader when it comes to citizen participation in their government. As a matter of fact, Oregon adopted the country's first initiative, referendum and recall system which allows the citizens of Oregon to act on their

OREGONIANS IN ACTION LEGAL CENTER

P O Box 230637
8255 SW Hunziker Rd., #200
Tigard, OR 97223
Telephone: (503) 620-0258
FAX: (503) 639-6891

1 own as legislators and adopt or reject measures on the ballot, or recall public officials whom the
2 public feels to have lost the ability to perform the duties of public office.

3 2.

4 Oregon's initiative and referendum system has allowed the citizens of Oregon to make
5 sweeping changes in public policy that Oregon's legislature could not, or would not, make.
6 Women's suffrage, property tax relief, protecting the rights of victims of violent crimes, and the
7 protection of private property rights are all changes instituted by the people of the state of
8 Oregon.

9 3.

10 Oregon's initiative and referendum process is cherished by the citizens of Oregon.
11 Oregonians jealously guard the initiative and referendum, protecting the initiative and
12 referendum from insidious attempts to manipulate, distort and prejudice the process. In other
13 words, Oregonians demand that initiatives and referenda be presented to the voters in a fair,
14 evenhanded and objective manner.

15 4.

16 To that end, the people, through their elected representatives in the Oregon Legislative
17 Assembly, created a process to inform the voters of the subject matter of an initiative or
18 referendum measure through the use of a ballot title, explanatory statement and fiscal impact
19 statement. The procedures for adopting a ballot title, explanatory statement and fiscal impact
20 statement are predictably open, transparent, and designed to craft statements that are unbiased,
21 evenhanded and factually accurate.

22 5.

23 This action challenges the constitutionality of a ballot title, explanatory statement and
24 fiscal impact statement, each of which were drafted and adopted by the Oregon Legislature in
25 2007. The ballot title, explanatory statement and fiscal impact statements drafted by the Oregon
26 Legislature which are the subject of this action are factually inaccurate, unfair, and underhanded.

1 The ballot title, explanatory statement and fiscal impact statements which give rise to this action
2 not only violate the basic constitutional due process rights of all Oregonians, but these statements
3 also violate the trust and traditions of Oregon's initiative and referendum system.

4 II. PARTIES

5 6.

6 Plaintiff Dean Grudzinski is a resident of Clark County, Washington. Grudzinski owns
7 property in Multnomah County, Oregon, and has filed a demand for compensation pursuant to
8 ORS 197.352.

9 7.

10 Plaintiff O. Keith Cyrus is a resident of Deschutes County, Oregon and an Oregon elector.
11 Plaintiff Cyrus owns property in Deschutes County, Oregon, and has filed a demand for
12 compensation pursuant to ORS 197.352.

13 8.

14 Plaintiff David Olson is a resident of Marion County, Oregon and an Oregon elector.
15 Plaintiff Olson owns property in Marion County, Oregon, and has filed a demand for
16 compensation pursuant to ORS 197.352.

17 9.

18 Plaintiff Stop Taking Our Property Political Action Committee is an unincorporated
19 political action committee organized under the laws of the state of Oregon. Plaintiff Stop Taking
20 Our Property Political Action Committee was created and organized for the purpose of
21 campaigning for the defeat of Oregon Ballot Measure 49 (2007). Supporters of Plaintiff Stop
22 Taking Our Property Political Action Committee share a common purpose of protecting property
23 rights in Oregon by working to defeat Oregon Ballot Measure 49 (2007).

24 10.

25 Defendant Bill Bradbury is the Secretary of State of the State of Oregon, whose principal
26 office is located in Salem, Marion County, Oregon. Pursuant to ORS 246.110, Defendant

1 Bradbury is the chief elections officer, most solemnly sworn to uphold the laws and Constitutions
2 of the State of Oregon and the United States, and under a solemn and statutory duty pursuant to
3 ORS 246.110 to protect and extend the franchise to vote.

4 11.

5 Defendant Tamara J. Green is the Baker County Clerk, whose principal office is located
6 in Baker City, Oregon. Defendant Green is the chief elections officer for Baker County in charge
7 of elections.

8 12.

9 Defendant James Morales is the Manager of Records/Elections for Benton County, whose
10 principal office is located in Corvallis, Oregon. Defendant Morales is the chief elections officer
11 for Benton County in charge of elections.

12 13.

13 Defendant Sherry Hall is the Clackamas County Clerk whose principal office is located in
14 Gladstone, Oregon. Defendant Hall is the chief elections officer for Clackamas County in charge
15 of elections.

16 14.

17 Defendant Nicole Williams is the Clatsop County Clerk, whose principal office is located
18 in Astoria, Oregon. Defendant Williams is the chief elections officer for Clatsop County in
19 charge of elections.

20 15.

21 Defendant Elizabeth Huser is the Columbia County Clerk, whose principal office is
22 located in St. Helens, Oregon. Defendant Huser is the chief elections officer for Columbia
23 County in charge of elections.

24 ////

25 ////

26 ////

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

16.

Defendant Terri Turi is the Coos County Clerk, whose principal office is located in Coquille, Oregon. Defendant Turi is the chief elections officer for Coos County in charge of elections

17.

Defendant Deanna Berman is the Crook County Clerk, whose principal office is located in Prineville, Oregon. Defendant Berman is the chief elections officer for Crook County in charge of elections.

18.

Defendant Renee Kolen is the Curry County Clerk, whose principal office is located in Gold Beach, Oregon. Defendant Kolen is the chief elections officer for Curry County in charge of elections.

19.

Defendant Nancy Blankenship is the Deschutes County Clerk, whose principal office is located in Bend, Oregon. Defendant Blankenship is the chief elections officer for Deschutes County in charge of elections.

20.

Defendant Barbara Nielsen is the Douglas County Clerk, whose principal office is located in Roseburg, Oregon. Defendant Nielsen is the chief elections officer for Douglas County in charge of elections.

21.

Defendant Rena Kennedy is the Gilliam County Clerk, whose principal office is located in Condon, Oregon. Defendant Kennedy is the chief elections officer for Gilliam County in charge of elections.

///
///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

22.

Defendant Kathy McKinnon is the Grant County Clerk, whose principal office is located in John Day, Oregon. Defendant McKinnon is the chief elections officer for Grant County in charge of elections.

23.

Defendant Maria Iturriaga is the Harney County Clerk, whose principal office is located in Burns, Oregon. Defendant Iturriaga is the chief elections officer for Harney County in charge of elections.

24.

Defendant Sandra Berry is the Director, Records/Assessment, Hood River County, whose principal office is located in Hood River, Oregon. Defendant Berry is the chief elections officer for Hood River County in charge of elections.

25.

Defendant Kathy Becket is the Jackson County Clerk, whose principal office is located in Medford, Oregon. Defendant Becket is the chief elections officer for Jackson County in charge of elections.

26.

Defendant Kathy Marston is the Jefferson County Clerk, whose principal office is located in Madras, Oregon. Defendant Marston is the chief elections officer for Jefferson County in charge of elections.

27.

Defendant Georgette Brown is the Josephine County Clerk, whose principal office is located in Grants Pass, Oregon. Defendant Brown is the chief elections officer for Josephine County in charge of elections.

///
///

1 46.

2 Defendant Jan Coleman is the Yamhill County Clerk, whose principal office is located in
3 McMinnville, Oregon. Defendant Coleman is the chief elections officer for Yamhill County in
4 charge of elections.

5 **III. STATEMENT OF VENUE**

6 47.

7 Venue in this Court is proper under 28 U.S.C. § 1391(b)(1) and (2) because Defendant
8 Bradbury's principal office is located in Marion County, in the Federal Judicial District of
9 Oregon, Eugene Division, and because a substantial part of the events giving rise to the claim
10 occurred in the Federal Judicial District of Oregon, Eugene Division.

11 **IV. STATEMENT OF SUBJECT-MATTER AND PERSONAL JURISDICTION**

12 48.

13 This Court has subject-matter jurisdiction over this action under 28 U.S.C. § 1331
14 (federal question), 28 U.S.C. §1332 (diversity jurisdiction), and 28 U.S.C. §1343
15 (constitutionally protected rights), and 28 U.S.C. §§ 2201-02 (declaratory judgment and
16 injunctive relief).

17 49.

18 Each Plaintiff stands to be personally and uniquely harmed if the Defendants are not
19 enjoined from printing the ballot title, financial impact statement and explanatory statement
20 prepared by the Oregon Legislative Assembly as contained in House Bill 2640A. To wit:

- 21 (a) Plaintiff Grudzinski has made a demand for compensation upon the city of
22 Portland for the loss of the fair market value of his property as a result of
23 restrictions on the use of his property. Because the city of Portland has not
24 created a separate fund to pay Grudzinski's demand, Grudzinski will have his
25 right to use his property restored. The ballot title, financial impact statement and
26 explanatory statement for Measure 49 both purportedly inform the voter that

1 claimants such as Grudzinski will still be eligible for relief under Measure 49.
2 The patently false statements in the ballot title, financial impact statement and
3 explanatory statement are nothing short of biased campaign slogans designed to
4 persuade the voters to approve Measure 49. In fact, if Measure 49 is approved,
5 Grudzinski will lose the rights restored by Measure 37, causing Grudzinski's
6 property to lose value.

7 (b) Plaintiff Cyrus has made a demand for compensation upon Deschutes County for
8 the loss of the fair market value of his property as a result of restrictions on the
9 use of his property. Deschutes County has approved Cyrus' demand for
10 compensation, and in lieu of compensation, Deschutes County has agreed to
11 remove land use restrictions which caused a decrease in the fair market value of
12 Cyrus' property. The ballot title, financial impact statement and explanatory
13 statement for Measure 49 both purportedly inform the voter that claimants such as
14 Cyrus will still be eligible for relief under Measure 49. The patently false
15 statements in the ballot title, financial impact statement and explanatory statement
16 are nothing short of biased campaign slogans designed to persuade the voters to
17 approve Measure 49. In fact, if Measure 49 is approved, Cyrus will lose the rights
18 restored by Measure 37, causing Cyrus' property to lose value.

19 In addition, as a registered Oregon voter, the ballot title, financial impact
20 statement and explanatory statement violate Cyrus' basic due process rights by
21 depriving him of the right to be free from patently and fundamentally unfair ballot
22 language.

23 (c) Plaintiff Olson has made a demand for compensation upon Marion County and the
24 state of Oregon for the loss of the fair market value of his property as a result of
25 restrictions on the use of his property. Marion County approved Olson's demand
26 for compensation, and in lieu of compensation, Marion County has agreed to

1 remove land use restrictions which caused a decrease in the fair market value of
2 Cyrus' property. The state of Oregon denied Olson's claim, but a Marion County
3 Circuit Court reversed and held that Olson has a valid Measure 37 claim. The
4 ballot title, financial impact statement and explanatory statement for Measure 49
5 both purportedly inform the voter that claimants such as Olson will still be
6 eligible for relief under Measure 49. The patently false statements in the ballot
7 title, financial impact statement and explanatory statement are nothing short of
8 biased campaign slogans designed to persuade the voters to approve Measure 49.
9 In fact, if Measure 49 is approved, Olson will lose the rights restored by Measure
10 37, causing Olson's property to lose value.

11 In addition, as a registered Oregon voter, the ballot title, financial impact
12 statement and explanatory statement violate Olson's basic due process rights by
13 depriving him of the right to be free from patently and fundamentally unfair ballot
14 language.

15 (d) Plaintiff Stop Taking Our Property Political Action Committee (herein "STOP
16 PAC") is a committee supported by, and representing the interests of, Oregonians
17 who stand to suffer irreparable harm should Ballot Measure 49 (2007) be
18 approved by the voters. The patently false statements in the ballot title, financial
19 impact statement and explanatory statement for Ballot Measure 49 (2007) are
20 nothing short of biased campaign slogans designed to persuade the voters to
21 approve Measure 49, and will cause STOP PAC to spend considerable sums of
22 money it would not otherwise be required to spend in order to defeat Measure 49.
23 In particular, in response to the patently and fundamentally unfair statements
24 contained in the ballot title, explanatory statement and financial impact statement,
25 STOP PAC has no other option but to spend money and time it would not
26 otherwise be required to spend informing the electorate of the biased and

1 inaccurate nature of the ballot title, financial impact statement, and explanatory
2 statement, and further informing and educating the public of the real harm
3 Measure 49 will cause to property owners in Oregon.

4 Further, the patently and fundamentally unfair ballot title, explanatory statement
5 and financial impact statement substantially frustrate and impair the purposes for
6 which STOP PAC is organized.

7 Finally, the patently and fundamentally unfair ballot title, explanatory statement
8 and financial impact statement violate the collective due process rights of STOP
9 PAC's supporters.

10 **V. FACTUAL ALLEGATIONS**

11 50.

12 On November 4th, 2004, the voters of Oregon approved Ballot Measure 37 (2004) (herein
13 "Measure 37"). Measure 37 received, at the time, the highest number of affirmative votes of any
14 initiative ever presented to the citizens of Oregon, garnering the support of 61% of the voters at
15 the November election.

16 51.

17 Oregon has a unique system of restricting the use of private real property. As a result of
18 this system of statewide centralized planning, many Oregon property owners lost the right to use
19 their property, causing many property owners to lose their retirement, or the ability to pass along
20 a piece of the family farm to their children and grandchildren.

21 52.

22 Measure 37, codified at ORS 197.352, restores the rights property owners had at the time
23 the property owner acquired the property. As a result of the approval of Measure 37, thousands
24 of Oregonians have taken substantial steps towards restoring the rights taken from them nearly
25 thirty years ago.

26 ////

1 53.

2 Although Measure 37 has helped thousands of Oregonians, the overall effect of Measure
3 37 on the Oregon landscape has been minimal. Measure 37 claims cover less than 1% of
4 Oregon’s total land area, and the bulk of the claims made seek permission to build 10 or fewer
5 homes.

6 **Ballot Titles, Explanatory Statements and Financial Impact Statements**

7 54.

8 Article IV, Section 1 of the Oregon Constitution reserves the initiative and referendum
9 power to the people of the state of Oregon. In this section of the constitution, the Oregon
10 Legislative Assembly is authorized to refer measures to the voters for their approval or rejection.
11 The Oregon Legislative Assembly is also free to set the date of the election on any measure
12 referred by the Oregon Legislative Assembly.

13 55.

14 Article IV, Section 1 of the Oregon Constitution also authorizes the Oregon Legislative
15 Assembly to adopt laws necessary to implement the initiative and referendum process. Pursuant
16 to this constitutional authority, various Oregon statutes regulate the method and manner in which
17 ballot titles, explanatory statements and financial impact statements are drafted, certified, and
18 presented to the voters.

19 56.

20 With regard to ballot titles, ORS Chapter 250 regulates the drafting and certification of
21 ballot titles. ORS 250.075 authorizes the Oregon Legislative Assembly to prepare a ballot title
22 for measures the Legislative Assembly refers to the voters for their approval or rejection. ORS
23 250.085 authorizes any elector, subject to certain conditions, to challenge the legal sufficiency of
24 a ballot title on direct review to the Oregon Supreme Court.

25 ////

26 ////

1 57.

2 A ballot title for an Oregon measure that appears on the ballot has three parts: a caption, a
3 results statements, and a summary. Each part of the ballot title is subject to certain word
4 limitations. However, each part of a ballot title must be a concise and impartial statement
5 summarizing the subject matter and major effect of the measure. A ballot title, or at least the
6 caption of the ballot title, is printed on the actual ballot where a voter will cast the vote. The
7 complete ballot title is also reprinted in the state of Oregon's Voters' Pamphlet.

8 58.

9 An explanatory statement is additional material intended to aid and inform the voter with
10 respect to a particular measure. An explanatory statement for a measure appears only in the state
11 of Oregon's Voters' Pamphlet. Oregon law requires an explanatory statement not be insufficient
12 or unclear.

13 59.

14 A financial impact statement is additional material intended to aid and inform the voter
15 with respect to a particular measure. The financial impact statement appears only in the Oregon
16 Voters' Pamphlet.

17 60.

18 In addition to the ballot title, explanatory statement and the financial impact statement,
19 the text of the proposed measure is also printed in the state of Oregon's Voters' Pamphlet. The
20 text of the proposed measure is not printed on the ballot.

21 61.

22 Oregon law allows an elector who believes a ballot title, explanatory statement or
23 financial impact statement does not comply with the law to challenge the ballot title, explanatory
24 statement or financial impact statement on direct review to the Oregon Supreme Court. The
25 purpose of allowing such review is to protect the people of Oregon from biased, unfair and/or
26 inaccurate information on a particular measure from being presented to the voters.

1 before the Oregon Supreme Court. Because of this prohibition, the Oregon Legislative Assembly
2 left the people of the state of Oregon with no opportunity to ensure the ballot title, financial
3 impact statement, and the explanatory statement for Measure 49 are fair and/or accurate.

4
5 **FIRST CLAIM FOR RELIEF**
6 Against All Defendants
7 *Declaratory Judgment - 28 U.S.C. §2201*
8 (Declaratory Relief)

9 67.

10 Plaintiffs reallege and incorporate by reference paragraphs 1 through 66 above.

11 68.

12 The ballot title, explanatory statement and financial impact statement for Measure 49, as
13 contained in HB 2640, are patently and fundamentally unfair, and the language is so misleading
14 that voters cannot fairly and accurately be informed as to what it is the voter is being asked to
15 vote for or against.

16 69.

17 Plaintiffs are entitled to a declaration that the ballot title, explanatory statement and
18 financial impact statement for Measure 49 violates the Plaintiffs' right to due process guaranteed
19 by the 14th Amendment to the United States Constitution.

20 **SECOND CLAIM FOR RELIEF**

21 Count I
22 Against Defendant Bradbury
23 *Violation of Federal Civil Rights — 42 U.S.C. § 1983*
24 (Injunctive Relief; Attorneys' Fees)

25 70.

26 Plaintiffs reallege and incorporate by reference paragraphs 1 through 66, 68 and 69 above.

////

////

////

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

71.

Defendant Bradbury, while acting under color of State law, is responsible for causing to be printed in the Oregon Voters’ Pamphlet the ballot title, explanatory statement and financial impact statement for Measure 49.

72.

Defendant Bradbury, while acting under color of State law, is also responsible for sending a certified statement to the elections official in charge of elections for each of the 36 counties in Oregon notifying each official of the ballot title for Measure 49.

73.

The conduct of Defendant Bradbury, under color of state law, will continue to deprive Plaintiffs the rights, privileges and immunities secured by the United States Constitution and the laws of the United States—specifically, Plaintiffs’ constitutional right to due process under the law.

74.

Plaintiffs seek an injunction prohibiting Defendant Bradbury from causing to be printed in the Oregon Voters’ Pamphlet the ballot title, explanatory statement and financial impact statement for Measure 49 and prohibiting Defendant Bradbury from sending a certified statement to the elections official in charge of elections for each of the 36 counties in Oregon notifying each official of the ballot title for Measure 49.

75.

If successful in this claim for relief, the Plaintiffs are entitled to attorneys’ fees pursuant to 42 U.S.C. § 1988.

///
///
///
///

1 **Second Claim for relief (cont.)**

2 Count II

3 Against Defendants Green, Morales, Hall, Williams, Huser, Turi, Berman, Kolen, Blankenship,
4 Nielsen, Kennedy, McKinnon, Iturriaga, Berry, Becket, Marston, Brown, Smith, Geaney,
5 Newingham, Jenkins, Druckenmiller, DeLong, Burgess, Childers, Kauffman, Unger, Cornie,
6 O'Neil, Chapman, Church, Roberts, LeBreton Coats, Kawai, Sitton, Coleman

7 *Violation of Federal Civil Rights — 42 U.S.C. § 1983*
8 (Injunctive Relief; Attorneys' Fees)

9 76.

10 Plaintiffs reallege and incorporate by reference paragraphs 1 through 66, 68 and 69 above.

11 77.

12 Defendants Green, Morales, Hall, Williams, Huser, Turi, Berman, Kolen, Blankenship,
13 Nielsen, Kennedy, McKinnon, Iturriaga, Berry, Becket, Marston, Brown, Smith, Geaney,
14 Newingham, Jenkins, Druckenmiller, DeLong, Burgess, Childers, Kauffman, Unger, Cornie,
15 O'Neil, Chapman, Church, Roberts, LeBreton Coats, Kawai, Sitton, Coleman, while acting under
16 color of State law, are responsible for causing to be printed on the ballot the ballot title for
17 Measure 49.

18 78.

19 The conduct of Defendants Green, Morales, Hall, Williams, Huser, Turi, Berman, Kolen,
20 Blankenship, Nielsen, Kennedy, McKinnon, Iturriaga, Berry, Becket, Marston, Brown, Smith,
21 Geaney, Newingham, Jenkins, Druckenmiller, DeLong, Burgess, Childers, Kauffman, Unger,
22 Cornie, O'Neil, Chapman, Church, Roberts, LeBreton Coats, Kawai, Sitton, Coleman, under
23 color of state law, will continue to deprive Plaintiffs the rights, privileges and immunities secured
24 by the United States Constitution and the laws of the United States—specifically, Plaintiffs'
25 constitutional right to due process under the law.

26 ////

////

////

1
2 Plaintiffs seek an injunction prohibiting Defendants Green, Morales, Hall, Williams,
3 Huser, Turi, Berman, Kolen, Blankenship, Nielsen, Kennedy, McKinnon, Iturriaga, Berry,
4 Becket, Marston, Brown, Smith, Geaney, Newingham, Jenkins, Druckenmiller DeLong,
5 Burgess, Childers, Kauffman, Unger, Cornie, O'Neil, Chapman, Church, Roberts, LeBreton
6 Coats, Kawai, Sitton, Coleman from causing to be printed on any ballot for the November 2nd,
7 2007 special election the ballot title for Measure 49.

8
9 **WHEREFORE**, Plaintiffs pray for judgment against Defendants as follows:

- 10 1. For a declaration that the ballot title, explanatory statement and financial impact
- 11 statement for Measure 49 violates the Plaintiffs' right to due process guaranteed
- 12 by the 14th Amendment to the United States Constitution;
- 13 2. On the Second Claim for Relief, Count I, an injunction prohibiting Defendant
- 14 Bradbury from causing to be printed in the Oregon Voters' Pamphlet the ballot
- 15 title, explanatory statement and financial impact statement for Measure 49 and
- 16 prohibiting Defendant Bradbury from sending a certified statement to the elections
- 17 official in charge of elections for each of the 36 counties in Oregon notifying each
- 18 official of the ballot title for Measure 49;
- 19 3. On the Second Claim for Relief, Count II, an injunction prohibiting Defendants
- 20 Green, Morales, Hall, Williams, Huser, Turi, Berman, Kolen, Blankenship,
- 21 Nielsen, Kennedy, McKinnon, Iturriaga, Berry, Becket, Marston, Brown, Smith,
- 22 Geaney, Newingham, Jenkins, Druckenmiller, DeLong, Burgess, Childers,
- 23 Kauffman, Unger, Cornie, O'Neil, Chapman, Church, Roberts, LeBreton Coats,
- 24 Kawai, Sitton, Coleman from causing to be printed on any ballot for the
- 25 November 2nd, 2007 special election the ballot title for Measure 49;

26 ///

