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6
7 IN THE UNITED STATES DISTRICT COURT
8
9 FOR THE DISTRICT OF OREGON
10

11 WILLIAM LEE SIZEMORE;

Case No: 3:12 - CV - 474 - MO

12 Plaintiff (Pl),

13 vs.

14 COMPLAINT AND DEMAND FOR JURY TRIAL

15 STATE OF OREGON; JOHN KROGER, in his
16 official and individual capacities; SEAN
17 RIDDELL, in his official and individual
18 capacities; HARDY MYERS, former attorney
19 general in his official and individual capacities;
20 JUDGE JANICE R. WILSON, in her official and
21 individual capacities; JUDGE JEROME
22 LABARRE in his official and individual
23 capacities; BILL BRADBURY, former secretary
24 of state in his official and individual capacities
25 KATE BROWN, Oregon's Secretary of State in
her official and individual capacities; OREGON
EDUCATION ASSOCIATION (OEA), an
Oregon mutual benefit corporation; GAIL
RASMUSSEN, an individual; LARRY WOLF, an
individual; RANDI WEINGARTEN, an
individual; AMERICAN FEDERATION OF
TEACHERS - OREGON AFL-CIO (AFT-
Oregon), an Oregon public benefit corporation;
ELIZABETH GRANT, in her official and
individual capacities; HEATHER WEIGLER, in
her official and individual capacities; AND JOHN
DOES 1-50

Civil Rights Claim
(42 U.S.C. §1983, 1985, 1986, 1988)

Defendants (Def)

Plaintiff alleges as follows:

INTRODUCTION

1 1. Plaintiff, William Sizemore, brings this action for money damages and other
2 relief pursuant to 42 U.S.C. §§ 1983, 1985, 1986 and 1988, and the First, Fourth, Fifth,
3 Sixth, and Fourteenth Amendments to the United States Constitution and Article I
4 Section 8 and Articles IV and VII Revised of the Oregon Constitution.

5 2. Plaintiff seeks compensation from defendants, and each of them, for
6 employing the unlawful practices at issue herein under color of law in violation of
7 plaintiff's constitutional rights.

8 3. The State of Oregon and defendants named herein have prohibited Plaintiff
9 from spending money on politics, even if all money is raised, spent, and disclosed in
10 full compliance with the law and also has prohibited Plaintiff from using any company
11 he owns or controls to gather signatures to qualify an initiative petition for the ballot.
12 The court lacked jurisdiction to severely restrict the rights and freedoms of a non-
13 defendant in a civil ORICO case.

14 4. Stemming from a civil case in which Plaintiff was expressly not a defendant
15 and not represented by counsel, the State of Oregon and other Defendants named
16 herein have made Plaintiff a "convicted racketeer" and have held harmless opponents
17 who have widely published false statements that Plaintiff is a "convicted racketeer," as
18 if this blatantly false statement is and will continue to be protected speech.

19 5. Oregon judges have stated publicly, including in official written statements,
20 that Plaintiff committed criminal acts related to the initiative process. Judges have
21 made such statements without indicting him and trying him in a court of law and
22 affording him all of the rights and protections constitutionally guaranteed to a
23 criminal defendant. These judges lacked jurisdiction to make Plaintiff a *convicted*
24 *racketeer* in a civil case, and especially in a civil case in which Plaintiff was not even a
25 defendant.

1 6. Various agents of the State of Oregon have conspired to prevent Plaintiff
2 from exercising his constitutional rights to place measures on the Oregon ballot and
3 have used their official capacities to do so.

4 7. The effects of the allegations set forth herein include damage to Plaintiff's
5 reputation and credibility; loss of liberty, property and income; deprivation and
6 violation of Plaintiff's civil rights; and the infliction of severe emotion duress.

7
8 **ALLEGATIONS OF FACT**
9

10 8. Plaintiff since 1993 has worked in the field of initiative politics, drafting ballot
11 initiatives, raising political donations, running signature drives and placing measures
12 on the Oregon ballot. As a result of Plaintiff's ballot measures, Oregon property
13 taxes have been reduced by several billion dollars and political opponents have spent
14 more than \$60 million opposing Plaintiff's measures.

15 9. Plaintiff owned and operated two financially successful Oregon businesses,
16 which prior to a 2002 ORICO case were engaged in the business of collecting
17 signatures for initiative petitions. Plaintiff's successful businesses were effectively
18 closed down and prevented from collecting signatures for pay by a Multnomah
19 County Circuit Court judge in a civil ORICO lawsuit in which Plaintiff and his
20 companies were not defendants and were not represented by counsel.

21 10. Prior to the court's Order, Plaintiff was able to qualify measures for the ballot
22 at a substantially lower cost by using the services of his own companies. As a result of
23 the court's Order, Plaintiff has been forced to pay substantially higher amounts to
24 qualify measures for the ballot, thus limiting his ability to place other measures on the
25

1 ballot. Using his own signature gathering companies, Plaintiff placed seven measures
2 on the 2000 Oregon General Election ballot at a very low cost per measure.

3 11. Plaintiff was from 1993 through 2002 a director of Oregon Taxpayers United
4 PAC and executive director of Oregon Taxpayers United Education Foundation, a
5 nonprofit corporation that was judicially dissolved in 2003 by Multnomah County
6 Judge Jerome LaBarre.

7 12. Oregon Taxpayers United PAC and Oregon Taxpayers United Education
8 Foundation were successfully sued in 2002 under Oregon's racketeering statute
9 (ORICO) in Multnomah County Circuit Court by two teachers unions, the Oregon
10 Education Association (OEA) and the American Federation of Teachers – AFL-CIO
11 of Oregon (AFT), both of which are named defendants herein.

12 13. These two unions made three claims and asked for treble damages for all
13 three. Claim one was that an employee of the OTU Education Foundation, one Kelli
14 Highley, had forged fewer than 25 signatures on statements of sponsorship for two
15 initiative petitions and absent those forgeries the two measures would not have
16 appeared on the 2000 ballot. Claim two was that Oregon Taxpayers United PAC had
17 used forged signatures to place the two initiatives on the 2000 ballot and absent those
18 allegedly forged signatures the two measures would not have appeared on the ballot.
19 Claim three was that the aforementioned PAC's contribution and expenditure reports
20 and the aforementioned foundation's Oregon CT-12 nonprofit tax returns were
21 inaccurate. The unions claimed that if the filed (informational) tax returns and
22 campaign disclosure reports had been accurate, the two measures, which the plaintiff
23 unions opposed and campaigned against, would not have appeared on the 2000 ballot
24 and thus the unions would not have been *forced* to spend money opposing them.

25

1 14. Even though organizations with which Plaintiff was related placed a total of
2 seven measures on the 2000 Oregon ballot, they were only sued regarding two.
3 Several other labor unions spent large amounts of money opposing the measures, but
4 only the *teachers* unions sued.

5 15. In the 2002 ORICO case, the two unions asked for damages equal to all of
6 the money they had spent campaigning against the two measures, trebled under the
7 racketeering statute. Pursuant to a verdict favorable to the OEA and AFT (on counts
8 one and three), the two union plaintiffs were awarded money damages of
9 approximately \$2.4 million, plus an award of attorney fees in excess of \$900,000.

10 16. Plaintiff was not personally a party to the aforementioned ORICO lawsuit
11 and was not named as a defendant; nor was he personally named in the jury verdict,
12 nor was it necessary for Plaintiff to have committed, authorized, or approved of any
13 wrongdoing whatsoever for the jury to have reached its verdict in the case.

14 17. At the 2002 ORICO trial, Gregory A. Hartman, the attorney representing the
15 Oregon Education Association, told the jury in his opening statement and closing
16 argument that "Bill Sizemore" (Plaintiff here) was not a party to the case, was not a
17 defendant, and was not being sued. Mr. Hartman told jurors that they might in fact
18 like Mr. Sizemore, but they were not to worry about that because the case was not
19 about him.

20 18. Mr. Hartman's statements, as described in Paragraph 17, except for the mere
21 mention that Bill Sizemore was not a defendant, were omitted from the official trial
22 transcript of both the opening statement and the closing statement. Mr. Hartman's
23 statements, each an entire paragraph in length, remain absent from the court record
24 even though Plaintiff has complained of the omission to the office of the Chief
25 Justice of the Oregon Supreme Court. Plaintiff Sizemore's attorney had to locate the

1 court reporter, who suddenly had moved out of state, in order to obtain even the
2 faulty/altered transcript of the trial.

3 19. After the 2002 ORICO trial, the State and the two aforementioned teachers
4 union plaintiffs (in that case) sought and obtained, in addition to their substantial
5 monetary damage awards, additional “equitable” remedies in the form of an
6 injunction, which among other things prohibited the defendant PAC and education
7 foundation and all “successor” PACs and foundations from destroying or transferring
8 assets. The injunction defined a “successor” PAC or foundation as any PAC or
9 foundation in which William Sizemore was a director, manager, or key employee. The
10 injunction did not say whether it applied only to the then existing assets of the original
11 defendant organizations or also to new assets which new, unrelated organizations
12 might obtain. Even though Oregon’s racketeering laws do not authorize injunctions
13 against non-defendants, Plaintiff was the sole target of the Injunctive Order.

14 20. The injunction also prohibited any signature gathering company, which is
15 owned or operated by William Sizemore, from gathering (for pay) signatures on any
16 initiative petition for which Plaintiff is a chief petitioner. (The injunction contained
17 no similar prohibition against a company owned or operated by William Sizemore
18 collecting signatures for petitions for which Plaintiff is not a chief petitioner.)

19 21. After the trial in the 2002 ORICO case, Multnomah County Circuit Court
20 Judge Jerome LaBarre issued “Findings of Fact and Conclusions of Law,”
21 impermissibly tampering with the facts determined by the jury. Judge LaBarre found
22 nondefendant William Sizemore, personally guilty of several misdeeds including
23 *criminal manipulation* of the initiative process. Judge LaBarre’s statements, which go far
24 beyond the facts found by the jury, are still on the record and are often quoted
25 publicly against Plaintiff.

1 22. After obtaining from Judge LaBarre an Injunctive Order, which severely
2 restricted Plaintiff's civil rights, the two teachers union plaintiffs filed a separate
3 lawsuit in Multnomah County Circuit Court, asking another judge to hold Plaintiff
4 personally liable for the entire money judgment against the OTU-PAC, even though
5 they had stated to the jury in the ORICO case that the case was not about him and
6 that he was not a defendant. Without holding a trial and without allowing Plaintiff to
7 defend himself, another Multnomah County Circuit Court judge, in response to a
8 mere summary judgment motion by the two teachers unions, found William Sizemore
9 personally liable for the approximately \$3.4 million judgment against the OTU-PAC.
10 This multi-million personal judgment remained in place for approximately five years.

11 23. A few months after the Injunctive Order was entered, the two plaintiff
12 teachers unions (and the State of Oregon, which had been allowed to intervene in the
13 case after the trial in violation of Oregon law) filed a Show Cause Order, this time
14 naming Plaintiff personally in what is now known as Contempt I, claiming that a
15 successor PAC, Oregon Taxpayers Union, run by Plaintiff, had *used* the mailing list
16 and equipment and furniture of the original Oregon Taxpayers United PAC and
17 foundation, and thus had *transferred* assets in violation of the injunction. After
18 conducting a hearing, in which the unions had asked for jail time for Plaintiff, Judge
19 LaBarre found that the injunction had been violated and ordered the new *successor*
20 PAC and Plaintiff personally to "disgorge" the lawfully donated money this new PAC
21 had raised using the mailing list of the original PAC. (Such lists are a public record
22 under Oregon law and anyone can have access to them.) The amount Judge LaBarre
23 ordered to be disgorged was approximately \$143,000, plus attorney fees in an amount
24 unspecified at that time.

25

1 24. Exercising their rights as judgment creditors, the two unions then came to
2 the offices of the OTU-PAC and foundation and hauled away the organizations'
3 assets, giving the defendant organizations a receipt for \$1,500 as a credit against the
4 \$3.4 million judgment. On that day, the unions loaded onto a truck all of the PAC's
5 and foundation's assets, except items they decided were of no value, and informed the
6 PAC and foundation that they could dispose of the remaining assets such as old desks
7 and computers, as they wished. The unions also demanded and received a copy of the
8 organizations' mailing list.

9 25. After the judgment creditor unions seized the assets of the original PAC and
10 foundation judgment debtors, the PAC and foundation had no remaining assets of
11 material worth and after that obtained no new assets of material worth. By that time,
12 both organizations had ceased to function (except to pursue an appeal of the
13 underlying ORICO decision).

14 26. Before judgment was entered in the Contempt I proceeding, Judge Jerome
15 LaBarre, who for nearly three years had presided over the underlying ORICO case,
16 including the Contempt I proceeding, recused himself. In a conference call with
17 attorneys for the parties. Judge LaBarre admitted that his own son was, and for the
18 entire time he had presided over the case, had been a member of the same Oregon
19 Education Association which had been suing the OTU PAC and foundation in his
20 father's court. During the conference call with counsel from both sides, Judge
21 LaBarre stated that *he had not been aware that his son was a school teacher and member of the*
22 *OEA.*

23 27. After Judge LaBarre confessed his long term conflict of interest, the case was
24 transferred to Multnomah County Circuit Court Judge Janice R. Wilson to decide the
25 amount of the judgment. Judge Wilson ruled that because the entire \$143,000 raised

1 and spent by the *successor* PAC had been spent in the normal course of business, there
2 was no money left for it to disgorge. She did, however, award the two teachers
3 unions \$125,000 in attorney fees for being the prevailing party in the Contempt I
4 proceeding. Judge Wilson entered a judgment for \$125,000 against the original
5 defendants and also against successor PAC Oregon Taxpayers Union. Judge Wilson
6 also entered judgment against William Sizemore personally. This substantial monetary
7 award was entered against William Sizemore absent a jury trial.

8 28. In an attempt to reach what they called a “global settlement” in their ongoing
9 dispute with Plaintiff, the two teachers unions in the presence of attorneys for the
10 State and a Multnomah County mediating judge, offered to forego collection of the
11 \$3.4 million personal judgment against William Sizemore, if he would in return drop
12 the organizations’ appeal in the underlying ORICO case and sign an agreement to stay
13 out of initiative politics for a period of 15 years. The State and a Multnomah County
14 judge participated in these settlement discussions, apparently unconcerned about the
15 fact that it is illegal under Oregon law to offer any consideration whatsoever in
16 exchange for *not* placing measures on the ballot. Plaintiff declined the unions’ offer.

17 29. In the hallway of the Multnomah County Courthouse, just prior to the
18 mediation described in Paragraph 28, OEA attorney Greg Hartman told Plaintiff in
19 the presence of counsel, “We know you don’t have \$4 million and we don’t want \$4
20 million. We just want you out of politics.”

21 30. After Contempt I, William Sizemore formed an entirely new political
22 committee using none of the assets of the old organizations (no such assets existed).
23 He began to raise new money to place local measures on the ballot in several Oregon
24 cities and counties. All monies for the new PAC were raised and spent in full
25 compliance with Oregon election law and no claim was made to the contrary.

1 31. The two teachers unions filed a second Show Cause Order in what became
2 known as Contempt II, claiming that Plaintiff and the new *successor* PAC had violated
3 the injunction merely by spending money. No claim was made that the new money
4 was not lawfully raised or spent or that the new money was not properly disclosed.
5 The State and the unions simply claimed that no PAC, which “Bill Sizemore”
6 controlled or managed, could spend money on politics, even if it did so in full
7 compliance with the law.

8 32. The Charitable Activities Division of the Oregon Department of Justice,
9 which was at this time under the authority of Attorney General Hardy Myers, joined
10 in this second contempt proceeding and also took the legal position that any PAC in
11 which Bill Sizemore is a director or key employee, could not under the terms of Judge
12 LaBarre’s 2003 Injunctive Order, spend any money whatsoever on politics.

13 33. Under Oregon election law, an individual must form and register a political
14 committee in order to raise and spend money on Oregon politics. Thus, Plaintiff
15 could not lawfully raise and spend money on politics without forming a *successor* PAC
16 and automatically be in violation of the Judge LaBarre’s injunction.

17 34. Plaintiff disagreed with the State’s and the unions’ broad interpretation of
18 Judge LaBarre’s injunction and argued that the injunction could only be
19 constitutionally construed as applying to the assets of the two original defendant
20 organizations and not to the assets of future organizations, which did not use any of
21 the original (and now nonexistent) assets. Plaintiff argued that the Injunctive Order
22 ceased to affect future organizations once the OTU foundation had been dissolved by
23 the court and all of its assets and the PAC’s assets had been seized by the plaintiff
24 unions. At this time, no decision had yet been made regarding which assets could not
25 be transferred by successor organizations, the original assets or new, untainted assets.

1 35. Continuing to believe that the injunction could not constitutionally limit the
2 lawful raising and spending by Plaintiff of new political donations, a position that had
3 not yet been contradicted by the court, Plaintiff formed another political committee,
4 “Give Seniors a Break,” and began sending out fundraising letters to raise money for
5 an initiative to lower property taxes for senior citizens.

6 36. All monies raised and spent by “Give Seniors a Break” were raised and spent
7 in full compliance with the law and no claim was made to the contrary.

8 37. The State and two teachers unions filed a new Show Cause Order in what
9 became known as Contempt III., claiming that Give Seniors a Break was a successor
10 PAC, simply because Plaintiff was involved, and thus by merely spending money it
11 had violated the Injunctive Order. As with Contempt II, the State and the two unions
12 again claimed that *no* PAC Plaintiff controlled or managed could spend money on
13 politics, even if all actions were undertaken in full compliance with the law and none
14 of the assets of the original organizations were involved.

15 38. Multnomah County Circuit Court Judge Janice R. Wilson held hearings on
16 both Contempt II and III. Through his attorney, Gregory Byrne, Plaintiff argued that
17 the prohibition against transferring assets applied only to the original assets of the
18 original organizations and that any other interpretation of the injunction would be
19 unconstitutional on grounds of due process and the First Amendment.

20 39. In Sept. of 2007, Judge Wilson signed a letter stating that she was not going
21 to make a decision regarding Contempt II and III, because the appeal of the original
22 ORICO case was pending before the Oregon Court of Appeals and she didn’t want to
23 muddy the waters with a decision that might contradict whatever ruling the appellate
24 court might make regarding the meaning of the injunction. Judge Wilson did state in
25 her *decision not to make a decision* letter that while she was not making a decision at that

1 time, she tended to agree with the defendants' (Plaintiff here) interpretation of the
2 injunction for the reasons which had been offered by the defense, meaning that the
3 injunction likely applied only to original assets of the original organizations. Judge
4 Wilson's letter was construed by William Sizemore to mean that the judge agreed with
5 his position that the injunction only applied to the original assets of the original
6 organizations or was at least too ambiguous to be enforceable.

7 40. When the Oregon Court of Appeals later issued its decision in the appeal of
8 the original ORICO judgment, it ruled that Oregon's racketeering law did not apply to
9 the PAC's contribution and expenditure reports, because they were "not an
10 application for a government benefit" (and thus did not form a predicate offense for
11 an ORICO claim). The Oregon appeals court upheld Claim 3 against the foundation,
12 holding that a nonprofit's informational tax return (Oregon CT-12) is "an application
13 for a government benefit," and thus a predicate offense for an ORICO case. The
14 court upheld the smaller judgment against the PAC for Claim 1, which was in regard
15 to Kelli Highley's less than 25 forged signatures on statements of sponsorship.

16 41. The majority in the two-to-one Oregon Court of Appeals opinion did not
17 address the disputed provision of the injunction (Paragraph 7), the provision related
18 to the transfer of assets by successor PACs. This left interpretation of the injunction
19 for Judge Wilson to decide at the trial court level.

20 42. After the appellate court chose not to address the interpretation of the
21 injunction, Judge Wilson made a final decision in Contempt II and III. Judge Wilson
22 reversed her earlier letter, in which she had stated that she tended to agree with the
23 defendants' interpretation of the injunction, and instead ruled that Judge LaBarre's
24 injunction *clearly* prohibited the spending of money by any successor PAC in which
25 William Sizemore was a director or key employee. Consequently, Judge Wilson

1 entered against Plaintiff personal judgments in amounts equal to all of the money
2 lawfully raised and spent by the two “successor” PACs, plus a substantial attorney fee
3 award. Judge Wilson did not offer an explanation as to why her final decision was the
4 opposite of the position she had stated some months earlier.

5 43. The Contempt II and III cases have been consolidated for purposes of appeal
6 and are at this time before the Oregon Court of Appeals.

7 44. On July 3, 2008, the Oregon Supreme Court affirmed the decision of the
8 Court of Appeals in the underlying ORICO case. The Court also dismissed the
9 unions’ appeal of the PAC portion of the decision, which the unions had lost in the
10 Court of Appeals. The decision to dismiss the unions’ appeal of the PAC related
11 claim effectively reversed the \$3.4 million personal judgment against Plaintiff.

12 45. In 2002, Plaintiff’s political opponents, in an effort to prevent him from
13 placing measures on the ballot, placed their own measure on the ballot and persuaded
14 voters to outlaw paying petition circulators by the signature.

15 46. The 2007 and 2009 State Legislative Assembly, at the request of Plaintiff’s
16 political opponents, adopted several new restrictions on the initiative process,
17 including HB 2082, which was aimed specifically at making it more difficult for
18 Plaintiff to qualify measures for the ballot via the initiative process. One effect of said
19 legislation was to give the Secretary of State authority to stop initiative petitions from
20 being circulated, including petitioning by volunteers, unless chief petitioners presented
21 payroll records showing that they had not paid any petition circulator by the signature,
22 even if there had been no finding or even a claim that circulators had been paid on a
23 per signature basis.

24 47. It was common knowledge among state legislators that these new legislatively
25 imposed restrictions on the initiative process were aimed specifically at stopping

1 Plaintiff from placing measures on the ballot and that other initiative activists affected
2 by the legislation and damage to the initiative process itself were merely collateral
3 damage in the battle to stop William Sizemore from placing measures on the ballot.

4 48. Oregon election law requires sponsors of an initiative petition to disclose all
5 contributions and expenditures in support of an initiative petition even though
6 opponents of a signature drive are not required to disclose contributions and
7 expenditures. Opponents at times spend more money hiring professional blockers in
8 an effort to stop a signature drive than supporters of the petition spend furthering it.

9 49. Notwithstanding the fact that the disclosure requirements described in
10 Paragraph 48 are impermissible *content based* restrictions on speech, Plaintiff believes
11 he has fully complied with the law and made all required disclosures.

12 Notwithstanding the constitutional infirmities of the one-sided disclosure law,
13 Plaintiff has been ordered by Judge Janice Wilson under threat of incarceration to
14 create, sign and certify amended reports of all contributions and expenditures for the
15 2008 election cycle. There is no provision in Oregon election law requiring the filing
16 of amended reports. A director or treasurer of a political committee may be penalized
17 for filing a false report, but not ordered under threat of imprisonment to amend a
18 report and certify as true statements he or she does not believe are true.

19 50. Plaintiff was chief petitioner for several initiatives aimed at the 2008 General
20 Election ballot, including five petitions which eventually qualified for the ballot. One
21 of Plaintiff's petitions, Initiative petition #78, did not qualify for the ballot. This
22 measure would have required a supermajority vote for the legislature to adopt a bill
23 containing an emergency clause. With several months still remaining before the turn-
24 in deadline, Plaintiff had collected approximately 72,000 signatures for IP-78. The
25 Oregon Secretary of State issued an order prohibiting Plaintiff from collecting further

1 signatures on IP-78 until he had first produced records proving that they had not paid
2 by the signature. Even though Plaintiff had not paid circulators by the signature and
3 no claim had been made that Plaintiff had done so, the signature drive was ordered
4 halted until payroll records were produced and innocence proved. The order to stop
5 collecting signatures issued by Secretary of State Bill Bradbury not only halted
6 signature collection by paid circulators, but also by volunteers. Up until this point,
7 Plaintiff had raised and spent more than \$100,000 on this signature drive. As a result
8 of the order to stop signature gathering, the measure failed to qualify for the ballot.

9 51. In December of 2007, Plaintiff filed Initiative Petition 19 with an intent to
10 place it on the 2010 General Election ballot. IP-19 would have incrementally reduced
11 property taxes for senior citizens. Plaintiff raised and spent more than \$100,000 on
12 the signature drive for IP-19. Due to the 2003 Injunctive Order, Give Seniors a Break
13 was prohibited, as a so-called successor PAC, from spending money and thus could
14 not raise and spend the additional funds necessary to qualify the measure for the
15 ballot.

16 52. In May of 2008, Plaintiff was ordered by Secretary of State Bill Bradbury to
17 cease collecting signatures for IP-19, including signature gathering by volunteers, until
18 such time as he had produced records proving that he had not paid circulators by the
19 signature, even though there had been not so much as an allegation that he had.

20 53. In July of 2008, Judge LaBarre's five year injunction expired. Before the
21 injunction expired, the State and two teachers unions filed a new Show Cause Order
22 against Plaintiff and a new foundation, American Tax Research Foundation (ATRF).
23 This ongoing proceeding is known as Contempt IV. Neither the State nor the unions
24 claimed damages in Contempt IV, only that the Order had been violated. After
25

1 extensive discovery and several days of hearings in September of 2008, Multnomah
2 County Circuit Court Judge Janice R. Wilson took Contempt IV under advisement.

3 54. On December 1, 2008, Judge Wilson announced her decision in Contempt
4 IV, finding therein that this new foundation, which had never held or used any of the
5 assets of the original foundation, was in contempt of court for spending its money.
6 Judge Wilson also found Plaintiff to be in contempt of court and ordered him to go to
7 jail until such time as he had signed two years' tax returns for ATRF, even though he
8 was not an officer of that organization and had not previously been ordered to sign
9 the returns. The president of American Tax Research Foundation, Timothy Rohrer,
10 was willing to sign the organizations tax returns, yet Judge Wilson incarcerated
11 Plaintiff for not signing them, something he had never been ordered by the court to
12 do. William Sizemore was incarcerated for approximately one day and night.

13 55. Pursuant to their victory in Contempt IV, the State and the two unions asked
14 Judge Wilson to rule that the old injunction, which had expired several months earlier,
15 had not really been a five-year injunction at all, even though the five-year life was
16 expressly stated in its terms and even though for five years the unions themselves *and*
17 *the court* had referred to the Order as a *five-year* injunction. The State and the unions
18 concocted a theory that the clear language of the injunction had been a "scribner's
19 error" and that the injunction was really never intended to end until the full amount
20 of the original multi-million dollar judgment had been paid, which of course could
21 *never* happen because the original entity liable for the judgment had been dissolved by
22 Judge LaBarre five years earlier. Judge Wilson agreed with this new theory that the
23 five-year injunction had not expired. This new interpretation allowed Judge Wilson to
24 continue the injunction and to modify it (greatly expanding its reach) without a new
25 trial and without a jury finding that Plaintiff had committed wrongs that justified a

1 new or expanded injunction. The new Injunctive Order extended the old injunction,
2 plus added several new, extremely harsh provisions, some of which extend forever
3 and deprive Plaintiff of property and liberty for the rest of his life.

4 56. No judgment has yet been signed in Contempt IV and thus Plaintiff cannot
5 appeal the new, expanded injunction and continues to be burdened by it. However,
6 an additional hearing in the Contempt IV proceeding was scheduled for December
7 21, 2009. This hearing was not held. Prior to the scheduled Dec. 21, 2009 hearing,
8 the State and the two unions filed a new motion asking the court to incarcerate
9 Plaintiff for up to six months, if he did not sign and file amended contribution and
10 expenditure reports with the Secretary of State, something William Sizemore was not
11 inclined to do. In order to comply with the court's order, which is still in effect as of
12 the date affixed hereto, Plaintiff would have to state *against his will and belief* that the
13 previous reports were false, thus subjecting himself to fines of ten of thousands, if not
14 hundreds of thousands of dollars.

15 57. About this same time, Gregory A. Hartman, attorney for the two teachers
16 unions, informed attorney Nathan Rietmann, who was representing Plaintiff on
17 related matters, that Mr. Hartman and the State's attorneys had discussed with Judge
18 Wilson the portion of the new motion which asked that William Sizemore be
19 incarcerated if he did not file amended campaign finance disclosure reports. Mr.
20 Hartman told Mr. Rietmann that Judge Wilson had said that she was "fine with that."
21 No one from the defense was present at this meeting between the judge and the
22 attorneys for the unions or had been made aware of any discussions with the court
23 regarding this matter.

24 58. When Plaintiff's wife learned of the motion to incarcerate Plaintiff, if he did
25 not file amended contribution and expenditure reports before the December 21, 2009

1 hearing, she concluded that she and their teenage children likely would have to survive
2 on their own for an extended period of time while Mr. Sizemore was in jail. In an
3 effort to lower the monthly overhead and survive the ordeal, Plaintiff's wife rented a
4 small house and took their two children and moved out. The family spent the next
5 year and four months broken apart due to the unlawful threat of incarceration and
6 due to the stress of the nonstop legal action by the State and the two labor unions, all
7 of which was designed to stop Plaintiff from placing measures on the ballot.

8 59. After the two unions had obtained from Judge Wilson an order prohibiting
9 ATRF from spending any of its assets (valued at approximately \$600,000), they sued
10 ATRF in Multnomah County on grounds that ATRF was a successor foundation and
11 thus liable for the original judgment. Mr. Hartman informed ATRF at that time that
12 under Oregon law it could not defend itself without an attorney and was prohibited
13 from paying one. The case against ATRF was frivolous, as ATRF had not at any time
14 held or used any of the assets of the original organizations, ATRF with its hands tied
15 behind its back by the court, lost the case by default. Consequently, the two labor
16 unions seized ATRF's assets.

17 60. In the 2008 general election, while the Contempt IV proceeding was ongoing,
18 John Kroger was elected to be Oregon's attorney general after receiving hundreds of
19 thousands of campaign dollars from public employee unions, the same unions who
20 had routinely opposed Plaintiff's ballot measures and had spent tens of millions of
21 dollars campaigning against them.

22 61. In November of 2009, Plaintiff and his wife were indicted by newly elected
23 attorney general John Kroger on three counts each of criminal tax evasion for not
24 filing personal tax returns for years 2006, 2007, and 2008. The decision to prosecute
25 Plaintiff was made jointly between John Kroger and the State's chief counsel, Sean

1 Riddell. Plaintiff and his wife were arraigned in Marion County Circuit Court and
2 then released on their own recognizance. Both qualified for and were granted court
3 appointed attorneys.

4 62. Several months later, the Oregon Department of Justice attempted to
5 persuade Plaintiff's wife to testify against him. Confident that neither he nor his wife
6 was guilty of intent to evade taxes, Plaintiff encouraged his wife to see what the State
7 had to offer. After the prosecutor had met with his wife, the Oregon Department of
8 Justice released to the media statements declaring that when Plaintiff had learned that
9 his wife had been negotiating with the state, he had become angry and argumentative
10 with her for offering to testify against him in the criminal case and had engaged in
11 behavior that smacked of *spousal abuse* and *witness intimidation*. The State's entire
12 statement to the media, a statement which was widely published across Oregon, was
13 false. In an effort to counter the false statements made by the Department of Justice,
14 Mrs. Sizemore's attorney informed the media that Mrs. Sizemore had not agreed to
15 testify against her husband, that she would not testify against him, and that Plaintiff in
16 fact had not become angry or argumentative with his wife or abused her in any way.
17 The State's account was in its entirety a fabrication designed to cast Plaintiff in a bad
18 public light.

19 63. In December of 2009, due to the outstanding criminal indictments in Marion
20 County, Plaintiff filed a motion to stay the ongoing Multnomah County Contempt IV
21 proceeding on Fifth Amendment grounds. The motion was granted and that
22 proceeding has been stayed pending resolution of the criminal case in Marion County.
23 During this period, Plaintiff's all but non-existent personal assets have been frozen by
24 Judge Wilson. Notwithstanding having invoked his Fifth Amendment rights, Plaintiff
25 was required to turn over to the two teachers unions and to the State, on a monthly

1 basis, copies of all of his personal and business bank statements, his personal receipts,
2 including for groceries, movie rentals, and personal items, as well as copies of his
3 personal tax returns. Also, Plaintiff is prohibited by the court's Order from spending
4 money *for any purpose* except to provide for his family. This restriction has been in
5 effect for approximately three years and is ongoing.

6 64. In November of 2009, Plaintiff filed papers with the State Elections Division
7 seeking the Republican nomination for governor. However, Plaintiff was prohibited
8 by the terms of the injunction (at least as interpreted by the Oregon Department of
9 Justice) from raising and spending money to further his candidacy. This
10 interpretation made it impossible for Plaintiff to communicate his message effectively
11 to voters. Plaintiff attempted for several weeks to campaign without funds.

12 65. In March of 2010, Plaintiff filed a *pro se* motion with Judge Janice Wilson
13 asking the court for an expedited hearing on a motion to modify the injunction to
14 allow him to raise and spend money on his campaign for governor and also to raise
15 and spend money collecting signatures to qualify initiative measures for the ballot.
16 The court ignored the motion, claiming later that it was not properly filed due to a
17 lack of a motion *precipae*. Plaintiff was not notified of this fact.

18 66. After learning from another source that Plaintiff's motion to modify the
19 injunction was being ignored, Plaintiff re-filed the motion, this time with the required
20 *precipae*, again asking for an expedited hearing due to the ongoing campaign season.
21 In response, Judge Wilson arranged a conference call to determine whether an
22 expedited hearing was warranted. During the conference call, State's attorney Heather
23 Weigler erroneously told the judge that under Oregon election law, Plaintiff is not
24 required to start a political committee or be a signer on a committee's checking
25 account in order to run for governor. This statement was patently false, but led the

1 judge to deny the motion for an expedited hearing, but instead to schedule a hearing
2 for a date in April, three weeks before the 2010 Primary Election ballots would be
3 mailed to voters. In the meanwhile, Plaintiff could not raise and spend money on his
4 campaign. (Under the terms of the modified Injunctive Order, Plaintiff could not
5 even spend his own very limited funds on campaign incidentals, because he could
6 only spend money to support his family.)

7 67. Before the April 2010 hearing, in the State's response to Plaintiff's motion to
8 modify the Injunctive Order, State's attorney Heather Weigler stated in writing that
9 she had found no federal or Oregon case saying that Plaintiff had a constitutional
10 right to run for governor. The State asked the court to deny the requested
11 modification of the Order and thus prevent Plaintiff from raising and spending
12 money to support his campaign for governor.

13 68. At the April, 2010 hearing on the Motion to Modify, Judge Wilson declined to
14 modify the terms of the injunction regarding raising and spending money on initiative
15 campaigns, which decision effectively killed Plaintiff's initiative petition 19, but the
16 court did modify the injunction to allow Plaintiff to raise and spend money on his
17 candidate campaign.

18 69. As a result of Judge Wilson's modification, Plaintiff is now free to raise and
19 spend money to promote his candidacy for public office, but may not spend money to
20 promote initiative petitions or to campaign for them after they qualify for the ballot.
21 Plaintiff is allowed to mail fundraising letters and brochures to promote his candidacy
22 for public office, but is prohibited from spending money to mail fundraising letters
23 and petitions related to his petition drives.

24 70. Judge Wilson's partial relief from the injunction came much too late to be
25 helpful to Plaintiff's campaign for governor. Donors had already aligned themselves

1 with other candidates, who during the time Plaintiff was waiting for the court's
2 permission to raise and spend money on his campaign, had been actively campaigning
3 and running radio and television ads. Plaintiff, who had easily won the Republican
4 nomination in 1998, was able to raise only about \$10,000 for the 2010 Primary and
5 was soundly defeated in his quest for the Republican nomination, coming in fourth in
6 a field of nine candidates.

7 71. As the injunction stands today, if Plaintiff forms a ballot measure committee,
8 which he must do in order to raise and spend money on an initiative petition, the new
9 PAC is automatically deemed a *successor* committee for purposes of the injunction and
10 thus falls under its terms. Although Plaintiff is required to start a PAC in order to
11 participate in the initiative process, any new PAC is prohibited from expending any of
12 the money it raises. Its funds are frozen. Although the funds are untainted by any
13 illegal activity, they may not be spent to promulgate a political message.

14 72. A new committee created by Plaintiff is free to *raise* political funds, but the
15 committee may not *spend* any of the money it raises. If a political committee (of which
16 Plaintiff is a director, manager, or key employee) raises any funds, those funds are
17 frozen until such time as the original foundation, Oregon Taxpayers United
18 Education Foundation, which was dissolved seven years ago, pays a multi-million
19 judgment it cannot pay because it no longer exists. The new PAC's assets are
20 automatically frozen even though the PAC is not a judgment debtor to anyone. The
21 new PAC is not subject to the original money judgment, but is somehow subject to
22 the injunction, simply because Plaintiff is involved with it. No creditor has a right to
23 seize the money the committee raises, yet those assets are frozen forever and cannot
24 be spent for the political purpose for which the money was donated.

1 73. Plaintiff personally may not under the terms of the Injunctive Order, raise
2 and spend money on politics. Because under Oregon law no one may legally raise and
3 spend money on politics absent the formation of a political committee, the Injunctive
4 Order's restriction on the spending of a successor PAC is in fact a restriction on
5 Plaintiff's personal political speech.

6 74. In their 2008 General Election campaigns against Plaintiff's measures, several
7 individuals, public employee unions, and political committees widely disseminated
8 false statements of material fact, claiming that Plaintiff "Bill Sizemore" is a *convicted*
9 *racketeer*. These campaign ads urged voters to vote against the measures based on
10 these false claims.

11 75. Plaintiff's 2008 Measure 64, was defeated by less than one-half-of-one-
12 percent of the vote after an opposition campaign of more than \$12 million.

13 76. After the 2008 election, Oregonians for Honest Elections, the Oregon
14 political committee which campaigned for several of the measures which Plaintiff had
15 placed on the general election ballot, filed a lawsuit against the unions, individuals, and
16 political committees which had made the false statements described in Paragraph 74.

17 77. The defendants in the case filed an anti-SLAPP motion and stopped Plaintiff
18 Oregonians for Honest Elections (OHE) from conducting discovery. One union
19 attorney notified OHE that because Plaintiff was a director of the committee its funds
20 were thus frozen and it could not pay its attorney to pursue the case.

21 78. Oregonians for Honest Elections and Plaintiff filed a mandamus with the
22 Oregon Supreme Court, asking the Court to order Judge Wilson to withdraw her
23 Injunctive Order on constitutional grounds. The Court was made fully aware of the
24 egregious violations of Plaintiff's constitutional rights contained in the Injunctive
25 Order. Notwithstanding the obvious violations of Plaintiff's civil rights contained in

1 the injunction, the Court denied the mandamus and left the Injunctive Order in full
2 force and effect. (The Injunctive Order still has not been reduced by Judge Wilson to
3 a judgment and thus Plaintiff still cannot appeal it.)

4 79. In September of 2009, Marion County Circuit Court Judge Joseph Guimond
5 stated in a hearing on the anti-SLAPP motion that he was deeply troubled by the
6 statements the defendants in the OHE case had made about Bill Sizemore, telling the
7 unions' lawyers that Bill Sizemore *is not a convicted racketeer*.

8 80. Judge Guimond issued an order in favor of OHE (in the anti-SLAPP
9 proceeding). The Order allowed limited discovery. The union defendants filed a
10 mandamus with the Oregon Supreme Court, challenging Judge Guimond's order
11 because he had not made certain findings before issuing the Order. The mandamus
12 was granted.

13 81. Rather than allow Plaintiffs to defend his order, Judge Guimond chose to
14 withdraw his original order pursuant to the mandamus, but subsequently commenced
15 to make several findings in order to justify his order. OHE put on an evidence to
16 support its prima facie case.

17 82. After holding another hearing, Judge Guimond decided that there was a
18 likelihood that Plaintiff OHE would prevail at trial. The judge then issued a second
19 order, again largely in favor of OHE. The defendant unions responded by filing a
20 second mandamus with the Oregon Supreme Court. Against all odds, the second
21 mandamus was also granted, leading Judge Guimond to state that this had never
22 happened to him before.

23 83. Rather than allowing Plaintiffs to defend his second order, Judge Guimond
24 chose to modify it, essentially reversing his earlier position due to the intimidation
25

1 from the Oregon Supreme Court. The new order stated that it is not false to say that
2 Bill Sizemore is a “convicted racketeer.”

3 84. Plaintiff was not a convicted racketeer and yet the State of Oregon has stated
4 that he is and has made it permissible for political opponents to say that he is, leaving
5 Plaintiff with no legal protection and no recourse against such libelous and slanderous
6 assaults on his name.

7 85. Late in 2009, the same two labor unions filed a new \$18 million civil
8 racketeering case against Plaintiff and one of his major donors, a Nevada businessman
9 named Loren Parks. The OEA is asking for damages equal to all of its 2008
10 campaign expenditures trebled. The donor named in the new ORICO case has spent
11 to date approximately \$900,000 defending himself for donating money to a political
12 cause.

13 86. In August of 2011, just prior to the trial in the criminal tax evasion case
14 against Plaintiff, Marion County Judge Claudia Burton ruled that Mr. Sizemore would
15 not be allowed to put on a defense at trial. Notwithstanding the fact that the State
16 must prove *intent to evade* the requirements of law to win a criminal conviction for tax
17 evasion, the court ruled that Mr. Sizemore would be held in contempt and a mistrial
18 declared, if he presented evidence explaining why he had not filed the required tax
19 returns, why he *could not* file the returns, or that his attorney had advised him that he
20 would be prosecuted by this attorney general for filing false returns no matter what he
21 stated on the returns. Mr. Sizemore was also prohibited from telling the jury that he
22 had paid more than \$50,000 in estimated taxes to the state and federal government for
23 the years in question. Plaintiff's 2008 tax return was only six months late when he
24 was selectively prosecuted for felony tax evasion for that year, making him the only
25 person in the state known to have been prosecuted for not filing a tax return in the

1 same year in which it was due. (Plaintiff had asked the IRS to resolve the issues which
2 prevented him from filing the required returns, but the IRS declined to answer
3 Plaintiff's questions while the matter was still under consideration by Judge Wilson in
4 the civil contempt proceeding.)

5 87. Denied of his right to put on a defense or even to make a jury nullification
6 argument, and facing the threat of prison time for exercising his right to a jury trial,
7 Plaintiff accepted the State's offer to allow him to plead guilty to three felony charges
8 and serve 30 days in jail. Plaintiff served his sentence, fulfilled his 100 hours of
9 community service, and is currently on probation and reporting to Deschutes County.

10
11 **JURISDICTION**
12

13 88. The United States District Court for the District of Oregon has jurisdiction of
14 the federal claims in this case pursuant to 28 U.S.C. §§ 1331 and 1343. A substantial
15 portion of the acts complained of herein took place in Multnomah and Marion
16 Counties, placing venue in the Portland division of the District of Oregon. Plaintiff, a
17 resident of Deschutes County in Central Oregon, requests that the trial be held in
18 Pendleton.

19
20 **VENUE**

21 89. Venue is proper because all of the acts and omissions complained of herein
22 occurred in the District of Oregon.
23
24
25

1 **THE PARTIES**

2 90. Plaintiff is an individual who was at all material times a resident of the State of
3 Oregon and is a duly registered elector.

4 91. Defendants Judge Jerome LaBarre and Judge Janice R. Wilson are Multnomah
5 County Circuit Court Judges and at all relevant times were acting under color of law
6 and are being sued in their official and individual capacities.

7 92. Defendants Bill Bradbury and Kate Brown are respectively former and
8 current Oregon secretaries of state and at all relevant times were acting under color of
9 law and are being sued in their official and individual capacities.

10 93. Defendants Hardy Myers and John Kroger are respectively former and
11 current attorneys general of the State of Oregon and at all relevant times acted under
12 color of law and are being sued in their official and individual capacities.

13 94. Defendants Oregon Education Association and American Federation of
14 Teachers, AFL-CIO of Oregon are public sector labor unions or employee
15 associations. Defendant Gail Rasmussen is or was president of Oregon Education
16 Association and is being sued in her individual capacity. Defendant Larry Wolf is a
17 former president of the Oregon Education Association. Defendant Randi Weingarten
18 is or was president of the American Federation of Teachers AFL-CIO of Oregon and
19 is being sued in her individual capacity.

20 95. Defendants Elizabeth Grant and Heather Weigler and John Does 1-50 are
21 state officials or employees of the State Elections Division or the Oregon Department
22 of Justice and at all relevant times were acting under color of law within the course
23 and scope of said agencies or departments and/or employment and are being sued in
24 their official and individual capacities.

1 96. The true names and capacities, whether individual, corporate, associate, or
2 otherwise, of the defendants designated herein as JOHN DOES 1 through 50,
3 inclusive, are presently unknown to Plaintiff who therefore sues said defendants by
4 such fictitious names. Plaintiff is informed and believes and on such grounds alleges
5 that each of the defendants designated herein as "JOHN DOE" is legally responsible
6 in some manner for the events and happenings herein described, and proximately
7 caused or contributed to the injuries and damages hereinafter alleged. Plaintiff will
8 seek leave to amend this complaint to show their true names and capacities when the
9 same have been ascertained.

10 97. At all relevant times herein, JOHN DOES 1-50 acted under color of law, as
11 an agent and/or employee of one or more of the defendants, and within the course
12 and scope of said agency and/or employment. Some JOHN DOES knew of the
13 violations to or deprivations of Plaintiff's civil rights and had the power to prevent or
14 aid in preventing those violations and/or deprivations and refused or neglected to do
15 so. (Title 42, Section 21, Subchapter 1, Sections 1983, 1985 and 1986 of the federal
16 code.)

17
18 **Claim 1. THE FIRST AMENDMENT**

19
20 98. Plaintiff restates and reiterates all of the foregoing paragraphs of this
21 complaint as if set forth in full at this point.

22 99. Plaintiff's has been prevented by Defendants named herein from the free
23 exercise of his First Amendment rights, including the right to raise and spend money
24 for political purposes and to associate with others in doing so, actions which the
25 United States Supreme Court has stated are a form of protected political speech.

1 100. The First Amendment to the United States Constitution protects freedom
2 of speech and association, in addition to certain other rights:

3
4 *Congress shall make no law respecting an establishment of*
5 *religion, or prohibiting the free exercise thereof; or abridging*
6 *the freedom of speech, or of the press; or the right of the*
7 *people peaceably to assemble, and to petition the*
8 *Government for a redress of grievances.*
9

10 101. The protections of the First Amendment are applicable to the states by
11 virtue of the 14th Amendment. Political speech is at the heart of First Amendment
12 protection. Political speech includes contributions and expenditures of money for
13 political purposes. The first Amendment also protects freedom to associate with
14 others for the common advancement of political beliefs and ideas, including by
15 means of combining political donations. This freedom is violated by Judge
16 LaBarre's original Order, as later interpreted and applied by defendant Judge Janice
17 Wilson and by Judge Wilson's modified Injunctive Order.
18
19

20 102. The First Amendment's protections on political speech and expression
21 extend not only to individuals, but also political organizations. Plaintiff, an
22 individual citizen, normally may not assert the rights of a corporation,
23 organization, or political committee. However, to the extent that an individual may
24 not raise and spend money under Oregon law without being required to form a
25

1 political committee, any restriction placed on the committee is automatically a
2 restriction on the free speech rights of the individual forced by law to form such a
3 committee. Therefore, the provisions of the Injunctive Order that prohibit
4 political committees with which Plaintiff is or has been associated from
5 transferring assets impede upon the speech and association rights of Plaintiff as an
6 individual. The provisions of the Injunctive Order that have the effect of
7 requiring Plaintiff to obtain the permission of the trial court to serve as a chief
8 petitioner or participate in the activities of any “nonprofit association” in any
9 meaningful way, implicate and infringe upon the political speech and association
10 rights of Plaintiff as an individual.
11
12

13 103. It is clear from the trial court’s interpretation of its terms that the
14 restrictions of the Injunctive Order unconstitutionally prevent Plaintiff from raising
15 and spending money *even if every applicable election law and campaign finance law is obeyed*
16 *perfectly*. There is no compelling government interest that could justify such a broad,
17 far-reaching restriction of Plaintiff’s free speech rights.
18

19 104. The Injunctive Order constitutes an unconstitutional prior restraint on
20 Plaintiff, because it serves to prohibit Plaintiff from lawfully raising or contributing
21 new money - money that is untainted by racketeering activity or other improper
22 conduct of any sort - and spending that money for political speech. In addition, the
23 Injunctive Order imposes a prior restraint by requiring Plaintiff to obtain court
24 approval to serve as a chief petitioner, a position or designation that one is required
25

1 by Oregon law to hold in order to sponsor an initiative petition or control the process
2 by which his or her measure is placed on the ballot.

3 105. The Injunctive Order is in direct conflict with a long line of cases generally
4 recognizing that it is an unconstitutional prior restraint for the government to prevent
5 a person from raising and spending new money/assets for political purposes without
6 there having been any prior determination whatsoever that the money raised or spent
7 in furtherance of protected political speech was improperly obtained or was otherwise
8 wrongful or that the message to be promulgated by the money was improper.
9

10 106. Attorney general John Kroger, former attorney general Hardy Meyers and
11 assistant attorneys general Heather Weigler and Elizabeth Grant violated Plaintiff's
12 First Amendment rights when they demanded that Plaintiff be subject to the
13 Injunctive Order, that he be prohibited from spending lawfully collected political
14 donations, and when they threatened Plaintiff with incarceration if he does not certify
15 amended campaign finance reports against his will and beliefs.
16
17

18 107. The Oregon Secretaries of State and employees of the Oregon Elections
19 Division violated Plaintiff's First Amendment rights and his right to due process
20 when they ordered Plaintiff to halt collections of signatures on initiative petitions 19
21 and 78 until he produced records proving that he had not paid by the signature and
22 when they ordered him not to collect signatures, including through volunteers.
23

24 108. The Injunctive Order is an impermissible *content based* restriction on Plaintiff's
25 free speech rights. Plaintiff may raise and spend money to support his candidacy for

1 public office, but may not raise and spend money to support initiative petitions or
2 ballot measures. Plaintiff may form and operate a signature gathering company to
3 collect signatures for measures with which he is not associated, but may not do so to
4 collect signatures for measures with which he is associated. The restrictions of the
5 Injunctive Order serve no other purpose but to prevent Plaintiff from putting
6 measures on the ballot measures that he supports or sponsors. Defendants Judge
7 Jerome LaBarre and Judge Janice Wilson issued and enforced the unconstitutional
8 Injunctive Orders, interpreting them in ways that resulted in unconstitutional
9 restrictions on Plaintiff's First Amendment rights.
10
11

12 109. The Oregon Education Association and AFT-Oregon and the State of
13 Oregon, on behalf of which the named Secretaries of State, Attorneys General, the
14 judges named herein and other defendants acted, violated and continues to violate
15 Plaintiff's right to free speech, due process, and initiative rights.
16

17 110. Oregon's ban against paying signature gatherers by the signature and the
18 legislation known as HB 2082, as applied, violate Plaintiff's right to free speech and
19 due process by substantially increasing the cost of signature gathering, limiting the
20 number of petition circulators Plaintiff has available for promulgating his ideas, and
21 providing the basis by which the State may halt the collection of signatures without so
22 much as a finding that a chief petitioner has violated the law. This law has been used
23 to prevent at least two of Plaintiff's measures from appearing on the ballot. By
24 substantially increasing the cost of placing a measure on the ballot, this restriction
25

1 limits Plaintiff's ability to place other measures on the ballot thus reducing the choices
2 Oregon voters, including Plaintiff, have available. Oregon's ban on paying by the
3 signature reads as follows:

4
5 ***It shall be unlawful to pay or receive money or other thing of value based***
6 ***on the number of signatures obtained on an initiative or referendum***
7 ***petition. Nothing herein prohibits payment for signature gathering***
8 ***which is not based, either directly or indirectly, on the number of***
9 ***signatures obtained. (Article IV-Oregon Constitution)***

10
11 111. Oregon's racketeering statute (ORICO) provides for treble damages. When
12 this law is applied to alleged election law violations, it has a chilling effect on
13 Plaintiff's speech. In the underlying 2002 ORICO case from which the Injunctive
14 Order stems, the two teachers union plaintiffs were awarded damages equal to three
15 times the amounts they voluntarily spent opposing two of Plaintiff's measures., all on
16 the suspect theory that the measures would not have been on the ballot had the
17 campaign finance reports of Oregon Taxpayers United PAC and the informational tax
18 returns of the Oregon Taxpayers United Education Foundation been accurate. Such
19 broad application of racketeering laws to alleged election violations (with damages not
20 even based on proximate cause) has a chilling effect on Plaintiff's free speech.

21
22 Applying racketeering penalties to alleged election law violations, including arguably
23 minor ones, has allowed defendant labor unions to intimidate specific donors who
24
25

1 wish to join in Plaintiff's political efforts and has prevented them from lawfully
2 donating money to Plaintiff's petition drives.

3 112. The new, 2009 OEA/AFT-Oregon's racketeering case (also filed in
4 Multnomah County) attempts to recover all of the money these two labor unions
5 spent defeating measures placed by Plaintiff on the 2008 General Election ballot. The
6 amount of damages the two unions seek is approximately \$18 million. The goal of
7 this new case is to stop Plaintiff and his major donors from placing measures on the
8 ballot by intimidating donors from supporting Plaintiff's measures. Unlike the 2002
9 ORICO case, one of Plaintiff's major donors and several of the donor's companies
10 are named as defendants in the new case. The effect of the new lawsuit has been to
11 discourage this donor and other donors from lawfully donating money to Plaintiff's
12 future initiative campaigns. Simply put, the two teachers unions are knowingly and
13 willfully using Oregon's racketeering law to make it too risky for Plaintiff's supporters
14 to support measures these Defendants oppose. The language of Oregon's
15 racketeering law is impermissibly broad and ambiguous. Applying Oregon's broad
16 and ambiguous racketeering laws to even minor alleged election law violations has a
17 chilling effect on Plaintiff's ability to raise legitimate political contributions and thus
18 violates the First Amendment to the Constitution of the United States. Applying
19 ORICO so as to collect from Plaintiff voluntarily expended campaign contributions,
20 trebled no less, for any reason other than voter fraud has a chilling effect on Plaintiff's
21 First Amendment rights.

1
2 **Claim 2. Fourteenth Amendment to the United States Constitution**

3
4 *Section 1. All persons born or naturalized in the United States, and subject to*
5 *the jurisdiction thereof, are citizens of the United States and of the State*
6 *wherein they reside. No State shall make or enforce any law which shall*
7 *abridge the privileges or immunities of citizens of the United States; nor shall*
8 *any State deprive any person of life, liberty, or property, without*
9 *due process of law; nor deny to any person within its jurisdiction the equal*
10 *protection of the laws.*
11
12
13

14 113. Plaintiff restates and reiterates all of the foregoing paragraphs of this
15 complaint as if set forth in full at this point.
16

17 114. The Fourteenth Amendment to the United States Constitution prohibits a
18 state from depriving any person of life, liberty, or property without due process of
19 law. The original and modified version of the Injunctive Order violate Plaintiff's right
20 to due process. The State cannot show a compelling interest sufficient to justify a
21 blanket ban on Plaintiff's right to raise and spend political funds in full compliance
22 with the law. The State has never even put on a case before a jury of Plaintiff's peers
23 and won a verdict establishing that Plaintiff abused any political funds or failed to
24 properly disclose contributions raised. Even had the State done this, any restriction it
25

1 would obtain from such a finding still would be required to be narrowly tailored so as
2 to address only the harm and not prevent future, legitimate political activities.

3 115. The Injunctive Order issued by Defendant Judge Jerome LaBarre and later
4 interpreted, enforced, renewed, and modified by Defendant Judge Janice Wilson at
5 the request of Defendant's Hardy Myers, John Kroger, Elizabeth Grant, and Heather
6 Weigler and at the request of Defendants OEA and AFT-Oregon affects the private
7 interests of Plaintiff. It is beyond debate that freedom to engage in association with
8 others for the advancement of beliefs and ideas is an inseparable aspect of the liberty
9 assured by the Due Process Clause of the Fourteenth Amendment, which embraces
10 freedom of speech. The freedom of association protected by the First and Fourteenth
11 Amendments includes Plaintiff's right to associate with partisan political
12 organizations. The Injunctive Order prevents Plaintiff from associating with other like
13 minded citizens for the advancement of his ideas and beliefs and thus violates his
14 right to due process and free speech.
15
16
17

18 116. The Injunctive order deprives Plaintiff of property interest by prohibiting
19 Plaintiff from transferring his personal assets (property) and the assets of any
20 committee he is required by law to form in order to engage in religious and political
21 activities, thereby impairing Plaintiff's ability to engage in protected speech (liberty
22 interest). The Injunctive Order deprives Plaintiff of his liberty interest in associating
23 with other individuals of his own choosing to advance lawful political objectives. The
24
25

1 Injunctive Order specifically deprives Plaintiff of his liberty interest in raising new
2 money through lawful means for protected political speech.

3 117. The Injunctive Order has not only created a substantial risk that Plaintiff
4 will be erroneously deprived of his various liberty and property interests, but *has*
5 erroneously deprived Plaintiff of liberty and property interests. The erroneous
6 deprivation has occurred because Plaintiff has been summarily deprived of substantial
7 liberty and property interests without any type of hearing. There is no governmental
8 interest that justifies the trial court depriving Plaintiff of liberty and property interests
9 without a hearing and a trial before a jury of his peers.
10
11

12 118. Multnomah County Judges Jerome LaBarre and Janice R. Wilson violated
13 Plaintiff's right to due process by making Plaintiff the sole subject of a long term,
14 radically restrictive Injunctive Order stemming from a civil case in which Plaintiff was
15 not a defendant and was not personally represented by counsel. As a result of this
16 injunction, Plaintiff has been prevented for more than eight years from raising and
17 spending money on legitimate political speech, As a result of this injunction, Plaintiff
18 has been jailed and subjected to public humiliation, and suffered a serious, long-term
19 loss of income and property.

20 119. The Injunctive Order was and is aimed solely at Plaintiff and anyone who
21 dares associate with him. The Injunctive Order as interpreted by Judge Wilson, (at
22 the urging of the State and the two defendant unions), was clearly designed to prevent
23 Plaintiff from engaging in protected speech. It does not target the two employees of
24 the original organizations, who at trial admitted to wrongdoing. The Injunctive Order
25 targets only Plaintiff and his political endeavors. The Injunctive Order represents an

1 ongoing effort by two attorneys general and their employees, two secretaries of state
2 and their employees, two labor unions, and the judges named herein to prevent
3 Plaintiff from placing on the ballot measures that these officers and individuals
4 oppose.

5 120. Judge Janice R. Wilson abused Oregon's civil contempt statute and made
6 findings of fact against Plaintiff that should not have been made absent a trial by jury.
7 Judge Wilson acted outside her jurisdiction and authority when she found that
8 Plaintiff had lied under oath multiple times, even though Plaintiff had not even been
9 accused of lying under oath, had not faced a jury of his peers, and had never had
10 opportunity to defend against such crimes. As a result of a mere civil contempt
11 proceeding, Judge Wilson signed personal judgments against Plaintiff in excess of
12 \$100,000 and is prepared to sign additional judgments in an amount that likely will be
13 well in excess of \$500,000. Such an abuse of Oregon's contempt statute violates
14 Plaintiff's right to due process and right to a trial by a jury of his peers prior to the
15 issuance of such substantial, punitive forfeitures of assets and prior to placing broad
16 restrictions on Plaintiff's rights and freedoms. If the contempt statute was not
17 abused, then the statute itself is unconstitutionally broad and ambiguous.

18 121. Judge Jerome LaBarre violated Plaintiff's right to due process when he stated
19 in his 2002 "Findings of Fact and Conclusions of Law" that Plaintiff, who was
20 expressly not a defendant in the 2002 ORICO case, was guilty of several crimes and
21 misdeeds of which he had not been accused, and against which he had not defended
22 himself, and for which he had not had the benefit of a jury trial. The jury was the fact
23 finder in the 2002 ORICO case, not Judge LaBarre. The jury verdict did not name
24 Plaintiff or implicate him in any wrongdoing. Judge LaBarre violated Plaintiff's right
25 to due process and his rights under Article VII (Revised) of the Oregon Constitution

1 by tampering with the jury's findings and, while acting under the color of law, finding
2 Plaintiff guilty of *criminal* manipulation of the initiative process and other misdeeds
3 which the jury had not found and which could not be extrapolated or deduced from
4 the jury verdict with any degree of certainty. Judge LaBarre's statements continue to
5 violate Plaintiff's right to due process and right to a jury trial.

6 122. Judge Janice Wilson exceeded her authority and violated Plaintiff's right to
7 due process when she ordered Plaintiff incarcerated for contempt of court for not
8 personally signing a nonprofit's tax returns when he had never been previously
9 ordered by the court to sign said tax returns. The Injunctive Order simply required
10 *successor foundations* to file accurate tax returns. The foundation was prepared to file
11 those returns signed by its president. Nonetheless, Judge Wilson ordered Plaintiff
12 jailed until *he*, a non-officer of the corporation, personally signed the foundation's tax
13 returns. Media clips of Plaintiff in handcuffs, Plaintiff's mug shots, and footage of
14 Plaintiff being released from jail were widely broadcast and continue to be available
15 via the internet, causing ongoing harm to Plaintiff.

16 123. Judge Janice Wilson violated Plaintiff's right to due process by fully
17 reinstating all parts of Judge LaBarre's expired 2003 injunction, ignoring the decision
18 of the appellate courts reversing the major judgment as it related to OTU-PAC.
19 Based on the decision of the appellate courts, it is now as if the PAC had never been
20 found guilty of filing allegedly false C&E Reports. Nonetheless, due to Judge
21 Wilson's order the PAC related provisions of the injunction continue in effect against
22 Plaintiff, who was not a defendant and was not implicated in the 2002 ORICO case,
23 and against any PAC with which Plaintiff is associated.

24 124. Because the original OTU-PAC won on Claim 3 in the underlying ORICO
25 case, the only claim that now remains against the PAC is in regard to former

1 foundation employee Kelli Highley's forgeries on statements of sponsorship. The
2 plaintiffs in that case never claimed that Plaintiff ordered or approved Ms. Highley's
3 forgeries or even knew of the forgeries. The jury in the underlying ORICO case
4 never found that Plaintiff knew of or authorized the Highley forgeries. Nonetheless,
5 Plaintiff is being punished for the rest of his life for Kelli Highley's actions absent any
6 finding that he knew of or authorized her actions. Under Oregon Court of Appeals
7 decision *Kathy LESLIE, Respondent, v. Ruth BENDL, Vernon S. White and Alex Pierce,*
8 *Appellants*, the directors of a PAC or unincorporated association may be held
9 personally liable for those actions of a PAC or association, *which they authorized*. There
10 was never a claim that Plaintiff knew of or approved the Highley forgeries. When the
11 judgment against OTU-PAC regarding Claim 3 (alleged filing of false C&E Reports)
12 was overturned by the Oregon appellate courts, the personal judgments against
13 William Sizemore were ordered removed. As a result of the appellate decisions,
14 Plaintiff no longer is personally liable for any judgment from the underlying ORICO
15 case. Notwithstanding the fact that the only remaining judgment against the PAC was
16 for the approximately 25 signatures forged on statements of sponsorship, actions
17 which were performed solely by Kelli Highley, Judge Wilson imposed restrictions on
18 Plaintiff which violated and continue to violate Plaintiff's constitutional right to free
19 speech and his right to due process.

20 125. Even if the court finds that an Injunctive Order of some kind might be
21 justified, the parts of Judge LaBarre's original injunction relating to successor PACs
22 are no longer justified and should not have been carried over into the court's new
23 order. Enjoining any political committee that Plaintiff directs or manages from
24 spending money for legitimate political purposes ignores the appellate decision
25 overturning the PAC judgment, violates Plaintiff's First Amendment rights, and is a
violation of Plaintiff's right to due process.

1 126. Judge Janice Wilson, State's attorneys Elizabeth Grant and Heather
2 Weigler, and the two defendant labor unions violated Plaintiff's right to due process
3 by meeting privately and without the knowledge of the defense to discuss
4 incarcerating Plaintiff, if he did not file amended campaign finance disclosure reports.
5 It was the news of this unlawful meeting that led Plaintiff's wife to take Plaintiff's
6 children to move out with the expectation that Plaintiff would be in jail for six
7 months for contempt of court and not be able to provide for his family.

8 127. Judge Janice Wilson violated Plaintiff's right to due process by stating in
9 her December 1, 2008 decision that Plaintiff has no respect for the oath and *lied* under
10 oath several times. Plaintiff was not charged with or tried for the crime of perjury and
11 thus did not defend against such a charge. Judge Wilson violated Plaintiff's right to
12 due process by making such a statement, which now can be quoted with impunity by
13 any legal opponent.

14 128. Judge Janice Wilson, Attorney General John Kroger, state's attorneys
15 Elizabeth Grant and Heather Weigler and the OEA and AFT-Oregon defendants
16 violated Plaintiff's right to due process and free speech by concocting a "scribner's
17 error" scheme whereby a highly restrictive five-year Injunctive Order, which had
18 expired months earlier, could be resurrected without conducting a new jury trial in
19 which Plaintiff was a named defendant and had the right to defend himself. These
20 defendants modified, expanded, and imposed the injunction in perpetuity so as to
21 prevent Plaintiff from raising and spending political funds and exercising his First
22 Amendment and initiative rights and to prevent Plaintiff from enjoying the right to
23 make a living and enjoy the liberties afforded United States citizens.

24 129. Marion County Circuit Court Judge Joseph Guimond, after two
25 mandamuses had been granted by the Oregon Supreme Court, declined to allow
OHE to defend his ruling, reversed himself and ruled that it is not false to state that
Plaintiff is a *convicted racketeer*. Judge Guimond knew that Plaintiff had not been found

1 guilty of racketeering or any other felony and had earlier said so in open court. Judge
2 Guimond's new ruling and the statements he made therein will allow all future
3 political opponents to call Plaintiff a convicted racketeer with impunity (some are
4 already doing so). Judge Guimond's order resulted in dismissal of a \$12 million civil
5 lawsuit Plaintiff's organization has been pursuing against several entities, including the
6 Oregon Education Association, Defend Oregon, and the SEIU, all of which
7 published false statements of material fact in violation of Oregon's Corrupt Practices
8 Act. Finding Plaintiff to be a convicted racketeer without a jury trial and without
9 affording him all of the rights and protections due a criminal defendant is a violation
10 of Plaintiff's right to due process.

11 130. Some Justices of the Oregon Supreme Court, by granting two
12 mandamuses, intimidated Marion County Circuit Court Judge Guimond, who up until
13 that time had handled the case evenhandedly. Judge Guimond, who had stated in
14 open court that Plaintiff is not a convicted racketeer, after a second mandamus was
15 handed down, reversed his written order and stated that it was not false to state that
16 Plaintiff is a convicted racketeer, thus defaming Plaintiff and allowing opponents to
17 make these fallacious claims in the future with impunity. The actions of the Oregon
18 Supreme Court as agents of the State of Oregon violated Plaintiff's right to due
19 process by all but forcing a trial court judge to declare Plaintiff, who had never been
20 convicted of a crime, to be a *convicted* racketeer. These two mandamuses were a
21 primary reason why Plaintiff pled guilty to "failure to file tax returns" in the criminal
22 case, believing that it was impossible to win an appeal in the Oregon Supreme Court,
23 given their intervention, which forced dismissal of a case in which the defendant
24 unions clearly and blatantly had violated the Corrupt Practices Act.

25 **Claim 3. Article I, Section 8 of Oregon Constitution**

1 131. Plaintiff restates and reiterates all of the foregoing paragraphs of this
2 complaint as if set forth in full at this point.

3 132. The Oregon Constitution, like its federal counterpart, protects freedom of
4 expression. Article I, Section 8 of the Oregon Constitution provides:

5 *No law shall be passed restraining the free expression*
6 *of opinion, or restricting the right to speak, write, or print*
7 *freely on any subject whatever; but every person shall be*
8 *responsible for the abuse of this right.*
9

10
11
12 133. The Oregon Supreme Court has recognized that both campaign
13 contributions and campaign expenditures are forms of expression protected by Article
14 I, Section 8 of the Oregon Constitution. The Injunctive Order, which ostensibly was
15 issued pursuant to the authority granted by ORS 166.725, impairs Plaintiffs right to
16 make contributions and expenditures. The Injunctive Order, therefore, implicates
17 rights held by Plaintiff that are protected by Article I, Section 8.
18

19 134. The Injunctive Order, on its face, prohibits any political committee (which
20 Plaintiff must by law form to engage in protected speech) from making political
21 expenditures. It restricts Plaintiff's right to make a political contribution to further
22 political speech of his choosing and restrains Plaintiff's right to raise and spend
23 money for political purposes through lawful means and to lawfully raise and spend
24
25

1 money for political advocacy in association with others who have not been shown to
2 have engaged in misconduct of any sort.

3 135. By making Plaintiff a convicted racketeer, when he was and is not, the
4 State of Oregon violated Plaintiff's right to hold responsible "*for the abuse of this right*"
5 those persons and entities who broadcasted or published egregiously false statements
6 about him.
7

8 136. The Oregon State Legislature adopted legislation authorizing the Secretary
9 of State, at his or her whim and absent even so much as a claim, let alone a finding
10 that a law was being violated, to order a petition drive halted until such time as chief
11 petitioners produced records demonstrating that they had not paid petition circulators
12 by the signature. Bill Bradbury, former Oregon Secretary of State, and employees of
13 the State Elections Division, violated the Article I Section 8 and First Amendment
14 rights of Plaintiff, who was a chief petitioner for 2008 initiative petition #78, by
15 ordering that signature gathering for that petition, for which more than 70,000
16 signatures had been collected, be halted, thus preventing the measure from appearing
17 on the ballot. This violation of Plaintiff's constitutional rights resulted in the loss of
18 the approximately \$150,000 spent collecting those signatures and a loss of credibility
19 with previous and future donors.
20
21
22

23 137. By prohibiting Plaintiff's political committee, Give Seniors a Break, from
24 raising and spending money to qualify Initiative Petition 19 for the ballot, the
25 Injunctive Order prevented the measure from appearing on the 2010 General

1 Election ballot after an expense of more than \$100,000, further damaging Plaintiff's
2 credibility with previous and future donors.

3 138. The Oregon Secretary of State, by ordering Plaintiff to cease signature
4 collection on IP-19 and IP-78 violated Plaintiff's free speech rights under Article I
5 Section 8 of the Oregon Constitution and initiative Rights under Article IV of the
6 Oregon Constitution. The halt order from the secretary of state not only prohibited
7 Plaintiff's collection of signatures via paid circulators, but also prohibited collection of
8 signatures by volunteers, actions that could not possibly violate the state's ban on
9 paying petitioners on a per signature basis. This continues to be the policy of the
10 Oregon Elections Division
11
12

13 139. Judge Janice R. Wilson, by threatening and continuing to threaten Plaintiff
14 with incarceration if he did not prepare, sign and certify amended tax returns for
15 ATRF and amended campaign finance reports for various PACs, did in collusion with
16 the State of Oregon, Attorney General John Kroger, state's attorneys Elizabeth Grant
17 and Heather Weigler, the Oregon Education Association and the AFT-Oregon seek
18 to compel Plaintiff to make statements against his will under threat of incarceration.
19 The motion asking for incarceration is still pending. If Plaintiff does not sign the
20 amended forms, he still may be sent to jail. If Plaintiff signs the statements against his
21 will and belief, he could be prosecuted and become subject to fines of at least tens of
22 thousands, if not hundreds of thousands of dollars. If he does not sign amended
23
24
25

1 reports, he will not be prosecuted or fined. Such compelled speech violates Article I
2 Section 8 and the First Amendment to the U.S. Constitution.

3
4 140. For the reasons stated herein, the Injunctive Order violates Plaintiff's
5 rights guaranteed and protected not only by the 1st and 14th Amendments to the
6 United States Constitution, but also Article I, Section 8 of the Oregon Constitution.

7
8 **Claim 4. FIFTH AMENDMENT**

9 *"No person shall be held to answer for a capital, or otherwise infamous*
10 *crime, unless on a presentment or indictment of a grand jury, except in cases*
11 *arising in the land or naval forces, or in the militia, when in actual service in*
12 *time of war or public danger; nor shall any person be subject for the same*
13 *offense to be twice put in jeopardy of life or limb; nor shall be compelled in any*
14 *criminal case to be a witness against himself, nor be deprived of life, liberty, or*
15 *property, without due process of law; nor shall private property be taken for*
16 *public use, without just compensation."*

17 141. Plaintiff restates and reiterates all of the foregoing paragraphs of this
18 complaint as if set forth in full at this point.

19 142. Defendant State of Oregon violated Plaintiff's right to equal treatment and
20 protection under the law by prosecuting Plaintiff for failure to file personal income
21 returns with full knowledge that the state, in concert with the two labor union
22 defendants, OEA and AFT-Oregon, had overstated Plaintiff's income by more than
23 \$500,000 over a three-year period, making it impossible for Plaintiff to file said
24 personal tax returns without fear of being prosecuted for filing false returns.

25 143. Defendants John Kroger and Sean Riddell abused for political gain their
official authority and violated Plaintiff's rights by singling him out for criminal

1 prosecution when no other Oregonian has been prosecuted solely for not filing state
2 tax returns.

3 144. Judge Jerome LaBarre and Judge Janice R. Wilson deprived Plaintiff of a
4 primary means of making a living by prohibiting him from using any company he
5 owns or operates to lawfully collect signatures for an initiative for which Plaintiff is a
6 chief petitioner, notwithstanding the fact that Plaintiff was not a defendant in the
7 2002 ORICO case, was not personally represented by counsel, and had not been
8 afforded his right to due process and a jury trial.

9
10
11 **Claim 5. Article IV of the Oregon Constitution**

12 **Section 1**

13 ***Legislative power; initiative and referendum.***

14
15 ***1. The legislative power of the state, except for the initiative and***
16 ***referendum powers reserved to the people, is vested in a Legislative***
17 ***Assembly, consisting of a Senate and a House of Representatives.***

18 ***2.***

19 ***a. The people reserve to themselves the initiative power, which is to***
20 ***propose laws and amendments to the Constitution and enact or***
21 ***reject them at an election independently of the Legislative***
22 ***Assembly.***

23 ***b. An initiative law may be proposed only by a petition signed by a***
24 ***number of qualified voters equal to six percent of the total number***
25 ***of votes cast for all candidates for Governor at the election at***
which a Governor was elected for a term of four years next
preceding the filing of the petition.

c. An initiative amendment to the Constitution may be proposed only
by a petition signed by a number of qualified voters equal to eight
percent of the total number of votes cast for all candidates for
Governor at the election at which a Governor was elected for a
term of four years next preceding the filing of the petition.

1 *d. An initiative petition shall include the full text of the proposed law*
2 *or amendment to the Constitution. A proposed law or amendment*
3 *to the Constitution shall embrace one subject only and matters*
4 *properly connected therewith.*

5 *e. An initiative petition shall be filed not less than four months before*
6 *the election at which the proposed law or amendment to the*
7 *Constitution is to be voted upon.*

8 **3.**

9 *a. The people reserve to themselves the referendum power, which is*
10 *to approve or reject at an election any Act, or part thereof, of the*
11 *Legislative Assembly that does not become effective earlier than 90*
12 *days after the end of the session at which the Act is passed.*

13 *b. A referendum on an Act or part thereof may be ordered by a*
14 *petition signed by a number of qualified voters equal to four*
15 *percent of the total number of votes cast for all candidates for*
16 *Governor at the election at which a Governor was elected for a*
17 *term of four years next preceding the filing of the petition. A*
18 *referendum petition shall be filed not more than 90 days after the*
19 *end of the session at which the Act is passed.*

20 *c. A referendum on an Act may be ordered by the Legislative*
21 *Assembly by law. Notwithstanding section 15b, Article V of this*
22 *Constitution, bills ordering a referendum and bills on which a*
23 *referendum is ordered are not subject to veto by the Governor.*

24 **4.**

25 *a. Petitions or orders for the initiative or referendum shall be filed*
with the Secretary of State. The Legislative Assembly shall provide
by law for the manner in which the Secretary of State shall
determine whether a petition contains the required number of
signatures of qualified voters. The Secretary of State shall
complete the verification process within the 30-day period after the
last day on which the petition may be filed as provided in
paragraph (e) of subsection (2) or paragraph (b) of subsection (3)
of this section.

b. Initiative and referendum measures shall be submitted to the
people as provided in this section and by law not inconsistent
therewith.

c. All elections on initiative and referendum measures shall be held
at the regular general elections, unless otherwise ordered by the
Legislative Assembly.

d. Notwithstanding section 1, Article XVII of this Constitution, an
initiative or referendum measure becomes effective 30 days after

1 *the day on which it is enacted or approved by a majority of the*
2 *votes cast thereon. A referendum ordered by petition on a part of*
3 *an Act does not delay the remainder of the Act from becoming*
4 *effective.*

5 **5. The initiative and referendum powers reserved to the people by**
6 **subsections (2) and (3) of this section are further reserved to the**
7 **qualified voters of each municipality and district as to all local, special**
8 **and municipal legislation of every character in or for their municipality**
9 **or district. The manner of exercising those powers shall be provided by**
10 **general laws, but cities may provide the manner of exercising those**
11 **powers as to their municipal legislation. In a city, not more than 15**
12 **percent of the qualified voters may be required to propose legislation by**
13 **the initiative, and not more than 10 percent of the qualified voters may be**
14 **required to order a referendum on legislation.**

15 145. Plaintiff restates and reiterates all of the foregoing paragraphs of this
16 complaint as if set forth in full at this point.

17 146. The United States Supreme Court has ruled in several cases that First
18 Amendment rights and protections apply to activities related to the initiative process
19 once a state has authorized such a process. Plaintiff's initiative rights have been and
20 continue to be violated by the Injunctive Orders. Plaintiff has been and is prohibited
21 by the Injunctive Order from raising and spending money for initiative petition drives.
22 The State has halted Plaintiff's lawful efforts to place measures on the ballot without
23 any finding that Plaintiff had violated the law. The State has adopted numerous laws,
24 which were drafted and passed for the purpose of making it more difficult and more
25 expensive for Plaintiff to place measures on the ballot. The State impermissibly treats
paid signature gathering efforts differently from volunteer efforts. With no
compelling government reason, the State requires paid signature gatherers and only
paid signature gatherers to go through training and obtain a badge before they can
circulate a petition. This makes it more difficult for Plaintiff to recruit paid

1 circulators, who for the most part strongly prefer to be paid based on performance.
2 The State prohibition against Plaintiff paying by the signature, greatly increases the
3 amount of money Plaintiff must raise in order to place a measure on the ballot and
4 thus limits his speech. The ban on paying by the signature keeps paid circulators from
5 coming to Oregon because they do not wish to obtain a badge, do not wish to be paid
6 by the hour, and do not wish to delaying working for the time it takes to obtain
7 approval from the state to collect signatures. The State requires Plaintiff to maintain
8 very detailed payroll records to prove that Plaintiff is not paying by the signature and
9 threatens Plaintiff with large fines and incarceration if he pays circulators by the
10 signature. The State requires Plaintiff to use a different colored paper for the
11 signature sheets that are used by paid circulators, so paid petitions can more easily be
12 identified. The State requires Plaintiff to photocopy only the petition sheets
13 containing signatures collected by paid circulators, but not those collected by
14 volunteers. There is no compelling state purpose for any of these requirements and
15 restrictions and none of them is narrowly tailored to prevent some specific harm and
16 yet all of them increase the cost of placing measures on the ballot, limit Plaintiff's
17 political speech and limit the number of ballot measures for which he and other
18 citizens can cast a vote.

19
20 **Claim 6. Sixth and Seventh Amendments of the United States Constitution**
21 **and Section 3 of Article VII Revised of the Oregon Constitution**

22
23 *Sixth Amendment: In all criminal prosecutions, the accused shall enjoy the*
24 *right to a speedy and public trial, by an impartial jury of the State and district*
25 *wherein the crime shall have been committed, which district shall have been*
previously ascertained by law, and to be informed of the nature and cause of

1 *the accusation; to be confronted with the witnesses against him; to have*
2 *compulsory process for obtaining witnesses in his favor, and to have the*
3 *Assistance of Counsel for his defence.*

4 *Seventh Amendment: In Suits at common law, where the value in controversy*
5 *shall exceed twenty dollars, the right of trial by jury shall be preserved, and no*
6 *fact tried by a jury, shall be otherwise re-examined in any Court of the United*
7 *States, than according to the rules of the common law.*

8
9 **Section 3 of Article VII of the Oregon Constitution**
10 **(in relevant part)**

11
12 *Section 3. Jury trial; re-examination of issues by appellate court; record on*
13 *appeal to Supreme Court; affirmance notwithstanding error; determination of*
14 *case by Supreme Court. In actions at law, where the value in controversy shall*
15 *exceed \$750, the right of trial by jury shall be preserved, and no fact tried by a*
16 *jury shall be otherwise re-examined in any court of this state, unless the court*
17 *can affirmatively say there is no evidence to support the verdict.*

18
19 147. Plaintiff restates and reiterates all of the foregoing paragraphs of this
20 complaint as if set forth in full at this point.

21
22 148. Judge Jerome LaBarre found Plaintiff guilty of “*criminal* manipulation” of
23 the initiative process in a civil case in which Plaintiff was not a defendant and had not
24 been afforded the right to a jury trial.

1 149. In violation of Plaintiff's right to a jury trial, Multnomah County Circuit
2 Court Judge Janice Wilson found Plaintiff guilty of lying *under oath* multiple times,
3 signed judgments in excess of \$100,000 against Plaintiff, and severely restricted
4 Plaintiff's civil rights, all stemming from a civil case in which Plaintiff was not a
5 defendant. (Oregon's racketeering law does not authorize injunctions against non-
6 defendants.)

7 150. Marion County Circuit Court Judge Joseph Guimond found Plaintiff to
8 be a *convicted* racketeer without Plaintiff ever having been convicted of this or any
9 other predicate ORICO crime by a jury of his peers. Plaintiff was not a defendant in
10 the 2002 *civil* case which formed the basis upon which Judge Guimond made this
11 finding and was not found guilty or convicted of anything.

12 151. Oregon's racketeering statutes violated Plaintiff's constitutional rights by
13 allowing him to be found guilty of crimes in a civil lawsuit in which Plaintiff was not a
14 criminal defendant and was not afforded the rights and protections afforded a
15 criminal defendant.

16 152. Judge Claudia Burton violated Plaintiff's constitutional right to a jury
17 trial by denying him the right to put on evidence in his defense, under threat of
18 incarceration for contempt of court, if he told the jury why he had not filed and could
19 not file his tax returns or that he had paid more than \$50,000 in good faith estimated
20 taxes to the state and federal governments. Judge Burton's decision denied Plaintiff
21 his right to make his case to a jury of his peers and denied him his constitutional right
22 to make a jury nullification argument. Denying Plaintiff the right to put on any
23 defense forced him to plead guilty to crimes Plaintiff did not believe he had
24 committed.
25

1 as to the constitutionality of Judge LaBarre's and Judge Wilson's injunctive orders in
2 so far as they restrict or compel Plaintiff.

3 6. Under Claims 2, 4, and 6, nullification of all portions of Judge LaBarre's
4 Findings of Fact and Conclusions of Law and Judge Janice Wilson's Dec. 1, 2008
5 decision, which name or implicate Plaintiff in any act which is criminal in nature and
6 for which he has not been afforded the rights and protections of a criminal defendant.

7 7. Under Claim 2, 4, and 6, a Declaratory Judgment that at all times prior to the
8 filing of this Complaint Plaintiff was not a convicted racketeer and had not been
9 lawfully found guilty of perjury or criminal manipulation of the initiative process.

10 8. Under Claim 2, an Order that the appropriate Defendants provide or expend
11 sufficient funds to publicly correct the false statements defendants, including the State
12 of Oregon or its agents, have made or aided in making about Plaintiff.

13 9. Under Claims 1, 2, 3, and 4, an Order that Plaintiff cannot be compelled to sign
14 amended nonprofit tax returns for periods during which he was not an officer of the
15 corporation or be compelled to sign or submit amended Contribution and
16 Expenditure Reports to the Secretary of State or be compelled to certify as *true*
17 documents he does not believe to be true and that Plaintiff may not be incarcerated
18 for failing or refusing to do so.

19 10. Under Claims 1, 2, 3, and 4, nullification of all election laws found to have been
20 adopted primarily to make it more difficult or expensive for Plaintiff and other
21 participants in the initiative process to raise political funds, collect signatures and/or
22 qualify initiative petitions for the ballot, including but not limited to provisions of HB
23 2082 and Article IV, Section 2 of the Oregon Constitution; or in the alternative to
24 demonstrate that the State has a compelling State interest and that the restrictions or
25

1 requirements are narrowly tailored to serve that purpose with minimal restriction of
2 Plaintiff's protected speech.

3 11. Under Claims 1, 2, 3, 4, and 5, nullification of all campaign finance disclosure
4 laws for initiative petition drives, which apply to Plaintiff as a chief petitioner or
5 sponsor of a measure, but do not apply equally to all opponents of initiative petition
6 drives; and an order nullifying Oregon's law requiring the formation and registration
7 of a political committee before a person raises or spends money for political purposes.

8 12. Under Claims 1, 2, 3, and 5, an Order prohibiting the Oregon Elections
9 Division from halting a petition signature drive based on an unproven claim or
10 suspicion that a chief petitioner has paid, is paying, or merely might be paying petition
11 circulators by the signature.

12 13. Under Claims 2 and 6, a declaration that Plaintiff was wrongfully jailed for
13 contempt of court for not signing a tax return which he had never been ordered to
14 sign. If the court determines that the Injunctive Order may not permissibly be
15 applied to newly acquired assets of organizations possessing none of the assets of the
16 original defendants, then an Order that there was no basis for the Contempt II, III,
17 and IV proceedings.

18 14. Under Claims 1, 2, 3, 5, and 6, an Order declaring Oregon's civil racketeering
19 statutes impermissibly vague and inapplicable to alleged Oregon election law
20 violations and disallowing recovery of voluntarily expended campaign funds under
21 ORICO; or in the alternative an Order that ORICO may only be applied to election
22 law violations where a plaintiff's civil rights have been violated or when damages are
23 based on proximate cause.

24 15. Under Claims 2, 4, and 6, an Order that Plaintiff may not be found guilty of or
25 convicted of a crime by means of a civil ORICO lawsuit which applies a lesser

1 standard of evidence than in a criminal case and without affording Plaintiff all of the
2 rights and protections afforded to a criminal defendant.

3 16. Under Claims 2 and 4, a finding that Plaintiff was denied his right to a jury trial
4 by the Marion County Court's ruling stating that he would not be allowed to put on a
5 defense in response to the charges which had been brought against him.

6 17. Under Claims 2 and 4, a finding that Plaintiff was unconstitutionally singled out
7 and prosecuted for political reasons (on charges of tax evasion or failure to file state
8 tax returns.)

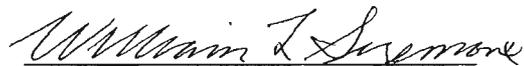
9 18. Plaintiff's costs and disbursements;

10 19. Plaintiff's reasonable attorneys fees, if any;

11 20. An injunction against Defendants setting up continued roadblocks to Plaintiff's
12 lawful efforts to place initiatives on the ballot; and

13 21. Such other and further relief as the Court deems just and proper.

14
15
16 RESPECTFULLY SUBMITTED this 16th day of March, 2012

17
18
19 
20 William Lee Sizemore, Pro Se

21 **DEMAND FOR JURY TRIAL**

22 Plaintiff demands trial by jury of all issues properly triable by jury herein.

23
24 
25 William Lee Sizemore, Pro Se