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

**BRYN HAZELL, FRANCIS NELSON, TOM
CIVILETTI, DAVID DELK, GARY DUELL,
JOAN HORTON, and KEN LEWIS,**

Plaintiffs,

v.

**BILL BRADBURY, Secretary of State of
the State of Oregon,**

and

**HARDY MYERS, Attorney General of the
State of Oregon**

Defendants.

Case No. _____

COMPLAINT

**(Declaratory and
Injunctive Relief)**

Plaintiffs allege:

- 1. Plaintiffs are each and all Oregon citizens, electors and taxpayers.
 - A. Plaintiff Bryn Hazell served as a Chief Petitioner for Oregon statewide ballot measure Petition 37 (2006), which became Oregon statewide Measure 47 when it qualified for the November 2006 general election ballot.

1 B. Plaintiff Francis Nelson served as a Chief Petitioner for Oregon Petition
2 37 (2006), which became Measure 47 when it qualified for the November
3 2006 general election ballot.

4 C. Every plaintiff is a registered voter in Oregon.

5 D. Every plaintiff expended time or money in gathering signatures on
6 Petition 37 or in supporting the enactment of Measure 47.

7 E. Every plaintiff desires the full implementation of Measure 47.

8 F. Every plaintiff is adversely affected and aggrieved by the failure of the
9 Defendants to implement and enforce each and all of the provisions of
10 Measure 47.

11 (1) Each is adversely affected and aggrieved, because each supported
12 Measure 47 and voted for Measure 47 yet see that is not being
13 implemented.

14 (2) Each is adversely affected and aggrieved, because each is a
15 participant in the political campaign process in Oregon whose
16 influence is overwhelmed by the influence of the huge campaign
17 contributions and independent expenditures by corporations,
18 unions, other entities, and individuals, as documented by the
19 legislative findings of fact in Section (1) of Measure 47.

20 2. Each plaintiff intends to remain an Oregon citizen, elector and taxpayer.

- 1 3. Each plaintiff is bringing each claim presented to vindicate each plaintiff's
2 rights and the rights of all Oregon electors, residents, and taxpayers and not
3 for any personal gain or profit.
- 4 4. Defendant Bill Bradbury is Secretary of State of the State of Oregon
5 ["Secretary"].
- 6 5. Defendant Hardy Myers is Attorney General of the State of Oregon ["Attorney
7 General"].
- 8 6. This Court has jurisdiction of this action under ORS 183.484(1), ORS 246.910,
9 and ORS 28.010.
- 10 7. Venue for actions against Defendants under these statutes is in the Marion
11 County Circuit Court.
- 12 8. At the November 7, 2006, general election, the voters of Oregon enacted
13 Measure 47 (copy attached hereto as Exhibit A).
- 14 9. The Oregon Constitution, Article IV, § 1(4)(d), provides that an initiative
15 enacted by vote of the people shall become effective 30 days after the date
16 on which it is enacted.
- 17 10. Measure 47 became effective on December 7, 2006.
- 18 11. Measure 47 is a statute pertaining to elections and directs its own codification
19 as ORS Chapter 259.
- 20 12. Section (10)(a) of Measure 47 directly orders both Defendants to administer
21 and enforce its provisions.

- 1 13. On behalf of the Secretary, the Director of Elections (John Lindback) on
2 November 17, 2006, sent a letter to the Chief Petitioners, which stated that
3 the Secretary will not implement any part of Measure 47 other than Section
4 (9)(f) (copy attached hereto as Exhibit B).
- 5 14. The Attorney General has notified legal representatives of the Chief Petitioners
6 for Measure 47 that he will not implement any part of Measure 47 other than
7 Section (9)(f).

8
9 **FIRST CLAIM FOR RELIEF (BY PLAINTIFFS HAZELL, NELSON, CIVILETTI,
10 DELK, AND DUELL) (Declaratory Judgment)**

- 11
12 15. Plaintiffs Hazell et al. reallege ¶¶ 1-14.
- 13 16. Section (9)(f) of Measure 47, in concert with Section 11 of Measure 47,
14 contemplates that the validity under the Oregon Constitution of every provision
15 of Measure 47 shall be determined by the courts.
- 16 17. By refusing to implement any part of Measure 47 other than an incorrect
17 implementation of Section (9)(f), the Secretary is in violation of his duty:
- 18 A. As the "chief elections officer of this state," ORS 246.110, to implement
19 duly enacted laws pertaining to elections; and
- 20 B. To implement a duly enacted statute which designates the Secretary as
21 an officer responsible for implementation of such statute.
- 22 18. By refusing to implement any part of Measure 47 other than an incorrect
23 implementation of Section (9)(f), the Attorney General is in violation of his
24 duty, as the chief law enforcement officer of this state, to implement duly

1 enacted laws and also statutes which designate the Attorney General as an
2 officer responsible for implementation of such statutes.

3 19. Pursuant to ORS 28.010 to 28.160, ORS 183.486(1), and ORS 246.910, *inter*
4 *alia*, Plaintiffs Hazell et al. are entitled to, and hereby seek, a declaration that:

5 A. Each Defendant is obligated to administer and enforce each and all of
6 the provisions of Measure 47.

7 B. Section (9)(f) does not authorize either Defendant to avoid administering
8 and enforcing the provisions of Measure 47 other than Section (9)(f).

9
10 **SECOND CLAIM FOR RELIEF (BY PLAINTIFFS HAZELL, NELSON, CIVILETTI,**
11 **DELK, AND DUELL) (Injunctive Relief)**

12
13 20. Plaintiffs Hazell et al. reallege ¶¶ 1-19.

14 21. Plaintiffs Hazell et al. and other Oregon residents and electors are irreparably
15 harmed by Defendants' refusal to administer and enforce the provisions of
16 Measure 47 other than their incorrect interpretation of Section (9)(f).

17 A. They are harmed by deprivation of their right to enact legislation
18 pursuant to the initiative process under Article IV of the Oregon
19 Constitution.

20 B. They are harmed by the continuing undue influence of monied interests
21 in all state and local political campaigns for public office, as documented
22 in the legislative findings of fact set forth in Section (1) of Measure 47.

23 C. They are harmed by the continuing lack of timely disclosure and
24 publication of information on the sources of money used by campaigns

1 for state and local public office in Oregon, as documented in the
2 legislative findings of fact set forth in Section (1) of Measure 47.

3 22. Pursuant to ORS 28.080, ORS 183.486(1), ORS 183.490, and ORS 246.910,
4 *inter alia*, Plaintiffs Hazell et al. are entitled to, and hereby seek, a order
5 directing Defendants to administer and enforce all provisions of Measure 47.

6
7 **THIRD CLAIM FOR RELIEF (BY PLAINTIFFS HORTON AND LEWIS)**
8 **(Declaratory Judgment)**
9

10 23. Plaintiffs Horton and Lewis reallege reallege ¶¶ 1-14.

11 24. Section (9)(f) of Measure 47 is void and unenforceable with no effect, because,
12 *inter alia*:

13 A. It is inconsistent with Article IV, § 1(4)(d), of the Oregon Constitution
14 and other provisions of the Oregon Constitution establishing the
15 separation of powers of the legislative and judicial branches.

16 B. It is inconsistent with the provisions of the Oregon Constitution, because
17 it seeks to direct by statute the method to be used by the courts to
18 interpret the Oregon Constitution.

19 25. By relying upon Section (9)(f) as justification for refusing to implement any
20 other part of Measure 47, the Secretary is in violation of his duty:

21 A. As the "chief elections officer of this state," ORS 246.110, to implement
22 duly enacted laws pertaining to elections; and

23 B. To implement a duly enacted statute which designates the Secretary as
24 an officer responsible for implementation of such statute.

1 26. By relying upon Section (9)(f) as justification for refusing to implement any
2 other part of Measure 47, the Attorney General is in violation of his duty, as
3 the chief law enforcement officer of this state, to implement duly enacted laws
4 and also statutes which designate the Attorney General as an officer
5 responsible for implementation of such statutes.

6 27. Pursuant to ORS 28.010 to 28.160, ORS 183.486(1), and ORS 246.910, *inter*
7 *alia*, Plaintiffs Horton and Lewis are entitled to, and hereby seek, a
8 declaration that:

9 A. Each Defendant is obligated to administer and enforce each and all of
10 the provisions of Measure 47, except Section (9)(f).

11 B. Section (9)(f) is an unconstitutional and unenforceable.

12 C. Section (9)(f) is unconstitutional to the extent it contravenes the
13 immediate enforcement of otherwise constitutional and enforceable
14 statutory law, as required by Article IV, § 1(4)(d), of the Oregon
15 Constitution.

16
17 **FOURTH CLAIM FOR RELIEF (BY PLAINTIFFS HORTON AND LEWIS)**
18 **(Injunctive Relief)**

19
20 28. Plaintiffs Horton and Lewis reallege reallege ¶¶ 1-14 and 23-27.C.

21 29. Plaintiffs Horton and Lewis and other Oregon residents and electors are
22 irreparably harmed by Defendants' refusal to administer and enforce the
23 provisions of Measure 47, other than Section (9)(f).

- 1 A. They are harmed by deprivation of their right to enact legislation
2 pursuant to the initiative process under Article IV of the Oregon
3 Constitution.
- 4 B. They are harmed by the continuing undue influence of monied
5 interests in all state and local political campaigns for public office, as
6 documented in the legislative findings of fact set forth in Section (1) of
7 Measure 47.
- 8 C. They are harmed by the continuing lack of timely disclosure and
9 publication of information on the sources of money used by campaigns
10 for state and local public office in Oregon, as documented in the
11 legislative findings of fact set forth in Section (1) of Measure 47.

12 30. Pursuant to ORS 28.080, ORS 183.486(1), ORS 183.490, and ORS 246.910,
13 *inter alia*, Plaintiffs Horton and Lewis are entitled to, and hereby seek, a
14 order directing Defendants to administer and enforce all provisions of
15 Measure 47, except Section (9)(f).

16
17 WHEREFORE, Plaintiffs Hazell et al. pray for a judgment:

- 18 1. Declaring that:
- 19 a. The Secretary is obligated to administer and enforce each and
20 all of the provisions of Measure 47.
- 21 b. The Attorney General is obligated to administer and enforce
22 each and all of the provisions of Measure 47.
- 23

- 1 2. Ordering that the Secretary and Attorney General administer and
2 enforce all provisions of Measure 47.
- 3 3. Awarding fees under the First and/or Second claims for relief under
4 the authority of ***Deras v. Myers***, 272 Or 47, 535 P2d 541 (1975);
5 ***Armatta v. Kitzhaber***, 327 Or 250, 959 P2d 49 (1998); ***Lehman v.***
6 ***Bradbury***, 334 Or 579, 583, 54 P3d 591 (2002); and ***Swett v.***
7 ***Bradbury***, 335 Or 378, 67 P3d 391 (2003).
- 8 4. Awarding fees and costs on the Second Claim for relief under ORS
9 183.497.
- 10 5. Granting such other relief the Court deems appropriate.

11 WHEREFORE, Plaintiffs Horton and Lewis pray for a judgment:
12

- 13 1. Declaring that:
14 a. The Secretary is obligated to administer and enforce each and
15 all of the provisions of Measure 47, except Section (9)(f).
16 b. The Attorney General is obligated to administer and enforce
17 each and all of the provisions of Measure 47, except Section
18 (9)(f).
19
- 20 2. Ordering that the Secretary and Attorney General administer and
21 enforce all provisions of Measure 47, except Section (9)(f).
- 22 3. Awarding fees under the Third and/or Fourth claims for relief under the
23 authority of ***Deras v. Myers***, 272 Or 47, 535 P2d 541 (1975); ***Armatta***
24 ***v. Kitzhaber***, 327 Or 250, 959 P2d 49 (1998); ***Lehman v. Bradbury***,

