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

TIM REEVES, ERIC SAUB, GREG BURNETT, CARLA PEALER, as the **LIBERTARIAN PARTY OF OREGON**, and **DAVID TERRY, M CARLING**, and **RICHARD BURKE**, as Members of the **LIBERTARIAN PARTY OF OREGON**,

Plaintiffs,

vs.

WES WAGNER, HARRY JOE TABOR, MARK VETANEN, BRUCE KNIGHT, JEFF WESTON, JIM KARLOCK, RICHARD SKYBA, JOSEPH SHELLEY, individuals and **LIBERTARIAN PARTY OF OREGON**,

Defendants.

Case No. CV 12010345

DEFENDANT LIBERTARIAN PARTY OF OREGON'S AMENDED ANSWER, AFFIRMATIVE DEFENSES, AND COUNTERCLAIMS

Defendant Libertarian Party of Oregon ("LPO") answers plaintiffs' Second Amended Complaint as follows:

1.

LPO admits that Plaintiffs Reeves and Burnett were registered voters affiliated with the Libertarian Party at certain times, denies that Plaintiffs Reeves and Burnett were members of the LPO under the 2009 Bylaws at all relevant times but admits that Plaintiffs Reeves and Burnett were at certain times members of the LPO under the LPO Bylaws adopted by the LPO State Committee on March 31,

Page 1 – DEFENDANT LIBERTARIAN PARTY OF OREGON'S AMENDED ANSWER, AFFIRMATIVE DEFENSES, AND COUNTERCLAIMS

1 2011, and subsequently ratified by a vote of Libertarian Party voters (the “2011
2 Bylaws”). LPO otherwise denies the allegations in paragraph 1. LPO
3 affirmatively alleges for the sake of clarity that Plaintiffs Reeves’ and Burnett’s
4 status as dues-paying members of the LPO had lapsed prior to their
5 commencement of this action; that Plaintiff Burnett was registered as a Republican
6 voter from October 4, 2004, until April 23, 2010, and as an Independent voter
7 from April 23, 2010, until May 26, 2011; and that Reeves was registered as a
8 Republican voter from April 24, 2012, until June 5, 2012.

9 2.

10 LPO admits that Plaintiff Reeves was a registered voter affiliated with the
11 Libertarian Party at certain times and a resident of Oregon at all relevant times,
12 denies that Plaintiff Reeves was a member of the LPO under either the 2009 or
13 2011 Bylaws at all relevant times, and otherwise denies the allegations in
14 paragraph 2.

15 3.

16 LPO admits that Plaintiff Terry attended the LPO State Committee meeting
17 held on March 31, 2011, denies that Plaintiff Terry was a member of the LPO
18 under either the 2009 Bylaws or the 2011 Bylaws at all relevant times, and
19 otherwise denies the allegations in paragraph 3. LPO affirmatively alleges for the
20 sake of clarity that Plaintiff Terry objected to the nature of the business being
21 considered at the meeting held on March 31, 2011, but left the meeting before
22 making any formal objection to the adoption of the 2011 Bylaws. LPO further
23 affirmatively alleges for the sake of clarity that Plaintiff Terry’s status as a dues-
24 paying member of the LPO had lapsed and was not renewed prior to the March 31,
25 2011, LPO State Committee meeting and before his commencement of this action
26 and that Plaintiff Terry is currently registered as a Republican voter.

**Page 2 – DEFENDANT LIBERTARIAN PARTY OF OREGON’S
AMENDED ANSWER, AFFIRMATIVE DEFENSES, AND
COUNTERCLAIMS**

1 4.

2 LPO admits that Plaintiffs Burnett, Saub and Pealer were registered voters
3 affiliated with the Libertarian Party at certain times, denies that Plaintiffs Saub and
4 Pealer were members of the LPO under the 2009 Bylaws at all relevant times but
5 admits that Plaintiffs Reeves and Burnett were at certain times members of the
6 LPO under the 2011 Bylaws, admits that Plaintiff Burnett has not been given
7 control of the assets of the LPO, and otherwise denies the allegations in paragraph
8 4. LPO affirmatively alleges for the sake of clarity that Plaintiffs Saub's and
9 Pealer's status as dues-paying members of the LPO had lapsed and was not
10 renewed prior to the commencement of this action; that Plaintiff Saub was
11 registered as a Republican voter from April 12, 2004, until May 23, 2011, and
12 from June 7, 2011, until October 4, 2011; and that Plaintiff Burnett was registered
13 as a Republican voter from October 4, 2004, until April 23, 2010, and as an
14 Independent voter from April 23, 2010, until May 26, 2011.

15 5.

16 LPO admits that Richard Burke was a registered voter affiliated with the
17 Libertarian Party and a resident of Oregon, denies that Plaintiffs Burke and
18 Carling were members of the LPO under the 2009 Bylaws at all relevant times but
19 admits that Plaintiff Burke was at all relevant times a member of the LPO under
20 the 2011 Bylaws, and otherwise denies the allegations of paragraph 5. LPO
21 affirmatively alleges for the sake of clarity that Plaintiffs Burke's and Carling's
22 status as dues-paying members of the LPO had lapsed and was not renewed prior
23 to the commencement of this action.

24 6.

25 LPO admits that the Libertarian National Committee ("LNC") is a national
26 political organization with state affiliates around the United States, that LNC

**Page 3 – DEFENDANT LIBERTARIAN PARTY OF OREGON'S
AMENDED ANSWER, AFFIRMATIVE DEFENSES, AND
COUNTERCLAIMS**

1 claims a trademark on the words “Libertarian Party,” and that the LPO is affiliated
2 with the LNC. LPO denies the remaining allegations either on the facts or because
3 they are conclusions of law not requiring an answer.

4 7.

5 LPO admits that Wes Wagner resides in Clackamas County, that Wagner is
6 the chairperson of the LPO as recognized by the Oregon Secretary of State
7 Elections Division, and that Wagner moved to dismiss earlier actions brought by
8 some of plaintiffs against Wagner that failed to name other officers of the LPO.
9 LPO denies the remaining allegations in paragraph 7 either on the facts or because
10 they are conclusions of law not requiring an answer.

11 8.

12 LPO denies the allegations in paragraph 8 either on the facts or because
13 they are conclusions of law not requiring an answer.

14 9.

15 LPO admits that its bylaws were amended at the 2009 State Convention in
16 Newport, Oregon on March 4 and 15, 2009, that the document attached as Exhibit
17 1 likely is an accurate reflection of relevant provisions of the 2009 Bylaws, and
18 denies the allegations of paragraph 9. LPO affirmatively alleges for the sake of
19 clarity that the document attached as Exhibit 1 is not consistent in all respects with
20 the minutes from the 2009 State Convention in Newport and may not have been
21 properly authenticated.

22 10.

23 In response to paragraph 10, LPO incorporates its answer to paragraph 9 of
24 plaintiffs' Second Amended Complaint. LPO admits that Wagner served as an
25 officer of the LPO under the 2009 Bylaws, admits that the 2009 Bylaws provide
26

**Page 4 – DEFENDANT LIBERTARIAN PARTY OF OREGON’S
AMENDED ANSWER, AFFIRMATIVE DEFENSES, AND
COUNTERCLAIMS**

1 an amendment procedure in Article XVI as quoted in paragraph 10, and denies the
2 remaining allegations either on the facts or because they are conclusions of law.

3 11.

4 In response to paragraph 11, LPO incorporates its answer to paragraph 9 of
5 plaintiffs' Second Amended Complaint.

6 12.

7 In response to paragraph 12, LPO incorporates its answer to paragraph 9 of
8 plaintiffs' Second Amended Complaint.

9 13.

10 In response to paragraph 13, LPO incorporates its answer to paragraph 9 of
11 plaintiffs' Second Amended Complaint. .

12 14.

13 LPO admits that the LPO convened for a properly-noticed annual
14 convention on March 12, 2011, and that the attendants determined that they did
15 not reach a quorum. LPO admits that then-Vice Chairperson Wes Wagner moved
16 to continue the meeting to May 28, 2011, and Wagner's motion was approved
17 after being amended to continue the meeting to May 21, 2011. LPO admits that
18 then-Chairperson Jeff Weston explained at that convention that under the 2009
19 Bylaws if Mr. Wagner's motion to adjourn passed, the term of office of the
20 existing officers would end "at the end of the convention in May." LPO
21 affirmatively alleges for the sake of clarity that Weston's statement that existing
22 officers' terms would end at the end of the convention was predicated on the
23 occurrence of an election of new officers by the LPO membership at the
24 convention in May. LPO admits that Weston resigned shortly after the March 12,
25 2011, meeting and Wagner assumed the position of Chairperson of the LPO, but
26

1 LPO denies the remaining allegations either on the facts or because they are
2 conclusions of law not requiring an answer.

3 15.

4 LPO admits that Jeff Weston resigned from his position as Chairperson and
5 Wagner, as Vice Chair, automatically assumed the role of Chairperson. LPO
6 denies the remaining allegations either on the facts or because they are conclusions
7 of law not requiring an answer.

8 16.

9 In response to paragraph 16, LPO incorporates its answer to paragraph 9 of
10 plaintiffs' Second Amended Complaint. LPO admits that Wagner held a properly-
11 noticed meeting of the LPO State Committee on March 31, 2011; that meeting
12 minutes indicate thirteen individuals attended; and that the State Committee
13 adopted a new constitution and bylaws (the "2011 Bylaws") and appointed Angela
14 Grover, Richard Skyba, Harry Joe Tabor, Ron Bream, Mark Vetanen, Wes
15 Wagner, Jim Karlock, Joe Shelley and Herb Booth to the Board of Directors
16 contemplated by the new bylaws. LPO denies that the State Committee appointed
17 Wes Wagner as Chair, Harry Joe Tabor as Vice Chair, Mark Vetanen as Treasurer,
18 and Bruce Knight as Secretary at that time; but admits they were appointed by the
19 Board of Directors at a later date. LPO denies the remaining allegations either on
20 the facts or because they are conclusions of law not requiring an answer.

21 17.

22 In response to paragraph 17, LPO incorporates its answer to paragraph 9 of
23 plaintiffs' Second Amended Complaint. LPO denies that Wagner acknowledged
24 that a 2/3 vote at a convention was required to change the 2009 bylaws but admits
25 the remainder of the allegations in paragraph 17.

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**Page 6 – DEFENDANT LIBERTARIAN PARTY OF OREGON'S
AMENDED ANSWER, AFFIRMATIVE DEFENSES, AND
COUNTERCLAIMS**

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18.

LPO denies the allegations of paragraph 18 either on the facts or because they are conclusions of law not requiring an answer.

19.

LPO admits that Wagner filed the newly adopted bylaws and reported new Officers to the Oregon Secretary of State in April, but LPO denies the remainder of allegations in paragraph 19 on the facts or because they are conclusions of law not requiring an answer.

20.

LPO admits that Wes Wagner filed with the Oregon Secretary of State the new constitution and bylaws and admits that the Secretary of State accepted the bylaws as legitimate and that Wes Wagner was on the Oregon Secretary of State's list of officers of the LPO at the referenced time, but otherwise denies the remainder of allegations in paragraph 20 on the facts or because they are conclusions of law not requiring an answer.

21.

LPO admits that some registered voters affiliated with the Libertarian Party met on May 21, 2011, and that Wagner, Tabor, Knight, and Vetanen did not attend this meeting. LPO denies the remaining allegations in paragraph 21, and affirmatively alleges for the sake of clarity that the adoption of the 2011 Bylaws resulted in a cancellation of the continuation of the March 12, 2011 convention meeting.

22.

In response to paragraph 22, LPO incorporates its answer to paragraph 9 of plaintiffs' Second Amended Complaint. LPO admits that Article V of the 2009

1 Bylaws states that “terms of office of all elected officers and directors shall begin
2 immediately upon the close of convention.”

3 23.

4 LPO denies the allegations of paragraph 23 and affirmatively alleges for the
5 sake of clarity that the alleged convention meeting was cancelled as a result of the
6 adoption of the 2011 Bylaws.

7 24.

8 LPO denies the allegation of paragraph 24 and affirmatively alleges for the
9 sake of clarity that even under the 2009 Bylaws, which were no longer operative,
10 Wagner’s term as Chairperson, which started after the beginning of the 2011
11 annual convention, would end at the close of the next annual convention in March
12 2012, after a successor was elected by a proper quorum.

13 25.

14 In response to paragraph 25, LPO incorporates its answer to paragraph 9 of
15 plaintiffs' Second Amended Complaint. LPO denies the allegations of paragraph
16 25 either on the facts or as conclusions of law not requiring an answer.

17 26.

18 LPO denies the allegations of paragraph 26 either on the facts or as
19 conclusions of law not requiring an answer.

20 27.

21 LPO admits that the Oregon Secretary of State has refused to get involved
22 in an internal political organization dispute and has stated that it requires a court
23 order to recognize someone other than the officers currently on file with the
24 Secretary of State’s Office, denies the remaining allegations in paragraph 27 either
25 on the facts or as conclusions of law not requiring an answer, and affirmatively
26 alleges for the sake of clarity that Wagner (1) serves as chairperson at the pleasure

1 of the Board of Directors, who can choose another chairperson at any meeting, and
2 (2) LPO members will choose a new Board of Directors in biennial elections to be
3 held in 2013 in accordance with the 2011 Bylaws.

4 28.

5 Paragraph 28 alleges a conclusion of law not requiring an answer and an
6 incorrect one, at that, and therefore is denied.

7 29.

8 Paragraph 29 alleges a conclusion of law not requiring an answer, but is
9 denied. LPO affirmatively alleges for the sake of clarity that under ORS 248.004,
10 officers of a political party are treated as officers of a nonprofit corporation for
11 purposes of liability.

12 30.

13 Paragraph 30 alleges a conclusion of law not requiring an answer.

14 31.

15 LPO denies the allegations in paragraph 31 either on the facts or as
16 conclusions of law not requiring an answer and affirmatively alleges for the sake
17 of clarity that under ORS 248.004, members of a political party are treated as
18 Directors of a nonprofit corporation for purposes of liability.

19 32.

20 Paragraph 32 alleges conclusions of law not requiring an answer, but is
21 denied to the extent an answer is required. LPO notes in particular that plaintiffs
22 have failed to comply with this Court's order granting LPO's motion to strike the
23 reference to "attorney fees," and have not repleaded in a way that complies with
24 ORCP 68. Rather than cause delay by initiating another round of ORCP 21
25 motions, LPO will address plaintiffs' lack of entitlement to attorney fees through a
26 different procedural mechanism at a later time.

**Page 9 – DEFENDANT LIBERTARIAN PARTY OF OREGON'S
AMENDED ANSWER, AFFIRMATIVE DEFENSES, AND
COUNTERCLAIMS**

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33.

In response to paragraph 33, which does not contain any new allegations, LPO admits and denies as set forth above.

34.

LPO denies the allegations in paragraph 34 either on the facts or as conclusions of law not requiring an answer.

35.

LPO admits that the March 31, 2011, meeting was not a convention, and otherwise denies the allegations in paragraph 35 either on the facts or as conclusions of law not requiring an answer.

36.

LPO denies the allegations in paragraph 36 either on the facts or as conclusions of law not requiring an answer.

37.

In response to paragraph 37, which does not contain any new allegations, LPO admits and denies as set forth above.

38.

LPO denies the allegations in paragraph 38 either on the facts or as conclusions of law not requiring an answer.

39.

In response to paragraph 39, which does not contain any new allegations, LPO admits and denies as set forth above.

40.

LPO denies the allegations in paragraph 40 either on the facts or as conclusions of law not requiring an answer.

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**Page 10 – DEFENDANT LIBERTARIAN PARTY OF OREGON’S
AMENDED ANSWER, AFFIRMATIVE DEFENSES, AND
COUNTERCLAIMS**

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41.

LPO denies each allegation that is not expressly admitted herein.

FIRST AFFIRMATIVE DEFENSE
(Failure to State a Claim)

42.

Plaintiffs’ causes of action fail to state claims upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE
(Standing)

43.

Plaintiffs Reeves, Saub, Burnett and Pealer lack standing to bring claims on behalf of the LPO because they were not properly elected LPO officers under either the 2009 Bylaws or the 2011 Bylaws at the time they commenced this action.

44.

Plaintiffs lack standing to bring claims on their own behalf or on behalf of the LPO because their claim is entirely premised on the allegation that the 2011 Bylaws are not valid and the 2009 Bylaws have remained in effect. Under the 2009 Bylaws, no plaintiff was a member of the LPO at the time they commenced this lawsuit.

THIRD AFFIRMATIVE DEFENSE
(Unconstitutionality)

45.

The relief plaintiffs seek may not be granted by this Court without violating the free assembly clauses of the First Amendment to the United States Constitution and Article I, section 26, of the Oregon Constitution.

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FOURTH AFFIRMATIVE DEFENSE

(Issue Preclusion)

46.

The Washington County Circuit Court entered a final judgment in *Wagner v. Libertarian Party of Oregon*, case no. C064544CV, determining that the First Amendment to the United States Constitution bars courts from ordering leaders of the Libertarian Party of Oregon to comply with party bylaws.

FIFTH AFFIRMATIVE DEFENSE

(Illegality)

47.

The 2009 Bylaws fail to comply with ORS 248.005 and therefore may not be enforced by the Court.

SIXTH AFFIRMATIVE DEFENSE

(Failure to Exhaust Internal Party Remedies)

48.

Plaintiffs failed to exhaust intra-party processes before seeking relief from the Court.

SEVENTH AFFIRMATIVE DEFENSE

(Exclusive Remedy Bar of the Oregon Administrative Procedure Act)

49.

Under Oregon Revised Statutes Chapter 248, Oregon political parties are regulated by the Secretary of State.

50.

The Oregon Secretary of State, a government agency subject to the Oregon Administrative Procedure Act, issued an order on September 29, 2011, deciding

1 that the the Secretary of State “currently recognize[s], and will continue to
2 recognize Wes Wagner as Chair of the Libertarian Party of Oregon.”

3 51.

4 Plaintiffs have failed to timely appeal the Secretary of State’s order under
5 the Oregon Administrative Procedure Act.

6 52.

7 The Oregon Administrative Procedure Act provides the sole and exclusive
8 method of obtaining judicial review of the Secretary of State’s order.

9 **EIGHTH AFFIRMATIVE DEFENSE**

10 **(Failure to Join a Necessary Party)**

11 53.

12 The complete relief plaintiffs seek—namely, recognition by the Oregon
13 Secretary of State—can only be accorded if plaintiffs bring a claim for relief against
14 the Oregon Secretary of State. Plaintiffs have failed to bring a claim against the
15 Oregon Secretary of State.

16 **(Notice of Additional Affirmative Defenses)**

17 54.

18 LPO hereby gives notice that it intends to rely upon such other affirmative
19 defenses as may become available or apparent during the course of discovery and
20 thus reserves the right to amend its Answer to assert such defenses.

21 **COUNTERCLAIMS**

22 **Common Factual Allegations**

23 55.

24 Prior to March 2011, the LPO had been operating under the 2009 Bylaws,
25 despite questions regarding whether those bylaws accurately reflected the action of
26 the LPO’s 2009 State Convention. Among the provisions of the 2009 Bylaws is

1 one that limits full voting membership in the LPO to those who submit a
2 completed application and pay dues equal to the Oregon Political Tax Credit as set
3 for an individual. The 2009 Bylaws did not make all Oregon voters affiliated with
4 the Libertarian Party members of the LPO and did not limit membership to
5 Oregon voters affiliated with the Libertarian Party (in other words, people who
6 were not members of the Libertarian Party and were not residents of Oregon could
7 pay to become members of the LPO, but actual Oregon residents registered as
8 Libertarian Party voters could not be members of the LPO unless they paid dues).
9 At all relevant times, the annual dues pursuant to the 2009 Bylaws were \$50.

10 56.

11 The 2009 Bylaws provided that “[o]nly LPO members who pay dues and
12 keep them current may hold LPO office.”

13 57.

14 At all relevant times, ORS 248.005 provided: “Each political party by rule
15 shall insure the widest and fairest representation of party members in the party
16 organization and activities. Rules shall be adopted by procedures that assure the
17 fair and open participation of all interested party members.” “Member” was
18 defined as: “an individual who is registered as being affiliated with the political
19 party.” ORS 248.002(4).

20 58.

21 The LPO adopted a Reformation Plan at its 2010 Annual Convention.
22 Among the provisions of the Reformation Plan were amendments to the LPO
23 bylaws making all registered Libertarian Party voters members of the LPO,
24 terminating the requirement to pay dues in order to be a member of the LPO, and
25 restructuring the leadership of the LPO organization.

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59.

A special convention of the LPO was properly called for November 2010 to implement the Reformation Plan. At the instigation of some of the plaintiffs, the body was convinced that it lacked a quorum to take action and therefore did not take action on the Reformation Plan.

60.

The annual meeting of the LPO was properly called for March 13, 2011. Again, some of the plaintiffs convinced the body that it lacked a quorum to take action and the meeting was adjourned to May 21, 2011. After the meeting, LPO Chairperson Jeff Weston resigned, such that former Vice-Chairperson Wes Wagner became Chairperson of the LPO.

61.

The LPO State Committee met at a properly called meeting on March 31, 2011. Recognizing that the position taken by certain plaintiffs regarding quorum would prevent the LPO from ever taking action as a convention in the future, the State Committee adopted the 2011 Bylaws and referred them to the voters of the Libertarian Party for ratification. The 2011 Bylaws implement the Reformation Plan adopted by the LPO in 2010, including: (a) the expansion of LPO membership to all Libertarian Party voters; (b) the elimination of dues as a requirement for membership; and (c) reformation of the leadership structure. The State Committee appointed an initial Board of Directors pursuant to the 2011 Bylaws and officers were selected by the Board of Directors at a subsequent meeting.

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62.

The initial Board of Directors under the 2011 Bylaws included Defendants Jim Karlock and Richard Skyba. Defendants Jeff Weston and Bruce Knight were subsequently appointed to fill vacancies on the Board of Directors.

63.

The initial officers of the LPO under the 2011 Bylaws, appointed by the Board of Directors at its first meeting after March 31, 2011, were Wes Wagner, chairperson; Harry Joe Tabor, vice-chairperson; Mark Vetanen, treasurer, and Bruce Knight, secretary.

64.

In a vote held by mail during June 2012, Libertarian Party voters in Oregon overwhelmingly ratified the 2011 Bylaws.

65.

On May 21, 2011, certain of the plaintiffs and others purported to hold an LPO State Committee meeting. That meeting was void for the following independently sufficient reasons: (a) it was conducted pursuant to the 2009 Bylaws, which had been replaced by the 2011 Bylaws at the State Committee meeting held on March 31, 2011; and (b) the meeting lacked the number of attendees required to constitute a quorum.

66.

The persons purporting to hold an LPO State Committee meeting on May 21, 2011, took the position that all LPO officer positions were vacated and purported to appoint new LPO officers: Plaintiff Reeves as Chair, Plaintiff Saub as Vice Chair, Plaintiff Burnett as Treasurer and Plaintiff Pealer as Secretary.

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**Page 16 – DEFENDANT LIBERTARIAN PARTY OF OREGON’S
AMENDED ANSWER, AFFIRMATIVE DEFENSES, AND
COUNTERCLAIMS**

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67.

The purported appointment of Plaintiff Reeves as LPO chairperson was invalid for the following independently sufficient reasons: (a) the May 21, 2011, meeting lacked a quorum; and (b) the office of chairperson had not been vacated under the 2009 Bylaws and would not be vacated under the 2009 Bylaws until the end of the LPO annual meeting in March 2012.

68.

If the 2009 Bylaws are operative and if Plaintiff Reeves was validly appointed as LPO chairperson on May 21, 2011, the office of LPO chairperson was vacated on October 6, 2011, when Plaintiff Reeves' LPO membership expired without being renewed.

69.

The purported appointment of Plaintiff Saub as LPO vice-chairperson was invalid because the May 21, 2011, meeting lacked a quorum.

70.

If the 2009 Bylaws are operative and if Plaintiff Saub was validly appointed as LPO vice-chairperson on May 21, 2011, the office of LPO vice-chairperson was vacated on October 6, 2011, when Plaintiff Saub's LPO membership expired without being renewed.

71.

The purported appointments of Plaintiff Burnett as LPO treasurer and Plaintiff Pealer as LPO secretary were invalid for the following independently sufficient reasons: (a) the May 21, 2011, meeting lacked a quorum; and (b) the offices of LPO treasurer and LPO secretary had not been vacated under the 2009 Bylaws.

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72.

If the 2009 Bylaws are operative and if Plaintiffs Burnett and Pealer were validly elected as LPO treasurer and secretary, respectively, on May 21, 2011, the offices of LPO treasurer and secretary were vacated on October 5, 2011, when Plaintiffs Burnett's and Pealer's LPO memberships expired without being renewed.

73.

The Oregon Secretary of State Elections Division recognizes Wes Wagner as chairperson of the LPO.

74.

Since May 21, 2011, and continuing through the present, Plaintiff Reeves has held himself out as the chairperson of the LPO, although he was not lawfully elected or appointed to that position, he knows he is not recognized as such by the Oregon Secretary of State Elections Division, and his ability to continue serving as LPO chairperson under the 2009 Bylaws ended on October 6, 2011.

75.

Plaintiff Reeves has sent fundraising appeals and convention notices to individuals, purportedly on behalf of the LPO, in which he identifies himself as the chairperson of the LPO. If any funds were donated by individuals in response to the fundraising appeals of Plaintiff Reeves, they have not been delivered to the LPO treasurer, Defendant Vetanen.

76.

Defendant LPO does not waive its argument that constitutional rights to free assembly preclude this Court from adjudicating intraparty disputes over the enforcement of party bylaws or the status of party leaders, and reserves the right to

1 make that argument again in the future. This Court denied Defendant LPO's
2 motion to dismiss plaintiffs' claims on that ground, however.

3 **FIRST COUNTERCLAIM FOR RELIEF**

4 **(Declaratory Judgment)**

5 77.

6 Plaintiffs incorporate the allegations in paragraphs 1 through 76, above.

7 78.

8 A present controversy exists between the plaintiffs and the defendants as to
9 the operative bylaws of the LPO and the identity of the LPO's leaders. Based on
10 the facts stated above and incorporated herein, Defendant LPO seeks the following
11 declarations of this Court pursuant to ORS 28.010 to 28.160:

- 12 a. The 2011 Bylaws are the presently operative bylaws of the LPO;
- 13 b. Wes Wagner is chairperson of the LPO;
- 14 c. Harry Joe Tabor is vice-chairperson of the LPO;
- 15 d. Mark Vetanen is treasurer of the LPO;
- 16 e. Bruce Knight is secretary of the LPO and a member of the LPO
17 Board of Directors;
- 18 f. Jeff Weston, Jim Karlock and Richard Skyba are members of the
19 LPO Board of Directors;
- 20 g. Tim Reeves is not and has not been chairperson of the LPO;
- 21 h. Eric Saub is not and has not been vice-chairperson of the LPO;
- 22 i. Greg Burnett is not and has not been treasurer of the LPO;
- 23 j. Carla Pealer is not and has not been secretary of the LPO; and
- 24 k. The membership provisions of the 2009 Bylaws are invalid under
25 ORS 248.005.

26 ///

1 **SECOND COUNTERCLAIM FOR RELIEF**
2 **(Money Had and Received)**

3 79.

4 Plaintiffs incorporate the allegations in paragraphs 1 through 78, above.

5 80.

6 Plaintiff Reeves has solicited funds from individuals on behalf of the LPO
7 without the authority to do so and based on the false statement that he is the
8 chairperson of the LPO. Plaintiff Reeves has not delivered any funds received in
9 response to such solicitations to Mark Vetanen, the treasurer of the LPO.

10 Plaintiffs cannot in equity and good conscience be permitted to keep any funds
11 they have received pursuant to such solicitations.

12 WHEREFORE, Defendant LPO prays for judgment as follows:

13 1. Judgment in its favor and against plaintiffs on all of plaintiffs'
14 claims for relief.

15 2. On its FIRST COUNTERCLAIM FOR RELIEF (Declaratory
16 Judgment), a judgment pursuant to ORS 28.010 to 28.160 declaring that:

17 a. The 2011 Bylaws are the presently operative bylaws of the LPO;

18 b. Wes Wagner is chairperson of the LPO;

19 c. Harry Joe Tabor is vice-chairperson of the LPO;

20 d. Mark Vetanen is treasurer of the LPO;

21 e. Bruce Knight is secretary of the LPO and a member of the LPO
22 Board of Directors;

23 f. Jeff Weston, Jim Karlock and Richard Skyba are members of the
24 LPO Board of Directors;

25 g. Tim Reeves is not and has not been chairperson of the LPO;

26 h. Eric Saub is not and has not been vice-chairperson of the LPO;

**Page 20 – DEFENDANT LIBERTARIAN PARTY OF OREGON'S
AMENDED ANSWER, AFFIRMATIVE DEFENSES, AND
COUNTERCLAIMS**

- 1 i. Greg Burnett is not and has not been treasurer of the LPO;
2 j. Carla Pealer is not and has not been secretary of the LPO; and
3 k. The membership provisions of the 2009 Bylaws are invalid under
4 ORS 248.005.

5 3. On its SECOND COUNTERCLAIM FOR RELIEF (Money Had
6 and Received):

7 a. Judgment ordering the delivery to LPO treasurer Mark Vetanen all
8 sums received by Plaintiff Reeves in response to his solicitations of
9 funds purportedly on behalf of the LPO in which he held himself out
10 as the chairperson of the LPO; and

11 b. Imposition of a constructive trust in favor of Defendant LPO on all
12 funds received by Plaintiff Reeves in response to his solicitations of
13 funds purportedly on behalf of the LPO in which he held himself out
14 as the chairperson of the LPO.

15 4. For such other and further relief as the Court may deem just and
16 proper.

17 DATED this 23rd day of July, 2012.

18 HARRANG LONG GARY RUDNICK P.C.

19

20 By: _____

21 C. Robert Steringer, OSB #983514

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25 Of Attorneys for Defendant, Libertarian
26 Party of Oregon

Trial Attorney: C. Robert Steringer

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**Page 22 – DEFENDANT LIBERTARIAN PARTY OF OREGON’S
AMENDED ANSWER, AFFIRMATIVE DEFENSES, AND
COUNTERCLAIMS**

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CERTIFICATE OF SERVICE

I certify that on July 23, 2012, I served or caused to be served a true and complete copy of the foregoing **DEFENDANT LIBERTARIAN PARTY OF OREGON'S AMENDED ANSWER, AFFIRMATIVE DEFENSES, AND COUNTERCLAIMS** on the party or parties listed below as follows:

Via First Class Mail, Postage
Prepaid
 Via Email Transmission

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