

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

Darren Karr,
pro se

Plaintiff,

v.

Kate Brown in her official capacity as
Secretary of State, **Office of Oregon
Secretary of State, Oregon Department
of Administrative Services, John
Kitzhaber** in his official capacity as
Governor

Defendants.

Case Number:

**COMPLAINT FOR
NEGLIGENCE, DEFAMATION,
MISREPRESENTATION, AND
DEPRIVATION OF RIGHTS**

DEMAND FOR JURY TRIAL

REQUEST TO EXPEDITE

Plaintiff makes claim that Oregon State laws and the actions of Defendants had violated his civil rights and state and federal laws, which are protected by the United States Constitution, Oregon Constitution, and other federal and state laws.

Plaintiff brings this Complaint against Defendants for negligence, defamation, misrepresentation, and deprivation of rights based on Oregon election rules that denied Plaintiff equal access to the Oregon Voters' Pamphlet, and Defendants gross misrepresentation of Plaintiff as a candidate to Oregon voters through the Oregon Voters' Pamphlet.

COMPLAINT FOR NEGLIGENCE, DEFAMATION, MISREPRESENTATION, AND
DEPRIVATION OF RIGHTS, DEMAND FOR JURY TRIAL, REQUEST TO EXPEDITE

Plaintiff is a pro se litigant and apologizes for any inartful pleadings, and asks that the court construe any such pleadings liberally (Ortez v. Wash. County, 88 F.3d 804 (9th Cir. 1996)). Plaintiff also requests the court recognize pro se considerations under United States v. City of Redwood, 640 F.2d 963, 966 (9th Cir. 1981), Noll v. Carlson, 809 F.2d 1446, 1448 (9th Cir. 1987), Karim-Panahi v. Los Angeles Police Dept., 839 F.2d 621, 623-24 (9th Cir. 1988), and Gillespie v. Civiletti, 629 F.2d 637, 649 (9th Cir.1980).

Plaintiff seeks damages, declaratory relief, and any such other relief as the Court may deem proper. Plaintiff alleges the following based on personal knowledge and on information and belief as to the acts of others:

PARTIES

1. Plaintiff, Darren Karr, a resident of the City of West Linn, County of Clackamas, State of Oregon, citizen of the United States of America and 2014 registered candidate for Oregon State Governor in the Republican Primary.

2. On information and belief, Defendants Kate Brown is the Secretary of State of Oregon, and a resident of Oregon. Defendants Office of Oregon Secretary of State is the government agency in charge of elections. Defendants Oregon Department of Administrative Service is the agency responsible for denying Plaintiff's tort claim. Defendants Governor John Kitzhaber is ultimately in charge of faithfully executing the law and is a resident of Oregon.

JURISDICTION AND VENUE

3. The Court has subject matter jurisdiction under 28 U.S. Code § 1343(a) as Plaintiff was denied rights under color of any State law, statute, ordinance, regulation,

custom or usage, of any right, privilege or immunity secured by the Constitution of the United States or by any Act of Congress providing for equal rights of citizens or of all persons within the jurisdiction of the United States.

4. Venue in this District is appropriate under 28 U.S. Code § 1391.

FACTUAL ALLEGATIONS

CANDIDATE FILING TIMELINE

5. The deadline for filing as a major party primary candidate for the office of Governor was March 11, 2014.

6. The deadline to submit the required number of signatures for a candidate to have a statement and picture included in the Oregon Voters' Pamphlet was February 27, 2014.

7. The deadline to file a statement for the Oregon Voters' Pamphlet was March 13, 2014.

8. Plaintiff registered as a candidate through the ORESTAR (Oregon's on line registration system) system on March 5, 2014.

9. Plaintiff filed a Voters' Pamphlet statement through the ORESTAR system on March 13, 2013. The submission was accepted by the system.

10. On March 19, 2014 the Voters' Pamphlet became public record.

11. March 24, 2014 was the last day for a candidate or measure argument filer to file necessary revisions, as identified by Secretary of State, to bring primary election voters' pamphlet filing into compliance.

VOTERS' PAMPHLET PUBLICATION

12. Plaintiff was listed as a candidate in the Voters' Pamphlet with an asterisk next to his name, which read, "Candidate chose not to submit a voters' pamphlet statement."

13. At some point the online version of the Voters' Pamphlet was published on the official state website with Plaintiff's name excluded. Plaintiff was not listed as a candidate.

FIRST CLAIM FOR RELIEF (Negligence)

14. Plaintiff hereby restates and realleges the allegations set forth in paragraphs 1 through 13 above and incorporates them by reference.

15. Defendants have a duty to make and enforce rules that comply with statutes and constitutional law.

16. By creating a set of rules that put the deadline for submitting required signatures to qualify for the Voters' Pamphlet before the deadline to file as a candidate, Defendants were negligent in their duty as stated in paragraph 15.

17. Defendants had an opportunity to recognize this error and correct it between the date Plaintiff filed, and the deadline for revisions. It was negligent not to do so.

18. Defendants have a duty to the public and Plaintiff to ensure they provide accurate election information. Defendants were negligent in not including Plaintiffs name on the on-line version of the Voters' Pamphlet.

19. The negligent actions (and/or lack thereof) of Defendants damaged Plaintiffs chances of winning the Republican nomination for Governor, which would have led to general election ballot access, funding, and support that is not available to

the candidates who did not win the nomination. Plaintiffs reputation was damaged, as well as his ability to raise funds, and if elected Governor, a salary.

SECOND CLAIM FOR RELIEF (Defamation)

20. Plaintiff hereby restates and realleges the allegations set forth in paragraphs 1 through 19 above and incorporates them by reference.

21. Defendants caused to be printed in the Voters' Pamphlet a false statement (see paragraph 12) that caused damage to Plaintiff. The statement misled voters by stating that Plaintiff "chose" not to submit a statement for the Voters' Pamphlet.

22. The Defendants statement was false because Plaintiff filed a statement, therefore Plaintiff did indeed choose to submit a statement for the Voters' Pamphlet.

23. Had the statement been accurate, Plaintiff may have won the Republican nomination for Governor, which would have led to general election ballot access, funding, and support that is not available to the candidates who did not win the nomination. Plaintiffs reputation was damaged, as well as his ability to raise funds, and if elected Governor, a salary.

THIRD CLAIM FOR RELIEF (Misrepresentation)

24. Plaintiff hereby restates and realleges the allegations set forth in paragraphs 1 through 23 above and incorporates them by reference.

25. Defendants made a materially false, fictitious, and fraudulent statement and representation.

26. Defendants used false writing and a document knowing the same to contain materially false, fictitious, and a fraudulent statement or entry.

27. Defendants misrepresented Plaintiffs candidacy for the Republican nomination for Governor by presenting the Plaintiff as a candidate who chose not to be included in the Voters' Pamphlet.

28. Defendants misrepresentation of Plaintiffs candidacy meets Oregon's requirements: 1) A representation; 2) Its falsity; 3) Its materiality; 4) The speaker's knowledge of the representation's falsity or ignorance of its truth; 5) Intent that the representation be acted on in a manner reasonably contemplated; 6) The hearer's ignorance of the falsity of the representation; 7) The hearer's reliance on its truth; 8) The hearer's right to rely on the representation; and 9) Damage caused by the representation.

29. Had representation of Plaintiff in the Voters' Pamphlet been accurate, Plaintiff may have won the Republican nomination for Governor, which would have led to general election ballot access, funding, and support that is not available to the candidates who did not win the nomination. Plaintiffs reputation was damaged, as well as his ability to raise funds, and if elected Governor, a salary.

FOURTH CLAIM FOR RELIEF (Deprivation of Rights)

30. Plaintiff hereby restates and realleges the allegations set forth in paragraphs 1 through 29 above and incorporates them by reference.

31. Plaintiff has been deprived of his constitutionally protected rights of (but not limited to) speech, due process, fundamental fairness, and liberty, under color of law by Defendants.

32. Defendants created state rules and laws in violation of federal constitutional rights, then violated those same rights under the color of law.

33. Had Defendants not deprived Plaintiff of his constitutionally protected rights, Plaintiff may have won the Republican nomination for Governor, which would have led to general election ballot access, funding, and support that is not available to the candidates who did not win the nomination. Plaintiffs reputation was damaged, as well as his ability to raise funds, and if elected Governor, a salary.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

- A. entry of judgment in favor of Plaintiff against Defendants on all claims for relief;
- B. an order enjoining Defendants to include Plaintiff on the 2014 general election ballot as an independent candidate for Governor and inclusion in the Voters' Pamphlet;
- C. an order of restitution in the amount equal to the value of the contributions received by the Republican nominee for Governor since the primary election;
- D. an order awarding Plaintiff damages equal to the amount of four years of the Governors salary and benefits;
- E. an order awarding Plaintiff reasonable attorney fees, court fees, and any other related fees;
- F. any and all other legal and equitable relief as may be available under law the Court may deem proper.

DEMAND FOR A JURY TRIAL

Plaintiff demands a jury trial for all issues so triable.

REQUEST TO EXPEDITE

As the 2014 general election quickly approaches, Plaintiff's constitutional rights have the best chance of being maintained if the court expedites the consideration of this civil action.

Dated September 29, 2014

Respectfully submitted by:

Darren Karr, pro se