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IN THE SUPREME COURT OF THE STATE OF OREGON

SANDRA KUCERA, an elector of Oregon and candidate for Vice President of the United States, SARAH THERESA WINDER, KRISTEN ZUBEL, and NATALIE BOLTON, each an elector of Oregon and signor of petition for nomination of Ralph Nader for President of the United States and Sandra Kucera as Vice President of the United States and as a circulator of said nominating petition, PHILLIP SALISBURY and SAMANTHA BERG, each an elector of and signor of a petition for nomination of Ralph Nader for President of the United States and Sandra Kucera as Vice President of the United States, TIMOTHY JOHNSON, a circulator of said nominating petition who is not an elector of Oregon, GREGORY KAFOURY, an individual, an elector of Oregon and Co-Chair, Nader for President 2004 in Oregon,

Plaintiffs-Adverse Party,

v.

BILL BRADBURY, Secretary of State,

Defendant-Relator,

and

DEMOCRATIC PARTY OF OREGON,  
JOHN NEEL PENDER and JAMES EDMUNSON,

Intervenors.

Supreme Court No. S

**MANDAMUS PROCEEDING**

EXCERPT OF RECORD

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## EXCERPT OF RECORD

Pursuant to ORAP 5.50, relator submits the following, as indexed below.

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IN THE CIRCUIT COURT FOR THE STATE OF OREGON

FOR THE COUNTY OF MARION

SANDRA KUCERA, an elector of Oregon and candidate for Vice President of the United States,

SARAH THERESE WINDER, KRISTIN ZUBEL, and NATALIE BOLTON, each an elector of Oregon and signor of a petition for nomination of Ralph Nader for President of the United States and Sandra Kucera as Vice-President of the United States and as a circulator of said nominating petition,

PHILLIP SALISBURY and SAMANTHA BERG, each an elector of and signor of a petition for nomination of Ralph Nader for President of the United States and Sandra Kucera as Vice-President of the United States,

TIMOTHY JOHNSON, a circulator of said nominating petition who is not an elector of Oregon, GREGORY KAFOURY, an individual, an elector of Oregon and Co-Chair, Nader for President 2004 in Oregon,

Plaintiffs,

v.

BILL BRADBURY, Secretary of State,

Defendant.

Case No. \_\_\_\_\_

**MOTION FOR PRELIMINARY INJUNCTION**

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Pursuant to ORCP 79 plaintiffs hereby apply for a preliminary injunction against Bill Bradbury, the Oregon Secretary of State:

1. Prohibiting the printing of 2004 general election ballot without including Ralph Nader and Sandra Kucera on the ballot; and
2. Ordering that Defendant fulfill his duty under law to certify the Nader/Kucera ticket for the 2004 general election ballot, without rejecting the valid and verified signatures submitted in support of the nominating petition.

A preliminary injunction is required to uphold the substantial rights of 18,000 electors whose signatures have been verified on petitions seeking to place Ralph Nader (presidential candidate) and Sandra Kucera (Vice-Presidential candidate) on the Oregon ballot.

The candidates and electors face irreparable harm of 18,000 electors are disenfranchised and disqualified from exercising their First Amendment rights including rights of association and voting rights. There is no monetary remedy adequate to address the harm plaintiffs and others will suffer in the absence of the requested injunction.

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This motion is supported by the complaint on file with the Court and  
1 plaintiffs memorandum in support of motion for injunctive relief, the Affidavits  
2 of Travis Diskin, Norman Frink, John Slevin (2), Sandra Kucera, Timothy  
3 Johnson, Gregory Kafoury and Ruth Bendl filed herewith.  
4

5  
6 Dated: September 3, 2004

Respectfully Submitted:

7 /s/ Daniel W. Meek  
8 (Conformed with permission)  
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24  
25 Of Attorneys for Plaintiffs  
26 KUCERA, WINDER, ZUBEL,  
BOLTON, SALISBURY, BERG,  
AND JOHNSON

Gregory Kafoury  
Pro Se

ER-4

STATE OF OREGON  
Marion County Circuit Courts  
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IN THE CIRCUIT COURT OF STATE OF OREGON  
FOR THE COUNTY OF MARION

SANDRA KUCERA, an elector of Oregon and candidate for Vice President of the United States,  
  
SARAH THERESE WINDER, KRISTIN ZUBEL, and NATALIE BOLTON, each an elector of Oregon and signor of a petition for nomination of Ralph Nader for President of the United States and Sandra Kucera as Vice-President of the United States and as a circulator of said nominating petition,  
  
PHILLIP SALISBURY and SAMANTHA BERG, each an elector of and signor of a petition for nomination of Ralph Nader for President of the United States and Sandra Kucera as Vice-President of the United States,  
  
TIMOTHY JOHNSON, a circulator of said nominating petition who is not an elector of Oregon,  
  
GREGORY KAFOURY, an individual, an elector of Oregon and Co-Chair, Nader for President 2004 in Oregon,  
  
Plaintiffs,  
  
v.  
  
BILL BRADBURY, Secretary of State,  
  
Defendant.

Case No. 04C18259  
  
APPEAL OF  
SECRETARY OF STATE  
ACTION; EXPEDITED  
HEARING  
REQUESTED (ORS  
246.910)  
  
PETITION FOR  
REVIEW OF  
ADMINISTRATIVE  
ACTION (ORS 183.484)  
  
(not subject to  
mandatory arbitration)

Plaintiffs allege:

1 1. Pursuant to ORS 246.910, Plaintiffs appeal the decision of the Secretary of  
2 State, announced to the press on September 1, 2004, to refuse to certify  
3 the ticket of Ralph Nader and Sandra Kucera for appearance on the  
4 November 2, 2004, ballot as candidates for President and Vice-President of  
5 the United States nominated by individual electors pursuant to ORS  
6 249.740.

7 2. To the extent appropriate, Plaintiffs further seek review under ORS  
8 183.484 of the Secretary of State's above-described action.

9 VENUE

10 3. Venue is proper in Marion County. ORS 246.910(1).

11 JURISDICTION

12 4. This court has jurisdiction to hear a challenge to any act or failure to act  
13 by the Secretary of state under any election law, or by any order, rule,  
14 directive or instruction made by the Secretary of State, pursuant to ORS  
15 246.910(1).

16 5. This court has jurisdiction to review administrative orders in other than  
17 contested cases pursuant to ORS 183.484.

18 PARTIES

19 6. Plaintiff Sandra Kucera is an Oregon elector and registered voter in  
20 Washington County. She resides at 12190 SW Winterhawk Lane,  
21 Beaverton, OR 97007. She is a candidate for Vice-President of the United  
22 States and is identified as such on the petitions filed under ORS 249.740  
23 for the nomination by individual electors of the slate of Ralph Nader for  
24 President and Sandra Kucera for Vice-President of the United States. She  
25 was also a circulator for the nominating petition. As an elector, a  
26 circulator, and a candidate, she is adversely affected and aggrieved by the

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1 refusal of the Secretary of State to accept the valid signature sheets of  
2 electors on petitions for nomination of her slate pursuant to ORS 249.740.  
3 This refusal causes her the immediate and irreparable harm by depriving  
4 her of her rights and opportunities to (1) appear on the Oregon general  
5 election ballot as a candidate for Vice-President of the United States, (2) to  
6 exercise her rights under the Oregon and United States Constitutions to  
7 engage in speech and to petition the government, (3) to participate in open  
8 and free elections, and (4) to exercise her franchise effectively in voting for  
9 Ralph Nader and Sandra Kucera in the 2004 general election.

10 7. Plaintiff Sarah Therese Winder is an Oregon elector and registered voter in  
11 Clackamas County. She resides at 47 Eaglecrest Drive, Apt. 33, Lake  
12 Oswego OR 97035. She signed a petition for the nomination of Ralph  
13 Nader and Sandra Kucera as President and Vice-President of the United  
14 States pursuant to ORS 249.740. She was also a circulator of the  
15 nominating petition. She is adversely affected and aggrieved by the  
16 refusal of the Secretary of State to accept the valid signature sheets of  
17 electors on petitions for this nomination. This refusal causes her and  
18 others the immediate and irreparable harm of losing their rights and  
19 opportunities (1) to exercise their rights under the Oregon and United  
20 States Constitutions to engage in speech and to petition the government,  
21 (2) to participate in open and free elections, and (3) to exercise their  
22 franchise effectively in voting for Ralph Nader and Sandra Kucera in the  
23 2004 general election.

24 8. Plaintiff Kristin Zubel is an Oregon elector and registered voter in  
25 Washington County. She resides at 16245 N.W. Schendel, Apt. H,  
26 Beaverton, OR 97006. She signed a petition for the nomination of Ralph

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1 Nader and Sandra Kucera as President and Vice-President of the United  
2 States pursuant to ORS 249.740. She was also a circulator of the  
3 nominating petition. She is adversely affected and aggrieved by the  
4 refusal of the Secretary of State to accept the valid signature sheets of  
5 electors on petitions for this nomination. This refusal causes her and  
6 others the immediate and irreparable harm of losing their rights and  
7 opportunities (1) to exercise their rights under the Oregon and United  
8 States Constitutions to engage in speech and to petition the government,  
9 (2) to participate in open and free elections, and (3) to exercise their  
10 franchise effectively in voting for Ralph Nader and Sandra Kucera in the  
11 2004 general election.

12 9. Plaintiff Natalie Bolton is an Oregon elector and registered voter in  
13 Multnomah Washington County. She resides at 3203 SW Spring Garden  
14 Street, Portland, OR 97219. She signed a petition for the nomination of  
15 Ralph Nader and Sandra Kucera as President and Vice-President of the  
16 United States pursuant to ORS 249.740. She was also a circulator of the  
17 nominating petition. She is adversely affected and aggrieved by the  
18 refusal of the Secretary of State to accept the valid signature sheets of  
19 electors on petitions for this nomination. This refusal causes her and  
20 others the immediate and irreparable harm of losing their rights and  
21 opportunities (1) to exercise their rights under the Oregon and United  
22 States Constitutions to engage in speech and to petition the government,  
23 (2) to participate in open and free elections, and (3) to exercise their  
24 franchise effectively in voting for Ralph Nader and Sandra Kucera in the  
25 2004 general election.

26 10. Plaintiff Phillip Salisbury is an Oregon elector and registered voter in

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1 Multnomah County. He resides at 1865 S.E. Oak Street, Portland, OR  
2 97214. He signed a petition for the nomination of Ralph Nader and  
3 Sandra Kucera as President and Vice-President of the United States  
4 pursuant to ORS 249.740. He is adversely affected and aggrieved by the  
5 refusal of the Secretary of State to accept the valid signature sheets of  
6 electors on petitions for this nomination. This refusal causes him and  
7 others the immediate and irreparable harm of losing their rights and  
8 opportunities (1) to participate in open and free elections and (2) to  
9 exercise their franchise effectively in voting for Ralph Nader and Sandra  
10 Kucera in the 2004 general election.

11 11. Plaintiff Samantha Berg is an Oregon elector and registered voter in  
12 Multnomah County. She resides at 1865 S.E. Oak Street, Portland, OR  
13 97214. She signed a petition for the nomination of Ralph Nader and  
14 Sandra Kucera as President and Vice-President of the United States  
15 pursuant to ORS 249.740. She is adversely affected and aggrieved by the  
16 refusal of the Secretary of State to accept the valid signature sheets of  
17 electors on petitions for this nomination. This refusal causes her and  
18 others the immediate and irreparable harm of losing their rights and  
19 opportunities (1) to participate in open and free elections and (2) to  
20 exercise their franchise effectively in voting for Ralph Nader and Sandra  
21 Kucera in the 2004 general election.

22 12. Plaintiff Timothy Johnson is a resident of the State of Washington and is  
23 not an Oregon elector. His address is P.O. Box 403, Longview, WA 98632.  
24 He circulated the nominating petition, but the 41 signatures on sheets he  
25 submitted were rejected by the Secretary of State for unstated reasons.  
26 He is adversely affected and aggrieved by the refusal of the Secretary of

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1 State to accept the valid signature sheets of electors on petitions for this  
2 nomination. This refusal causes him and others the immediate and  
3 irreparable harm of losing their rights and opportunities to exercise their  
4 rights under the Oregon and United States Constitutions to engage in  
5 speech and to petition the government.

6 13. Gregory Kafoury resides in Portland, in Multnomah County, Oregon, is an  
7 elector, and is the Oregon Co-Chair of Nader for Oregon 2004, and has  
8 suffered First Amendment harms in the same manner as alleged by other  
9 plaintiffs.

10 14. Defendant Bill Bradbury is the Secretary of State, responsible for  
11 implementation and application of the statutes and rules pertaining to the  
12 nomination of candidates.

13 FACTUAL ALLEGATIONS

14 15. On various dates in August 2004, the group collecting signatures for the  
15 nomination of the Nader/Kucera ticket [hereinafter "Nader Campaign"]  
16 filed thousands of signature sheets with the election officers for most  
17 counties in Oregon. These sheets contained over 27,000 signatures.

18 16. Within the time permitted, the county election officers returned to the  
19 Nader Campaign signature sheets containing over 18,000 voter signatures  
20 found to be valid and so verified by the county election officers. 15,306  
21 valid signatures are required for placement on the ballot. As set forth  
22 below, the Secretary of State rejected more than 3,000 signatures that had  
23 been validated and verified by the counties.

24 17. Upon instructions from the Secretary of State, some county election  
25 officers removed signature sheets from the verification process and did not  
26 return those sheets to the Nader Campaign. The total number of sheets

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1 so affected is not known to Plaintiffs or the Nader Campaign.

2 18. After they county election officers completed their verification process, the  
3 county elections offices returned the rest of the signature sheets to the  
4 Nader Campaign.

5 19. On August 24, 2004, the Nader Campaign submitted the signature sheets  
6 containing the valid and verified signatures to the Secretary of State.

7 20. The Nader Campaign heard nothing from the Secretary of State until  
8 September 1, 2004, when the Secretary of State called a press conference,  
9 where the representative of the Nader campaign was physically excluded  
10 from the room.

11 21. The Nader Campaign received nothing in writing from the Secretary of  
12 State until September 2, 2004, when it received a 1-page telecopied letter  
13 from Margie Franz of the office of the Secretary of State, stating that the  
14 number of valid signatures counted by the Secretary of State was 15,088  
15 (Exhibit A).

16 22. This number is 218 fewer signatures than the 15,306 required for the  
17 nomination sought.

18 23. Despite repeated requests, neither the Nader Campaign nor Plaintiffs have  
19 received documents from the Secretary of State stating why each rejected  
20 signature sheet was rejected.

21 24. Neither the Nader Campaign nor Plaintiffs have received documents from  
22 the Secretary of State stating the number of signatures on the sheets  
23 rejected for any particular reason.

24 25. Plaintiffs have read in the press that a large number of signatures (in the  
25 range of 2,000) were contained on sheets which the Secretary of State  
26 contended were not consecutively numbered for each county, as allegedly

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