

**IN THE SUPERIOR COURT FOR
WASHINGTON COUNTY, MAINE**

**RALPH NADER, CHRISTOPHER
DROZNICK, NANCY ODEN, J. NOBLE
SNOWDEAL AND ROSEMARY
WHITTAKER,**

PLAINTIFFS,

v.

**THE MAINE DEMOCRATIC
PARTY, THE DEMOCRATIC NATIONAL
COMMITTEE, KERRY-EDWARDS 2004,
INC., THE BALLOT PROJECT, INC.,
DOROTHY MELANSON, TERRY
MCAULIFFE AND TOBY MOFFETT,**

DEFENDANTS.

COMPLAINT

Civil Action No. _____

Plaintiffs bring this action against Defendants to redress the deprivation of rights secured them by common law. Plaintiffs seek compensatory damages, punitive damages and such other further relief as this Court shall deem necessary and proper, and allege the following:

NATURE OF THE ACTION

1. Defendants are members, allies or agents of the Democratic Party who conspired to prevent Plaintiff Ralph Nader (hereinafter, “the Candidate”), and his running mate, the late Peter Miguel Camejo, from running for President and Vice President of the United States in 2004, in an effort to deny Plaintiffs Christopher Droznick, Nancy Oden, J. Noble Snowdeal and Rosemary Whittaker (hereinafter, “the Voters”) and other voters nationwide the choice of voting for them. Defendants blamed the Candidate for the Democrats’ loss in the 2000 presidential election, and they worried that he would “steal” votes from the Democratic candidates if he ran again in 2004. Defendants therefore agreed and conspired that if the Candidate did run in 2004,

they would launch an unlawful assault on his candidacy, using unfounded litigation as a pretext to harass, obstruct and drain the Candidate's campaign of resources, to make false accusations against the Candidate, and effectively prevent the Candidate from running for public office. Defendants reached this agreement and formed this conspiracy with wrongful intent, before they could possibly have any reason to believe such litigation was warranted or justified.

2. As the 2004 election approached, Defendant McAuliffe, who was Chairman of Defendant Democratic National Committee (DNC), publicly appealed to the Candidate on numerous occasions not to run. "I wanted to convey to Ralph Nader that...if he were to get in the race again, he could pull votes away from the Democratic nominee. ... We can't afford to have Ralph Nader in the race," Defendant McAuliffe told CNN's Wolf Blitzer in February 2004. When the Candidate announced his candidacy shortly thereafter, on February 22, 2004, Defendants set their obstructive plans and conspiracy in motion.

3. In a telephone conversation with the Candidate on June 23, 2004, Defendant McAuliffe made one last effort to dissuade the Candidate. This time, Defendant McAuliffe asked the Candidate not to campaign in certain so-called "battleground" states. If the Candidate agreed, Defendant McAuliffe said, he would help raise money for the Candidate's campaign in the remaining states. The Candidate declined, and told Defendant McAuliffe that he objected to the Democratic Party's effort to deny his candidacy ballot access in various states. That same day, Defendants or their co-conspirators filed their first lawsuit against his campaign.

4. Within the next 12 weeks, between June and September of 2004, Defendants and their co-conspirators filed 24 complaints against the Candidate's Campaign in 17 states, including Arizona, Arkansas, Colorado, Florida, Illinois, Iowa, Maine, Michigan, Mississippi, New Hampshire, Nevada, New Mexico, Ohio, Pennsylvania, Washington, West Virginia and

Wisconsin, and intervened in proceedings to remove the Candidate from the ballot in Oregon. Conspirators also filed five complaints before the Federal Election Commission (FEC). In each state court lawsuit, said conspirators challenged the Candidate's nomination papers and asked state elections officials not to certify his running mate and him as candidates for President and Vice President in the 2004 general election.

5. Defendants' admitted purpose for filing their 29 complaints was not to vindicate valid legal claims, but rather to bankrupt the Candidate's campaign by forcing the Candidate to spend his limited resources of time, talent and money on the defense of unfounded lawsuits. In addition, Defendants misused judicial processes in Maine and elsewhere as a pretext for making false allegations of fraud against the Candidate, and specifically misused the subpoena and discovery processes to harass the Candidate's petition circulators and electors, including Plaintiffs Oden, Snowdeal and Whittaker. Defendants' motive, which they also admitted, was to help Democratic candidates John Kerry and John Edwards win the election by forcing their political competitors from the race.

6. Defendants dedicated millions of dollars' worth of illegal and unreported campaign contributions to the conspiracy – violations of federal law which are currently under investigation by the FEC in Matter Under Review ("MUR") 6021 (complaint filed May 30, 2008). Defendants recruited at least 95 lawyers from 53 law firms to pursue their unfounded and abusive litigation and organized hundreds of co-conspirators to provide support. Defendants also incorporated several Section 527 political organizations, including Defendant Ballot Project, which Defendants incorporated specifically for the purpose of coordinating and financing their unfounded and abusive litigation against the Candidate.

7. In addition to filing 29 complaints against the Candidate, Defendants and their co-conspirators organized and conducted campaigns of harassment and sabotage to prevent the Candidate's campaign from complying with election laws in several states, and to fabricate grounds for Defendants' subsequent complaints. In one state, for example, conspirators acting fraudulently and under false pretenses attended the Candidate's nominating convention, occupying the limited seating but refusing to sign his petitions, thus causing the convention to fall short of the requisite number of validated attendees in time for the deadline mandated by state law – even though state officials denied entry to genuine supporters. In other states, conspirators sabotaged the Candidate's nomination papers by crossing names out or otherwise invalidating the petitions and, on information and belief, by signing fake names.

8. In violation of state rules of professional conduct, co-conspirator attorneys sent misleading letters to the Candidate's petition circulators, falsely threatening them with heavy fines and jail sentences if signatures they collected were invalidated, and also sought subpoenas ordering petition circulators on short notice to attend depositions and produce unreasonably burdensome amounts of personal documents. On numerous occasions, the conspirators, including members of the bar, called petition circulators' homes, and even the homes of citizens and potential voters who signed the Candidate's petitions. Private detectives also visited petition circulators' homes, unannounced, and claimed to be investigating them. All of this activity was intended to harass and intimidate the petition circulators and prevent them from collecting signatures – an effort that succeeded on dozens of occasions.

9. In spite of a multi-million dollar legal team of co-conspirators, and coordinated campaigns of harassment and sabotage specifically intended to prevent the Candidate's campaign from complying with state election laws, the conspirators eventually lost the great

majority of state court lawsuits they filed, including their Maine lawsuit. In addition, the FEC dismissed all five of the conspirators' FEC complaints without taking action. Defendants nevertheless succeeded in draining the Candidate's campaign of time, money and other resources, and in preventing the Candidate from gaining ballot access in several states, thereby denying voters in such states the choice of voting for the Candidate, as was their intent. Defendants also caused personal financial injury and other damages to the Candidate and the Voters, and did severe damage to the third-party and independent candidacy structure which the Candidate had built at great expense in time, money and other resources. Finally, Defendants damaged the Candidate's professional reputation as an author, public speaker and consumer advocate by falsely accusing him of fraud on numerous occasions and in numerous states.

10. Although the 2004 election ended five years ago, conspirators continue to pursue their wrongful litigation against the Candidate to the present day. To force the Candidate off the ballot in Pennsylvania, Defendants and their co-conspirators enlisted at least 20 lawyers from three law firms, hired handwriting experts and other consultants, and recruited support from approximately 170 Democratic Party operatives. Afterwards, co-conspirator law firm Reed Smith, which Defendant DNC retained during the 2004 election, submitted a bill of costs and procured a judgment for costs against the Candidate in the amount of \$81,102.19.

11. In July 2007, Defendant DNC's law firm Reed Smith filed its \$81,102.19 judgment in the District of Columbia Superior Court and secured writs of attachment against the Candidate's bank accounts, freezing \$61,638.45 of the Candidate's funds. The Candidate moved for relief from the judgment under D.C. Super. Ct. Civ. R. 60(b), based upon newly discovered evidence of Reed Smith's impropriety in the proceedings before the Pennsylvania Supreme Court, which Reed Smith failed to disclose while the Candidate's appeal was pending,

including the fact that Reed Smith was concurrently representing the Chief Justice as his defense counsel in a state ethics investigation.

12. In July 2008, the Pennsylvania Attorney General filed a Grand Jury Presentment and charged 12 members or employees of the Pennsylvania House Democratic Caucus with numerous felony counts of criminal conspiracy, theft and conflict of interest, alleging, *inter alia*, that they misappropriated taxpayer funds and resources to prepare Defendants' Pennsylvania challenge to the Candidate's nomination petitions. According to the sworn testimony of state employee Melissa Lewis, Reed Smith attorney Efrem Grail coordinated this effort. Mr. Grail submitted the \$81,102.19 bill of costs on behalf of Reed Smith, which is the true party in interest seeking to collect litigation costs in the ongoing proceedings in the District of Columbia.

13. Defendants and their co-conspirators conspired to and did in fact abuse judicial processes in an effort to bankrupt the Candidate's campaign and terminate his candidacy during the 2004 presidential election. Defendants and their co-conspirators filed 29 complaints during that election, each of which was objectively baseless, in that Defendants did not and could not reasonably expect to prevail. Instead, Defendants' intention was to misuse and abuse judicial processes as a means to cause the Candidate financial injury, to damage the Candidate's reputation with false allegations of fraud, to harass the Voters by means of the subpoena and discovery processes, and to cause other damages. Defendants did in fact cause such damages, and Defendants continue to cause such damages, by pursuing their unfounded and abusive litigation to the present day.

14. The Candidate and several voter-supporters previously filed an action on October 30, 2007, in the District of Columbia, raising claims for civil conspiracy, abuse of process and malicious prosecution arising from Defendants' conspiracy. Without reaching "the ultimate

merits” of such claims. the D.C. Circuit Court of Appeals held them to be time-barred by the District of Columbia’s one- and three-year statute of limitations. *See Nader, et al. v. Democratic National Committee, et al.*, 567 F.3d 692, 702 (D.C. Cir. June 9, 2009).

JURISDICTION AND VENUE

15. This Court has jurisdiction over this action pursuant to 4 M.R.S. § 105. Venue is appropriate pursuant to 14 M.R.S. § 501, as at least one plaintiff or defendant lives in Washington County. This Court has personal jurisdiction over each Defendant pursuant to 14 M.R.S. § 704-A, as each Defendant did or caused a tortious act to be done, or caused the consequences of a tortious act to occur, either personally or through an agent, within the state of Maine.

THE PARTIES

16. Plaintiff Ralph Nader is a consumer advocate and 2004 independent candidate for President of the United States. Mr. Nader’s address is 53 Hillside Avenue, Winsted, Connecticut, 06098.

17. Plaintiff Christopher Droznick is a Nader-Camejo 2004 presidential elector. Mr. Droznick’s address is 3 Dumont Road, Hudson, New Hampshire, 03051.

18. Plaintiff Nancy Oden is a Nader-Camejo 2004 presidential elector. Ms. Oden’s mailing address is P.O. Box 527, Jonesport, Maine, 04649.

19. Plaintiff J. Noble Snowdeal is a Nader-Camejo 2004 presidential elector. Mr. Snowdeal’s address is 215 Old US Route 1, Jonesboro, Maine, 04648.

20. Plaintiff Rosemary Whittaker is a Nader-Camejo 2004 presidential elector. Ms. Whittaker’s address is 43 Chase Street, South Portland, Maine, 04106.

21. Defendant Maine Democratic Party is the Maine state affiliate of the national Democratic Party. The Maine Democratic Party's address is 16 Winthrop Street, Augusta, Maine, 04332.

22. Defendant Democratic National Committee is the national head of the Democratic Party, and works with national, state and local Democratic Party organizations, including those in Maine, to elect Democratic candidates. Defendant DNC's address is 430 S. Capitol Street SE, Washington, D.C., 20003.

23. Defendant Kerry-Edwards 2004, Inc. is the principal campaign committee of the Kerry-Edwards Campaign. The committee's former address was 10 G Street NE, Suite 710, Washington, D.C., 20002, and is now P.O. Box 78116, Washington, DC 20013.

24. Defendant The Ballot Project, Inc. is a Section 527 organization established on June 2, 2004 to coordinate and finance Defendants' litigation against the Candidate. The organization's address is 1730 Rhode Island Avenue NW, Suite 712, Washington, D.C., 20036.

25. Defendant Dorothy Melanson was Chair of the Maine Democratic Party and a DNC official at all times relevant to the facts alleged herein. Defendant Melanson's address is 114 Hardy Road, Falmouth, Maine, 04105.

26. Defendant Terry McAuliffe was Chair of Defendant DNC at all times relevant to the facts alleged herein. Defendant McAuliffe's address is 7527 Old Dominion Drive, McLean, Virginia, 22102.

27. Defendant Toby Moffett is president of The Ballot Project and a lobbyist with the Podesta, Livingston, Moffett Group. Mr. Moffett's address is 1001 G Street, NW, Suite 900 E Washington, DC, 20001.

28. Non-defendant co-conspirators are those individuals or entities who, on information and belief, combined and conspired with Defendants to achieve Defendants' unlawful objectives as alleged herein, including: the 18 state Democratic Parties and Party Chairs identified herein; at least 95 lawyers and 53 law firms that initiated or materially supported Defendants' groundless and abusive litigation nationwide, including Reed Smith, LLP; the individuals who nominally filed Defendants' 29 baseless complaints; the Section 527 political organizations America Coming Together ("ACT"), Americans for Jobs, the National Progress Fund, Uniting People for Victory (and its affiliated political committee United Progressives for Victory); "StopNader.com," also known as the Democratic Action Committee; the 501(c)(3) group Citizens for Responsibility and Ethics in Washington ("CREW") and its Executive Director Melanie Sloane; the Service Employees International Union ("SEIU"); 2004 Democratic presidential candidate John Kerry; DNC and Kerry-Edwards 2004 consultant Jack Corrigan; The Ballot Project affiliates Robert Brandon, Elizabeth Holtzman and Steven Raikin; and individuals affiliated with the above-named 527 groups, including David W. Jones, Tricia Enright, Chris Kofinis, Karl Frisch, Ginny Hunt, John Hlinko, Katie Aulwes, Karen Mulhauser and Helen Hunt.

FACTUAL ALLEGATIONS

I. Defendants Conspired to Abuse Judicial Processes with Intent to Cause Plaintiffs Financial Injury and Other Damages.

29. After the Democrats' defeat in the 2000 presidential election, Defendants and their co-conspirators decided to try to prevent the Candidate from running for president if he announced his candidacy in 2004. Defendants had already settled on a strategy to accomplish this goal when the Candidate made his announcement on February 22, 2004. "Our intent was to drain and distract him," Defendant Moffett, president of Defendant Ballot Project, later

explained to the *Hartford Courant*. Defendants thus agreed and conspired to launch a nationwide assault of litigation that was unfounded and abusive, which would drain the Candidate's campaign of time, money and other resources, in a deliberate attempt to use the sheer burden of litigation itself as a means to prevent the Candidate from running for public office. Defendants reached this agreement with wrongful intent, before they could possibly have any reason to believe litigation against the Candidate was warranted or justified, and before there was any colorable or potential legal basis for such litigation.

30. Having settled on that strategy, the organizers and leaders of Defendants' conspiracy met privately to discuss their plans on July 26, 2004, at the Four Seasons Hotel in Boston. Co-conspirator Robert Brandon, a consultant of Defendant DNC who housed Defendant Ballot Project in his offices, organized the meeting and, on information and belief, Defendant DNC paid for it. Approximately three dozen people attended, including Defendant Moffett, co-conspirator Liz Holtzman, who was a director of Defendant Ballot Project, and Democratic consultant Stanley Greenberg. On information and belief, co-conspirator Jack Corrigan and/or other agents of Defendants DNC and Kerry-Edwards 2004 also attended.

31. At said Four Seasons meeting, the leaders and organizers of the conspiracy discussed polling, research, and strategy to undermine the Candidate's campaign in key states where they believed it would adversely affect the Kerry-Edwards campaign most. The leaders and organizers of the conspiracy specifically agreed to sue and otherwise obstruct the Candidate not only in these "battleground" states, but also in as many other states as possible. According to Defendant Moffett, the purpose of this litigation was simply "to drain [the Candidate] of resources and force him to spend his time and money."

32. Defendant Moffett had conducted a limited campaign against the Candidate's candidacy in the 2000 election. Defendant Moffett considered that effort a failure, because the Candidate was listed on most state ballots in 2000. "We're not going to let him do it again," Defendant Moffett vowed following the said Four Seasons meeting.

33. The Democratic National Convention began the same day as the conspirators' Four Seasons meeting, and was taking place across town at Boston's Fleet Center. The conspirators planned to use the convention as a platform to introduce their litigation strategy to delegates from state Democratic Parties, and to solicit financial support from major party donors.

34. The conspirators prepared a memo for this purpose, which they planned to circulate at the convention. This memo outlined the conspirators' comprehensive plan of attack against the Candidate's campaign, which involved not only a nationwide assault of litigation that was unfounded and abusive, but also a communications campaign intended to convince voters that the Candidate was "in bed with Republicans." The memo further stated that Defendants would coordinate and finance their activities with three 527 organizations the conspirators had established. One was Defendant Ballot Project, and the other two were called the National Progress Fund and Uniting People for Victory.

35. The conspirators distributed their memo to donors and delegates at the convention and discussed the perceived threat that the Candidate posed. They briefed donors and delegates about their litigation plans and solicited contributions to their 527 organizations. The conspirators also recruited state Democratic Party officials to join their effort, and specifically instructed the officials to bring groundless and abusive lawsuits in their states as part of a nationwide strategy to bankrupt the Candidate's campaign and force the Candidate from the

race. “This guy is still a huge threat,” Defendant Moffett said at the convention, in reference to the Candidate. “We’re just not going to make the same mistake we made in 2000.”

36. Defendant Moffett told New Mexico Democratic Party Chair and DNC official John Wertheim that he should appoint someone to spearhead the effort to keep the Candidate off the ballot in that state. Mr. Wertheim agreed to do so. “This is a central focus of my own duties as chairman,” Mr. Wertheim told *The New Mexican*.

37. At the close of the Democratic convention, on July 29, 2004, Defendant McAuliffe reiterated his claim that “We can’t afford to have Ralph Nader in the race.” *Business Week* reported Defendant McAuliffe’s statement under the headline, “The Dems’ Game Plan to Create a Two-Man Race.” That “Game Plan,” which Defendants jointly planned and executed with their co-conspirators, was to file complaints that were groundless and abusive, and otherwise to obstruct the Candidate’s campaign as many times in as many states as possible during the 2004 election.

38. Eighteen state or local Democratic Parties eventually joined Defendants’ conspiracy and either initiated or materially supported unfounded and abusive lawsuits filed against the Candidate’s campaign, or intervened in proceedings to deny the Candidate ballot access. The state Democratic Parties of Arkansas, Colorado, Florida, Maine, Michigan, Mississippi, Nevada, New Hampshire, Washington and Wisconsin initiated such lawsuits, while the state Democratic Parties of Arizona, Illinois, Iowa, New Mexico, Ohio, and Pennsylvania materially supported such lawsuits filed in their states. In Oregon, state Democratic Party officials intervened in proceedings to deny the Candidate ballot access. In West Virginia, local Democratic Party officials filed a complaint seeking to compel the Secretary of State to refer the Candidate’s nomination papers to the Attorney General’s office for investigation.

39. In addition to the state law complaints, co-conspirators filed five FEC complaints against the Candidate's campaign. CREW filed two complaints, DNC Vice Chair and Michigan Democratic Party Chair Mark Brewer filed one, DNC official and New Hampshire Democratic Party Chair Kathleen Sullivan filed one, and District of Columbia-based attorney Daniel Schneider filed Defendants' fifth FEC complaint.

40. Of the 24 state court complaints that conspirators filed against the Candidate, officials of Defendant DNC filed seven in their own names, including Scott Maddox of Florida, Defendant Dorothy Melanson of Maine, Mark Brewer of Michigan, Wayne Dowdy of Mississippi, Kathleen Sullivan of New Hampshire (two) and Paul Berendt of Washington. In addition, Defendant DNC official James Edmundson of Oregon intervened in the proceedings filed in that state, and on information and belief, DNC officials Michael Madigan of Illinois and John Wertheim of New Mexico assisted in complaints filed in their states. Finally, DNC official Anna Burger is Secretary-Treasurer and head of national political operations at SEIU, Defendants' Oregon plaintiff. Thus, on information and belief, at least ten officials of Defendant DNC directly participated in Defendants' nationwide assault of unfounded and abusive litigation.

41. Unidentified Defendant DNC officials specifically directed state party officials to initiate litigation against the Candidate, including the litigation that Defendant Melanson initiated in Maine. Defendant DNC hired and paid for several state parties' lawyers, including Defendant Melanson's. On information and belief, Defendant DNC coordinated with Defendant Ballot Project to secure *pro bono* counsel in other states. High-level DNC staff developed and coordinated Defendants' nationwide litigation strategy, while rank-and-file DNC staff helped prepare the conspirators' complaints.

42. For example, an email Defendant DNC employee Caroline Adler sent to DNC staff contained an attachment entitled “Script for Nader Petition Signers,” which DNC employees used to help conspirators manufacture evidence upon which to challenge the Candidate’s nomination papers. The electronic document’s properties indicate that co-conspirator Jack Corrigan, who was working for Defendant DNC and Defendant Kerry-Edwards 2004, authored this document.

43. Defendant Kerry-Edwards 2004 also joined the conspiracy, coordinating with Defendants’ lawyers and directly participating in Defendants’ litigation. For example, Judy Reardon, Defendant Kerry-Edwards 2004’s deputy national director for northern New England, drafted Defendants’ New Hampshire state court complaint, and coordinated with the state party officials and attorneys who filed it, including New Hampshire Democratic Party Chair Kathleen Sullivan.

44. Defendant Ballot Project directed the conspiracy in conjunction with Defendant DNC and Defendant Kerry-Edwards 2004, all of whom coordinated with state Democratic Parties to recruit attorneys for Defendants’ nationwide litigation against the Candidate. For example, several attorneys who initiated Defendants’ litigation belonged to Lawyers for Kerry, a group of attorneys Defendant Kerry-Edwards 2004 recruited through the website www.johnkerry.com. As Defendant Moffett told the *New York Times*, “We’re doing everything we can to facilitate lawyers in over 20 states.”

45. At least 95 lawyers from 53 law firms eventually joined Defendants’ litigation. Defendant DNC, state Democratic Parties and Defendant Ballot Project collectively paid these firms nearly \$1 million, while their co-conspirator attorneys contributed in excess of \$2 million

more in *pro bono* legal services. These unlawful and unreported contributions to Defendant Kerry-Edwards 2004 are the subject of FEC investigation in MUR 6021.

46. Despite their substantial dedication of money and resources, Defendants eventually lost the vast majority of lawsuits that they filed, and the FEC dismissed all five of their co-conspirators' complaints without taking any action. Defendants' intent, however, was not to vindicate valid claims, but to use the sheer burden of litigation itself as a means to bankrupt and disrupt the Candidate's campaign, and to prevent the Candidate from complying with state election laws. As Defendant Moffett admitted to the *Washington Post* in August 2004, "We wanted to neutralize [the Candidate's] campaign by forcing him to spend money and resources defending these things, but much to our astonishment we've actually been more successful than we thought we'd be in stopping him from getting on at all."

47. After the 2004 election, Defendant Moffett reaffirmed Defendants' unlawful intent. "We had a role in the ballot challenges," Defendant Moffett told *The Guardian UK* in December 2004. "We distracted [the Candidate] and drained him of resources. I'd be less than honest if I said it was all about the law. It was about stopping Bush from getting elected."

48. During the election, by contrast, Defendants denied and fraudulently concealed the coordinated nature of their efforts. In September 2004, for example, Defendant DNC spokesman Jano Cabrera told the Associated Press, "Our state parties made the decision to make sure that if Ralph Nader wanted to get on the ballot, that he was playing by the rules." Mr. Cabrera specifically denied that Defendant DNC was funding the state parties' litigation. In fact, as FEC records now confirm, Defendant DNC hired several of the state parties' law firms, including Defendant Melanson's law firm in Maine.

49. Defendant Melanson and Defendant Maine Democratic Party also denied and fraudulently concealed their participation in Defendants' coordinated nationwide effort. In October 2004, for example, Defendant Maine Democratic Party officials insisted that Defendant Melanson's challenge to the Candidate's nomination petitions did not represent the party's position. "This challenge was brought by Dorothy Melanson as an individual, not by the party," Defendant Maine Democratic Party spokesman Chris Harris told the *Bangor Daily News*. In fact, Defendant Melanson had already been forced to admit, under oath in a hearing before the Maine Bureau of Corporations, Elections and Commissions on August 30-31, 2004, that she filed suit at the direction of Defendant DNC officials, and that Defendant DNC was paying for her attorneys.

50. John Kerry likewise denied involvement in Defendants' conspiracy. "I respect [Mr. Nader]. I'm not going to attack him in any way," Mr. Kerry told the Associated Press in April 2004. "I'm just going to try to talk to his people and point out that we've got to beat George Bush. And I hope that by the end of this race I can make it unnecessary for people to feel they need to vote for someone else." Despite Mr. Kerry's prior disavowal, however, several attorneys recruited by Defendant Kerry-Edwards 2004's organization Lawyers for Kerry initiated or materially supported Defendants' groundless and abusive litigation, and high-level staff of Defendant Kerry-Edwards 2004 directly participated in such litigation, even drafting at least one of Defendants' baseless complaints.

II. Defendants Coordinated Campaigns of Harassment and Sabotage in Furtherance of the Conspiracy.

51. Because litigation alone would not be sufficient to prevent the Candidate from gaining ballot access, Defendants coordinated campaigns of harassment and sabotage, often under fraudulent or false pretenses, in order to prevent the Candidate from complying with state

election laws, to prevent the Candidate's petition circulators from collecting signatures, to harass the Candidate's electors, including Plaintiffs Droznick, Oden, Snowdeal and Whittaker, and to manufacture legal grounds for the conspirators' otherwise baseless claims.

52. In Ohio, where the Candidate received 117,857 votes in 2000, and where the Candidate could gain ballot access in 2004 by submitting 5,000 valid signatures, Defendants orchestrated a concerted campaign of harassment to prevent the Candidate's petition circulators from collecting and/or submitting signatures. Conspirators hired private investigators to visit circulators' homes and warn them that they were the subject of a "background check" the investigators were conducting. Conspirators' attorneys attempted to subpoena 27 different circulators, and repeatedly called them at home to demand their compliance. The subpoenas' demands were so unreasonable and burdensome that compliance would have prevented circulators from doing anything else – including collecting signatures. Specifically, the subpoenas demanded that circulators on short notice report to the offices of law firms throughout the state and produce:

- (1) All documents, including but not limited to correspondence, memoranda, notes, electronic mail, and part-petitions, relating to the obtaining of signatures from Ohio residents for part-petitions and/or the Statement of Candidacy and Nominating Petition filed by Ralph Nader;
- (2) All documents, including but not limited to correspondence, memoranda, notes, and/or electronic mail, relating to communications with: any persons affiliated with Ralph Nader; and any persons acting as solicitors to obtain signatures for Ralph Nader to qualify him for certification to the ballot for the general election as an independent candidate in Ohio;
- (3) All documents, including but not limited to correspondence, memoranda, notes, electronic mail, contracts, bank checks, and bank account statements, relating to your being paid for obtaining signatures for Ralph Nader to qualify him for certification to the ballot for the general election as an independent candidate in Ohio;

(4) All documents, including but not limited to, voter registration cards, drivers' licenses, bank account statements, leases, deeds, property tax assessments, and utility bills, evidencing your residence since January 1, 2000; and

(5) All documents, including but not limited to, voter registration cards, evidencing the states in which you have been registered to vote.

To enforce these demands, co-conspirator attorneys filed motions to compel depositions of the circulators, falsely claiming that such extraordinary relief was warranted based upon "an apparent pervasive effort to gain access by fraud to the Ohio ballot" on the Candidate's behalf.

53. In Oregon, where the Candidate received 77,357 votes in 2000, and where the Candidate could gain ballot access in 2004 by holding a nominating convention with 1,000 attendees, conspirators publicly admitted their intention to interfere. "If we think it gets to a point where we need to step in and mobilize to make sure he doesn't get on the ballot, then we will," a spokesperson for co-conspirator ACT, a Democratic 527 founded by Defendants' Oregon plaintiff SEIU, told CBS News in April 2004. ACT, SEIU, Oregon Democratic Party members and at least one local Oregon Democratic Party official subsequently engaged in a coordinated effort to disrupt two of the Candidate's nominating conventions, held in April and in June, causing them to fail, as set forth in paragraph 7, *supra*. When the Candidate later tried to gain ballot access by collecting signatures on nominating petitions, ACT and SEIU organized teams of operatives to sabotage the petitions under false pretenses, by deliberately signing them in the wrong place, thereby invalidating the entire sheet. Conspirators also resorted to the same harassment tactics that they employed in Ohio. Private detectives visited petition circulators' homes and threatened them with jail time, while co-conspirator attorneys sent misleading letters falsely threatening the circulators with "conviction of a felony with a fine of up to \$100,000 or prison for up to five years" if they submitted signatures that were later invalidated.

54. In Pennsylvania, where the Candidate received 103,392 votes in 2000, and where the Candidate could gain ballot access in 2004 by submitting 25,697 signatures, on information and belief conspirators sabotaged the Candidate's nomination petitions by signing thousands of fake names under false pretenses. The Candidate's petition circulators expunged approximately 7,000 such names before submitting the petitions, but did not detect a small number (687 or 1.3% of the total) among the 51,273 signatures that were actually submitted. Defendant DNC's co-conspirator law firm Reed Smith later used this manufactured evidence as a basis for false claims of fraud against the Candidate, and for its request for \$81,102.19 in litigation costs.

55. The conspirators' concerted efforts to harass and sabotage the Candidate's campaign was decisive to the success of their state court challenges. The conspirators won their lawsuits in Ohio, Oregon and Pennsylvania, but lost in every other state except Illinois. The Candidate also withdrew in Arizona, where the conspirators sued first, due to the prohibitive cost of defending the litigation. The Candidate was on the ballot in each of these states in the 2000 presidential election, and would have been in 2004 but for the conspirators' unlawful interference. Further, laws used to deny the Candidate ballot access in Arizona and Ohio have been held unconstitutional. *See Nader v. Brewer*, 531 F.3d 1028 (9th Cir. 2008) (Arizona law); *Nader v. Blackwell*, 545 F.3d 459 (6th Cir. 2008) (Ohio law).

III. Defendants Caused 29 Baseless State Court and Federal Agency Complaints to Be Filed in Furtherance of the Conspiracy.

A. Defendants Caused Two Baseless Complaints to Be Filed in Maine, With Intent to Injure the Candidate Directly By Means of the Judicial Process Itself, and as a Pretext to Make False Accusations of Fraud Against the Candidate.

56. The litigation that Defendants and co-conspirators initiated against the Candidate in Maine was typical of the groundless and abusive litigation that they initiated against the

Candidate nationwide. Defendants caused two baseless complaints to be filed, raising technical objections to the form of the Candidate's nomination papers, which Maine elections officials and Maine courts unanimously found to lack merit. Defendants and co-conspirators nevertheless exhausted the appeals process, pursuing their baseless claims as far as they could in order to use the judicial process itself as a means to inflict direct injury upon the Candidate and Voters. Defendants and co-conspirators also used the challenge process as a pretext for making false accusations of fraud against the Candidate and Voters, which the news media reported widely in Maine and nationwide.

57. On August 23, 2004, Defendant Melanson filed a baseless complaint with Maine's Secretary of State challenging the Candidate's nomination papers under 21-A M.R.S. § 356. The complaint identified Michael K. Mahoney and the law firm Preti, Flaherty, Beliveau, Pachios, and Haley as Defendant Melanson's attorneys. That same day, Defendants caused a second baseless complaint to be filed, in the name of Benjamin Tucker, a registered Democrat in Maine affiliated with an organization called StopNader.com.

58. On information and belief, Mr. Tucker and StopNader.com prepared and filed their complaint at the direction of and in cooperation with Defendants DNC, Ballot Project, Kerry-Edwards 2004 and others. StopNader.com identified itself on its website as "a project of the Democratic Action Team," a political committee which purportedly "is not affiliated with any candidate, party or organization." FEC records, however, list the organization's address as that of Kaufman Legal Group, a Los Angeles-based law firm that includes Defendant DNC among its clients. Further, the StopNader.com complaint incorporates, as "Exhibit K," a letter dated July 22, 2004, from the Sacramento County, California Registrar of Voters to Gregory Harvey, an attorney who filed Defendants' Pennsylvania challenge, regarding the registration

status of the Candidate's running mate. Defendant Ballot Project paid Attorney Harvey's law firm \$6,000 on August 3, 2004, for costs associated with Defendants' Pennsylvania challenge.

59. Defendants' primary objection to the Candidates' Maine nomination petitions was that one of the Candidate's electors, Plaintiff Snowdeal, who commonly goes by the name "J. Noble," was incorrectly identified on certain petitions as "John" rather than "Joseph." Based on this clerical error, Defendant Melanson claimed that the Candidate sought to access Maine's ballot by "use of a fictitious presidential elector." Upon filing her complaint, Defendant Melanson issued the following written statement:

From forged petition signatures in Pennsylvania and Oregon, to major financial contributions from Republicans in his ballot access effort, there are serious questions regarding the methods Ralph Nader has used to get on ballots across the country. In Maine, we should be sure that any presidential candidate follows the rule of law.

Defendant Melanson's attorney also falsely claimed that the presidential electors listed on the Candidate's nomination petitions included a person who does not exist – a reference to Plaintiff Snowdeal.

60. Defendants' second complaint, filed in the name of Mr. Tucker, claimed "on information and belief" that the Candidate's petition circulators "fraudulently concealed the identity of the candidate...and misled signers into signing the petition." Lacking any evidence to support these claims, Defendants nevertheless used them as a pretext to subpoena the Candidate's electors and/or petition circulators, including Plaintiffs Oden, Snowdeal and Whittaker. Defendants thus misused the subpoena and discovery processes to harass the Candidate's electors and/or petition circulators, as they did in Ohio and Oregon.

61. On August 30-31, 2004, the Maine Bureau of Corporations, Elections, and Commissions held a public hearing on Defendants' two complaints. At the hearing, Defendant

Melanson testified that she was a salaried employee of the Democratic Party, and that she had formerly held many positions with Defendant DNC. In fact, Defendant Melanson was a DNC official at all times relevant to the acts alleged herein. Further, in response to questioning from the Candidate's attorney, Defendant Melanson testified:

Q: I'm asking you if the Democratic Party has contacted you personally and said we will support with money with other supports that as you need them to bring a challenge against the petitions of Ralph Nader in Maine. Has the Democratic Party contacted you personally and asked you to do this?

A: Yes.

Q: And have they said they will help you pay for it?

A: They have said they would help in many ways.

Q: Did they say they would help you pay for it?

A: Yes.

Q: Are they paying for your attorneys?

A: They are.

Q: Do they expect that you should make a response to them in your capacity as state Democratic Chair once these hearings are concluded and a decision is rendered by the Secretary of State's office?

A: Are they expecting to hear what the decision is?

Q: From you personally?

A: Yes.

Q: Was this part of the agreement that you made with them? I mean, I characterize what I've heard so far as an agreement between them and you to perform certain deeds for funds and to make a response as part of this agreement. Is that correct? In other words, they're expecting a report?

A: There are members of the DNC who certainly want to hear what the outcome of this is.

Q: They're expecting to hear this from you and from no other person?

A: Or from my attorneys.

62. On September 8, 2004, the Secretary of State adopted the report of the Hearing Officer and dismissed both of Defendants' complaints. The Hearing Officer's report correctly noted that "the name "John Noble Snowdeal" does not represent a fictitious person, but instead is an incorrect statement of a real elector's first name." The Hearing Officer also noted that Defendants "did not present any evidence" to support their claim that the clerical error misidentifying Plaintiff Snowdeal's first name constituted "an attempt to mislead voters." Finally, the Hearing Officer concluded that Defendants failed to provide evidence to support their claim "that there was widespread fraud, deliberate concealment or misleading of voters by petition circulators."

63. Defendant Melanson appealed to the Kennebec Superior Court of Maine on September 10, 2004. The Superior Court denied the appeal on September 27, 2004, citing the Hearing Officer's "common sense approach" and "the lack of any evidence" to support Defendant's claims with respect to Plaintiff Snowdeal. "Mr. Snowdeal is a living, breathing person who testified before the Hearing Officer," the Superior Court concluded, "not a fictitious would-be elector created to fool petition signers."

64. Defendant Melanson appealed the Superior Court's decision to the Maine Supreme Judicial Court. That Court issued a unanimous *per curiam* decision affirming the Superior Court on October 8, 2004. The Candidate appeared on the Maine ballot in the 2004 presidential election.

65. Although Defendant Melanson had previously admitted under oath that Defendant DNC had directed her to file her complaint, and that Defendant DNC was paying for her

attorneys, Defendants continued to deny that their Maine litigation was initiated pursuant to a concerted nationwide effort. “This challenge was brought by Dorothy Melanson as an individual, not by the party,” Defendant Maine Democratic Party spokesman Chris Harris claimed after Defendant Melanson appealed to Maine’s Supreme Judicial Court.

66. Defendant DNC retained Defendant Melanson’s law firm Preti, Flaherty, Beliveau, Pachios & Haley in September and October of 2004, and paid the firm \$32,282 in legal and political consulting fees. In addition, in 2004 Defendant DNC transferred at least \$222,412 to Defendant Maine Democratic Party, and at least \$373,559 to Maine Victory 2004. On information and belief, conspirators used a portion of these funds to finance acts done in furtherance of the conspiracy.

B. Defendants Caused 27 More Baseless State Court and Federal Agency Complaints to Be Filed in 17 Other States, With Intent to Injure the Candidate Directly, By Means of the Judicial Process Itself, and as a Pretext to Make False Accusations of Fraud Against the Candidate.

Arizona

67. On June 23, 2004, Defendants caused one baseless state court complaint to be filed in the Superior Court of Maricopa County, Arizona, challenging the Candidate’s nomination papers under A.R.S. § 16-351. Defendants’ complaint was filed in the names of registered Democrats Dorothy Schultz and Betty Elizabeth Hughes, and alleged, *inter alia*, that the Candidate’s nomination petitions included forgeries and falsified addresses by petition circulators. State law prohibits the Arizona Democratic Party from filing challenges in its own name, but Chairman and Defendant DNC official Jim Pederson told the Associated Press that the state party had supported the plaintiffs and had informed Defendant Kerry-Edwards 2004 of the lawsuit.

68. Following a conference call with Mr. Pederson, MSNBC reported that:

Every dollar the Nader campaign must spend fighting off Democratic legal challenges is a dollar it won't be able to spend on Nader's travel or on radio and TV ads. So, whether legally successful or not, the Democrats' effort will sap Nader's strength.

On information and belief, Mr. Pederson, like Defendant Melanson, initiated Defendants' Arizona litigation at the direction of Defendant McAuliffe and/or other officials of Defendant DNC, as part of Defendants' coordinated nationwide strategy to use groundless and abusive litigation to disrupt and bankrupt the Candidate's campaign. For example, the StopNader.com website solicited donations in August 2004 by noting that "Nader's ballot access petitions have been successfully challenged in Arizona," and that "we're working with election lawyers in every battleground state."

69. On July 2, 2004, the Candidate was forced to withdraw his nomination papers due to the prohibitive cost of defending Defendants' state court challenge in Arizona, and instead filed a federal lawsuit challenging the statute on which Defendants' challenge relied. The 9th Circuit held the statute unconstitutional, *see Nader v. Brewer*, 531 F.3d 1028 (9th Cir. 2008), but the election was already over, and the Candidate did not appear on the Arizona ballot in the 2004 presidential election.

70. In 2004 Defendant DNC transferred at least \$253,458 to the Arizona Democratic Party, and at least \$2,500 to Arizona Victory 2004. On information and belief, conspirators used a portion of these funds to finance acts done in furtherance of the conspiracy.

Arkansas

71. On September 10, 2004, Defendants caused a baseless complaint to be filed in the Circuit Court of Pulaski County, Arkansas, Sixth Division, challenging the Candidate's nomination papers under Ark. Stat. Ann. § 7-7-103(d). Defendants' complaint was filed in the

names of the Democratic Party of Arkansas and Democratic state legislator Linda Chesterfield. The complaint falsely alleged that the Candidate's campaign had engaged in "systemic fraud," and the Chairman of the Arkansas Democratic Party claimed that the lawsuit was necessary to protect "the integrity" of the ballot in Arkansas. Defendants voluntarily withdrew their false allegation of fraud, but only after it was widely reported by the Associated Press and other news media.

72. On September 20, 2004, the Circuit Court of Pulaski County ordered the Secretary of State to remove the Candidate from the Arkansas state ballot, on the ground that the Candidate's nomination petitions listed his name as a candidate in Arkansas, without specifying that the petition signers regarded him as "their candidate," as purportedly required by state law. The Supreme Court of Arkansas vacated the Circuit Court's order, and the Candidate appeared on the Arkansas ballot in the 2004 presidential election.

73. In 2004 Defendant DNC transferred at least \$266,101 to the Arkansas Democratic Party, and at least \$286,364 to Arkansas Victory 2004. On information and belief, conspirators used a portion of these funds to finance acts done in furtherance of the conspiracy.

Colorado

74. On September 13, 2004, Defendants caused two baseless complaints to be filed in the District Court of Denver County, Colorado, challenging the Candidate's nomination papers under C.R.S. 1-4-501(3). Defendants' first complaint was filed in the names of Colorado Democratic Party Executive Director Julie DeWoody and the Colorado Democratic Party. Defendants' second complaint was filed in the names of Nancy Pakieser, a registered Democrat in Colorado, and Maurice O. Nyquist, a registered voter in Colorado. The District Court

dismissed both complaints in an oral decision, and the Candidate appeared on the Colorado ballot in the 2004 presidential election.

75. IRS records indicate that Defendant Ballot Project coordinated with the law firm that represented Ms. Pakieser and Mr. Nyquist, Isaacson, Rosenbaum, Woods and Levy, P.C, and reimbursed the firm for its expenses. In addition, in 2004 Defendant DNC transferred at least \$224,930 to the Colorado Democratic Party, and at least \$1,973,504 to Colorado Victory 2004. On information and belief, conspirators used a portion of these funds to finance acts done in furtherance of the conspiracy.

Florida

76. On September 2, 2004, Defendants caused two baseless complaints to be filed in the Second Judicial Circuit Court for Leon County, Florida, challenging the Candidate's nomination papers under Fla. Stat. § 102.168. Defendants' first complaint was filed in the names of the Florida Democratic Party, Florida Democratic Party Chairman Scott Maddox and registered voters Candice Wilson and Alan Herman. Defendants' second complaint was filed in the names of Florida voters Harriet Jane Black, William Chapman, Robert Rackleff and Terry Anderson.

77. Defendants primarily objected to the Candidate's Florida nomination papers on the ground that he had qualified for the ballot as the candidate of the Reform Party, which purportedly could not be considered a legitimate party, based upon its bank account balance, and because its nominating convention took place by telephone conference call. On this basis, co-conspirator Steven Raikin, a director of Defendant Ballot Project, reportedly claimed, falsely, that "Ralph Nader is engaging in fraudulent practices to gain access to the ballot."

78. On September 15, 2004, the Circuit Court issued an order enjoining the Secretary of State from certifying the Candidate for placement on Florida's ballot. On September 17, 2004, the Supreme Court of Florida vacated the injunction, concluding that the Reform Party was a legitimate political party under Florida law. The Candidate appeared on the Florida ballot in the 2004 presidential election.

79. Defendants and co-conspirators reportedly recruited at least 30 attorneys to represent their Florida plaintiffs. Defendant Ballot Project retained one of the law firms representing the plaintiffs. Defendant Moffett, president of Defendant Ballot Project, reportedly told the *Washington Post* that his organization did not sue other candidates on Florida's ballot because those candidates did not pose a threat to the Kerry-Edwards Campaign.

80. IRS records indicate that Defendant Ballot Project paid \$150,000 to the law firm Broad and Cassel for representing the Florida plaintiffs, and another \$5,000 to plaintiffs' attorney Samuel Dubbin. Defendant Ballot Project also paid \$20,534 to American University professor Allan Lichtman to testify as an expert witness. FEC records indicate that the Florida Democratic Party retained the Florida plaintiffs' law firm, Messer, Caparello and Self, and paid the firm \$57,481 in 2004. FEC records also indicate that Defendant DNC reimbursed plaintiffs' attorneys Joel S. Perwin and Martin Lederman \$975 and \$536, respectively, for travel expenses in 2004. Finally, in 2004 Defendant DNC transferred at least \$1,709,626 to the Florida Democratic Party, and at least \$4,789,765 to Florida Victory 2004. On information and belief, conspirators used a portion of these funds to finance acts done in furtherance of the conspiracy.

Illinois

81. On June 28, 2004, Defendants caused a complaint to be filed with the Illinois State Board of Elections, challenging the Candidate's nomination papers under 10 ILCS 5/10-8.

Defendants' complaint was filed in the name of John F. Tully, Jr., a registered Democrat in Illinois, by Michael Kasper, General Counsel and Treasurer of the Illinois Democratic Party, and Michael Kreloff, a Democratic Party Committeeman from Cook County. Illinois is the only state in which Defendants' challenge prevailed, where unlawful interference with the Candidate's campaign by means of sabotage and/or harassment of his petition circulators has not been publicly documented. Chicago Board of Election Commissioners records indicate, however, that Illinois State House Speaker and Defendant DNC official Michael Madigan's staff secured copies of the Candidate's nomination petitions. On information and belief, such employees prepared Defendants' Illinois challenge during normal working hours – the same conduct for which the Pennsylvania Attorney General charged 12 Pennsylvania House employees and/or members with numerous felony counts of criminal conspiracy, theft and conflict of interest. The Candidate did not appear on the Illinois ballot in the 2004 presidential election.

82. Defendant Ballot Project paid Attorney Kreloff \$12,000 for legal consulting in 2004. In addition, in 2004 Defendant DNC transferred at least \$86,301 to the Illinois Democratic Party, and at least \$5,000 to Illinois Victory 2004. On information and belief, conspirators used a portion of these funds to finance acts done in furtherance of the conspiracy.

Iowa

83. On August 20, 2004, Defendants caused a baseless complaint to be filed with the Iowa State Commissioner of Elections, challenging the Candidate's nomination papers under Iowa Code § 44.4. Defendants' complaint was filed in the name of Lee Baldwin Jolliffe, a registered Democrat, with material support from the Iowa Democratic Party, including the state party's Voter Activation Network, a proprietary database of voters which was used to verify whether the Candidate's petition signers were registered voters.

84. On August 30, 2004, Iowa's Secretary of State dismissed Defendants' complaint. The Candidate appeared on the Iowa ballot in the 2004 presidential election.

85. In 2004 Defendant DNC transferred at least \$1,294,404 to the Iowa Democratic Party, and at least \$1,420,650 to Iowa Victory 2004. On information and belief, conspirators used a portion of these funds to finance acts done in furtherance of the conspiracy.

Michigan

86. On July 22, 2004, Defendants caused a baseless complaint to be filed with the Michigan State Bureau of Elections. Defendants' complaint was filed in the name of Defendant DNC Vice Chair and Michigan Democratic Party Chair Mark Brewer, challenging the Candidate's nomination papers under NCLS § 168.552. The Michigan State Court of Appeals dismissed Defendants' complaint on September 3, 2004, and the Candidate appeared on the Michigan ballot in the 2004 presidential election.

87. In 2004 Defendant DNC transferred at least \$251,327 to the Michigan Democratic Party, and at least \$2,963,649 to Michigan Victory 2004. On information and belief, conspirators used a portion of these funds to finance acts done in furtherance of the conspiracy.

Mississippi

88. On September 3, 2004, Defendants caused a baseless complaint to be filed with the Mississippi State Board of Election, challenging the Candidate's nomination papers under Miss. Code Ann, 23-15-963. Defendants' complaint was filed in the name of Defendant DNC official and Mississippi Democratic Party Chair Wayne Dowdy. The complaint identified Samuel L. Begley and Begley Law Firm, PLLC as attorneys for the plaintiff. The Board of Election Commissioners dismissed Defendants' complaint at the conclusion of a hearing on

September 7, 2004, and the Candidate appeared on the Mississippi ballot in the 2004 presidential election.

89. Defendant DNC paid the Begley Law Firm legal consulting fees of \$6,501 on October 15, 2004. In addition, in 2004 Defendant DNC transferred at least \$89,519 to the Mississippi Democratic Party. On information and belief, conspirators used a portion of these funds to finance acts done in furtherance of the conspiracy.

Nevada

90. On August 24, 2004, Defendants caused a baseless complaint to be filed in Nevada's First Judicial District Court, challenging the Candidate's nomination papers under Nev. Rev. Stat. Ann. § 298.109. Defendants' complaint was filed in the names of the Nevada Democratic Party, registered Democrats Renee McKinley and Joan T. Ward, and registered voter Myrna McKinley. The District Court dismissed the complaint on September 1, 2004, and the Nevada State Supreme Court affirmed on September 15, 2004. The Candidate appeared on the Nevada ballot in the 2004 presidential election.

91. In 2004 Defendant DNC transferred at least \$575,458 to the Nevada Democratic Party, and at least \$1,146,292 to Nevada Victory 2004. On information and belief, conspirators used a portion of these funds to finance acts done in furtherance of the conspiracy.

New Hampshire

92. Defendants caused two baseless complaints to be filed with the New Hampshire Ballot Law Commission, challenging the Candidate's nomination papers under RSA 655:44. Defendants' first complaint was filed on September 7, 2004, in the names of Defendant DNC official and New Hampshire Democratic Party Chair Kathleen Sullivan and the New Hampshire Democratic Party. Defendants' second complaint was filed on September 13, 2004, in the names

of Kathleen Sullivan and New Hampshire voters Hazel R. Tremblay, Dorie M. Grizzard and Brian Farias. On September 24, 2004, the Commission voted unanimously to deny the two complaints, and the Candidate appeared on the New Hampshire ballot in the 2004 presidential election.

93. Defendants' second complaint identified Martha Van Oot, Emily Gray Rice and the law firm Orr and Reno, P.A. as attorneys for the plaintiffs. Ms. Van Oot and Ms. Rice worked on the lawsuit in coordination with Kathleen Sullivan and Judy Reardon, Defendant Kerry-Edwards 2004's deputy national director for Northern New England. Ms. Reardon drafted the complaint, while Ms. Van Oot made hand-written revisions and circulated the complaint to several attorneys.

94. Defendant Kerry-Edwards 2004 paid Ms. Reardon \$64,000 from March to July, 2004. In addition, in 2004 Defendant DNC transferred at least \$284,554 to the New Hampshire Democratic Party, and at least \$978,590 to New Hampshire Victory 2004. On information and belief, conspirators used a portion of these funds to finance acts done in furtherance of the conspiracy.

New Mexico

95. On September 15, 2004, Defendants caused a baseless complaint to be filed in the Second Judicial District Court of New Mexico, challenging the Candidate's nomination petitions under N.M. Dist. Ct. R.C.P. 1-096. Defendants' complaint was filed in the names of New Mexico Democratic Party Executive Director Vanessa M. Alarid, Velencia County Democratic Party Chair Moises Griego, Abraham Gutman, founder of an organization called Greens for Kerry, and registered voters Richard W. Kirschner and Laura LaFlamme. An attorney

representing the plaintiffs, Eric Sedillo Jeffries, was the New Mexico contact for Defendant Kerry-Edwards 2004's group Lawyers for Kerry.

96. New Mexico Democratic Party officials, including Chair and DNC Official John Wertheim and Deputy Executive Director Gideon Elliot, coordinated Defendants' New Mexico litigation, and state party staff helped prepare Defendants' complaint. Defendant Ballot Project's president, Defendant Moffett, recruited these officials to file Defendants' complaint, and told them that polls showed that the most effective argument to use with the Candidate's supporters is was that the Candidate "is in bed with Republicans." After Defendants' complaint was filed, state party spokesman Matt Farrauto told the news media, "As is the case here, when the Republicans hijack a candidacy...it takes a lot of effort and energy to bring honesty into the process."

97. On September 17, 2004, a District Court Judge issued an order denying the Candidate's right to appear on New Mexico's ballot as an independent candidate. The order was vacated and the judge recused after several voters revealed that the judge had donated \$1,000 to Defendant Kerry-Edwards 2004. When another District Court judge issued an identical order, the New Mexico Supreme Court entered a stay.

98. On September 28, 2004, pursuant to a complaint filed by three registered voters, the United States District Court for the District of New Mexico ordered the Secretary of State to place the Candidate on New Mexico's ballot. The Candidate appeared on the New Mexico ballot in the 2004 presidential election.

99. In 2004 Defendant DNC transferred at least \$621,992 to the New Mexico Democratic Party, and at least \$1,167,980 to New Mexico Victory 2004. On information and

belief, conspirators used a portion of these funds to finance acts done in furtherance of the conspiracy.

Ohio

100. Defendants caused two baseless complaints to be filed in Ohio. Defendants' first complaint was filed with Ohio's Secretary of State on August 30, 2004, in the names of Ohio voters Benson A. Wolman, Jerilyn L. Wolman, Zachary E. Manifold, Julia E. Manifold, Bassel Korkor, Rebecca S. Mosher, Barry C. Keenan, Gerald L. Robinson, Scott Austin, Mary C. Woods, Johnathon Brunner, Max Kravitz and Daniel T. Kobil, challenging the Candidate's nomination papers under ORC Ann. 3513.05 and 3513.257. Defendants' second complaint was filed in the Court of Common Pleas for Franklin County on September 2, 2004, in the names of Benson Wolman, Marjorie Bender and Robert Crosby, Jr., and requested a declaratory judgment and an injunction enjoining the Secretary of State from placing the Candidate on Ohio's ballot.

101. Defendants also caused subpoenas to be issued against 27 of the Candidate's petition circulators, misusing the subpoena process in an attempt to prevent the circulators from collecting and/or submitting signatures. Co-conspirator attorneys moved to compel depositions of certain circulators, falsely claiming that the Candidate's nomination petitions revealed "a pattern of illegal activity," and "an apparent pervasive effort to gain access by fraud to the Ohio ballot" on behalf of the Candidate. The Ohio Secretary of State's Hearing Officer specifically rejected the claim of "pervasive fraud," and found "no evidence that the Nader campaign directed or condoned the collection of signatures in any manner that violated Ohio law."

102. The primary basis for Defendants' false accusations of fraud is that four paid circulators hired by the Candidate's campaign allegedly were not residents of and/or registered to vote in Ohio, in violation of a state statute that the Sixth Circuit Court of Appeals has since held

unconstitutional. *See Nader v. Blackwell*, 545 F.3d 459 (6th Cir. 2008). The Sixth Circuit specifically held that enforcement of the statute by the Ohio Secretary of State violated the Candidate's First Amendment rights. *See id.*

103. On October 4, 2004, the Candidate challenged the Ohio statute's unconstitutional petition circulator residency and registration requirements in a complaint filed with the Supreme Court of Ohio. The Candidate requested a writ of mandamus compelling the Secretary of State to count as valid those signatures invalidated based upon the unconstitutional state statute. The Supreme Court of Ohio denied the Candidate relief, and the Candidate did not appear on Ohio's ballot in the 2004 presidential election.

104. The Candidate would have been on Ohio's ballot in the 2004 presidential election, but for Defendants' and co-conspirators' harassment and unlawful interference with his campaign's petition circulators. The Candidate also would have been on Ohio's ballot in the 2004 presidential election, but for the Secretary of State's enforcement of Ohio's unconstitutional registration and residency requirements for petition circulators.

105. Donald J. McTigue, an attorney representing Defendants' Ohio plaintiffs, identified the Ohio Democratic Party as his client in an email to Ohio county boards of elections on August 22, 2004. Further, in a letter to the Cuyahoga County Board of Elections on December 10, 2004, Mr. McTigue stated that he represented John Kerry "as his legal counsel...with full authority to act on behalf of him and John Edwards" during the Ohio recount of the 2004 presidential election returns. Two more attorneys representing Defendants' Ohio plaintiffs, John P. Gilligan of the law firm Schottenstein, Zox and Dunn, L.P.A, and Gregory Corbett of Kirkland and Ellis, were the Columbus, Ohio and the Washington, D.C. contacts, respectively, for Defendant Kerry-Edwards 2004's group Lawyers for Kerry.

106. Defendant DNC retained Schottenstein, Zox and Dunn, L.P.A. and paid the firm \$39,486 in legal and political consulting fees in September and October of 2004. Defendant DNC also retained Kirkland and Ellis, and paid the firm \$247,711 in legal and political consulting fees in September and November of 2004. In addition, in 2004 Defendant DNC transferred at least \$2,585,189 to the Ohio Democratic Party, and at least \$3,065,661 to Ohio Victory 2004. On information and belief, conspirators used a portion of these funds to finance acts done in furtherance of the conspiracy.

Oregon

107. On August 16, 2004, after jointly executing, in concert with co-conspirators including ACT and the Oregon Democratic Party, an effort to disrupt two of the Candidate's nominating conventions and to sabotage the Candidate's nomination petitions, Defendants' Oregon plaintiff SEIU held a press conference and falsely accused the Candidate's campaign of "fraud," "forgery" and "widespread corruption." SEIU issued the following written statement to the news media:

Widespread fraud and forgery found on petitions to qualify Ralph Nader for Presidential Ballot in Oregon

The petition sheets to qualify Ralph Nader for the presidential ballot in Oregon contain so much fraud, forgery and duplicated signatures that it clearly demonstrates widespread corruption in the campaign, according to an investigation conducted by the Service Employees International Union (SEIU).

SEIU will release preliminary findings of its investigation at a news conference on Monday, August 16th at 10:30 AM. At that time, we will be calling on the Ralph Nader campaign to take immediate action to eliminate the fraud and to report all individuals who have violated state election laws while working on the campaign.

"We were absolutely astounded by what we have found so far," says SEIU International Vice-President Alice Dale. "The evidence of systemic fraud is clear and convincing and goes beyond anything we have seen before in Oregon. We call on the Ralph Nader for President campaign to immediately stop all fraudulent

activities and turn over all evidence of fraud and forgery to the state Elections Division for investigation by the Attorney General.”

108. Demonstrating the falsehood of these accusations, on August 24, 2004, the Candidate’s campaign submitted to the Oregon Secretary of State almost 2,800 more signatures than state law required, which county elections officials had certified as valid. The Secretary of State, a Democrat, nevertheless denied the Candidate ballot access on September 2, 2004, by applying rules and procedures that contradicted his own established rules and procedures, thereby invalidating thousands of signatures that county elections officials had already certified as valid. Hundreds of these signatures were invalidated as a result of the conspirators’ sabotage, based on purported defects in the Candidate’s petition circulators’ own signatures.

109. On September 9, 2004, pursuant to a complaint filed by the Candidate’s campaign, Oregon’s Marion County Circuit Court ordered the Secretary of State to certify the Candidate’s nomination papers. Regarding the methods by which the Secretary of State invalidated the Candidate’s valid signatures, the Court wrote, “Neither action was authorized by administrative rule or statute, and each was inconsistent with both the state elections policy as established by the Legislature...and with the prior policy of the Secretary of State.”

110. On September 17, 2004, the Oregon Supreme Court granted the Secretary of State a writ of mandamus requiring the Circuit Court to vacate its order, concluding that the Secretary of State’s discretion to interpret and enforce state election laws included the authority to apply new rules and procedures that contradicted his own established rules and procedures. Defendant DNC official and Oregon Democratic Party Chair James Edmundson and the state party’s Executive Director John Neel Pender intervened in the proceeding on the state party’s behalf. The Candidate did not appear on the Oregon ballot in the 2004 presidential election.

111. SEIU's Secretary-Treasurer, Anna Burger, is an official of Defendant DNC, and SEIU endorsed and publicly committed its resources to electing John Kerry in 2004. In violation of federal campaign finance law, SEIU also donated \$1,000,000 to Defendant DNC in 2004, according to documents that have since been removed from the SEIU website. Defendant DNC made numerous payments to SEIU, including \$33,072 in political consulting fees in October and November 2004. SEIU was also a founding member of ACT and its largest contributor, donating \$26 million in 2004, and housing the 527 in SEIU's Portland office. Further, in 2004 Defendant DNC transferred at least \$261,609 to the Oregon Democratic Party, and at least \$896,002 to Oregon Victory 2004. On information and belief, conspirators used a portion of these funds to finance acts done in furtherance of the conspiracy.

Pennsylvania

112. On August 9, 2004, Defendants caused two baseless complaints to be filed against the Candidate's campaign. Defendants' first complaint was a putative class action filed in Philadelphia Court of Common Pleas, in the name of Philadelphia resident Ralph Dade. Represented by Philadelphia Democratic Party Ward leader Louis Agre, Mr. Dade alleged that he and several others were owed approximately \$200 each for facially invalid signatures they had "collected" for the Candidate's campaign. On information and belief, Mr. Dade and/or other co-conspirators knowingly submitted facially invalid signatures. Mr. Dade voluntarily withdrew the complaint.

113. Defendants' second complaint was also filed on August 9, 2004, in the names of registered Democrats Linda S. Serody, Roderick J. Sweets, Ronald Bergman, Richard Trinclisti, Terry Trinclisti, Bernie Cohen-Scott, Donald G. Brown and Julia O'Connell, in the Pennsylvania Commonwealth Court, challenging the Candidate's nomination papers under 25 PS § 2937.

Philadelphia Democratic Party Ward leader Gregory Harvey and several attorneys from Reed Smith, LLP, including Efrem Grail, filed the complaint.

114. According to a Grand Jury Presentment filed by the Pennsylvania Attorney General on July 10, 2008, Pennsylvania state employees secretly prepared Defendants' second complaint at taxpayer expense, pursuant to a criminal conspiracy to misappropriate millions of dollars in taxpayer funds and resources for political purposes. The Attorney General's criminal investigation is ongoing, but five out of 12 defendants have already agreed to plead guilty to numerous felony counts of criminal conspiracy, theft and conflict of interest. In a preliminary hearing, state employee Melissa Lewis testified under oath that Reed Smith attorney Efrem Grail coordinated the effort to prepare Defendants' complaint at taxpayer expense.

115. On information and belief, Mr. Dade and/or other co-conspirators planted approximately 7,000 facially invalid signatures in the Candidate's nomination petitions as part of a deliberate plan to manufacture evidence for Defendants' second complaint. Paid petition circulators hired by the Candidate's campaign identified and removed all but a tiny number of these signatures, equal to 1.3 percent of the total signatures that were actually submitted. Nevertheless, co-conspirator attorneys falsely claimed in court papers filed in support of Defendants' second complaint that the Candidate's petitions included "overwhelming evidence of literally thousands of forged petition signatures," and that the petitions should be set aside based upon "pervasive fraud."

116. Co-conspirator attorneys also falsely accused the Candidate of fraud in the news media. For example, on October 8, 2004, the *New York Times* reported that Democrats had accused the Candidate of "knowingly committing fraud." Mr. Grail is quoted as follows:

We think that signing papers to get someone on the ballot is a sacred process, and people ought to follow the law. Ralph Nader ought to know better. And you know what, he does know better.

117. On October 13, 2004, the Pennsylvania Commonwealth Court set aside the Candidate's nomination petitions after invalidating more than 30,000 signatures based upon alleged technical or procedural defects – not based upon fraud. The Pennsylvania Supreme Court affirmed, in a *per curiam* order entered without opinion, but a dissenting justice entered an opinion in which he noted that the record contains “no evidence” to support co-conspirators’ allegations of fraud in support of Defendants’ second complaint. The Candidate did not appear on Pennsylvania’s ballot in the 2004 presidential election.

118. On December 3, 2004, Mr. Grail submitted a bill of costs for \$81,102.19, citing the purported “fraud” in the Candidate’s nomination petitions in support thereof. The bill of costs gave no indication that Mr. Grail had allegedly coordinated a secret effort by state employees to prepare Defendants’ second complaint at taxpayer expense. The Pennsylvania Commonwealth Court thus approved the bill of costs and entered judgment against the Candidate in the amount of \$81,102.19. The Pennsylvania Supreme Court affirmed, in a proceeding during which Reed Smith began representing the presiding chief justice as his defense counsel in a state ethics investigation, without ensuring that such representation was disclosed on the record, in violation of ethical standards established by the American Bar Association.

119. On July 17, 2007, in furtherance of Defendants’ conspiracy to cause the Candidate financial injury and other damages, co-conspirator Reed Smith initiated attachment proceedings in the District of Columbia, freezing \$61,638.45 in the Candidate’s bank accounts. Although Reed Smith does not dispute testimony and evidence indicating that Reed Smith attorney Efreem Grail coordinated the unlawful effort to prepare Defendants’ second complaint at

taxpayer expense, the Pennsylvania courts denied the Candidate's right to present such after-discovered evidence and to have an oral hearing on the matter, in violation of Pennsylvania Rules of Civil Procedure 206.7(c) and 211. Consequently, Reed Smith has been allowed to pursue, and is in fact pursuing, as the true party in interest, enforcement of its fraudulently procured judgment by means of attachment proceedings in the District of Columbia.

120. Reed Smith attorneys repeatedly told the news media in 2004 that the Democratic Party had not retained or paid Reed Smith, thereby fraudulently concealing the firm's involvement in Defendants' conspiracy. In fact, Defendant DNC retained Reed Smith and paid the firm \$136,142 for "political consulting" and "legal consulting" during the 2004 election. Reed Smith also represented John Kerry in an unrelated civil action arising out of the 2004 election, and Reed Smith has represented Mr. Kerry's wife, Teresa Heinz Kerry, the HJ Heinz Corporation and the Heinz Family Foundation in numerous matters. "Heinz is still a major and active client," *Legal Business* reported in December 2006/January 2007.

121. On August 3, 2004, Defendant Ballot Project paid attorney Gregory Harvey's firm Montgomery, McCracken, Walker and Rhoads \$6,000 for costs arising from Defendants' second Pennsylvania complaint. In addition, in 2004 Defendant DNC transferred at least \$182,825 to the Pennsylvania Democratic Party, and at least \$5,132,220 to Pennsylvania Victory 2004. On information and belief, conspirators used a portion of these funds to finance acts done in furtherance of the conspiracy.

Washington

122. Defendants caused two baseless complaints to be filed against the Candidate's campaign in Washington. Both complaints were filed in the Thurston County Superior Court of Washington, challenging the Candidate's nomination papers under RWC 29A.20.191.

Defendants' first complaint was filed on September 3, 2004, in the name of attorney Ken Valz. The complaint was facially deficient, asserting its "legal claim" in a single paragraph, and requesting that the Candidate's nomination petitions, which the Secretary of State had already certified as valid, be declared invalid.

123. Defendants' second complaint was filed on September 8, 2004, in the names of the Washington Democratic Party, Defendant Kerry-Edwards 2004's campaign blog moderator DiAnne Greiser, Defendant Kerry-Edwards 2004 and United Progressives for Victory organizer Randy Poplock, and registered voters Josh Castle, Ann Thoeny and Elizabeth Walter.

124. The Thurston County Superior Court dismissed both of Defendants' complaints on September 15, 2004, and the Candidate appeared on the Washington ballot in the 2004 presidential election.

125. In 2004 Defendant DNC transferred at least \$490,000 to the Washington Democratic Party, and at least \$534,894 to Washington Victory 2004. On information and belief, conspirators used a portion of these funds to finance acts done in furtherance of the conspiracy.

West Virginia

126. Defendants caused a baseless complaint to be filed in the West Virginia Supreme Court of Appeals on August 16, 2004, in the names of Kanawha County Democratic Party Chair Norris Light, Defendant Kerry-Edwards 2004 elector Phil Hancock, and registered voters Deirdre Purdy, Gary Collias and Karen Coria. The complaint requested a writ of mandamus ordering the Secretary of State, who had already certified the Candidate's nomination papers as valid, either to initiate an investigation into the Candidate's nomination papers, or to refer the matter to the Attorney General's office.

127. On July 30, 2004, Democratic state legislator Carrie Webster had written a letter to the Secretary of State raising the concern that signers of the Candidate's nomination petitions were "fraudulently mislead into signing the petition." Noting the lack of evidence to support such claims, the Secretary of State initially declined to investigate or refer the matter to the Attorney General. "Our Elections Division has received only four complaints from people who didn't even sign the petition," the Secretary of State told the *Charleston Gazette*. "We have nothing to stand on now."

128. On August 19, 2004, the Secretary of State, a Democrat, reversed his prior decision, "accompanied by intense political pressure from the Democratic Party," the *Wall Street Journal* reported – including Defendants' baseless complaint filed with the state Supreme Court three days earlier. The Secretary of State thus wrote to the Attorney General, also a Democrat, requesting that the Attorney General institute a *quo warranto* proceeding to determine the validity of the Candidate's nomination papers under West Virginia Code § 3-5-23.

129. On August 23, 2004, the Attorney General filed a complaint *in quo warranto* in Kanawha County Circuit Court, requesting that the court order the Candidate to "show cause why he should not be precluded from being nominated," and requesting declaratory and injunctive relief "as may be warranted by the evidence." The Circuit Court dismissed the complaint on or about August 30, 2004, calling the Attorney General's unprecedented effort to remove a qualified candidate from the state's ballot "extraordinary," and noting that "the testimony of a half dozen citizens" was insufficient to invalidate an entire petition signed by 23,000 citizens – thus demonstrating the falsehood of co-conspirators' allegations of fraud. The Attorney General appealed, and the West Virginia Supreme Court of Appeals affirmed on

September 9, 2004. The Candidate appeared on the West Virginia ballot in the 2004 presidential election.

130. The attorney who filed Defendants' complaint, Jason E. Huber, had previously written an open letter to the West Virginia Mountain Party, which was already qualified for ballot listing in the 2004 election, urging the party not to nominate the Candidate. "The most obvious risk with horrendous consequences," Mr. Huber wrote, "is that a Nader nomination will cost Kerry the presidential race...This risk is most apparent in key states like West Virginia."

The letter continued:

Considering this, we must take every precaution to assure that Kerry wins West Virginia even if it includes keeping Nader off the ballot. ... It is for these reasons that I ask all those who support a Nader nomination to cast aside your third-party ideals for this one election (like I have done)...hold your nose and vote Kerry in 2004.

131. In 2004 Defendant DNC transferred at least \$152,433 to the West Virginia Democratic Party, and at least \$878,315 to West Virginia Victory 2004. On information and belief, conspirators used a portion of these funds to finance acts done in furtherance of the conspiracy.

Wisconsin

132. Defendants caused a baseless complaint to be filed on September 10, 2004, before the Wisconsin Elections Board, challenging the Candidate's nomination papers. The complaint was filed in the names of the Democratic Party of Wisconsin and Kim Warkentin, its Executive Director. The Elections Board dismissed the complaint on September 22, 2004. On appeal, the Dane County Circuit Court found that the Elections Board applied an incorrect standard, and ordered the Candidate removed from Wisconsin's ballot. The Wisconsin Supreme Court vacated

that order on September 30, 2004. The Candidate appeared on the Wisconsin ballot in the 2004 presidential election.

133. In 2004 Defendant DNC transferred at least \$544,542 to the Wisconsin Democratic Party, and at least \$2,688,997 to Wisconsin Victory 2004. On information and belief, conspirators used a portion of these funds to finance acts done in furtherance of the conspiracy.

Federal Election Commission

134. Defendants caused five baseless complaints to be filed against the Candidate's campaign with the FEC. The first complaint was filed on June 24, 2004, in the name of co-conspirator CREW, based upon nothing more than a newspaper article reporting that the Candidate's campaign rented office space from a non-profit organization. The FEC took no action and dismissed the complaint by unanimous vote on February 10, 2005. The second complaint was filed on June 30, 2004, also in the name of co-conspirator CREW. The third complaint was filed on August 10, 2004, in the name of Defendant DNC official and New Hampshire Democratic Party Chair Kathleen Sullivan. The fourth complaint was filed on September 17, 2004, in the name of Defendant DNC official and Michigan Democratic Party Chair Mark Brewer, and requested that the agency suspend presidential matching fund payments to the Candidate's campaign. The FEC took no action regarding the second, third and fourth complaints and dismissed each one by unanimous vote on June 23, 2005. The FEC also took no action in response to Defendants' fifth complaint, filed in the name of co-conspirator Daniel Schneider, and dismissed the complaint by unanimous vote on April 21, 2006. The Candidate's campaign staff and attorneys dedicated substantial time, energy and resources to respond to these complaints and the ensuing proceedings.

IV. Defendants' Conspiracy Caused Plaintiffs Financial Injury and Other Damages.

135. Defendants' conspiracy caused severe financial injury to the Candidate and to his 2004 presidential campaign. Defendants' baseless and abusive litigation forced the Candidate's campaign to secure counsel in numerous proceedings, including in Maine, many of which occurred simultaneously in multiple courts nationwide, while conspirators' harassment and sabotage consumed the Candidate's campaign staffers' time and resources. In short, Defendants' efforts to bankrupt the Candidate's campaign produced its intended effect: in October 2004, as a consequence of Defendants' abuse of process, malicious prosecution (wrongful use of civil proceedings) and other unlawful acts, the Candidate was forced to loan the campaign \$100,000 to cover legal bills, staff salaries and operating expenses. In Maine alone, for example, one law firm representing the Candidate submitted a bill for \$14,404.30. The campaign has not fully repaid the Candidate's loan.

136. Despite losing the great majority of lawsuits that they initiated, Defendants substantially achieved the unlawful objective of their conspiracy. Five states denied the Candidate ballot access as a direct result of the conspirators' unlawful conduct, while the burden of defending proceedings before 18 state courts and a federal agency – many of them simultaneous – prevented the Candidate from dedicating sufficient resources necessary to gain ballot access in a dozen others. Denial of ballot access in these states effectively prevented the Candidate from running a national campaign for the national office of President of the United States.

137. Defendants also caused damage to the third-party and independent candidacy structure which the Candidate and the Candidate's voter-supporters, including the Voter Plaintiffs herein, built at great expense in time, money and other resources. Exclusion from state

ballots deprived the Candidate of valuable fundraising opportunities to solicit contributions as a qualified candidate in the 2004 presidential election. In addition, because Defendants' groundless and abusive litigation, sabotage and other unlawful conduct prevented the Candidate from accessing state ballots in 2004, the Candidate and the Candidate's voter-supporters were prevented from establishing a qualified ballot line in those states, thus requiring them to repeat the laborious and expensive process of qualifying for state ballots in the 2008 presidential election.

138. One of the firms retained by Defendant DNC, co-conspirator Reed Smith, LLP, continues to seek enforcement of a wrongfully obtained, fraudulently procured judgment by means of attachment proceedings in the District of Columbia. The judgment directs the Candidate to pay \$81,102.19 in litigation costs arising from Defendants' challenge to the Candidate's Pennsylvania nomination petitions. Reed Smith continues to seek enforcement of this judgment, as the true party in interest, even though Reed Smith does not dispute the Pennsylvania Attorney General's allegations that the judgment was procured by means of a criminal conspiracy, whereby taxpayer funds were misappropriated to finance Defendants' litigation. In furtherance of Defendants' conspiracy to cause the Candidate financial injury, Reed Smith has already seized \$34,218.29 from the Candidate's personal bank accounts, and currently seeks to condemn the remainder of the \$61,638.45 in the Candidate's bank accounts, which the firm attached in July 2007. Defendant DNC had actual notice that Reed Smith was pursuing such efforts to enforce its judgment.

139. Defendants also caused substantial harm to the Candidate's reputation as an author, public speaker and consumer advocate throughout the United States, including Maine. Defendants' false accusations of fraud were widely reported in local, state and national media

during the 2004 presidential election, including in Maine, tarnishing the Candidate's record of integrity, which the Candidate established over a career of more than forty years of advocacy and accomplishment in the public interest throughout the United States, including Maine.

140. Defendants caused additional harm to the Voters by subpoenaing them to appear before the Maine Bureau of Corporations, Elections, and Commissions, causing them loss of income and/or subjecting them to co-conspirators' harassment and false allegations of fraud.

COUNT I
(Civil Conspiracy)

141. Plaintiffs incorporate by reference paragraphs 1-140 as if set forth fully herein.

142. Defendants conspired and agreed among themselves to interfere with Plaintiffs' lawful participation in the 2004 presidential election by means of unlawful acts including sabotage, harassment and false threats and allegations. Defendants recruited hundreds of individuals nationwide, each of whom knowingly and willfully joined Defendants' conspiracy. The combination of such individuals was essential to the success of Defendants' conspiracy, because Defendants could not accomplish their unlawful objectives by themselves.

143. Defendants specifically relied upon their co-conspirators to commit unlawful acts in furtherance of the conspiracy, including deliberate acts of sabotage, harassment of Plaintiffs and their supporters, and false threats and allegations, all with the intent to interfere with Plaintiffs' lawful participation in the 2004 presidential election. The unlawful nature of such acts, and the nationwide scope of Defendants' conspiracy, necessitated Defendants' reliance on their co-conspirators to perform such acts. Defendants' reliance on their co-conspirators thus enabled Defendants to deny and fraudulently conceal their participation in the conspiracy, and the existence of the conspiracy itself, during the 2004 election.

144. Plaintiffs were damaged by Defendants' acts and the unlawful acts that Defendants' co-conspirators committed in furtherance of the conspiracy.

COUNT II
(Conspiracy To Commit Abuse Of Process and Malicious Prosecution (Wrongful Use of Civil Proceedings))

145. Plaintiffs incorporate by reference paragraphs 1-144 as if set forth fully herein.

146. Defendants conspired and agreed among themselves to cause Plaintiffs financial injury and other damages by orchestrating a nationwide effort to commit abuse of process and malicious prosecution against Plaintiffs.

147. Defendants' purpose was to use the burden of the judicial process itself as a means to bankrupt the Candidate's campaign, harass the Voters, and force the Candidate and his running mate from the 2004 presidential election, thereby interfering with Plaintiffs' lawful participation in that election. Defendants improperly invoked judicial processes, including the subpoena, discovery and attachment processes, as a means to cause financial injury, and to harass, coerce and prevent Plaintiffs from lawfully participating in the 2004 presidential election. Defendants also used their unfounded and abusive litigation as a pretext for publicly making false accusations of fraud against the Candidate and his supporters. Defendants' motive was to help John Kerry and his running mate win the election by neutralizing or eliminating a competing candidacy, whether or not the Candidate complied with state election and federal campaign finance laws.

148. In furtherance of the conspiracy, Defendants caused 29 baseless state court and federal agency complaints to be filed against the Candidate's campaign during the 2004 presidential election, pursuing unfounded and abusive litigation against the Candidate and his supporters in 18 states and the District of Columbia. Defendants also caused unlawful acts of

harassment and sabotage to be committed against the Candidate and his supporters, often under fraudulent pretenses, as alleged herein.

149. Plaintiffs were damaged by Defendants' acts.

COUNT III
(Abuse of Process: Maine Proceedings)

150. Plaintiffs incorporate by reference paragraphs 1-149 as if set forth fully herein.

151. Defendants abused judicial processes in Maine by invoking them for the improper purpose of inflicting direct injury upon Plaintiffs, financially and otherwise, by means of the process itself, rather than as a result of the outcome of the process. Defendants' ulterior motive was to neutralize or eliminate the Candidate's campaign, thus preventing Plaintiffs from participating as qualified candidates, electors and voters in Maine's 2004 presidential election, in order to benefit John Kerry and his running mate.

152. Defendants abused the nomination petition challenge process by using it for the improper purpose of attempting to prevent Plaintiffs from participating in Maine's 2004 presidential election as qualified candidates, electors and voters, whether or not Plaintiffs complied with state election law.

153. Defendants abused judicial processes by knowingly causing false or misleading statements of material fact to be included in papers filed with the Maine Secretary of State and/or the Maine state courts. Specifically, Defendants used the nomination petition challenge process as a pretext for publicly making false and baseless allegations of fraud against Plaintiffs.

154. Defendants abused the subpoena process by attempting to use it for the improper purpose of harassing Plaintiffs and interfering with Plaintiffs' lawful participation as qualified candidates, electors and voters in Maine's 2004 presidential election. Defendants caused

subpoenas to be issued against the Voters, with the intent to prevent them from serving as presidential electors on behalf of the Candidate.

155. Defendants abused the discovery process by attempting to use it for the improper purpose of harassing Plaintiffs and interfering with Plaintiffs' lawful participation as qualified candidates, electors and voters in Maine's 2004 presidential election. Defendants attempted to use the discovery process as a means for making false and baseless allegations of fraud against Plaintiffs.

156. Plaintiffs were damaged by Defendants' acts.

COUNT IV

(Malicious Prosecution (Wrongful Use of Civil Proceedings): Maine Proceedings)

157. Plaintiffs incorporate by reference paragraphs 1-156 as if set forth fully herein.

158. Defendants engaged in malicious prosecution by filing two baseless complaints against Plaintiffs in Maine, without probable cause.

159. Defendants' primary purpose for filing their baseless complaints was to cause Plaintiffs financial injury and other damages directly, by means of the judicial process itself, rather than as a result of the outcome of the process, and as a pretext for publicly making false and baseless allegations of fraud against Plaintiffs.

160. The civil proceedings that Defendants initiated against Plaintiffs in Maine terminated in Plaintiffs' favor.

161. Plaintiffs were damaged by Defendants' acts.

COUNT V

(Abuse of Process: Arizona, Arkansas, Colorado, District of Columbia, Florida, Illinois, Iowa, Michigan, Mississippi, Nevada, New Hampshire, New Mexico, Ohio, Oregon, Pennsylvania, Washington, West Virginia and Wisconsin Proceedings)

162. Plaintiffs incorporate by reference paragraphs 1-161 as if set forth fully herein.

163. Defendants abused judicial processes in Arizona, Arkansas, Colorado, the District of Columbia, Florida, Illinois, Iowa, Michigan, Mississippi, Nevada, New Hampshire, New Mexico, Ohio, Oregon, Pennsylvania, Washington, West Virginia and Wisconsin by invoking them for the improper purpose of inflicting direct injury upon Plaintiffs, financially and otherwise, by means of the process itself, rather than as a result of the outcome of the process. Defendants' ulterior motive was to neutralize or eliminate the Candidate's campaign, thus preventing Plaintiffs and their supporters from participating as qualified candidates, electors and voters in the 2004 presidential election, in each of the foregoing states and nationwide, in order to benefit John Kerry and his running mate.

164. Defendants abused the nomination petition challenge process in the above-cited states by using it for the improper purpose of attempting to prevent Plaintiffs from participating in the 2004 presidential election as qualified candidates, electors and voters, whether or not Plaintiffs complied with those states' election laws.

165. Defendants abused judicial processes by knowingly causing false or misleading statements of material fact to be included in papers filed with elections officials and/or courts in several states. Specifically, Defendants used the nomination petition challenge process as a pretext for publicly making false and baseless allegations of fraud against Plaintiffs, which were publicized nationwide.

166. Defendants abused the subpoena process in several states by attempting to use it for the improper purpose of harassing the Candidate and his voter-supporters and interfering with Plaintiffs' lawful participation as qualified candidates, electors and voters in the 2004 presidential election. Defendants caused subpoenas to be issued against the Candidate's petition

circulators, with the intent to prevent the circulators from collecting and/or submitting signatures on behalf of the Candidate.

167. Defendants abused the discovery process by attempting to use it for the improper purpose of harassing the Candidate and his supporters and interfering with their lawful participation as qualified candidates, electors and voters in the 2004 presidential election. Defendants attempted to use the discovery process as a means for making false and baseless allegations of fraud against the Candidate and his supporters.

168. Defendants abused the attachment process by initiating attachment proceedings against the Candidate in the District of Columbia, in an effort to collect on a costs judgment procured by means of a criminal conspiracy, arising from a complaint that Defendants caused to be filed, which employees of the state of Pennsylvania secretly prepared at taxpayer expense.

169. Plaintiffs were damaged by Defendants' acts.

COUNT VI

(Malicious Prosecution (Wrongful Use of Civil Proceedings): Arizona, Arkansas, Colorado, District of Columbia, Florida, Illinois, Iowa, Michigan, Mississippi, Nevada, New Hampshire, New Mexico, Ohio, Oregon, Pennsylvania, Washington, West Virginia and Wisconsin Proceedings)

170. Plaintiffs incorporate by reference paragraphs 1-169 as if set forth fully herein.

171. Defendants engaged in malicious prosecution by causing a collective total of 27 baseless complaints to be filed against the Candidate and his supporters, without probable cause, in Arizona, Arkansas, Colorado, the District of Columbia, Florida, Illinois, Iowa, Michigan, Mississippi, Nevada, New Hampshire, New Mexico, Ohio, Oregon, Pennsylvania, Washington, West Virginia and Wisconsin.

172. Defendants' primary purpose for filing their 27 baseless complaints was to cause Plaintiffs financial injury and other damages directly, by means of the judicial process itself,

rather than as a result of the outcome of the process, and as a pretext for publicly making false and baseless allegations of fraud against Plaintiffs.

173. The civil proceedings that Defendants initiated against the Candidate and his supporters in Arkansas, Colorado, the District of Columbia (five FEC complaints), Florida, Iowa, Michigan, Mississippi, Nevada, New Hampshire, New Mexico, Washington, West Virginia and Wisconsin terminated in Plaintiffs' favor.

174. The civil proceedings that Defendants initiated against the Candidate and his supporters in Arizona, Illinois, Ohio, Oregon and Pennsylvania would have terminated in the Candidate's favor, but for co-conspirators' unlawful interference with the Candidate's campaign.

175. Plaintiffs were damaged by Defendants' acts.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs demand judgment against Defendants as follows:

- 1) Compensatory damages in an amount to be determined at trial;
- 2) Punitive damages in an amount to be determined at trial;
- 3) Attorneys' fees;
- 4) Court costs; and
- 5) Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Maine Rules of Civil Procedure, Plaintiffs hereby demand a trial by jury in this action.

Dated: November 25, 2009

Respectfully Submitted,

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