

**In The  
Supreme Court of the United States**

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JOHN DOE # 1, et al.,

*Petitioners,*

v.

SAM REED, et al.,

*Respondents.*

—◆—  
**On Writ Of Certiorari To The  
United States Court Of Appeals  
For The Ninth Circuit**

—◆—  
**BRIEF *AMICI CURIAE* OF  
COMMON SENSE FOR OREGON,  
THE OREGON ANTI-CRIME ALLIANCE,  
AND OREGONIANS IN ACTION  
IN SUPPORT OF PETITIONERS**

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AND OREGONIANS IN ACTION  
IN SUPPORT OF PETITIONERS<sup>1</sup>**

Common Sense for Oregon, the Oregon Anti-Crime Alliance, and Oregonians in Action submit this brief *Amici Curiae* and respectfully request that the Ninth Circuit's decision be reversed.



**INTERESTS OF THE *AMICI***

**Common Sense for Oregon** (CSFO) is a non-profit research, education, and advocacy organization dedicated to good government and protecting the initiative rights of the people of Oregon. As part of its mission, CSFO regularly authors, promotes, and circulates ballot measures in the state of Oregon. CSFO is currently circulating several ballot measures for the 2010 general election ballot, including one measure that will protect the privacy of petition signers and voters. *Oregon Initiative Petition 69 (2010)*, December 16, 2009, *available at*: <http://www.sos.state.or.us/elections/irr/2010/069text.pdf> (last visited February 17, 2010). In 2009, CSFO trained

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<sup>1</sup> No party counsel authored any of this brief and no party, party counsel, or person other than CSFO, OAA, OIA, or their members paid for brief preparation and submission. The parties consented to the filing of this brief.

hundreds of volunteer petition circulators for a statewide tax referendum campaign that the public ultimately voted on in January of 2010. The initiative petition process is a significant and meaningful way that CSFO engages Oregonians in discussions about political change.

The **Oregon Anti-Crime Alliance** (OAA) is a non-profit research, education, and advocacy organization whose mission is to promote and support public policy that will help Oregon achieve a low crime rate. OAA's mission requires it to use the initiative process, when necessary, to implement sound public safety policy in the state of Oregon. OAA also engages in developing, authoring, and circulating ballot measures. In 2008, OAA successfully placed two statewide measures on the general election ballot. OAA currently plans to circulate several statewide ballot measures for the 2010 general election ballot. The initiative process is necessary for OAA to engage Oregonians in discussion about important public safety issues.

**Oregonians in Action** (OIA) is a non-profit education and advocacy organization dedicated to protecting property rights in Oregon. OIA regularly authors, promotes, and circulates ballot measures relating to property rights in the state of Oregon. The people of Oregon passed two OIA supported ballot measures over the last six years. Each measure garnered over 60% of the vote. Without the initiative process, it is unlikely that Oregon would have considered the policy concepts represented by OIA's

successful ballot measures. OIA relies on the initiative process to promulgate its ideas in Oregon's public square.

The initiative petition process is a critical tool each of these three non-profit organizations uses to present political ideas to the public. If the citizens of Oregon fear the growing threat of harassment, reprisals, or even identity theft resulting from the publication of petition signature sheets, the initiative process and the First Amendment rights of all Oregonians will be undermined. A fearful citizenry will not engage the petition circulator and Oregon's public discourse on good government, public safety, and property rights, as facilitated by the *Amici*, will decrease. If *Amici* can no longer successfully circulate petitions and obtain petition signatures from citizens, their ability to carry out their missions will be severely compromised.



### SUMMARY OF ARGUMENT

This Court previously determined that petition circulation is highly protected core political speech, but this Court has not yet directly characterized *signing* a petition as core political speech. *Buckley v. Am. Constitutional Law Found.*, 525 U.S. 182, 186 (1999), *citing Meyer v. Grant*, 486 U.S. 414, 421 (1988). The court should use the opportunity presented by this case to find that signing an initiative, referendum, or recall petition is core political speech requiring the

highest protection offered by the First Amendment. *Amici* will not extensively brief this issue, because other *amici* and the parties will address the speech aspect of signing a petition. CSFO, OAA, and OIA nonetheless wish to begin by stating how important it is for this Court to recognize that signing a petition necessarily involves protected political speech.

The decision of the Ninth Circuit allows the state of Washington to apply its public records laws in a way that chills and burdens this core political speech. Harassment resulting from the public release of the names of petition signers has a chilling effect on the core political speech of potential petition signers as well as circulators. As discussed more fully in this brief, opponents of a petition use harassment – even the ***threat*** of harassment – as a tool to frustrate the circulation of a petition. The threat of petition signer harassment grows more potent with regular advancements in technology that improve the ability of initiative opponents to widely distribute the personal information contained on petition sheets.

Just as concerning, the state of Washington's position in this case misrepresents the political speech of petition signers. The state contends that signing a petition is equivalent to making a public declaration in support of the petition's subject. To the contrary, text from petitions themselves show that signing a petition is nothing more than a statement calling for a public vote on the measure at hand. Arguably, a signature on a petition also calls for a continuation of public dialogue on the subject, but



even this is not plain from petition statements in Washington and Oregon. The only statement one may make with certainty is that a petition signer wants the measure put to a vote of the people.

A citizen who calls for a public vote on a measure should not be subjected to harassment, facilitated by the government, on the erroneous basis that the citizen's signature on a petition is a public declaration of support or opposition on the subject of the measure. The specter of such harassment chills the political speech of petition signers and circulators. Recent events in Oregon, discussed below, dramatically underscore this point. Laws that facilitate such harassment chill core political speech and this Court cannot allow the situation to continue a moment longer.

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## ARGUMENT

### **I. SIGNING A PETITION COMMUNICATES IN WRITING A CITIZEN'S DESIRE TO SEE A MEASURE, RECALL, OR REFER- ENDUM PLACED ON THE BALLOT, AND NOTHING MORE.**

The respondents and the Ninth Circuit acknowledge that signing a petition is political speech, yet both misunderstand the nature of signing a petition. While they correctly note that signing a petition is political speech, they mischaracterize this speech as public, quasi-legislative speech in favor of the

initiative. As a result, they fail to give this speech the protection of strict scrutiny analysis. The state of Washington has directly characterized signing a petition as a legislative act and public statement in favor of the subject of the petition. *Doe v. Reed*, \_\_\_ F.3d \_\_\_, 2009 WL 3401297 (9th Cir. 2009). The opinion below declines to go as far as the state of Washington; nonetheless, it describes signing a petition as an action with, “direct legislative effect,” that goes far beyond “taking a stance” on a political issue. *Id.*

The state of Washington and the Ninth Circuit are fundamentally wrong about two particular points of the initiative process: what it means when a person signs a petition, and the circumstances in which persons tend to sign a petition.

One important point must be clear. Signing a petition in both Oregon and Washington ***does not*** mean the signer is expressing support for the subject matter of the petition. There can be no question on this point. Many citizens who believe in direct democracy as a principle in and of itself will sign a petition because they wish to see a public vote on the measure. This does not mean the signer ultimately plans to vote for the measure. See Comment of tmittelstaed to Brian Montopoli, *Should Signers of Anti-Gay Rights Petition Be Exposed*, November 3, 2009, available at: <http://www.cbsnews.com/blogs/2009/11/03/politics/politicalhotsheet/entry5507399.shtml> (last visited February 17, 2010); Comment of Commenter #14 to Jeff Soyer, *Should Petition Signers Be Granted*

*Secrecy?*, January 17, 2010, *available at*: <http://www.alphecca.coml?p=2011> (last visited February 17, 2010); Comment of Commenter #706074, to Chris Grygiel, *U.S. Supreme Court could be next stop for R-71*, November 8, 2009, *available at*: [http://www.seattlepi.com/local/411967\\_gayrights09.html](http://www.seattlepi.com/local/411967_gayrights09.html) (last visited February 17, 2010); and Comment of Commenter #786117, to Chris Grygiel, *U.S. Supreme Court could be next stop for R-71*, November 8, 2009, *available at*: [http://www.seattlepi.com/local/411967\\_gayrights09.html](http://www.seattlepi.com/local/411967_gayrights09.html) (last visited February 17, 2010). In spite of this, and the plain language contained on petition sheets, the state of Washington and the opinion below incorrectly assume that signing a petition is a public statement of political belief. *Doe v. Reed*, \_\_\_ F.3d \_\_\_, 2009 WL 3401297 (9th Cir. 2009).

The Ninth Circuit also improperly characterizes petition circulation as an activity conducted only in public. *Doe v. Reed*, \_\_\_ F.3d \_\_\_, 2009 WL 3401297 (9th Cir. 2009). Modern circulation frequently makes use of more private forms of circulation, including electronic petitions and circulation by mail. *See* Common Sense for Oregon, *Circulating Measures 2010*, *available at*: <http://commonsensefororegon.org/measures/2010-circulating-petitions/> (last visited February 17, 2010). These circulation methods do not take place in public. Americans increasingly communicate via the internet. Chief petitioners and ballot measure promulgators now use websites, Facebook, Twitter, and e-mail to circulate and communicate with the public. E-mail from Common Sense for Oregon to CSFO

Members Circulating Initiative Petition 50, February 5, 2010 (4:51 p.m.) (Appendix 1). *See also* <http://www.twitter.com/CommonSenseOR>, <http://www.facebook.com/CommonSenseOR>, [http://www.twitter.com/OAA\\_Oregon](http://www.twitter.com/OAA_Oregon), <http://www.facebook.com/OAAOregon>.

Modern circulators engage potential signers in the very private locations persons normally access this electronic information, such as their home, office, or personal mobile device. If states continue to disclose petition signer information via their public records laws, the states will effectively turn each petition signer's private home into a public square.

**Language on petition sheets is clear that signers are only stating their desire for the Secretary of State to place the subject of the petition on the ballot for a vote of the people.**

Both the state of Washington and the Ninth Circuit assume that signing a petition is an expression of support for the subject matter of a petition. The language from petition sheets used in Oregon and Washington show that signing a petition expresses nothing more than a citizen's desire for a measure to be put to a vote of the people. The actual signed statements contained on official petition sheets for Referendum 71 case do not declare support or opposition to the measure. The same is true of petition sheets in Oregon. A citizen signing a petition

in these states is sending a written request to an elections official asking that the measure be put to a vote of the people, nothing more, and nothing less.

The Referendum 71 declaration signed by the petition signers reads, “We, the undersigned citizens and legal voters of the State of Washington, respectfully order and direct that Referendum Measure No. 71, filed to revoke a bill that would expand the rights, responsibilities, and obligations accorded state-registered same-sex and senior domestic partners to be equivalent to those of married spouses, except that a domestic partnership is not a marriage, and was passed by the 61st legislature of the State of Washington at the last regular session of said legislature, shall be referred to the people of the state for their approval or rejection at the regular election to be held on the 3rd day of November, 2009; and each of us for himself or herself says: I have personally signed this petition; I am a legal voter of the State of Washington, in the city (or town) and county written after my name, my residence address is correctly stated, and I have knowingly signed this petition only once.” *Doe v. Reed*, \_\_\_ F.3d \_\_\_, 2009 WL 3401297 (9th Cir. 2009). This language, even read without care, does not make a statement in support of repealing the domestic partnership law. It only says that the signer wants the people of Washington to vote on Referendum 71.

Oregon petitions contain similar language. Initiative Petition 50 (2010) states, “To the Secretary of State of Oregon, I request this measure to be

submitted to the people of Oregon for their approval or rejection at the election to be held on November 2, 2010. A full and correct copy of this measure was made available for review and I have not previously signed a petition sheet for this measure.” Common Sense for Oregon, *Initiative Petition 50 (2010) E-Petition*, available at: [http://commonsensefororegon.org/pdf/50ESIG\\_Code\\_A.pdf](http://commonsensefororegon.org/pdf/50ESIG_Code_A.pdf) (last visited February 17, 2010). In fact, because of this Oregon petition sheet language, CSFO specifically trains circulators to tell signers to sign the petition if they want a measure put to a vote of the people. Circulators are discouraged from telling potential signers anything that suggests signing a petition enacts the measure. Only the vote of the people at the ballot box can make an initiative petition operative Oregon law. Likewise, those who signed the petition to place Referendum 71 on the ballot did not cast a vote for or make a public statement in support of repealing Washington’s domestic partnership law when they signed the Referendum 71 petition. Rather, they only signed a statement requesting that Referendum 71 be put to a vote of the people.

In this case, supporters of Referendum 71 want access to the petition sheets in order to publicize the names of the citizens who signed the petition to refer Referendum 71. The supporters of Referendum 71 are prepared to mischaracterize the nature of a person’s signature on Referendum 71 as expressing opposition to the “everything but marriage” law. Undoubtedly, Referendum 71’s supporters are hoping

signers of the referendum petition will “feel the heat” and not sign such a petition again. Classic schoolyard bullying, to be sure.

The statements from Oregon and Washington petitions, which are what the citizens actually sign, are clearly not statements of public support for an initiative to the extent asserted by the opinion below. One may only state with certainty that the petition signers want the measure placed on the ballot for a vote of the people. One might reasonably guess that the signature on a petition shows the signer’s wish to see the people of the state engage in a larger public dialogue about the merits of the petition. One may not divine from a signature on a petition that the signer ultimately supports or opposes the measure; nothing in the language of the petition sheets supports such a claim.

To sum the dispute, the Washington Public Records law, as the state of Washington would like to apply it, will facilitate this misrepresentation. It will be like the principal giving a schoolyard bully the names of all the students with wealthy parents (these students, presumably, would have the most lunch money). Although the students listed by the principal may have wealthy parents, that does not mean the students have the most lunch money or even carry lunch money at all. All giving the schoolyard bully the names of the wealthiest parents will do is facilitate

harassment on the playground. How can this ever be acceptable?

The Court will probably balance Washington's public records law and the First Amendment to determine the outcome of this case. As this brief will demonstrate, allowing groups aligned against a petition to use a public records law to harass petition signers burdens and chills core political speech. The burdens created by a state's public disclosure of petition signer information are anything but incidental. In a growing number of cases, fear of disclosure functions as a censor that prevents signers and circulators from speaking. A burden that silences speech is severe, and the First Amendment, not a public records law, should prevail.

## **II. THE OREGON EXPERIENCE SHOWS THAT PETITION SIGNERS AND CIRCULATORS EXPERIENCE HARASSMENT, AND THIS HARASSMENT IS A SERIOUS CHILL TO THEIR FREEDOM OF POLITICAL SPEECH.**

Oregon has a rich one-hundred year history of direct democracy. In 1902, the people of Oregon approved an amendment to their constitution reserving some legislative powers to the people. Or. Const. Article IV, Sec. I. The direct democracy rights of Oregonians are generous by American standards, including the right of citizen initiated statutes, constitutional amendments, recalls, and referrals. *Id.* Sadly, petition signers and circulators in Oregon also



have a history of experiencing harassment as a result of participating in these cherished democratic activities.

Petition sheets are public records in Oregon. Any party willing to pay for a public records request can obtain access to petition sheets and the personal information the sheets contain. As technology expands to make the dissemination of information remarkably simple, incidences of petition signer harassment and intimidation are on the increase in Oregon and elsewhere. Harassment enabled by a public records law that discloses petition sheets causes Oregonians to refuse to circulate, sign, and turn in petitions. For example, a blogger involved in a campaign to recall Portland Mayor Sam Adams recently posted on-line that citizens are scared they will be targeted for reprisals by the Mayor's supporters if they sign a recall petition. Comment of tmittelstaed to Brian Montopoli, *Should Signers of Anti-Gay Rights Petition Be Exposed?*, November 3, 2009, available at: <http://www.cbsnews.com/blogs/2009/11/03/politics/politicalhotsheet/entry5507399.shtml> (last visited February 17, 2010).

Similarly, a chief petitioner in another Oregon case chose not to turn in over 1,500 signatures for a local recall on the basis that the signers of the petition might experience the same frightening threats she herself was subject to as the public face of the recall. In 2004, hundreds of petition signers and circulators for Ralph Nader's presidential campaign in Oregon received letters the campaign considered to be

intimidation and harassment. Letter from Teresa Amato to Margaret Olney, August 13, 2004 (Appendix 9). These letters threatened criminal investigations and made sweeping allegations of forgery and fraud which were later proved unfounded. E-mail from Linda Williams to Travis Diskin, February 11, 2010 (8:38 a.m.)(Appendix 7). Thirty of Nader's circulators declined to circulate petitions after experiencing this harassment. Brad Cain, *Nader Faithful, Democrats Spar in Oregon*, Eugene Register-Guard, August 19, 2004, available at: <http://news.google.com/newspapers?nid=1310&dat=20040819&id=AVoUAAAIBAJ&sjid=kOsDAAAIBAJ&pg=6589,4179516> (last visited February 17, 2010). These incidents, and others, caused Common Sense for Oregon to circulate an initiative petition for the 2010 general election that will prohibit elections officials from releasing signed petition sheets or their contents to the public. *Oregon Initiative Petition 69 (2010)*, December 16, 2009, available at: <http://www.sos.state.or.us/elections/irr/2010/069text.pdf> (last visited February 17, 2010).

The fear of harassment facilitated by the perverse use of public records laws is not merely a chill on the political speech of potential signers. It also burdens the political speech of petition circulators. Circulating a petition is political speech this Court considers worthy of the highest levels of First Amendment protection. *Buckley v. Am. Constitutional Law Found.*, 525 U.S. 182, 186 (1999), citing *Meyer v. Grant*, 486 U.S. 414, 421 (1988). A circulator attempting to engage in interactive communication about a measure is cut short when citizens decline to

engage for fear of harassment resulting from the public release of signer information. Fearful citizens will not speak to a circulator in person or read emails or visit websites to learn more about measures for the purpose of signing a petition. A state law that creates in potential signers a legitimate fear of harassment and reprisal thus burdens a circulator's ability to engage in core political speech. Just as onerous regulations of petition circulators decrease the pool of circulators available to promote a measure, the threat of harassment and reprisals resulting from the publication of the petition signer information reduces the pool of citizens willing to sign an initiative petition.

#### **A. 2010 West Linn Recall Petition Signer and Circulator Harassment**

Mary Ann Mattecheck is an elderly widow concerned about the management of her city, West Linn, Oregon. Mrs. Mattecheck recently organized a recall petition campaign to recall three West Linn city councilors. The campaign became very controversial in her small town. Elizabeth Hovde, *Worried about retaliation, campaign backer keeps signatures to herself*, The Oregonian, February 8, 2010, available at: [http://www.oregonlive.com/hovde/index.ssf/2010/02/worried\\_about\\_retaliation\\_camp.html](http://www.oregonlive.com/hovde/index.ssf/2010/02/worried_about_retaliation_camp.html) (last visited February 17, 2010). Mrs. Mattecheck's efforts were publicly opposed by many involved in government, including the local police union and apparently the Speaker of the Oregon House of Representatives, whose campaign committee donated funds to a group opposed to the recall.

Citizens of West Linn were afraid to sign the petitions from the beginning, fearing reprisals to themselves and their businesses. E-mail from Anonymous Citizen to Patti Galle, February 2, 2010 (10:49 p.m.)(Appendix 4); Declaration of Sarah Hunt Vasche (Appendix 3). The recall campaign started out gathering signatures in public places, but stopped, because many potential signers did not want to sign in public in their small town. *Id.* The campaign quickly switched its focus to door to door circulation. Signers were more comfortable signing the controversial recall petition in the privacy of their homes. This approach was also needed because local businesses feared reprisals from recall opponents if they allowed gatherers to collect signatures on public sidewalks near their businesses.

As the campaign became heated, several supporters of the recall contacted Mrs. Mattecheck to request that their signatures be blacked out of the recall petitions. These signers had not changed their mind about the recall, rather, they feared harassment and other reprisals if recall petition signer information became public. For obvious reasons, the concerns of petition signers and circulators escalated after the local police union issued a blistering written statement in opposition of the recall. Letter from Clackamas County Peace Officer's Association, January 14, 2010 (Appendix 6). West Linn is a small town of 24,000 people, so anyone in the city is easily within a 10 minute drive of any location in town. Were the names and addresses of all the petition signers released to the public, opponents of the recall could

easily find the signers and harass them at their home or place of business.

Mrs. Mattecheck received dozens of threatening phone calls, most after 10 p.m. in the evening. These phone calls included hang-ups, persons screaming obscenities and vulgarities, and direct threats against Mrs. Mattecheck's safety such as, "You'd better watch your back." Declaration of Sarah Hunt Vasche, February 16, 2010 (Appendix 3). To an elderly woman with a disability, this harassment is alarming. Mrs. Mattecheck is compelled by these threats to take substantial steps for her personal protection. Steps she has taken include limiting the amount of time she spends in public in West Linn, to the point of driving to the next town over to shop for groceries, keeping a video camera installed on her front porch, and carrying a cell phone whenever she leaves her home. As an elderly widow in her 70's, Mrs. Mattecheck considers these measures quite extreme.

All Mrs. Mattecheck did was exercise her First Amendment rights. Now, in the United States of America, civic-minded widow Mary Ann Mattecheck must fear for her own safety because she dared to circulate a recall petition. It is beyond comprehension that anyone possibly thinks allowing government facilitation of this harassment – through a public records law or otherwise – is constitutionally permissible.

To make matters worse, the threats and personal intimidation suffered by Mrs. Mattecheck forced her to take another extreme measure. Rather than risk

the physical, emotional, and economic health of her supporters, Mrs. Mattechuck ultimately chose not to file the signatures that may have qualified the recall to ballot. Mrs. Mattechuck, as the public face of the movement, did not want to subject neighbors who signed her petition to the same harassment she received from recall opponents. Letter from Mary Ann Mattechuck to West Linn Recall Campaign Supporters, January 28, 2010 (Appendix 5).

Fear of harassment and reprisals resulting from the release of recall petition signer information burdened Mrs. Mattechuck's freedom of speech in several ways. This fear caused her fellow citizens to decline to engage with her in public places about the recall. This fear of reprisals caused some citizens of West Linn, Oregon, to refuse to sign the recall petition even though they personally supported the recall. E-mail from Anonymous Citizen to Patti Galle, February 2, 2010 (10:49 p.m.)(Appendix 4). The potential public availability of petition signer information was a freezing chill on the political speech of these otherwise would-be petition signers. This chill ultimately froze Mrs. Mattechuck's political speech because she chose not to file her petitions in order to protect the signers.

The West Linn case shows that the possibility the government will publish petition signer information is something far more than a slight burden on political speech. The public release of one's personal information on a petition sheet is a serious impediment to initiative-related speech in the age of modern

technology. Any opponent of an initiative measure, armed with the information on petition sheets, can easily locate a signer, send them mail, appear at their home, perform an internet search to discern their place of business and phone number, and more. A truly unscrupulous opponent can even use the names and addresses to steal petition signer identities for the sole purpose of personal destruction. The burden posed by public release of signer information is particularly acute when hardy citizens use the initiative process to take on entrenched political interests, as was the case in West Linn.

### **B. 2004 Ralph Nader Campaign Petition Signer and Circulator Harassment**

In 2004, Oregon citizens who signed or circulated petitions to place Ralph Nader's presidential candidacy on the Oregon ballot experienced what they considered harassment due to the public availability of the petition signer and circulator information. A well organized group of opponents who sought to keep Nader off Oregon's ballot in 2004 aggressively contacted hundreds of Nader petition signers and circulators through the mail or in person at their residences. E-mail from Linda Williams to Travis Diskin, February 11, 2010 (8:39 a.m.)(Appendix 7).

At least sixty petition circulators for the Nader campaign were sent a letter stating that Nader circulators were potentially subject to criminal investigation for fraud and forgery. Letter from Margaret Olney to Nader Petition Circulator, August 12, 2004

(Appendix 8). To a lay-person circulator, the letter is very suggestive that the individual circulator receiving the letter is presently under investigation. The Nader campaign alleged this letter was designed to intimidate supporters and keep them from circulating Nader petitions. Letter from Teresa Amato to Margaret Olney, August 13, 2004 (Appendix 9). At least one Nader circulator was visited at home, at night and threatened by hostile persons opposed to Nader's candidacy. Brad Cain, *Nader Faithful, Democrats Spar in Oregon*, *Eugene Register-Guard*, August 19, 2004, available at: <http://news.google.com/newspapers?nid=1310&dat=20040819&id=AVoUAAAI BAJ&sjid=kOsDAAAIBAJ&pg=6589,4179516> (last visited February 17, 2010).

Over the years, Oregon petition signers have received letters from opponents of measures alleging that circulators in Oregon engage in numerous acts of fraud and forgery. Many Nader petition signers received this sort of letter in 2004. E-mail from Linda Williams to Travis Diskin, February 11, 2010 (8:39 a.m.)(Appendix 7). These letters urge citizens to report to the sender whether or not their signature was forged on the petition. An example of this kind of letter, though not from the Nader campaign specifically, shows just how willing initiative opponents are to contact signers in hopes of frustrating petition circulation. Letter from the Voter Education Project to JoAnne Werner, June 2002 (Appendix 10). Many petition signers are confused or misled by these letters, which, if not read carefully, may lead a petition signer to believe they are the victim of a massive forgery operation. An Oregon attorney involved in the



Nader campaign reports that all investigations instigated by this type of letter sent to Nader petition signers were dismissed for lack of evidence. E-mail from Linda Williams to Travis Diskin, February 11, 2010 (8:39 a.m.)(Appendix 7). Many investigations were closed because the voter alleging forgery at the behest of Nader foes recanted. *Id.*

Each letter individually may seem insignificant, but it is important to consider that *hundreds* of Oregonians received these letters as a result of signing a petition or circulating a petition. These letters created a large amount of fear among legitimate petition signers and circulators for the Nader campaign. Brad Cain, *Nader Faithful, Democrats Spar in Oregon*, Eugene Register-Guard, August 19, 2004, *available at*: <http://news.google.com/newspapers?nid=1310&dat=20040819&id=AVoUAAAIBAJ&sjid=kOsDAAAIBAJ&pg=6589,4179516> (last visited February 17, 2010).

Even if one does not consider this situation to rise to the level of serious intimidation, the scenario demonstrates how easy it is for a group who obtains public record copies of petition sheets to find and approach signers and circulators through the mail and at their homes. Further, these actions of harassment chilled the political speech of thirty Nader campaign circulators, who refused to circulate after receiving these letters or home visits from persons opposing Nader's candidacy. *Id.*

**C. Public release of petition sheets results in harassment elsewhere**

Harassment of petition signers and circulators is not unique to Oregon. Supporters of traditional marriage, in particular, have seen their personal information, including their home address, published in searchable databases on the internet for the express purpose of reprisals. The harassment and threats experienced by these citizen petition signers is well documented by other briefs recently before this Court, particularly the Brief of *Amicus Curiae* Alliance Defense Fund in Support of Petitioner, *Citizens United v. FEC*, No. 08-205 (U.S. 2009).

**D. State laws that facilitate harassment of petition signers burden the political speech of petition circulators because potential signers afraid of harassment will not engage the circulator.**

The act of petition circulation is political speech this Court grants the highest order of First Amendment protection. *Buckley v. Am. Constitutional Law Found.*, 525 U.S. 182, 186 (1999), *citing Meyer v. Grant*, 486 U.S. 414, 421 (1988). Public disclosure of petition signer information is a genuine and significant burden on the ability of circulators to engage in political conversations about their measures. Just ask Mary Ann Mattechek. When citizens will not sign petitions for fear of publication it becomes less likely the circulator will be able to speak to the citizen about petitions. Public disclosure of petition signer

information, in other words, shrinks the pool of persons willing to engage a circulator in conversations about signing petitions. This Court should disallow any application of a public records law that imposes such burden on the protected speech of petition circulators.

### **III. MODERN PETITION SIGNING INCREASINGLY OCCURS IN PRIVATE.**

In addition to its faulty assumption about the nature of signing a petition, the Ninth Circuit determines, incorrectly, that petition circulation is “public” because petition circulation occurs in public. *Doe v. Reed*, \_\_\_ F.3d \_\_\_, 2009 WL 3401297 (9th Cir. 2009). This flawed assumption led the Ninth Circuit to conclude that petition signatures are already “public” prior to disclosure by the state, and therefore the names of those who sign a petition are already public knowledge regardless of whether or not the state releases the petitions. The Ninth Circuit extends this reasoning to conclude that allowing the state of Washington’s public records law to trump the First Amendment amounts to “no harm, no foul.”

The Ninth Circuit decision, however, ignores the advancements in petition circulation technology over the last few years. Petition circulation has evolved beyond circulators gathering signatures on public sidewalks. Many chief petitioners circulate by new alternative means that are more secure and less costly. Modern technology allows chief petitioners to circulate e-petitions on websites, via e-mail, and at

e-kiosks. Chief petitioners will also mail petitions to potential signers based on database lists of interested registered voters. While chief petitioners certainly continue to gather signatures by circulating in public places, signing a petition is increasingly an act done in private.

### **E-Circulation**

Petitions are now easily circulated via electronic mail, website, and electronic kiosk. Common Sense for Oregon (CSFO) circulates online and e-petition signature sheets that accommodate only one signature. Common Sense for Oregon, *Initiative Petition 50 (2010) E-Petition*, available at: [http://commonsensefororegon.org/pdf/50ESIG\\_Code\\_A.pdf](http://commonsensefororegon.org/pdf/50ESIG_Code_A.pdf) (last visited February 17, 2010)(Appendix 1). The Oregon Anti-Crime Alliance and Oregonians In Action also intend to utilize this technology in the future.

E-Petitions allow potential signers to download this petition from the chief petitioner's website, along with explanatory information about the petition. Persons who download and sign e-petitions usually print and sign the petition in the privacy of their home or office. A person who downloads and signs a petition that accommodates only their signature is not exposing their opinion to numerous strangers, nor would they necessarily anticipate that signing the petition is a public declaration of support.

Common Sense for Oregon also circulates petitions by E-Petition kiosk. Photograph of E-Petition

Kiosk (Appendix 2). The E-Petition kiosk, approved by Oregon's Secretary of State, allows potential signers to view a measure and print single signature petition sheets at a kiosk location. Kiosks are generally located in public places, but they allow a potential signer to print a petition sheet to sign at their own leisure. Kiosk petitions, like other E-Petitions, are single signature in Oregon, so the signer of a kiosk E-Petition has not exposed his personal information to other members of the general public or even a live signature gatherer.

### **Mail Circulation**

It is common for chief petitioners to mail out petition sheets to volunteers and potentially interested citizens. Mail circulation usually results in the chief petitioner receiving petition sheets signed by members of only one family or household. During Oregon's recent Measure 66 & 67 tax referendum campaign, for example, the chief petitioners received numerous petitions containing only the signatures of spouses or members of one household. Signing a petition in the presence of a member of one's family unit is hardly a public act.

### **Publicly Signed Petition Sheets**

Petition circulators who circulate in public places will attest that it is common to see entire family units or groups of friends sign a petition sheet at once. Most persons go out to public places accompanied by

friends or family members. In Oregon, because petition sheets now generally contain no more than ten signature lines, only two or three groups of friends or family will usually sign a single petition sheet. While it is possible that up to nine “strangers” plus the circulator will see a person’s signature on an Oregon signature sheet, the practical reality is several of the “strangers” who supposedly have access to a signer’s information are already friends or family members of the signer. Another practical reality is that most persons who sign in public are in a hurry to get on with their personal business. Signers quickly sign the petition and move on. Any circulator will attest that it is rare, even odd, to have a signer stop to examine the names and information of other persons who signed the petition.



## CONCLUSION

Signing a petition is a private act in support of placing a subject to a vote of the people. The application of the Washington public records law at issue in this case twists private political speech into a public political statement of support for a measure, recall, or referendum. The threat of disclosure is a chill on the protected political speech of petition signers, and a burden on the political speech of the petition circulator. *Amici Curiae* Common Sense for Oregon, the Oregon Anti-Crime Alliance, and

Oregonians In Action respectfully request this Court reverse the decision below.

Respectfully submitted,

ROSS A. DAY\*

*\*Counsel of Record*

SARAH HUNT VASCHE

TARA R. LAWRENCE

KEVIN L. MANNIX

COMMON SENSE FOR OREGON

2007 State Street

Salem, OR 97301

(503) 480-0523

ross@commonsensefororegon.org

*Attorneys for Amici Curiae*

February 23, 2010

## Appendix 1

**Sarah**

**From:** Common Sense For Oregon  
[noreply@commonsensefororegon.org]  
**Sent:** Friday, February 05, 2010 4:51 PM  
**To:** sarahv@mannixlawfirm.com  
**Subject:** Help Change Oregon! Official Oregon  
E-petition: Independent Redistricting  
Commission Amendment

If you are having trouble viewing this message,  
please [click here](#).

[Logo]

### COMMON SENSE FOR OREGON

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Issues	News	Contribute	Contact

**Better Government. Better Results.  
Stronger Oregon.**

Common Sense For Oregon was founded with a mission to serve the people of Oregon by making it a better place to raise a family. By protecting Oregon's 100 year old Initiative System and Initiative System and Referendum Process, Common Sense For Oregon is an advocate for the voice of the people. Writing and supporting ballot measures, allows Common Sense to be on the front lines of the battle for Oregon's future. Be a part of that future by signing a petition today.



**Common Sense For Oregon Presents:**

**Independent Redistricting  
Commission Amendment**

The links below are for the Independent Redistricting Commission Amendment. The first link is for the initiative petition, the second link is for the text of the measure.

[Independent Redistricting Commission Amendment  
E-petition Form](#)

[Text of Independent Redistricting Commission  
Amendment](#)

[Go to: Summary](#)

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**E-Mail Updates**

**Yes, please periodically  
send me e-mail updates.\***

**[Click Here](#)**

\* By subscribing to my e-mail updates, you are authorizing me to send regular e-mail updates from my office to your e-mail account.

---

**Please Feel Free to Tell a Friend**

E-mail:

[       ]

E-mail:

[       ]

E-mail:

---

**Summary:**

Redistricting – or reapportionment – is the process of re-drawing the lines for legislative districts. Redistricting occurs every ten years in Oregon, and is supposed to allow legislative district boundaries to be redrawn in order to account for changes in a state's population.

Redistricting is supposed to be a non-partisan process, and is supposed to ensure that districts are drawn as fairly as possible.

In Oregon, legislative districts are currently drawn by legislators themselves, which creates an obvious conflict of interest. Instead of drawing legislative districts fairly, politicians draw districts to guarantee their re-election, and the election of their fellow party members. A process that is supposed to be fair and non-partisan is now controlled by self-interested partisan politicians who ignore the basic tenets of fairness in order to enhance their own political power.

The Independent Redistricting Commission Amendment eliminates the conflict of interest and self-dealing by politicians by creating a non-partisan commission of retired judges – appointed by the chief justice of the Oregon Supreme Court – who are responsible for drawing the boundaries for Oregon's legislative districts. By having judges – and not politicians – draw the lines, the Independent Redistricting Commission Amendment eliminates the conflict of interest that exists in the current system, and guarantees a fair process for all Oregonians.

It is time to eliminate the politicians' conflict of interest. It is time to adopt the Independent Redistricting Commission Amendment.

**Instructions:**

In this newsletter are two links for the petition for the Independent Redistricting Commission Amendment. There are some things you need to know before you send in your petition:

1. Only the person who actually prints the petition sheet can sign the petition sheet. In other words, you cannot print off multiple copies of this petition for your friends and family. Each person that signs one of these E-Petitions must physically press "PRINT" on the computer and sign the petition he/she printed;
2. Be sure to fill in all the information at the bottom of the page. However – DO NOT FILL IN THE SPACE ENTITLED "SHEET NUMBER"; THAT IS FOR OFFICE USE ONLY;
3. The petition is a "self mailer". That is, the postage is already pre-paid. All you have to do is sign the petition, fill out the information, fold the petition and mail it in. We have to pay for each piece that is mailed, so if you are feeling generous, feel free to attach a stamp to the outside of the petition as well;
4. The petition sheet will print so that you can fold the petition into thirds in order to mail the petition. After folding the petition, please us A PIECE OF

TAPE to secure the petition – PLEASE DO NOT USE STAPLES;

5. Feel free to email this E-Newsletter to your own EMAIL lists and ask you friends and family to sign this petition and bring real change to Oregon!

Thank you again for all your support. Please keep an eye out in the very near future for additional E-Newsletters with additional petitions for you to support.

2007 State Street  
Salem, Oregon 97301

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App. 6  
Appendix 2



**Appendix 3**

**DECLARATION**

I, Sarah E. Hunt Vasche, make the following declaration:

1. I am an attorney at law licensed to practice law in the state of Oregon. I am attorney at the law offices of Kevin L. Mannix, P.C. in Marion County, Oregon. I have personal knowledge of the facts set forth in this declaration, and if called as a witness, I can and would testify competently thereto.

2. I personally interviewed the chief petitioner of the West Linn recall effort, Ms. Mary Ann Mattecheck.

5. Ms. Mattecheck told me that she received over two dozen harassing or threatening phone calls at her residence as a result of her participation in the recall. The majority of these calls occurred late in the evening, after 10 p.m. These calls contained vulgar obscenities and threats against Ms. Mattecheck's person, including statements such as, "You had better watch your back." Ms. Mattecheck also reported being approached in public places by hostile persons opposed to the recall.

5. Ms. Mattecheck informed me she is afraid for her personal safety because of this harassment. She has a video camera installed at her front door. She will not open the front door unless she can see that the person at the door is well-known to her. Ms. Mattecheck says she no longer feels safe in her community. She drives

out of town to do her grocery shopping. She did not want the signers of the recall petition to experience similar harassment and fear, so she withheld the signatures from filing. The final straw for Ms. Mattechuck was the vocal opposition of the local police union. She did not want petition signers to be targeted by the police.

6. Ms. Mattechuck gathered signatures door-to-door because some signers did not want to sign the petition in public places for fear of retaliation. Ms. Mattechuck stated that more than one citizen refused to sign the recall petition for fear of retaliation. Local business owners were afraid to have recall supporters gather signatures on public sidewalks near their businesses for fear of retaliation based on the appearance of support for the recall effort.

I declare under penalty of perjury that the foregoing is true and correct

Executed this 16th day of February, 2010.

/s/ Sarah E. Hunt Vasche  
Sarah E. Hunt Vasche

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**Appendix 4**

– On **Mon, 2/1/10**, [REDACTED] <[REDACTED]> wrote:

From: [REDACTED] >

Subject: Re: Intimidation Stops Recall

To: [mail@pattigalle.com](mailto:mail@pattigalle.com)

Date: Monday, February 1, 2010, 10:49 PM

HI Patti:

This email and attachments made my head spin and though I forwarded to my [REDACTED] for discussion I am still collecting my thoughts. First, I can say that I personally felt it would be unwise for me to sign because I felt sure the word would get out. (Hey, one call to Parks department about salmon in streams and I'm in a memo . . . ) So add me to the ranks of those that felt some concern for repercussions. I had made up my mind to do so over Scott since I feel there is no possibility of reaching him, but I never "ran into" anyone collecting signatures so my (false) impression was that this effort wasn't getting off the ground. With regard to John Kovash based on a few personal conversations and Jody Carson who seems to becoming more approachable I did not want my signature on a (likely to fail) recall petition to make it any harder to work toward cooperation on case by case issues.

Second, I particularly like the attached "message" from Mary Ann Mattecheck. I find it thoughtful and well written. I agree with her decision. The press release included in the email may be a bit off-target in that it reads more like a letter (which might get published if submitted that way) but I am not sure it



will trigger reporters dig into the story – though it might. I was surprised that the list of intimidation did not include Lynn Fox’ NA attack, but perhaps including that would likely defocus the message. Of course they will have to present quotes/perspectives from both sides. If they energy were focused on a few reporters contacted personally it might go farther. That’s press strategy for international electronics trade press (where I know something) – which may or may not have any bearing on our local coverage. Are there really 154 print, tv and radio journalists locally? – wow. I’ll be looking for coverage.

Lastly, the missing pieces document looks like a good work in process, but still needs a cogent short form. I still can’t make a fact-based, cogent argument about how cooperating on sewers leads to build out of Stafford in the time available to chat with parents a school or sports event. (I think that is a reasonable test for a message.) May be its because there are several “stories” in that document that each need to be told separately.

That’s it for now. Thanks for your response to my draft letter.

Sorry I had to miss meeting [REDACTED]. I like the raised hands graphic you sent.

All the best, [REDACTED]

[REDACTED]

---

## **Appendix 5**

### **An Important Message from Mary Ann Mattechek**

#### **Dear Friends and Neighbors of West Linn,**

*First and foremost, I would like to say we have had a wonderful time meeting with you these past few months, exchanging our experiences and insights into West Linn City government.*

Our group of concerned West Linn citizens has steadily and quietly gone door-to-door gathering signatures. On numerous occasions you have even called us to your homes and we have listened to your many concerns. We have heard the concerns of many residents; presented our fact based information and researched your questions for follow-up on our Recall Website. [www.westlinnrecall.com](http://www.westlinnrecall.com)

We gathered signatures in a dignified transparent process that respected all West Linn residents and the cherished rights and process of our democracy. We have been pleased and surprised by your warm reception and candor and discovered a great deal about West Linn and its residents. We made a number of observations along the way; here are a few I'd like to share with you.

We discovered residents of West Linn are bright, hard working, trusting people. Unfortunately, they are often too caught up in the daily challenge of keeping hearth and home together, to stay abreast of the workings of city government which has left us, for far

too long, vulnerable and exploited by bad governance and poor representation.

We found West Linn is a reflection of the national political fabric, with its own brand of ideologues, demagogues, and its own homegrown version of misinformation, half-truths and hearsay. It is not surprising considering the need to retain control; our recall committee has been targeted by a strident and raucous group of anti-recall crusaders.

Fear of the truth, and transparency of government, can be the only explanation that would bring out such rage infused personal threats directed at me and those merely exercising their constitutional rights. I understand the Anti-Recall force's frustration and anger with their failure to originally identify the author of the West Linn Recall. Originally, their anger and fury seemed to be directed at the mayor and for this I apologize for their misguided accusations.

Anti Recall pundits rarely offer substantive solutions only platitudes like "Greater Good" and "Must Have a Seat at the Table"; all the while, councilors Burgess, Carson and Kovash and the Anti-Recall Committee are quite satisfied with whatever is ladled out by the forces of *big* Government and Special Interests, that know "what is best".

More recently, as "West Linn Working Together" has learned of our success in gathering signatures for the recall they have increased their malicious attacks. The intended atmosphere of fear was further cultivated by the recent pledge of support by the Clackamas County

Police Officers Association to the three councilors Carson, Burgess, Kovash, and WLWT; it's subtle, but the timing of their announcement makes it difficult to dismiss their letter of support as anything other than veiled intimidation.

I have learned of growing apprehension and fear by individuals whose livelihoods depend on good relations with the community at large. If you are a realtor, a shopkeeper, an insurance broker, have children in school, or in any way engage the public you must take serious such oblique intimidation. In my life time I've seen my share of this type of veiled intimidation and I certainly take it seriously.

My friends and supporters have worked silently behind the scenes to help me and I in turn have guaranteed anonymity. Sadly, I have realized that upon filing our petition anonymity will be compromised; every name and address on the petition will be scrutinized, and as part of the public record, available to spiteful factions. After sleepless nights, numerous vicious attacking phone calls, and childish personal attacks, I am simply not willing to risk the welfares of the families, businesses and reputations of those citizens that have so graciously come to my support.

I must advise that despite exceeding the minimum threshold of petition signatures, I as Chief Petitioner will *not* file our Recall petition. To do so could subject others to potential abuses I willingly accept. However, I can no longer in good conscience submit your names and addresses to a hostile city hall.

This experience has made me even stronger in my belief that a single citizen can stand up and try to make a change when government does not listen to its citizens. I am much more comfortable with a truly secret ballot. Please refer to the fact sheet attached and/or our web site, share the information with your neighbors and ask who was served, Special Interest or the Public Good?

**I look forward to joining you in November; the fight to take our city back has just begun;**

Mary Ann Mattecheck

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**Appendix 6**

[Logo]

**CLACKAMAS COUNTY  
PEACE OFFICER'S ASSOCIATION**

**REPRESENTING**

Clackamas County Sheriff's Office  
Clackamas County Medical Examiners  
District Attorney's Office Investigators  
Molalla Police Department  
West Linn Police Department

P.O. Box 427 • Oregon City, OR 97045 •  
(503) 655-4070 • Fax (503)650-4070

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January 14, 2010

The Clackamas County Peace Officer's Association in accordance with the Officers of the West Linn Police Department, want to express our support for West Linn City Councilors Burgess, Carson, and Kovash, and we are in strong opposition to the recall effort currently underway for these three elected officials.

The members of the Clackamas County Peace Officer's Association understand that there are times when we must make difficult decisions regarding political activity in West Linn. Those decisions are not made lightly, and we make those decisions with the best interests of the majority of the citizens that the City represents.

It is apparent to the West Linn members of the Clackamas County Peace Officers Association that there is a small contingent of citizens within the City

of West Linn that is behind this recall effort. We believe some of these citizens may be expressing inaccurate and misleading facts. We closely follow our council meetings and are appalled at the lack of professionalism exhibited by some of these citizens that allege they have West Linn's best interest at heart.

In these economic times we need sound leaders that demonstrate professionalism, high ethical standards, and are willing to put the City of West Linn ahead of personal agendas.

We encourage you to join the members of The Clackamas County Peace Officer's Association, who have your best interests and safety as our number one priority. Support Councilor Burgess, Councilor Carson, and Councilor Kovash, and do not support this damaging recall effort.

West Linn Association Members  
Clackamas County Peace Officer's Association

Jim Doolittle

/s/ Jim Doolittle  
Shop Steward  
Clackamas County Peace  
Officer's Association

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## Appendix 7

**Sarah**

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**From:** Travis Diskin [travisdiskin@gmail.com]  
**Sent:** Thursday, February 11, 2010 10:16 AM  
**To:** Sarah Hunt Vasche  
**Subject:** Fwd: Nader case – Signer Harassment  
**Attachments:** VEP\_Letr\_2002.pdf; Lowe\_2004.pdf

– Forwarded message –

**From:** **Linda Williams** <linda@lindawilliams.net>  
**Date:** Thu, Feb 11, 2010 at 8:39 AM  
**Subject:** Re: Nader case – Signer Harassment  
**To:** Travis Diskin <travisdiskin@gmail.com>

Attached are sample letter and complaint by VEP (2002) and sample of type of complaint filed by Olney in 2004 – there are literally hundreds more pages in the files, each reflecting some kind of contact with the signer. I can't find the signer letter complaining about the "visit" in 2004 – it was not all that relevant to defamation claim, so it's somewhere – perhaps Greg kept a file of Nader stuff.

These particular examples may not mean much in isolation. They have to be seen in the context of a pattern of political dirty tricks – every complaint was dismissed for insufficient evidence. Hundreds of voters were contacted with letters and calls from VEP and thousands of \$\$ spent on forensics and investigations from AG (I have some of those docs) all so union-backed "project"e to claim that opponent's campaign was "under investigation," based on misleading or harrassing folks who had signed petition sheets.



**Linda K. Williams  
Attorney**

320 S.W. Stark St # 202     10266 S.W. Lancaster Rd  
Portland, OR 97204         Portland, OR 97219  
503-2647                     503-293-0399

[linda@lindawilliams.net](mailto:linda@lindawilliams.net)  
503-245-2772 fax

Travis Diskin wrote:

Would it be possible to get Sarah the info below that she is asking for?

Thanks

I would like to see her information, if possible. At least a copy of the letter from VEP to the signers and circulators. The copy of the complaint against Olney's folks would also be useful.

Sarah

On Tue, Feb 9, 2010 at 2:28 PM,  
Linda Williams <[linda@lindawilliams.net](mailto:linda@lindawilliams.net)> wrote:

As part of the defamation claim (Ryan Stephenson), I reviewed many election law complaints (ELC) at Elections Office. I have partial records from all of the ELC filed by Berg/Wentz as Voter Education Project in 2002 and all of the Nader Complaints filed by Ellen Lowe in 2004. I say "partial" because there were 100s and 100s of pages of alleged forged petition sheets in the VEP complaints and I did not make

copies of all of them. (I went and reviewed all the files personally and ran the copies myself for free at Elections office to avoid the 25 cent/pg charge by them if they did the copies). I think there were about 40 different “files” – really haphazard collections of paper in most cases, and there was no reason to copy all the “evidence” VEP submitted at that time.

I did this in early Jan and don’t recall specifically what’s in those copies, but I’m pretty sure there is least 1 ELCT from a person who was “visited” or received the threatening letters from Margaret Olney in 2004. (Dismissed, since it didn’t fit the intimidation definition which does not include hassling signers after the fact).

The VEP files show that VEP sent 100s of letters to voters asking them if they had actually signed a petition because the AG was investigating “fraud” and sometimes some person would respond and say “no,” at which point VEP would add that scribbled response as “evidence” of forgery and send in more copies of petition sheets to SoS.. All the fraud allegations by VEP were dismissed. In almost every case, the voter either recanted (told investigator they were not really sure if they signed or not), or the crack forensic lab said the signature was authentic. In one case, the voter’s husband said it was her signature (as did the lab) but she insisted it wasn’t. If the WA attys want any copies, its fine with me, and you can forward this summary of what I have to them.

\* \* \*

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**Appendix 8**

Posted at:  
BlueOregon.com

SMITH  
DIAMOND  
& OLNEY  
ATTORNEYS AT LAW

Barbara J. Diamond  
Margaret S. Olney\*  
Monica A. Smith  
\*Member Oregon  
and Washington Bars

August 12, 2004



Portland, OR 97209

Re: Signature gathering for Nader campaign

Dear [REDACTED]:

This law firm is currently investigating concerns about a large number of invalid voter signatures on nominating petitions filed with Multnomah County in support of Ralph Nader for President. We are looking into whether fraudulent signature-gathering techniques were used in the circulation of those petitions.

We are writing to you because your name appears as the circulator on a number of the nominating petitions. Based on information that we have received, we are reviewing the petitions that you signed as circulator. If you are willing to talk to us about the petitions that you circulated, or have any information that you would like to bring to our attention, please call me at the number listed below.

In the meantime, we would like to remind you that your signature certifies that you personally witnessed each signature collected on the petition and that you obtained the signatures from qualified voters. Falsely signing the petition may result in conviction of a felony with a fine of up to \$100,000 or prison for up to five years.

Sincerely,

SMITH, DIAMOND & OLNEY

/s/ Margaret S. Olney  
Margaret S. Olney

MSO/sap

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**Appendix 9**

Posted at:  
BlueOregon.com

**Nader**  
***FOR PRESIDENT 2004***

VIA FACSIMILE: [REDACTED]

August 13, 2004

Margaret S. Olney  
Smith Diamond & Olney  
1500 NE Irving  
Suite 370  
Portland, OR 97232

Dear Ms. Olney:

The attached copy of your letter, dated August 12, 2004, which you have been circulating to the Nader for President 2004 nominating petition circulators in Oregon, constitutes a blatant attempt to intimidate campaign workers, to disrupt and interfere with the Nader campaign, and may constitute a violation of Oregon Statutes (*See e.g.* O.R.S. §260.575) and Federal election law. We demand that you immediately cease and desist all such practices.

By copy of this letter to John Lindback, Director of the Elections Division of the Oregon Secretary of State, the Nader for President 2004 campaign lodges a complaint against you and these practices, and asks that the Elections Division, likewise, demand that you cease and desist.

Sincerely,

/s/ Theresa Amato  
Theresa Amato  
National Campaign Manager

Attachment

cc: Mr. John Lindback  
Director Elections Division  
Oregon Secretary of State  
Fax: 503-373-7414

P.O. Box 18002 • Washington, DC 20036 •  
Tel: 202 265 4000 • Fax: 202 265 0092 • [voteNader.org](http://voteNader.org)

Paid for by Nader for President 2004
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**Appendix 10**

**THINK BEFORE YOU INK**

**VOTER EDUCATION PROJECT**

Phone: 1.800.295.5597

FAX: 503.239.8588

[www.votereducationproject.org](http://www.votereducationproject.org)

JoAnn Werner  
3888 Meadow Lawn Lp SE  
Salem, Oregon 97301

RE: Signature fraud research – Initiative petition #18

Dear Sir or Madam:

The Voter Education Project is a non-profit watchdog organization that focuses on ballot initiative fraud. The Oregon Attorney General recently prosecuted two signature gatherers, who were convicted of forging signatures. Similar complaints have been filed against several others for forgery, fraud and misrepresentation. These complaints are now under investigation by the Attorney General's office.

We are concerned about the scope of these problems and are contacting people whose signatures appear on the initiative petitions recently submitted to the Oregon Secretary of State.

Enclosed you will find a copy of a petition sheet for initiative #18 that contains your signature. Please use the form below to confirm that this is your valid signature and promptly return this letter to us. We have enclosed a postage-paid return envelope for your convenience.

We appreciate your assistance with this matter. The Oregon initiative system is a cherished aspect of our democracy and deserves to be protected.

If you questions please call us at the Voter Education Project at 1-800-295-5597

Very truly yours,

/s/ Jeannie Berg  
Jeannie Berg  
Project Director

- 
- ☐ **No.** This is not my signature
- ☒ **Yes.** This is [looks like] my signature. [I don't remember signing this. That is *not* my print.]
- ☐ **No.** I was not informed of the content of this petition prior to signing it. ***Note: The subject is in bold, above the signature lines on the petition.***
- ☐ **Yes.** I was informed of the content of this petition prior to signing it. ***Note: The subject is in bold, above the signature lines on the petition.***

/s/ JoAnn Werner

6-18-02  
Date

Phone Number 503-540-7676

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