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4 IN THE CIRCUIT COURT OF THE STATE OF OREGON
5 FOR THE COUNTY OF MARION
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7 **BEVERLY CLARNO, GARY**
8 **WILHELMS, JAMES L. WILCOX, and**
9 **LARRY CAMPBELL,**

Petitioners,

10 v.

11 **SHEMIA FAGAN**, in her official capacity as
12 Secretary of State of Oregon,

Respondent,

13 v.

14 **JEANNE ATKINS, SUSAN CHURCH,**
15 **NADIA DAHAB, JANE SQUIRES,**
16 **JENNIFER LYNCH, AND DAVID**
17 **GUTTERMAN.**

Intervenors.

Case No. 21CV40180

Senior Judge Mary M. James, Presiding
Judge of Special Judicial Panel
Senior Judge Henry C. Breithaupt, Special
Master to Special Judicial Panel

MOTION TO DISMISS PETITIONERS’
FOURTH CLAIM FOR RELIEF WITH
PREJUDICE

18 **UTCRC 5.010 CERTIFICATION OF COMPLIANCE**

19 Pursuant to the Uniform Trial Court Rule (“UTCRC”) 5.010, counsel for Petitioners
20 conferred with counsel for Respondent and Intervenors by phone and e-mail. Respondent does
21 not oppose this Motion to Dismiss Petitioners’ Fourth Claim for Relief. Intervenors do not oppose
22 dismissal of Claim 4, but reserve their right to seek costs.

23 **MOTION TO DISMISS PETITIONERS’ FOURTH CLAIM FOR RELIEF**

24 Petitioners Beverly Clarno, Gary Wilhelms, James L. Wilcox, and Larry Campbell move

25 *Page 1 – Motion to Dismiss Petitioners’ Fourth Claim for Relief*

1 to dismiss their Fourth Claim for Relief asserted under Oregon Revised Statutes § 188.010(1). For
2 clarity, Petitioners understand that the parties may choose to cite evidence pertaining to
3 compliance with Oregon Revised Statutes § 188.010(1) when litigating Petitioners' First, Second,
4 and Third Claims for Relief, although the parties disagree as to how much weight—if any—should
5 be given to this evidence in adjudicating those claims.

6 Accordingly, Petitioners respectfully request that the Court enter an order dismissing
7 Petitioners' Fourth Claim for Relief with Prejudice.

8
9 DATED: October 29, 2021.

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1 **CERTIFICATE OF SERVICE**

2 I certify that I served a true and complete copy of the foregoing **MOTION TO DISMISS**
3 **PETITIONERS' FOURTH CLAIM FOR RELIEF WITH PREJUDICE** on the date below as
4 follows:

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Certificate of Service

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DATED this 29th day of October 2021.

HARRIS BERNE CHRISTENSEN LLP

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Certificate of Service