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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MARION

BEVERLY CLARNO, GARY WILHELMS,
JAMES L. WILCOX, and LARRY
CAMPBELL,

Petitioners,

v.

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

Respondent.

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**

RESPONDENT'S ANSWER TO PETITION AND
AFFIRMATIVE DEFENSES

ORS 20.140 - State fees deferred at filing

Respondent, by and through the undersigned counsel, answers the Petition as follows:

1.

Paragraph 1 consists of legal conclusions and references to legal authorities, which speak for themselves. No response is required or provided.

2.

Paragraph 2 consists of legal conclusions, opinions, and references to legal authorities, which speak for themselves. No response is required or provided.

3.

Paragraph 3 consists of legal conclusions and references to legal authorities, which speak for themselves. No response is required or provided.

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12 4.

As to the allegations in paragraph 4, Respondent admits only that the House Redistricting Committee for the 2021 regular legislative session was comprised of three Republican and three Democratic members, as was the 2021-2022 House Interim Committee on Redistricting. The allegation that there are applicable “statutory and constitutional mandates” is a legal conclusion to which no response is required or provided. The allegations that “Democrat[ic] members of the Oregon Legislative Assembly at first appeared to recognize these statutory and constitutional mandates” and that there is a “commonly understood tendency for a single party’s politicians to favor their own party when drawing redistricting maps” are opinions to which no response is required or provided. To the extent that a response is required for any of these allegations, they are denied. The remaining allegations in paragraph 4 are denied.

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26 5.

As to the allegations in paragraph 5, Respondent lacks information sufficient to admit or deny allegations regarding the subjective beliefs, actions, motivations, and private communications of legislators and others and therefore denies those allegations on that basis.

6.

As to the allegations in paragraph 6, Respondent lacks information sufficient to admit or deny allegations regarding the subjective beliefs, opinions, actions, and private communications of individual legislators and therefore denies those allegations on that basis.

7.

As to the allegations in paragraph 7, Respondent admits only that the House Redistricting Committee was reconstituted for the 2021 1st Special Session with two Democratic members and one Republican member. As to remaining allegations, Respondent lacks information sufficient to admit or deny allegations regarding the subjective personal beliefs and motivations of individual, unnamed legislators and therefore denies those allegations on that basis.

1 8.

2 As to the allegations in paragraph 8, Respondent admits that on September 27, 2021, the
3 House Redistricting Committee approved SB 881 on a 2-1 vote with Democratic Representatives
4 Campos and Salinas voting in favor and Republican Representative Boshart Davis voting
5 against. Respondent admits that on that same day SB 881 was sent to the House, which adopted
6 the amendments requested by Senator Courtney and passed SB 881 on a 33-16 vote, with 11
7 members excused, with the positions of individual members described as follows:

8 Voted in favor: Alonso Leon, Bynum, Campos, Clem, Dexter, Evans, Fahey, Gomberg,
9 Grayber, Holvey, Hudson, Kropf, Lively, Marsh, McLain, Meek, Neron, Nosse, Pham, Power,
10 Prusak, Rayfield, Reardon, Reynolds, Ruiz, Salinas, Sanchez, Smith Warner, Sollman,
11 Valderrama, Williams, Witt, Speaker Kotek

12 Voted against: Breese-Iverson, Cate, Drazan, Goodwin, Hayden, Levy, Moore-Green,
13 Noble, Owens, Reschke, Scharf, Smith DB, Smith G, Wallan, Weber, Zika

14 Excused: Bonham, Boshart Davis, Helm, Lewis, Morgan, Nathanson, Post, Schouten,
15 Stark, Wilde, Wright.

16 Respondent admits that the House Redistricting Committee did not hold public hearings
17 during the 2021 1st Special Session. Respondent denies all remaining allegations in paragraph 8.

18 9.

19 Paragraph 9 consists of legal conclusions and opinions, to which no response is required
20 or provided.

21 10.

22 As to the allegations in paragraph 10, Respondent's counsel has retained a qualified
23 expert who is available and willing to testify to admissible facts and opinions regarding election
24 forecasts; no further response is required or provided. To the extent a response is required,
25 Respondent denies the allegations of paragraph 10.

1 11.

2 Paragraph 11 consists of legal conclusions and opinions, to which no response is required
3 or provided.

4 12.

5 Paragraph 12 consists of legal conclusions and opinions, to which no response is required
6 or provided.

7 13.

8 Respondent admits the allegations in paragraph 13.

9 14.

10 Respondent admits the allegations in paragraph 14.

11 15.

12 Respondent admits the allegations in paragraph 15.

13 16.

14 Respondent admits the allegations in paragraph 16.

15 17.

16 As to the allegations in paragraph 17, the State admits only that Respondent Shemia
17 Fagan is the Oregon Secretary of State. The remaining allegations in paragraph 17 purport to
18 describe this action, and no response is required or provided.

19 18.

20 Paragraph 18 consists of legal conclusions, to which no response is required or provided.

21 19.

22 Respondent admits the allegations in paragraph 19.

23 20.

24 Respondent admits the allegations in paragraph 20.

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21.

As to the allegations in paragraph 21, Respondent lacks information sufficient to admit or deny allegations regarding the subjective beliefs, opinions, private communications, or actions of Speaker Kotek and Republican legislative members and therefore denies those allegations on that basis.

22.

As to the allegations in paragraph 22, Respondent admits that the House Redistricting Committee is made up of members of the Oregon House who review redistricting plans before those plans are approved by the full Legislative Assembly, and that its general responsibilities generally include considering redistricting maps for Oregon’s state legislative and congressional district boundaries.

23.

The allegations in paragraph 23 consist of opinions to which no response is required or provided. In addition, Respondent lacks information sufficient to admit or deny allegations regarding the subjective mental state of unnamed “Democrats and Democratic aligned special-interest groups” and therefore denies those allegations on that basis.

24.

As to paragraph 24, Respondent admits only that the alleged quote by Congressman Schrader appeared in a June 21, 2021 *Politico* article. Respondent lacks information sufficient to admit or deny whether Congressman Schrader in fact made the statement as alleged, and therefore denies those allegations on that basis. The remaining allegations are either opinion or seek to characterize the article, which is the best evidence of its contents, to which no response is required or provided.

