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3
4 IN THE CIRCUIT COURT FOR THE STATE OF OREGON
5 FOR THE COUNTY OF LANE

6 CLAIRE SYRETT FOR EUGENE CITY
7 COUNCIL, a candidate committee; and
8 CLAIRE SYRETT, an individual,

9 Plaintiffs,

10 v.

11 META MAXWELL, an individual;
12 MARK OSTERLOH, an individual;
13 RECALL CLAIRE SYRETT, a petition
14 committee; JP HAMMER, an individual
15 GERALD MORTON, an individual; and
16 EUGENE BUSINESS ALLIANCE, a
17 mutual benefit nonprofit corporation,

18 Defendants,

19 and

20 LANE COUNTY ELECTIONS
21 DIVISION; and EUGENE CITY
22 RECORDER,

23 Nominal Defendants.

Case No.

COMPLAINT

**(PUBLICATION OF FALSE
STATEMENTS IN VIOLATION
OF ORS 260.532; CLAIM FOR
DECLARATORY JUDGMENT;
CLAIM FOR ATTORNEY FEES)**

**CLAIMS NOT SUBJECT TO
MANDATORY ARBITRATION**

Prayer: \$2,500

Fee Authority: ORS 21.135(1), (2)(F)

Fee Amount: \$281

24 Plaintiffs Claire Syrett for Eugene City Council and Claire Syrett allege and
25 pray for relief as follows:

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1 **PARTIES**

2 1.

3 Plaintiff Claire Syrett for Eugene City Council (the “Candidate Committee”)
4 is a candidate committee registered with the Oregon Elections Division. The
5 Candidate Committee’s current purpose is supporting Claire Syrett as a candidate
6 for City Councilor, City of Eugene, Ward 7.

7 2.

8 Plaintiff Claire Syrett (“Councilor Syrett”) is an individual residing in Lane
9 County, Oregon. She is the current City of Eugene Councilor for Ward 7 and serves
10 as the President of the City Council.

11 3.

12 Defendant Meta Maxwell (“Defendant Maxwell”) is an individual residing in
13 Lane County, Oregon.

14 4.

15 Defendant John P. Hammer (“Defendant Hammer”) is an individual residing
16 in Lane County, Oregon and the member of JP Hammer, LLC, an Oregon limited
17 liability company with a principal place of business in Lane County, Oregon.

18 5.

19 Defendant Mark Osterloh (“Defendant Osterloh”) is an individual residing in
20 Lane County, Oregon.

21 6.

22 Defendant Gerald Morton (“Defendant Morton”) is an individual residing in
23 Lane County, Oregon.

24 7.

25 Defendant Recall Claire Syrett (the “Recall Committee”) is an Oregon
26 Petition Committee registered with the Oregon Elections Division. The Recall

1 Committee's purpose is to support the recall of Councilor Syrett from her position as
2 City Councilor, City of Eugene, Ward 7. Mark Osterloh is the Recall Committee's
3 Treasurer, Gerald Morton is its Chief Petitioner, and Meta Maxwell is its
4 Alternative Transaction Filer.

5 8.

6 Defendant Eugene Business Alliance ("Defendant EBA") is an Oregon mutual
7 benefit nonprofit corporation and an unregistered Oregon campaign committee.
8 Defendant EBA's Registered Agent address and mailing address is in Lane County,
9 Oregon.

10 9.

11 Nominal Defendant Lane County Elections Division is a Division of Lane
12 County.

13 10.

14 Nominal Defendant Eugene City Recorder is an officer of the City of Eugene
15 responsible for the City's role in elections, including the special election scheduled
16 for September 6, 2022.

17 **COUNCILOR SYRETT'S CITY COUNCIL ELECTIONS AND SERVICE**

18 11.

19 Councilor Syrett was first elected as City of Eugene Councilor, Ward 7 in
20 2012. She received 3,754 votes in the uncontested race, as reflected in a Summary
21 Report on the General Election, a copy of which is attached as Exhibit 1 and the
22 contents of which are incorporated herein by reference.

23 12.

24 Councilor Syrett was reelected as City of Eugene Councilor, Ward 7 in 2016.
25 She received 4,605 votes in the uncontested race as reflected in the Statement of
26

1 | Votes, Lane County General Election, a copy of which is attached as Exhibit 2 and
2 | the contents of which are incorporated herein by reference.

3 | 13.

4 | Councilor Syrett was reelected as City of Eugene Councilor, Ward 7 in 2020.
5 | She defeated two challengers, earning 2,704 votes compared to her challengers'
6 | respective 1,163 and 639, as reflected in the Statement of Votes, Lane County
7 | Primary Election, a copy of which is attached as Exhibit 3 and the contents of which
8 | are incorporated herein by reference.

9 | 14.

10 | During Councilor Syrett's three terms serving on the Eugene City Council,
11 | the Council has voted on and adopted approximately 189 resolutions, it has voted on
12 | and passed approximately 316 ordinances, and it has adopted annual budgets each
13 | year authorizing the City's raising and spending of hundreds of millions of dollars.
14 | With few exceptions, due to excused absences, Councilor Syrett has voted on of the
15 | motions to adopt and approve those resolutions, ordinances, and budgets.

16 | 15.

17 | Over her 10 years of public service as a Eugene City Councilor, Claire Syrett
18 | has built a distinguished record of accomplishment. As a diligent and effective
19 | advocate, she has helped guide the City of Eugene in making major advances and
20 | achieving critically important policy goals.

21 | a. Housing for unsheltered

- 22 | ○ Secured initial \$1 million for the recently opened Navigation Center,
23 | which will provide unsheltered people with connections to housing.
- 24 | ○ Led efforts to establish pioneering Rest Stop program to provide
25 | temporary shelter to those living on the streets.
- 26 | ○ Supported expansion of shelter options through Safe Sleep sites.

- Successfully advocated for funding to make major updates to Ya Po Yah Terrace, a low-income senior apartment complex serving hundreds of residents, as well as city investments in Square One Villages projects, Homes for Good, and St. Vincent de Paul housing projects.

b. Support for public safety

- Supported adoption of the Community Safety Initiative payroll tax to provide more 911 dispatchers, police officers, community safety officers as well as non-police interventions to improve response times and capacity of our police department.
- Supported recommendation from the firefighter union and department leadership to revamp ambulance services to provide better service to the community.

c. Making streets safer

- Supported transportation system improvements for pedestrians, bicyclists, drivers, and bus riders.
- Led the adoption of the Vision Zero plan which aims to reduce serious injuries and deaths on city streets.
- Worked to improve reliable transportation options for people with disabilities, who are low income or who choose not to drive.
- Championed alternative transportation options as an important strategy for reducing carbon emissions as part of City of Eugene's Climate Action Plan.

d. Addressing climate change

- Leader in City of Eugene efforts to reduce the use of fossil fuels in our buildings, to include banning fossil fuel infrastructure in new residential development.

- Supports policies that provide for growing more densely rather than sprawling out, to reduce greenhouse gas emissions.
- Secured \$10,000 for planting hundreds of additional street trees in Bethel.

e. Protecting working families

- Led the effort to pass City of Eugene’s paid sick leave ordinance, paving the way for statewide adoption.
- Helped ensure passage of phase one renter protection, which reduces application fees among other protections. Will continue to fight for greater renter protection when phase two comes to council later in 2022 including displacement assistance for no-cause evictions.
- Currently leading efforts to regulate chronic toxic pollutants including:
 - Advanced an ordinance that will regulate vibrations caused by industrial activity. This is especially important to residents impacted by Zip-O-Laminators in the River Road area.
 - Co-initiated a work session on creating a Public Health Overlay zone which will guide city decisions regarding industrial activities near residential areas.

16.

Councilor Syrett’s current term as a Eugene City Councilor runs until January 2025. Should Councilor Syrett decide to run for another term, the Candidate Committee intends to support her candidacy.

MOVINGAHEAD

17.

MovingAhead is a partnership between the City of Eugene, Lane Transit District (“LTD”), Oregon Department of Transportation, Lane County, and others

1 formed to study and prioritize investment options on key corridors to improve safety
2 and access for people walking, biking, using mobility devices, and riding public
3 transit. The project aligns with and builds on local plans and policies, including
4 Envision Eugene, Eugene's 2035 Transportation System Plan, Eugene's Vision Zero
5 Action Plan, Eugene's Climate Recovery Ordinance, and LTD's Long Range Transit
6 Plan and Frequent Transit Network.

7 18.

8 MovingAhead is focused on better connecting people to jobs, schools,
9 shopping, recreation, and other activities by considering a range of transportation
10 investments along key corridors to improve safety and livability for everyone.
11 MovingAhead builds on community input and local planning projects like Envision
12 Eugene, Eugene's Transportation System Plan, and LTD's Long-Range Transit
13 Plan.

14 19.

15 MovingAhead began soliciting community input no later than May 18, 2015.
16 MovingAhead's efforts to facilitate community participation have included
17 presentations and workshops focused on specific corridors, oversight committee
18 meetings, sounding board meetings, open houses, attending in neighborhood
19 association meetings, participating in community events such as Parties in the
20 Parks, and presenting at public meetings of the Eugene City Council and LTD
21 Board of Directors. Some of this outreach is summarized in the MovingAhead
22 Outreach Summary, attached as Exhibit 4, the contents of which are incorporated
23 herein by reference.

24 ///

25 ///

26 ///

1 20.

2 Based on community feedback, MovingAhead is exploring options along five
3 key corridors: Highway 99, River Road, 30th Avenue to Lane Community College,
4 Coburg Road, and Martin Luther King, Jr. Boulevard.

5 21.

6 MovingAhead released its Alternatives Analysis Report including an
7 Executive Summary, a Full Alternatives Analysis Report, a Book of Project aps, and
8 various References and Supporting Documents (together the “Report”), including
9 publishing the Report at <http://www.movingahead.org/alternatives-analysis-report/>,
10 in September of 2018. MovingAhead solicited formal public comments on the
11 Report and summarized and responded to all of the comments received in a
12 Comment-Response Report dated May 1, 2021, a copy which is attached as
13 Exhibit 5 and the contents of which are incorporated herein.

14 22.

15 On February 28, 2022, MovingAhead presented to the Eugene City Council
16 and LTD Board at a joint work session to update the Council and Board, and share
17 the recommendations from the project’s committees.

18 23.

19 On March 14, 2022, the Eugene City Council adopted Resolution No. 5352, “A
20 RESOLUTION APPROVING OF MOVINGAHEAD LOCALLY PREFERRED
21 ALTERNATIVES,” a copy of which is attached to this Complaint as Exhibit 6 (the
22 “MovingAhead Resolution”) and the contents of which are incorporated herein by
23 reference. Councilor Syrett was among the six Councilors voting in favor; one voted
24 against and one was absent. On March 16, 2022, the LTD Board discussed and
25 voted unanimously to adopt the selection of locally preferred alternatives.
26

1 24.

2 As described by one City Councilor and reported on a local news broadcast
3 segment which can be viewed at [https://nbc16.com/news/local/movingahead-](https://nbc16.com/news/local/movingahead-recommendations-approved-by-eugene-city-council)
4 [recommendations-approved-by-eugene-city-council](https://nbc16.com/news/local/movingahead-recommendations-approved-by-eugene-city-council), what the Moving Ahead
5 Resolution approves “is a plan; it’s not an approved done deal. It’s a way to
6 prioritize and look for money and work on plans, and there will still be input.” The
7 MovingAhead Resolution does not authorize the expenditure of any funds; it does
8 not authorize the construction or removal of any infrastructure or structures; it does
9 not authorize the seizure of any private property from individuals or businesses; it
10 does not authorize removing any lanes on River Road; it does not authorize
11 dedicating any lanes of River Road for EmX buses; it does not authorize removal of
12 any trees or parking; and it does not authorize any implementation of any
13 recommendations, all of which would require further action by the City Council.

14 **DEFENDANTS PUBLISH FALSE STATEMENTS IN SUPPORT OF RECALL**

15 25.

16 On or about April 25, 2022, Defendant Morton filed a Prospective Petition to
17 Recall Councilor Syrett from office (the “Prospective Petition”) with the Oregon
18 Elections Division using a standard Form SEL 350, a copy of which is attached as
19 Exhibit 7 and the contents of which are incorporated herein.

20 26.

21 Form SEL 350 requires a “Statement” and instructs that the petition
22 “Provide the reasons for demanding recall in 200 words or less. Any factual
23 information provided must be true.” Defendant Morton included the following
24 statement in the Prospective Petition (the “Prospective Petition Statement”):

25 Claire Syrett voted to advance the multimillion dollar
26 MovingAhead project that will remove two lanes for cars on
River Road and replace them with dedicated EmX bus lanes.

1 This will leave only one lane for cars in each direction and take
2 substantial private property from businesses and residences,
3 including removal of parking and trees. Traffic congestion will
4 increase. Syrett is ignoring the facts concerning opposition she
5 received. On 28 February 2022 she said, "I don't believe I have
6 received one communication from a property owner along River
7 Road who has concerns about this proposal." Five days earlier,
8 over 150 petitions against MovingAhead, signed by people in
9 and near her ward including numerous people living and
10 working on River Road, were delivered for her to the City
11 Manager's office. She also received notes and emails in
12 opposition. Syrett supports MovingAhead's EmX plan despite
13 the fact that taxes will need to increase to support operations
14 and maintenance for a system which cannot be re-routed to
15 accommodate changes in ridership. Bus ridership has declined
16 nationwide since 2012 despite increases in population. Syrett
17 supports an EmX system not wanted and not responsive to new
18 eco-friendly transportation alternatives.

27.

13 The Prospective Petition Statement includes the following factual
14 statements, each of which is false:

- 15 a. False statement: "Claire Syrett voted to advance the
16 multimillion dollar MovingAhead project that will remove
17 two lanes for cars on River Road and replace them with
18 dedicated EmX bus lanes."

19 Truth: MovingAhead is still in the planning/proposal
20 stage. It does not approve or implement any specific
21 project. The actual configuration of EmX on River Road
22 has not been determined.

- 23 b. False statement: "This will leave only one lane for cars in
24 each direction and take substantial private property from
25 businesses and residences, including removal of parking and
26 trees."

Truth: The passage of the MovingAhead Resolution has
not authorized any changes to the transportation
infrastructure, including taking of private property or tree
removal; only an actual authorized project could do that.
The extent to which any private property, if any, may be
impacted should a transportation project be implemented
on River Road is not known at this time.

1 c. False statement: “Traffic congestion will increase.”

2 Truth: The purpose of the MovingAhead planning project
3 is to consider proposals that will reduce traffic congestion.

4 d. False statement: “Syrett supports MovingAhead’s EmX plan
5 despite the fact that taxes will need to increase to support
6 operations and maintenance for a system which cannot be re-
7 routed to accommodate changes in ridership.”

8 Truth: This statement is false because, while the
9 WorkingAhead project’s mandate includes identifying
10 funding sources from existing state resources and federal
11 matching programs, not from local taxes. Whether LTD
12 transit tax, which funds transit operations, will need to be
13 increased to support MovingAhead proposals is not known
14 at this time.

15 28.

16 Form SEL 350 requires the petitioner to attest by way of signing that “By
17 signing this document, I hereby state that any factual information (not a matter of
18 opinion) in the above statement is true.” Defendant Morton signed the Prospective
19 Petition attesting that any factual information in the Prospective Petition
20 Statement was true as required.

21 29.

22 Defendants Osterloh, Maxwell, and Morton (the “Petitioner Defendants”)
23 formed the Recall Committee on or about April 25, 2022. Since then, the Recall
24 Committee has reported contributions in the following amounts from the following
25 individuals:

Date	Contributor(s)	Type	Amount
7/23/2022	Not Disclosed	Cash	\$100.00
7/18/2022	Eugene Business Alliance	Cash	\$4,750.00
7/18/2022	Not Disclosed	Cash	\$20.00
7/13/2022	Lube It USA	Cash	\$168.56
7/13/2022	Graffiti Alley	Cash	\$134.83

Date	Contributor(s)	Type	Amount
7/13/2022	1280 Oak, LLC	Cash	\$500.00
7/12/2022	Kelly's Home Center	Cash	\$500.00
7/12/2022	Not Disclosed	Cash	\$67.43
7/7/2022	Not Disclosed	Cash	\$33.71
7/6/2022	Meta Maxwell	In-Kind	\$10.00
7/6/2022	Meta Maxwell	In-Kind	\$131.47
7/6/2022	Specialty Crate and Pallet Inc.	Cash	\$250.00
7/5/2022	Emerald Building	Cash	\$500.00
7/5/2022	C & E Rentals	Cash	\$500.00
7/5/2022	Meta Maxwell	In-Kind	\$115.75
7/2/2022	Meta Maxwell	In-Kind	\$31.79
6/30/2022	Brent Laing	Cash	\$500.00
6/28/2022	Not Disclosed	Cash	\$100.00
6/27/2022	Not Disclosed	Cash	\$100.00
6/17/2022	J.P. Hammer	Cash	\$500.00
6/16/2022	Mark Osterloh	In-Kind	\$7.39
6/14/2022	Meta Maxwell	In-Kind	\$36.00
6/9/2022	Meta Maxwell	In-Kind	\$48.99
6/6/2022	Meta Maxwell	In-Kind	\$55.48
6/6/2022	Meta Maxwell	In-Kind	\$221.92
6/1/2022	J.P. Hammer	Cash	\$500.00

Date	Contributor(s)	Type	Amount
5/27/2022	Mark Osterloh	In-Kind	\$34.99
5/27/2022	Not Disclosed	In-Kind	\$28.40
5/8/2022	Meta Maxwell	In-Kind	\$34.99
5/8/2022	Meta Maxwell	In-Kind	\$71.49
5/8/2022	Meta Maxwell	In-Kind	\$84.80
5/8/2022	Mark Osterloh	In-Kind	\$6.74
5/8/2022	Mark Osterloh	In-Kind	\$30.48
5/4/2022	Not Disclosed	Cash	\$100.00
5/3/2022	Not Disclosed	Cash	\$100.00

30.

On or about May 7, 2022, Defendant Maxwell caused the publication of the following statements at <https://wholecommunity.news/2022/05/07/recall-claire-syrett-campaign-launches-with-signature-drive-may-7/>, ”), a printout of which is attached as Ex. 8 and the contents of which are incorporated herein:

(the “Recall Post Statements”):

The Eugene City Recorder has approved circulation of a petition to Recall Claire Syrett, Eugene City Councilor, Ward 7.

On the petitions, the Statement “Reasons for demanding recall” reads:

Claire Syrett voted to advance the multimillion dollar MovingAhead project that will remove two lanes for cars on River Road and replace them with dedicated EmX bus and turn lanes. This will leave only one lane for cars in each direction for direct traffic and take private property from businesses and

1 residences, including removal of parking and trees. Traffic
2 congestion may increase.

3 Syrett is ignoring the facts concerning opposition she has
4 received. On 28 February 2022 she said, “I don’t believe I have
5 received one communication from a property owner along River
6 Road who has concerns about this proposal.”

7 Five days earlier, over 150 petitions against MovingAhead,
8 signed by people in and near her ward including numerous
9 people living and working on River Road, were delivered for her
10 to the City Manager’s office. She also received notes and emails
11 in opposition.

12 Syrett supports MovingAhead’s EmX plan despite the fact that
13 taxes may need to increase to support operations and
14 maintenance for a system which cannot be re-routed to
15 accommodate changes in ridership. Bus ridership has declined
16 nationwide since 2012 despite increases in population. Syrett
17 supports an EmX system many feel is not wanted and not
18 responsive to new eco-friendly transportation alternatives.

19 Signature gatherers for the petition will be knocking on doors of
20 registered voters in Ward 7 beginning Saturday, May 7. They
21 will be wearing buttons saying, “Stop MovingAhead.”

22 To sign a petition, Voters Registered in Ward 7 may also stop by
23 Graffiti Alley, 675 River Road, 11am to 7 pm Tuesday through
24 Friday, or 4 pm to 6 pm Saturday. People wanting more
25 information or to schedule a time to sign a petition, should visit
26 <http://clairesyrettreCALL.com>, email: SyrettRecall@gmail.com or
call 541-731-9161.

Syrett may be ignoring the will of the people in and near her
district, as well as the facts regarding LTD’s failed EmX lines,
by pushing for:

- Removal of two lanes for cars on River Road;
- Cutting down 112-132 established trees to accommodate
dedicated EmX lanes;
- Elimination of parking for businesses;
- Taking of private property from homeowners;

- Purchase of 60-foot non-electric articulated buses that cannot be re-routed when smaller more eco-friendly buses are currently running near empty;
- Construction of extensive environmentally unfriendly concrete infrastructure [which releases large quantities of carbon dioxide into the atmosphere] for dedicated EmX lanes when existing infrastructure, including bus pull-outs, is sufficient to meet needs;
- Ignoring the challenges of EmX lines on W. 11th and Gateway loop that since 2007 have never come close to ridership projections, have had cost overruns, and necessitated cutting other desired bus routes in the city.

Syrett may be ignoring the will of constituents who, for convenience, health, and safety reasons, will continue to choose affordable alternatives to riding a bus where they exist. Syrett also has been promoting EmX — the expanded bus rapid transit system — instead of eco-friendly transportation alternatives: smaller electric and carbon-neutral buses that can be re-routed to meet the population’s needs, private electric vehicles, Uber and Lyft (both converting to carbon-neutral fleets), all electric taxies, Arcimoto, organized carpooling, car sharing, biking, efficient motor-bikes, and many newer on-demand alternatives. It’s time to start holding City Councilors responsible for making informed decisions that meet the needs in the community within existing budgets.

For more information, see <http://clairesyrettrecall.com>, email: SyrettRecall@gmail.com or call 541-731-9161.

31.

No later than July 9, 2022 and continuing through the date of this Complaint, the Petitioner Defendants have caused the publication of the following statement at <http://clairesyrettrecall.com> (the “Recall Website” and the “Website Statement”), as shown in an Internet Archive WayBackMachine capture of the Recall Website dated July 9, 2022, a copy of which is attached as Exhibit 9 and the contents of which are incorporated herein by reference.

Claire Syrett voted to advance the multimillion dollar MovingAhead project that will remove two lanes for cars on

1 River Road and replace them with dedicated EmX bus lanes.
2 This will leave only one lane for cars in each direction and take
3 substantial private property from businesses and residents,
4 including removal of parking and trees. Traffic congestion will
5 increase. Syrett is ignoring the facts concerning opposition she
6 has received. On 28 February 2022 she said, “I don’t believe I
7 have received one communication from a property owner along
8 River Road who has concerns about this proposal.” Five days
9 earlier, over 150 petitions against MovingAhead, signed by
10 people in and near her Ward including numerous people living
11 and working on River Road, were delivered for her to the City
12 Manager’s office. She also received notes and emails in
13 opposition. Syrett supports MovingAhead’s EmX plan despite
14 the fact that taxes will need to increase to support operations
15 and maintenance for a system which cannot be rerouted to
16 accommodate changes in ridership. Bus ridership has declined
17 nationwide since 2012 despite increases in population. Syrett
18 supports an EmX system not wanted and not responsive to new
19 eco-friendly transportation alternatives.

20 32.

21 Petitioner Defendants solicited signatures in support of the Recall Petition
22 including a request posted on the Recall Website and in-person requests in door-to-
23 door canvassing. One voter who signed the Petition was only informed that her
24 signature indicated support of recalling Councilor Syrett from office after she had
25 signed it, having been told only that her signature would prevent the removal of car
26 lanes on River Road. A copy of his email to Councilor Syrett is attached as
Exhibit 10 and its contents are incorporated by reference herein. This is not the
only constituent who reported to Councilor Syrett that they were urged to sign the
Prospective Petition under false pretenses.

32 33.

33 On or about July 21, 2022, Defendant Osterloh delivered 2,000 signatures in
34 support of the Prospective Petition as reported at [https://nbc16.com/news/local/2000-
35 signatures-delivered-in-effort-to-recall-eugene-city-councilor-claire-syrett](https://nbc16.com/news/local/2000-signatures-delivered-in-effort-to-recall-eugene-city-councilor-claire-syrett).

1 **FALSE STATEMENTS FORCE UNNECESSARY, INVALID ELECTION**

2 34.

3 On or about August 1, 2022, the Eugene City Recorder certified that a
4 sufficient number of the signatures submitted were valid and that the Prospective
5 Petition therefore qualified and required initiation of a recall election.

6 35.

7 On August 18, 2022, the Lane County Elections Division will mail ballots to
8 Ward 7 voters which contain the false statements included in the Petition
9 Statement. Voters must return ballots by September 6, 2022, and the City Recorder
10 has been directed to certify the results by October 3, 2022.

11 **FIRST CLAIM FOR RELIEF**

12 **(False Publication Relating to a Candidate or Election in Violation of**

13 **ORS 260.532)**

14 **(Against all Defendants)**

15 36.

16 Plaintiffs reallege and incorporate the allegations in the above paragraphs as
17 if fully set forth herein.

18 37.

19 The Oregon Corrupt Practices Act was established over 100 years ago. As it
20 exists today, ORS 260.532 prohibits publication of false statements in connection
21 with an election, imposes monetary liability for \$2,500 plus attorney fees against
22 defendants who pay for the publication of such statements, whether alone or
23 together with others, and empowers Circuit Courts to order appropriate equitable
24 relief.

25 ///

26 ///

1 38.

2 Councilor Syrett is a candidate in a recall election as that term is defined in
3 ORS 260.005(1)(a)(C).

4 39.

5 Defendant Morton signed an attestation to the truth of the factual
6 statements contained in the Prospective Petition Statement under penalty of
7 perjury. On information and belief, all petitions circulated by Petitioner
8 Defendants, which voters signed, contained the false statements described on the
9 Prospective Petition. On information and belief, Petitioner Defendants
10 disseminated additional false statements in writing while soliciting signatures.

11 40.

12 Beginning on May 7, 2022 and continuing through the date of this Complaint,
13 Defendant Maxwell caused the publication of the false statements of fact contained
14 in the Maxwell Post Statements.

15 41.

16 No later than July 9, 2022 and continuing through the date of this
17 Complaint, Petitioner Defendants have caused the publication of the false
18 statement of fact in the Website Statement on the Recall Website.

19 42.

20 Petitioner Defendants caused publication of the above statements in order to
21 solicit signatures in support of the Prospective Petition from at least 2,000
22 individuals.

23 43.

24 Petitioner Defendants' published statements alleged above contain false
25 statements of material fact in support of their effort to recall Councilor Syrett from
26 her elected position as City of Eugene Councilor, Ward 7. These statements make

1 assertions of objective fact that are false and cannot reasonably be interpreted in
2 any manner that would make them factually correct. The falsity of these
3 statements is substantiated by the attached Exhibits, which evidence what the
4 MovingAhead project is and what it has done, what the MovingAhead Resolution
5 does and does not do, and what the Petitioner Defendants have stated regarding
6 Councilor Syrett and the MovingAhead Resolution.

7 44.

8 Petitioner Defendants' statements were material because they already have
9 or could influence significantly the hearer's decision-making process. This
10 allegation is substantiated by the attached exhibits including Exhibit 10, in which a
11 signatory to the Prospective Petition explicitly states that Petitioner Defendants'
12 statements caused him to sign the Prospective Petition, and by Exhibits evidencing
13 the statements themselves, which on their face are intended to influence voters and
14 cause them to support the Recall Petition.

15 45.

16 Defendants, with knowledge of the statements' falsity or with reckless
17 disregard for the truth of the statements, caused these false statements of material
18 fact to be written, printed, published and circulated, in violation of ORS 260.532(1).
19 The allegations in this paragraph are substantiated by the attached Exhibits
20 evidencing the publicly available facts regarding MovingAhead and the
21 MovingAhead Resolution and the Exhibits evidencing the statements made by
22 Petitioner Defendants.

23 46.

24 Petitioner Defendants, Defendant Hammer, and Defendant EBA (together,
25 "Funding Defendants"), with knowledge or with reckless disregard for the falsity of
26 the Petition Statement, singly or with others, paid for advertisement of the false

1 statements of material fact above in violation of ORS 260.532(1). The allegations in
2 this paragraph are substantiated by the attached exhibits including Exhibit 11,
3 which evidences contributions to the Recall Committee by Funding Defendants, and
4 by other individuals and business entities against whom claims have not yet been
5 asserted.

6 47.

7 As provided by ORS 260.532(5), Plaintiffs each have a right of action against
8 Defendants for these violations of ORS 260.532(1).

9 48.

10 As a direct result of Defendants' violations of ORS 260.532, Councilor Syrett
11 and the Candidate Committee have suffered noneconomic damages. Pursuant to
12 ORS 250.532(6) Plaintiffs are entitled to a monetary award of actual noneconomic
13 damages or \$2,500, whichever is greater.

14 49.

15 Proceedings on a complaint filed pursuant to ORS 260.532(9) "shall have
16 precedence over all other business on the docket" and Plaintiffs accordingly request
17 that the relief Plaintiffs request in this Complaint be given expedited treatment.

18 50.

19 Plaintiffs request that the Court issue an order pursuant to its authority
20 under ORS 260.532(6) enjoining Nominal Defendant Lane County Elections
21 Division from counting any ballots received in connection with the recall election
22 unless and until it is so directed by the Court.

23 51.

24 Plaintiffs request that the Court issue an order pursuant its authority under
25 ORS 260.532(6) enjoining Nominal Defendant Eugene City Recorder from certifying
26 any results from the recall election unless and until it is so directed by the Court.

1 52.

2 Pursuant to ORS 260.532(6), Plaintiffs request an order that the Petitioner
3 Defendants issue a retraction of the false statements described herein to be
4 disseminated to all eligible voters in Ward 7 of the City of Eugene and all
5 contributors to the Recall Committee, published on the Recall Website,
6 disseminated to any person to whom any such statement has been made by email or
7 other electronic means, and disseminated and published as otherwise directed by
8 this Court.

9 **SECOND CLAIM FOR RELIEF**

10 **(Declaratory Judgment Pursuant to ORS ORS 28.010 *et. seq.*)**

11 53.

12 Plaintiffs reallege and incorporate the allegations in the above paragraphs as
13 if fully set forth herein.

14 54.

15 An actual controversy has arisen and now exists between the parties
16 concerning the validity of the scheduled special election to recall Councilor Syrett
17 from office, whether the Lane County Elections Division is authorized and required
18 to mail and count ballots related to the recall election, and whether the City
19 Recorder is authorized and required to certify the results of the recall election.

20 55.

21 Petitioner Defendants assert that the statements in the Prospective Petition
22 are true, the Petition, its certification, and the scheduled election are valid, that the
23 Lane County Elections Division is required and authorized to mail and count ballots
24 related to the recall election, and that the City Recorder is authorized and required
25 to certify the results of the recall election. Based on the facts alleged in this
26 Complaint, Plaintiffs dispute these all of these assertions.

1 56.

2 On information and belief, Lane County Elections Division has concluded
3 that is required and authorized to mail and count ballots related to the recall
4 election. Based on the facts alleged in this Complaint, Plaintiffs dispute this
5 conclusion.

6 57.

7 On information and belief, the Eugene City Recorder has concluded that it is
8 authorized and required to certify the results of the recall election. Based on the
9 facts alleged in this Complaint, Plaintiffs dispute this conclusion.

10 58.

11 Pursuant to ORS 28.010 *et. seq.*, Plaintiffs are entitled to a judicial
12 determination regarding the validity of the Prospective Petition, the validity of the
13 certification of the Petition, the validity of the recall election, and the authorization
14 and requirement for Nominal Defendants to act as described above. In particular,
15 Claire Syrett for Eugene City Council and Councilor Syrett are entitled to a
16 declaration from this Court declaring the following:

- 17 a. The Prospective Petition is invalid because it contains false
18 statements of material fact in violation of Oregon law;
- 19 b. The certification of the Prospective Petition was invalid;
- 20 c. The special election to recall Councilor Syrett is invalid;
- 21 d. The Lane County Elections Division is not authorized to mail or
22 count ballots related to the recall election; and
- 23 e. The Eugene City Recorder is not authorized to certify the results
24 of the recall election.
- 25
- 26

1 **CLAIM FOR ATTORNEYS' FEES**

2 59.

3 The Candidate Committee has been required to incur costs and pay attorneys
4 to protect its rights and to protect the integrity of the electoral process in this
5 matter and is thus is entitled to an award of reasonable attorneys' fees and costs
6 pursuant to ORS 260.532(6).

7 **PRAYER FOR RELIEF**

8 WHEREFORE, Plaintiffs pray for the following relief:

- 9 1. An order enjoining the Lane County Elections Division from taking
10 any further action related to the recall election including the mailing or counting of
11 ballots;
- 12 2. An order enjoining the Eugene City Recorder from certifying the
13 results of any election based on the Petition;
- 14 3. An award of damages of \$2,500, or such amounts as may be proven at
15 trial, in favor of the Candidate Committee and against each of Defendants Recall
16 Claire Syrett; JP Hammer; Meta Maxwell; Gerald Morton; Mark Osterloh; and
17 Eugene Business Alliance, jointly and severally;
- 18 4. An award of their attorneys' fees and costs incurred herein against
19 Defendants Recall Claire Syrett; JP Hammer; Meta Maxwell; Gerald Morton; Mark
20 Osterloh; and Eugene Business Alliance, jointly and severally;

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- 1 5. A judgment making the declarations demanded above; and
2 6. Such other relief as the Court deems just, equitable, and proper.

3 DATED: August 18, 2022.

4 TONKON TORP LLP

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