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

6 **BEVERLY CLARNO, GARY**
7 **WILHELMS, JAMES L. WILCOX, and**
8 **LARRY CAMPBELL,**

Case No. 21CV40180

**REPLY IN SUPPORT OF MOTION TO
AMEND SCHEDULING ORDER**

Petitioners,

v.

9
10 **SHEMIA FAGAN**, in her official capacity as
Secretary of State of Oregon,

11 Respondent.

12 **REPLY IN SUPPORT OF MOTION TO AMEND SCHEDULING ORDER**

13 Petitioners hereby provide this Reply in Support of their Motion to Amend Scheduling
14 Order to address briefly two points raised by Respondent in her Response to that Motion. *See*
15 *generally* Response to Motion to Amend Scheduling Order, *Clarno v. Fagan*, No. 21CV40180
16 (Or. Cir. Ct. Marion Cnty. Oct. 18, 2021) (hereinafter “Response” or “Resp.”).

17 *First*, Respondent contends that when “weighing the equities of any amendment to the
18 scheduling order,” this Court should “consider” that Petitioners filed their Petition “two weeks
19 after the legislation they challenged was enacted.” Resp. at 1. Petitioners are four Oregon
20 residents, Petition ¶¶ 13–16, *Clarno v. Fagan*, No. 21CV40180 (Or. Cir. Ct. Marion Cnty. Oct. 11,
21 2021) (hereinafter “Petition” or “Pet.”), who filed their Petition challenging the unlawful partisan
22 gerrymander of SB 881-A with all due haste, within the statutory period for filing such challenges.
23 *Compare* Pet. at 17 (noting it was filed on October 11, 2021), *with* SB 259-B § 1(2) (“An elector
24 may file a petition in Marion County Circuit Court on or before October 12, 2021[.]”). Petitioners
25 cannot be penalized for following the statutory timeline.

1 *Second*, Petitioners do *not* at all oppose the Court amending its Scheduling Order to set a
2 date for the parties to submit rebuttal evidence. *See* Resp. at 3. Indeed, Petitioners agree that it
3 would be beneficial for this Court to establish such a deadline for rebuttal evidence, and would
4 urge this Court to consider that laudable change as part of an amendment to the Scheduling Order.
5

6 DATED: October 19, 2021.

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1 **CERTIFICATE OF SERVICE**

2 I certify that I served a true and complete copy of the foregoing **REPLY IN SUPPORT**
3 **OF MOTION TO AMEND SCHEDULING ORDER** on the date below as follows:

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