No. 23-35452

IN THE UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MARC THIELMAN, et al., individually and on behalf of all others similarly situated,

Plaintiffs-Appellants,

v.

LAVONNE GRIFFIN-VALADE, in her official capacity as Oregon Secretary of State, et al.,

Defendants-Appellees.

ANSWERING BRIEF OF APPELLEE LAVONNE GRIFFIN-VALADE

Appeal from the United States District Court
for the District of Oregon

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ANSWERING BRIEF OF APPELLEE LAVONNE GRIFFIN-VALADE

STATEMENT OF JURISDICTION

The Secretary of State (the Secretary) agrees with plaintiffs' statement of jurisdiction except to the extent that plaintiffs contend that the district court had subject-matter jurisdiction over claims for which plaintiffs failed to allege cognizable injuries in fact.

STATEMENT OF THE ISSUE

Plaintiffs alleged that Oregon's vote-by-mail and machine-tabulated voting procedures violate their constitutional rights by undermining their and other voters' confidence in Oregon elections. Did the district court correctly conclude that plaintiffs failed to allege a concrete, particularized injury in fact that would establish standing?

STATEMENT OF THE CASE

A. In Oregon, the Secretary of State and county officials accept ballots by mail and count results with vote-tally machines.

As Oregon's chief elections officer, the Secretary oversees voting procedures throughout the state. Or. Rev. St. § 246.110 (identifying Secretary as chief elections officer). Her responsibilities include certifying the vote-tally machines that county election officials use to scan and count paper ballots. Or. Rev. St. § 246.530 (authorizing counties to use vote tally machines); Or. Rev. St. § 246.550 (requiring that Secretary certify the use of vote tally machines).

She also advises, directs, and assists county election officials on registration and election procedures. Or. Rev. St. § 246.120. County election officials, not the Secretary herself, distribute, receive, and count ballots. Or. Rev. St. § 246.200(1); Or. Rev. St. § 254.185.

Oregon uses a vote-by-mail system. Or. Rev. St. § 254.465 (requiring that county election officials conduct all elections by mail and that the Secretary adopt rules for vote-by-mail elections). Oregon statutes and regulations detail the processes and requirements for vote-by-mail elections. *See* Or. Rev. St. § 254.470 (specifying requirements and directing the Secretary to establish rules); Or. Admin. R. 165-007-0030 (establishing the Vote by Mail Manual as procedures for conducting vote-by-mail elections); Or. Admin. R. 165-007-0045 (specifying process for counting ballots by mail).

Oregon law sets forth multiple safeguards to ensure the integrity of elections. For instance, election officials compare ballot-envelope signatures with voter-registration-record signatures. If the signatures do not match, election officials allow up to 14 days after an election to establish that the registered voter cast the ballot. Or. Rev. St. § 254.431(2). In addition, to confirm accurate vote counting, county officials must use only voting equipment certified by the Secretary based on federal testing standards. Or. Rev. St. § 246.550(4); Or. Admin. R. 165-007-0350(1). Other safeguards

include public testing of voting equipment, public audits of election results that compare machine counts with hand counts, automatic hand recounts if candidates' votes are sufficiently close, recounts on demand of candidates or political parties, and election contests in state courts. Or. Rev. St. § 254.525 (public testing); Or. Rev. St. § 254.532 (audits); Or. Rev. St. § 258.280 (automatic recounts for elective offices); Or. Rev. St. § 258.290 (automatic recounts for measures); Or. Rev. St. § 258.161 (recounts by demand); Or. Rev. St. § 258.016 (election-contests authority); Or. Rev. St. § 258.036 (election-contests procedures).

B. Plaintiffs allege that Oregon's voting procedures violate the Fourteenth Amendment.

Plaintiffs sued the Secretary and 12 Oregon counties[1] alleging that defendants violated their due process rights by "deploying voting tabulation systems that are inherently unsecure and vulnerable to manipulation and intrusion." They also alleged that those systems violated their equal protection rights by "using methods and systems that [are] inherently vulnerable and unsecure to manipulation and intrusion [which] causes an unequal tabulation of

[1] Plaintiffs filed an amended complaint joining the 24 other Oregon counties. CR 71. Plaintiffs later voluntarily dismissed the 24 county defendants added in the amended complaint, which the court acknowledged before it ruled on the motion to dismiss. CR 85–86.

votes treating Plaintiffs and Class members who vote differently than other, [and] similarly situated voters who cast ballots in the same election." ER-63–64 (FAC ¶¶ 201, 208–09).

Plaintiffs alleged two kinds of injury: vote dilution and emotional injuries. As for vote dilution, plaintiffs claimed that Oregon voting procedures permit people to cast illegitimate votes that would have the effect of "stealing their votes" and that would "disenfranchise[] plaintiffs" through actual fraud. ER-31, 61 (FAC ¶¶ 91–92, 189). As for emotional injuries, plaintiffs alleged that they felt "despair about the integrity of elections" and that Oregon's voting procedures undermined their "confidence" in Oregon elections, causing many Oregon citizens to "feel that * * * there is no point in voting." ER-46–47 (FAC ¶¶ 140–41). Plaintiffs requested a declaration that vote-by-mail and electronic voting-tabulating systems violated the constitution and sought an injunction that would prevent defendants from using such systems in future elections. ER-64–65 (FAC ¶¶ 211, 214, 216).

All parties consented to magistrate judge jurisdiction. CR 56. The Secretary filed a motion to dismiss, joined by the county defendants, arguing that plaintiffs failed to establish standing under Federal Rule of Civil Procedure 12(b)(1) and failed to state a claim under Federal Rule of Civil Procedure 12(b)(6). *See* CR 73.

C. The district court dismissed plaintiffs' complaint for failure to establish a particularized, concrete injury in fact.

The district court (acting through the magistrate judge) granted defendants' motion to dismiss based on plaintiffs' failure to establish standing. ER-7–12. First, the district court determined that plaintiffs' alleged injury was not "particularized to the plaintiffs in this litigation." ER-8 (citing *Spokeo, Inc., v. Robins*, 578 U.S. 330, 339 (2016)). Indeed, plaintiffs had conceded that they were alleging a grievance shared "by all of Oregon's citizens" as part of a "statewide issue." ER-8 (noting that plaintiffs had "acknowledged at oral argument that their grievances are generalized, but stand by their argument that the alleged injury conferring standing here is the 'lack of confidence in the integrity of Oregon's election system'"); *see* Tr 40 (plaintiffs conceding that claims were "generalized grievance[s]" but arguing that the claims were "very unique" and raised matters of first impression)).

Second, the district court concluded that plaintiffs had alleged an injury that was "too speculative to establish an injury in fact, and therefore standing." ER-10–12 (internal citation omitted)). In support of that determination, the court cited cases across several jurisdictions concluding that the speculative risk of voter fraud did not confer standing on plaintiffs who challenge voting systems. ER-10–12.

STANDARD OF REVIEW

This court reviews *do novo* the district court's conclusion that plaintiffs failed to establish standing. *Johnson v. City of Grants Pass*, 72 F.4th 868, 881 (9th Cir. 2023).

SUMMARY OF ARGUMENT

The district court correctly dismissed plaintiff's complaint for lack of standing. Plaintiffs have openly conceded that their claims are general grievances shared in common with any other Oregon voter. Generalized grievances do not establish a particularized injury in fact. Even plaintiffs acknowledged that Article III's generalized-grievances doctrine foreclosed their allegations of injury. They simply requested that the district court recognize a special exception to that doctrine for claims of election fraud. Neither the district court nor this court can help them on that front. Those problems aside, plaintiffs have alleged only subjective disappointment about the security of Oregon elections and advanced only speculative theories of vote dilution. Such claims do not establish a concrete injury personal to plaintiffs. The district court correctly concluded that those allegations do not establish injury in fact. This court should affirm.

ARGUMENT

A. To establish standing, a party must allege facts showing a particularized, concrete injury in fact.

Plaintiffs have the burden of establishing Article III standing—that is, that they "have (1) suffered an injury in fact, (2) that is fairly traceable to the challenged conduct of the defendant, and (3) that is likely to be redressed by a favorable judicial decision." *NEI Contracting & Eng'g, Inc. v. Hanson Aggregates Pac. Sw., Inc.*, 926 F.3d 528, 532 (9th Cir. 2019) (quoting *Spokeo*, 578 U.S. at 338). "[P]laintiffs must demonstrate standing for each claim that they press and for each form of relief that they seek * * *." *TransUnion LLC v. Ramirez*, 141 S. Ct. 2190, 2208 (2021). The lack of Article III standing requires dismissal for lack of subject-matter jurisdiction. *Shulman v. Kaplan*, 58 F.4th 404, 408 n.1 (9th Cir. 2023) (citing *Maya v. Centex Corp.*, 658 F.3d 1060, 1067 (9th Cir. 2011)).

An "injury in fact" is the violation of a legally protected interest which is (a) concrete and particularized, and (b) "actual or imminent, not 'conjectural' or 'hypothetical.'" *Lujan v. Def. of Wildlife*, 504 U.S. 555, 560 (1992). "[A] plaintiff cannot establish standing by asserting an abstract 'general interest common to all members of the public,' 'no matter how sincere' or 'deeply committed' a plaintiff is to vindicating that general interest on behalf of the public." *Carney v. Adams*, 141 S. Ct. 493, 499 (2020) (quoting *Hollingsworth*

v. Perry, 570 U.S. 693,706–707 (2013)). In addition, "[a] 'concrete' injury must be '*de facto*'; that is, it must actually exist." *Spokeo*, 578 U.S. at 340.

A plaintiff bears the burden of persuasion to establish subject-matter jurisdiction. *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). To resolve any factual disputes about subject-matter jurisdiction, a court may consider evidence outside the pleadings. *Robinson v. United States*, 586 F.3d 683, 685 (9th Cir. 2009); *see also Dreier v. United States*, 106 F.3d 844, 847 (9th Cir. 1996) (a challenge to the court's subject-matter jurisdiction under Rule 12(b)(1) may rely on affidavits or any other evidence properly before the court).

B. Plaintiffs did not allege facts establishing a particularized, concrete injury in fact.

For two reasons, the district court correctly concluded that plaintiffs failed to establish standing. First, plaintiffs did not allege a particularized injury, but only a generalized grievance, an allegation that even plaintiffs conceded was insufficient to establish standing under current case law. Second, plaintiffs alleged a purely speculative injury when they asserted that Oregon election procedures might lead to vote dilution and a noncognizable injury when they claimed subjective disappointment in those procedures. For either of those reasons, the district court correctly dismissed plaintiffs' complaint for lack of subject-matter jurisdiction.

1. Plaintiffs failed to show a particularized injury.

To allege a cognizable injury, plaintiffs must plead sufficient facts and proof that they have actually suffered an "invasion of a legally protected interest" that is "particularized," *i.e.*, which "affect[s] the plaintiff in a personal and individual way." *Gill v. Whitford*, 138 S. Ct. 1916, 1929 (2018). Voters asserting the violation of their constitutional rights must establish that they have "a personal stake in the outcome, distinct from a generally available grievance about government." *Id.* at 1923 (internal citations omitted).

In this case, plaintiffs claim no personal stake in the outcome. Indeed, they allege no facts suggesting that their own voting rights have been injured. They do not allege, for instance, that election officials denied them their right to vote. Instead, plaintiffs assert general concerns about what they perceive as a lack of election integrity. But those assertions do not establish standing. The Supreme Court has "consistently held that a plaintiff raising only a generally available grievance about government—claiming only harm to his and every citizen's interest in proper application of the Constitution and laws, and seeking relief that no more directly and tangibly benefits him than it does the public at large—does not state an Article III case or controversy." *Lance v. Coffman*, 549 U.S. 437, 439 (2007) (quoting *Lujan*, 504 U.S. at 573–74). For that reason, only "voters who allege facts showing *disadvantage to themselves as*

individuals have standing to sue." *Baker v. Carr*, 369 U.S. 186, 206 (1962) (emphasis added). Plaintiffs' alleged injuries about their distrust of Oregon's election system are shared with other voters—as plaintiffs readily conceded before the district court, ER-8 (district court describing plaintiffs' concession about asserting injury in common with all other voters during oral argument)). That "kind of undifferentiated, generalized grievance about the conduct of government" is one that courts have consistently "refused to countenance." *Gill*, 138 S. Ct. at 1931 (citing *Lance*, 549 U.S. at 442); *see also Drake v. Obama*, 664 F.3d 774, 782 (9th Cir. 2011) (affirming dismissal based on lack of standing where a plaintiff showed "no greater stake" in a challenge to President Obama's eligibility for office than "any other United States citizen").

Other circuits have reached similar conclusions in addressing similar theories of injury. *See, e.g.*, *Wood v. Raffensperger*, 981 F.3d 1307, 1314 (11th Cir. 2020) (affirming dismissal based on lack of standing where voter alleged merely that he had an interest in ensuring that only lawful ballots were counted because the allegation amounted to generalized grievance about the proper administration of the law); *Berg v. Obama*, 586 F.3d 234, 240 (3d Cir. 2009) (affirming dismissal based on lack of standing where voter's interest in the "proper application of the Constitution and laws" was shared with all voters and where relief sought would no more benefit plaintiff than any other voter); *Crist*

v. Comm'n on Presidential Debates, 262 F.3d 193, 195 (2d Cir. 2001) (collecting cases and observing that "a voter fails to present an injury-in-fact when the alleged harm is abstract and widely shared or is only derivative of a harm experienced by a candidate"). The weight of authority thus shows that plaintiffs' claims here fail to establish a particularized injury necessary for standing.

2. Plaintiffs failed to show a concrete injury.

Plaintiffs generally allege that Oregon's vote-by-mail and electronic vote-tally systems were susceptible to fraud and thus might deter voters from voting. But those allegations do not establish an actual, concrete injury to plaintiffs. To find injury to plaintiffs, this court would need to imagine a series of speculative events—that third parties were committing widespread fraud, that Oregon statutory and regulatory safeguards would fail to root out such fraud, that plaintiffs recognized that the fraud was significant enough to make their own votes meaningless, that plaintiffs would refrain from voting based on that recognition—all of which requires that kind of conjecture that the Supreme Court forbids in assessing whether plaintiffs have plausibly alleged concrete injury. *Clapper v. Amnesty Int'l USA*, 568 U.S. 398, 414 (2013) (rejecting standing theories that "rest on speculation about the decisions of independent actors").

Plaintiffs also alleged a vote-dilution theory of injury. Under that theory, according to plaintiffs, lawful votes will be canceled by illegal votes. ER-61 (FAC ¶ 189). But that theory, too, depends on a chain of tenuous inferences. For plaintiffs to establish injury in fact on that theory, this court would need to find that they have adequately alleged each step necessary for that harm to occur: (1) other voters are attempting to cast "phantom votes" in Oregon; (2) Oregon's election safeguards fail to prevent or detect the manipulation; and (3) plaintiffs' legitimate votes are diluted by such manipulation. They have not made those allegations. And even if they had adequately described that chain of possible events, "a speculative chain of possibilities does not establish * * * 'certainly impending'" injury of vote dilution. *See Clapper*, 568 U.S. at 414.

To the contrary, as explained above, Oregon has ample safeguards to protect against fraud. For instance, to ensure that only eligible voters cast ballots, only active registered voters receive ballots; every voter signature is checked against a known voter signature; and any elector may challenge any ballot. Or. Rev. St. §§ 254.415(1) (ballot challenges), 254.431(1) (signature verification), 254.470(2)(a) (mailing to active voters); Or. Admin. R. 165-007-0030 (adopting Vote By Mail Procedures Manual). To confirm that ballots are counted accurately, county election officials use only certified systems; maintain those systems under security plans submitted to the Secretary; test the

accuracy of those systems before each election; audit election results by comparing machine counts to hand counts of the ballots after each election; and conduct mandatory recounts in close elections or on the demand of a candidate or party. Or. Rev. St. § 246.550(4) (tally machine certification); Or. Admin. R. 165-007-0350(1) (same); Or. Rev. St. § 254.525 (logic and accuracy testing); Or. Rev. St. § 254.532 (audits); Or. Rev. St. § 258.280–290 (automatic recounts); Or. Rev. St. § 258.161 (recounts on demand). Moreover, the public may observe the election process. Or. Rev. St. §§ 254.415–254.426; Or. Rev. St. § 254.482; Or. Rev. St. § 258.211(2)(a). And a candidate may contest the results of an election in state court. Or. Rev. St. § 258.016; Or. Rev. St. § 258.036.[2]

Because their claims of fraud rest on such tenuous premises, plaintiffs resort to suggesting that the mere "risk" of fraud suffices to establish standing. Op. Br. 16 (describing risks of fraud); ER-33 (FAC ¶ 98 (alleging that registration requirements encourage voter fraud)). But their theory of the risk

[2] Plaintiffs insist that their claims of fraud are not speculative, but based on reports of fraud in other states. Yet even if plaintiffs' conclusory assertions about fraud in other states could be credited on a motion to dismiss, plaintiffs still fail to plausibly allege a link between those kinds of fraud and Oregon voting systems. Indeed, they failed to allege that Oregon uses any of the voting systems that they claim has caused the potential for fraud in other states.

of fraud again trades on pure speculation. They allege, for instance, that election officials fail to make reasonable efforts to remove ineligible voters from the voter rolls, thereby encouraging voter fraud. ER-33 (FAC ¶ 98). Yet plaintiffs do not allege that any person ineligible to vote *did* vote. On their theory, it is only the speculative risk of such an ineligible voter that creates an injury. Again, though, a speculative risk of injury has never been enough to establish an injury in fact. As the United States Supreme Court has explained, "there is a significant difference between (i) an actual harm that has occurred but is not readily quantifiable * * * , and (ii) a mere risk of future harm." *TransUnion LLC v. Ramirez,* 141 S. Ct. 2190, 2211 (2021). In *TransUnion*, for example, the Court found that class members who could not show that a "risk of future harm [had actually] materialized" and who did not present evidence that the class members were independently harmed by their exposure to the risk itself lacked standing. *Id.* So, too, plaintiffs' suspicion that ineligible voters may be casting illegitimate ballots is insufficient for standing because a "'threatened injury must be *certainly impending* to constitute injury in fact'[;] '[a]llegations of *possible* future injury' are not sufficient." *Clapper,* 568 U.S. at 409 (emphasis in original) (quoting *Whitmore v. Ark.*, 495 U.S. 149, 158 (1990)).

Other circuits addressing the same issue have concluded that speculative theories of fraud-based vote dilution cannot establish a concrete injury. *See, e.g.*, *Memphis A. Philip Randolph Inst. v. Hargett*, 978 F.3d 378, 387 (6th Cir. 2020) (affirming dismissal for lack of standing where plaintiffs alleged a violation of their right to vote based on claims that some absentee ballots might be erroneously rejected); *see also Shelby Advocates for Valid Elections v. Hargett*, 947 F.3d 977 (6th Cir. 2020), *cert. denied*, —– U.S. ——–, 141 S. Ct. 257, —– L.Ed. 2d ——– (2020) (affirming dismissal for lack of standing where one organizational plaintiff and four individual plaintiffs alleged "a variety of election administration problems," including that "election workers [were] poorly trained, sometimes distributing the wrong ballots ..., sometimes recording the wrong address when registering a voter, and once distributing a poll book without redacting voters' personal information"); *Berg*, 586 F.3d at 239 (affirming dismissal for lack of standing where voter's theory of injury was based on President Obama's future removal from office because of his ineligibility and thus "was based on speculation" and "contingent on future events").

Finally, plaintiffs failed to establish standing by alleging that they suffered an emotional injury in the form of subjective disappointment about what they perceive as a lack of integrity in Oregon elections. Generally,

negative feelings about a government process or mere knowledge of unlawful activity do not establish injury in fact. *See Valley Forge Christian Coll. v. Americans United for Separation of Church & State, Inc.*, 454 U.S. 464, 485–86 (1982) (concluding that "the psychological consequences" created by "observation of conduct with which one disagrees" is insufficient to confer standing); *Lewis v. Cont'l Bank Corp.*, 494 U.S. 472, 479 (1990) (concluding that case was no longer justiciable where party asserts only an "abstract disagreement" with the constitutionality of an act or rule); *Baker v. USD 229 Blue Valley*, 979 F.3d 866, 874 (10th Cir. 2020) (holding that a plaintiff's "lack of confidence" in a school's exercise of a religious exemption, without evidence of any imminent injury, was insufficient to support standing). *Berg*, 586 F.3d at 240 (reasoning a voter's "wish" that primary voters had chosen another candidate and "dissatisfaction" with the result did not "state a legal harm"); *Gest v. Bradbury*, 443 F.3d 1177, 1182 (9th Cir. 2006) (holding that signature collectors' "feelings of frustration" about election rules were not sufficiently concrete to constitute injury in fact); *Humane Soc. of the United States v. Babbitt*, 46 F.3d 93, 98 (D.C. Cir. 1995) (observing that "general emotional 'harm,' no matter how deeply felt, cannot suffice for injury-in-fact for standing purposes" and collecting cases). Because plaintiffs allege no more than "the

psychological consequence[s]" of conduct or rules with which they disagree, they cannot establish Article III standing.

3. Plaintiffs' contrary arguments do not warrant reversal.

In arguing to the contrary, plaintiffs rely on irrelevant caselaw or portions of nonprecedential orders raising completely different issues. For instance, they cite a single Justice's dissent from a denial of certiorari suggesting broadly that "[e]lections enable self-governance only when they include processes that give citizens (including the losing candidates and their supporters) confidence in the fairness of the election" and portions from a *per curiam* opinion remarking that "[v]oters who fear their legitimate votes will be outweighed by fraudulent ones will feel disenfranchised." (Op. Br. 12–13 (quoting *Republican Party v. Degraffenreid*, 41 S. Ct. 732, 734 (2021) (J. Thomas, dissenting in denial of certiorari) and *Purcell v. Gonzalez*, 549 U.S. 1, 4 (2006) (*per curiam*)). Even more remarkably, plaintiffs cite *Brown v. Board of Education*, 347 U.S. 483 (1954), for the proposition that "feelings" may sometimes establish a personal and concrete injury. (Op. Br 14).

But plaintiffs confuse *dicta* in cases involving entirely different issues—the balance of equities in issuing injunctive relief shortly before an election (*Purcell*), the discretionary decision not to intervene in a moot case to resolve temporary but potentially unclear election rules (*Degraffenreid*), and the denial

of equal educational opportunities based on racial classifications (*Brown*)—with the standard for establishing injury in fact. To establish injury in fact, this court must "assess whether the alleged injury to the plaintiff has a 'close relationship' to a harm 'traditionally' recognized as providing a basis for a lawsuit in American courts." *TransUnion*, 141 S. Ct. at 2204 (quoting *Spokeo*, 578 US at 341). And although certain intangible harms can be concrete—such as reputational harms or the disclosure of private information—emotional harm arising from general skepticism or lack of confidence because of a risk of some future harm is not among them. *See, e.g.*, *Baker*, 979 F.3d at 874 (rejecting "lack of confidence" about government process as ground for standing); *Gest*, 443 F.3d at 1182 (rejecting claim that "feelings of frustration" by signature collectors established injury in fact); *Garland v. Orlans, PC*, 999 F.3d 432, 439 (6th Cir. 2021) (explaining that a general allegation of emotional harm is not a cognizable tort injury); *Restatement (Second) of Torts* § 46 cmt j (1965) ("The law intervenes only where the distress inflicted is so severe that no reasonable man could be expected to endure it.").

In response to the district court's reasoning showing that plaintiffs failed to allege a personalized, concrete injury, plaintiffs' primary response is to assert that their alleged injury is a "crisis of confidence" in the election system. (Op. Br. 39, 41). But plaintiffs do not explain, much less cite a case establishing,

how voters' "crisis of confidence" is any more a cognizable injury for purposes of standing than other deeply felt disagreements with government policy. *See Baker*, 979 F.3d at 874 (rejecting "lack of confidence" in government process as basis for standing); *Gest*, 443 F.3d at 1182 (same for "feelings of frustration").

Otherwise, plaintiffs devote large portions of their opening brief to a near-verbatim recitation of the constitutional claims advanced in the district court. (Op. Br. 15–36). This court should ignore those points. Plaintiffs seek only reversal of the district court's ruling that they lacked standing to assert those claims. (Op. Br 5–6 (requesting only that the court reverse the district court's ruling on standing); ER-11 n. 4 (district court clarifying that it could not reach the merits of defendants' Rule 12(b)(6) arguments)). They have failed to identify any grounds for reversal of that ruling.

Put simply, plaintiffs' strong feelings about Oregon elections do not mean that Oregon election laws have harmed them. The district court correctly dismissed their complaint for failure to establish standing.

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CONCLUSION

This court should affirm the district court's judgment.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

Pursuant to Rule 32(a)(7), Federal Rules of Appellate Procedure, I certify that the Answering Brief of Appellee LaVonne Griffin-Valade is proportionately spaced, has a typeface of 14 points or more and contains 4,162 words.

DATED: September 6, 2023

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IN THE UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MARC THIELMAN, et al., individually and on behalf of all others similarly situated, Plaintiffs-Appellants, v. LAVONNE GRIFFIN-VALADE, in her official capacity as Oregon Secretary of State, et al., Defendants-Appellees.	U.S.C.A. No. 23-35452 STATEMENT OF RELATED CASES

Pursuant to Rule 28-2.6, Circuit Rules of the United States Court of Appeals for the Ninth Circuit, the undersigned, counsel of record for Appellee

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LaVonne Griffin-Valade, certifies that he has no knowledge of any related cases pending in this court.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on September 6, 2023, I directed the Answering Brief of Appellee LaVonne Griffin-Valade to be electronically filed with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

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