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

MIKE ERICKSON FOR CONGRESS COMMITTEE, a political committee,	
	Plaintiff,
vs.	
ANDREA SALINAS FOR OREGON COMMITTEE, a political committee, and ANDREA SALINAS, an individual,	
	Defendants.

No. 22CV33968

**DEFENDANTS' SPECIAL  
MOTION TO STRIKE  
AND MOTION FOR  
ATTORNEY'S FEES**

**ORS 31.150 AND ORS 31.152**

**ORAL ARGUMENT  
REQUESTED**

**UTCRC 5.050 STATEMENT**

Defendants request oral argument and estimate 60 minutes will be required. Defendants request official court reporting services.

**MOTIONS**

Pursuant to ORS 31.150, Defendants Andrea Salinas for Oregon Committee and Andrea Salinas move to strike plaintiff Mike Erickson for Congress Committee's sole claim for relief and dismiss this action with prejudice. Pursuant to ORS 31.152(3), Defendants further move for an award of their reasonable attorney's fees and costs.

**INTRODUCTION**

In 2016, law enforcement stopped U.S. Congressional Candidate Michael Erickson on suspicion of driving while under the influence of intoxicants. Erickson failed a field sobriety test and a breathalyzer. Law enforcement officers subsequently discovered oxycodone in his possession. Law enforcement records show that officers "charged" Erickson with both DUI

1 and felony possession of a controlled substance. Earlier this year, Andrea Salinas' campaign  
2 committee (the "Committee") ran a television ad truthfully recounting these facts and citing  
3 the underlying law enforcement records (the "Ad"). Instead of honestly addressing his mistakes  
4 with the public, Erickson filed this lawsuit in an attempt to silence and harass Salinas and her  
5 campaign.

6 The First Amendment does not permit Erickson to silence his political opponent. The  
7 U.S. Supreme Court has long recognized that "[d]iscussion of public issues and debate on the  
8 qualifications of candidates are integral to the operation of the system of government  
9 established by our Constitution. The First Amendment affords the broadest protection to such  
10 political expression[.]" *Buckley v. Valeo*, 424 US 1, 14 (1976). Oregon's anti-SLAPP law, ORS  
11 31.150, gives teeth to this constitutional commitment, safeguarding those who speak out on  
12 matters of public interest from attempts to silence them through litigation. Because the Ad is  
13 core First Amendment expression, entitled to the broadest possible protection, and because it  
14 is true and based on undisputed law enforcement records, this Court should grant this anti-  
15 SLAPP motion, dismiss Erickson's vexatious lawsuit, and award Salinas and the Committee  
16 their attorney's fees.

## 17 BACKGROUND

### 18 A. Erickson's 2016 arrest: law enforcement records indicate a "charge" of 19 Felony Unlawful Possession of Oxycodone.

20 In September 2016, Mike Erickson was arrested for driving while under the influence  
21 of intoxicants ("DUII"). See Declaration of Shannon Geison ("Geison Decl."), Exhibits A-C.  
22 As set out in more detail in these exhibits, around 1:40 a.m. on September 17, 2016, Oregon  
23 State Police trooper Jacob Ferrer was patrolling in Hood River when he saw Erickson stumble  
24 out of the Trillium Cafe and climb into the driver's seat of a Ford truck across the street. *Id.*,  
25 Ex. A at 1. After pulling Erickson over, the officer observed several telltale signs of inebriation,  
26

1 including bloodshot and watery eyes, slurred speech, and the “overwhelming odor of alcohol.”  
2 *Id.* at 1-2. Erickson then failed several elements of a field sobriety test. *Id.* at 2-4.

3         Thereafter, an officer found oxycodone in Erickson’s wallet. Erickson admitted that he  
4 did not have a prescription for this drug, and that he had obtained the oxycodone from his wife,  
5 who is a nurse. *Id.* at 5. The police seized, photographed, and placed the oxycodone into  
6 evidence. Erickson was lodged on both the DUII and unlawful possession of oxycodone. *Id.*  
7 The police completed an official incident report. *Id.*, Ex. B. In that report, the police label  
8 Erickson as “arrested; charged” and list two “charges” arising out of the incident—both DUII  
9 and felony possession of oxycodone. *Id.* at 2.

10         As discussed below, Erickson takes exception to use of the word “charged” in the ad  
11 in question but this is not Defendants’ verbiage—it is how the police reported and described  
12 the matter. Erickson ultimately pled guilty to DUII, and—court records state—the district  
13 attorney’s office “agreed to dismiss felony possession of controlled substance upon tender of  
14 guilty plea” of DUII. *Id.*, Ex. C at 4.

15         **B. Although the Committee’s Ad accurately recounted law enforcement**  
16         **records about Erickson’s 2016 arrest, he nevertheless filed this lawsuit.**

17         Defendant Andrea Salinas is running against Erickson in the 2022 U.S. House of  
18 Representatives election for Oregon’s Sixth District. Her campaign is formally known as the  
19 Andrea Salinas for Oregon Committee. The Committee has aired the Ad in question, which  
20 discussed Erickson’s criminal behavior based upon the official records, including those  
21 attached as Exhibits A-C to the Geison Declaration, as described in the previous section.

22         Erickson responded with this lawsuit. He does not dispute the Ad’s assertions that he  
23 was (a) arrested; (b) did in fact drive under the influence in violation of Oregon law; (c) was in  
24 possession of oxycodone; and that (d) Defendants have the right to publish these statements.  
25 Nor could he. Truth is an absolute defense, *Garrison v. Louisiana*, 379 US 64, 77–78, (1964),  
26

1 and “the constitutional guarantee [of free speech] has its fullest and most urgent application  
2 precisely to the conduct of campaigns for political office.” *Buckley*, 424 US at 15.

3 This explains the exceedingly narrow nature of Erickson’s claim. Erickson brings this  
4 suit over a single word: the Ad’s use of the word “charged” in reference to his drug offense.  
5 The Ad’s on-screen text read “Mike Erickson Charged with Felony Drug Possession,” while  
6 the simultaneous voiceover stated, “Erickson was charged with felony drug possession for  
7 illegal oxycodone.” *See* Compl. ¶ 9. The Ad also displayed the citation to the police record  
8 containing the underlying information about Erickson’s drug offense—Oregon State Police,  
9 Incident Report, Case Number SP16316264. *See* Geison Decl, Ex. D at 1. Erickson claims that  
10 because the district attorney’s office exercised its prosecutorial discretion to forgo filing the  
11 drug possession charge in exchange for Erickson’s guilty plea on the DUII offense, this portion  
12 of the Ad is a “publication of false statement of material fact relating to candidate” in  
13 contravention of ORS 260.532. Erickson brings this suit to force Defendants to “air correction  
14 advertisements” and pay damages of \$800,000.

15 This claim is baseless, and Defendants bring this special motion to strike pursuant to  
16 ORS 31.150 to seek expeditious dismissal and recovery of reasonable attorneys’ fees.

### 17 **LEGAL STANDARD**

18 Courts engage in a two-step burden-shifting process to resolve a special motion to strike  
19 brought under ORS 31.150. *See, e.g., Wingard v. Oregon Fam. Council, Inc.*, 290 Or App 518,  
20 521 (2018). The first step requires Defendants to show that the claims against which the motion  
21 is made arise out of one or more of the protected activities detailed in ORS 31.150(2). *Id.* If  
22 Defendants make this showing, then the burden shifts to the plaintiff to establish that there is  
23 a probability that the plaintiff will prevail on the claim by presenting evidence to support a  
24 prima facie case. *Id.*; ORS 31.150(3). To present a prima facie case under ORS 260.532,  
25 Plaintiff must show that Defendants (1) published (2) a false statement (3) of a material fact  
26

1 (4) with knowledge or reckless disregard that it was false. *Bryant v. Recall for Lowell's Future*  
2 *Comm.*, 286 Or App 691, 698 (2017).<sup>1</sup>

### 3 ARGUMENT

4 Oregon's anti-SLAPP law is "to be liberally construed in favor of the exercise of the  
5 rights of expression." ORS 31.152. "When determining the merits of an anti-SLAPP motion  
6 in the context of political advertising," courts "must be vigilant to afford a wide berth to the  
7 free exchange of ideas, including those that challenge or criticize statements made or actions  
8 taken by candidates seeking elected office," *Issa v. Applegate*, 31 Cal App 5th 689, 704, 242  
9 Cal Rptr 3d 809, 821 (2019);<sup>2</sup> *see also N.Y. Times Co. v. Sullivan*, 376 US 254, 271–72 (1964)  
10 ("erroneous statement is inevitable in free debate, and [] it must be protected if the freedoms  
11 of expression are to have the breathing space that they need \* \* \* to survive."). Although  
12 "many political campaigns are mean-spirited affairs," it nevertheless remains that "to ensure  
13 the preservation of a citizen's right of free expression, we must allow wide latitude." *Beilenson*  
14 *v. Superior Ct*, 44 Cal App 4th 944, 955, 52 Cal Rptr 2d 357, 365 (1996).

#### 15 I. Defendants satisfy their burden to show that Plaintiff's claim arises out of the 16 constitutional right of free speech in connection with public interest issues.

17 A "special motion to strike may be made \* \* \* against any claim in a civil action that  
18 arises out of: \* \* \* (d) Any other conduct in furtherance of the exercise of the \* \* \*

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19  
20 <sup>1</sup> ORS 260.532 purports to regulate speech about political candidates, including federal  
21 candidates who are subject to a federal regulatory scheme. As other courts have recognized  
22 when considering similar laws, this poses serious constitutional concerns, *In Rickert v. State,*  
23 *Public Disclosure Commission*, 161 Wn2d 843, 168 P3d 826 (2007), and questions of federal  
24 preemption. The Court need not address these more complex issues here, as Plaintiff's claim  
fails under ORS 31.150(2). *See State v. Franzone*, 243 Or 597, 601 (1966) (noting "established  
rule that courts will not decide constitutional questions if the case can be properly determined  
on other grounds"). Defendants reserve the right to challenge Plaintiff's claim on these grounds  
should this motion be denied.

25 <sup>2</sup> Because ORS 31.150 was modeled after California's anti-SLAPP law, it "was  
26 intended that California case law would inform Oregon courts regarding the application of  
ORS 31.150 to ORS 31.155." *Page v. Parsons*, 249 Or App 445, 461 (2012); *see also Handy*  
*v. Lake County*, 360 Or 605, 623, n12 (2016) ("California cases decided after 2001 are relevant  
\* \* \* for their persuasive value.").

1 constitutional right of free speech in connection with a public issue or an issue of public  
2 interest.” ORS 31.150(2). Statements “about [a] plaintiff’s candidacy for public office” fall  
3 within this protective scope when, as here, the statement was made “in furtherance of  
4 defendants’ constitutional right to speak” about their opponent’s candidacy. *Wingard*, 290 Or  
5 App at 522. Because Erickson’s candidacy for federal office was an “issue of public interest,”  
6 and the Ad was an exercise of Defendants’ constitutional right to speak about the same,  
7 Defendants satisfy the first step of the burden-shifting framework under ORS 31.150. Nothing  
8 in Erickson’s complaint suggests he disputes this point.

9 **II. Plaintiff cannot present substantial evidence of a prima facie case to establish a**  
10 **probability of prevailing on his claim.**

11 Because Defendants satisfy their burden on the first step of the analysis, the burden  
12 shifts to Erickson to “establish that there is a probability that [he] will prevail on the claim by  
13 presenting substantial evidence to support a prima facie case.” ORS 31.150(3). In making this  
14 determination, “the court shall consider pleadings and supporting and opposing affidavits  
15 stating the facts upon which the liability or defense is based.” ORS 31.150(4). The relevant  
16 facts and legal framework make it impossible for Erickson to satisfy his burden.

17 **A. Plaintiff cannot present substantial evidence of falsity.**

18 Oregon courts have created a standard, under ORS 260.532, which allows for the  
19 constitutionally-required free speech breathing space. The Supreme Court of Oregon has “held  
20 consistently that statements are not ‘false,’ as that term is used in ORS 260.532(1), if *any*  
21 *reasonable inference* can be drawn from the evidence that the statement is factually correct”[.]”  
22 *Comm. of One Thousand to Re-Elect State Senator Walt Brown v. Eivers*, 296 Or 195, 202  
23 (1983) (emphasis added). If the test was instead whether the statement was “well founded,”  
24 then “courts would become censors of political campaigns and would be called upon to judge  
25 the reasonableness of all campaign statements and the possible inferences to be drawn  
26 therefrom.” *Eustace v. Speckhart*, 14 Or App 485, 4918 (1973) (quoting *Thornton v. Johnson*,

1 253 Or 342, 362, 453 P2d 178, 188 (1969)). The “any reasonable inference” falsity standard  
2 prevents courts from “interfer[ing] in the political process”—something courts are “most  
3 reluctant to do.” *Id.* That is to say, Erickson must do something more than point to one possible  
4 interpretation of the disputed language in the Ad under which that language would be “false”—  
5 he must show that there is *no reasonable inference* that can be drawn that it is true.

6 Erickson cannot present substantial evidence to show the Ad’s assertion that he was  
7 “charged with felony drug possession of illegal oxycodone” is false under this standard. A  
8 “reasonable inference \* \* \* of correct fact can be drawn” from Defendants’ use of the word  
9 “charged” in context. *Eustace*, 14 Or App at 491. The incident report lists “Possession of  
10 oxycodone” under the header “Charges/Pending Charges” with a notation of “Fel. C” and a  
11 “Charge Date” of 09/17/2016. Geison Decl, Ex. B at 4. The record also lists Erickson’s  
12 classification as “Arrested; Charged.” *Id.* This record contains each of the facts underlying the  
13 challenged statement in Defendants’ Ad: police identified two “charges,” one was a drug  
14 charge, it was a felony offense, and it was for possession of oxycodone. This portion of the  
15 incident report is excerpted below, and a full copy is attached as Exhibit B to the Geison  
16 Declaration.

17 Classification: Arrested; Charged; Driver

18 **Charges/Pending Charges:**

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- 19
- 20 • **475.834 Possession of Oxycodone** (Fel, C); Status: Cleared by Arrest (OSP); Offense Date:  
09/17/2016; Charge Date: 09/17/2016; Offense Location: EUGENE ST and SERPENTINE RD,  
HOOD RIVER OR USA (Beat: TDO, Region: ER)
  - 21 • **813.010 DUII - Alcohol** (Misd, A); Status: Cleared by Arrest (OSP); Offense Date: 09/17/2016;  
22 Charge Date: 09/17/2016; Offense Location: EUGENE ST and SERPENTINE RD, HOOD RIVER  
OR USA (Beat: TDO, Region: ER)

23 Erickson’s position is that because the district attorney’s office chose not to prosecute  
24 the drug offense—the prosecutor chose not to *file* that charge against Erickson—the Ad is  
25 false. This is incorrect.

1 First, the Ad does not say that the “district attorney’s office” charged Erickson or that  
2 charges were “filed.” It says, citing the law enforcement records quoted above, that Erickson  
3 “was charged” with illegal possession of oxycodone. Second, as reflected by the fact that *the*  
4 *state patrol itself says it charged Erickson with unlawful possession*, the common usage of  
5 “charged” extends beyond a single technical legal definition in the prosecutorial context.  
6 According to Webster’s Third New International Dictionary, “charge” means, among other  
7 things, “to bring an accusation against.” Webster’s Third New Int’l Dictionary 377 (unabridged  
8 ed 2002). Here, the Oregon State Patrol did just that—having found Erickson in possession of  
9 oxycodone without a prescription, it charged him with—it accused him of—unlawful  
10 possession of oxycodone. *See* Ex. B at 2.

11 The Oregon State Patrol’s terminology is not unusual; courts themselves often refer to  
12 police officers “charging” suspects or bringing “charges.”<sup>3</sup> And Defendants reviewed more  
13 than the incident and DUII reports before publishing the statement. The plea petition includes  
14 that the prosecutor “has agreed to dismiss felony possession of controlled substance upon  
15 tender of guilty plea,” Ex. C at 4, and Webster’s Third New International Dictionary defines  
16 “dismiss” in part as “to put (a legal action or a party) out of judicial consideration.” Webster’s  
17 Third New Int’l Dictionary 652 (unabridged ed 2002). The most logical way to read that  
18 sentence is that the district attorney’s office agreed not to pursue the drug charge in court in  
19 exchange for the DUII guilty plea. If, as Erickson claims, his drug offense was never charged,  
20 there would have been nothing to dismiss.

21  
22 <sup>3</sup> *See, e.g., State v. Johnson*, 335 Or 511, 514 (2003) (“Two months later, as defendant  
23 was being released in the probation matter, Salem police *charged* him with the Thompson  
24 murder and booked him at the Marion County Jail.”) (emphasis added); *Scutella v. Cousins*,  
25 811 Fed Appx 110, 115 (3d Cir 2020) (“[t]he *officers thus had probable cause*  
26 *to charge* Scutella with making a false report and unsworn falsifications”) (emphasis added);  
*Carpenter v. Chard*, 492 F Supp 3d 321, 326 (D NJ 2020) (“Chard drafted a police  
investigation report which in part stated: ‘The defendant was arrested, processed, and  
*charged*’)” (emphasis added); *Rouch v. Enquirer & News of Battle Creek*, 398 NW 2d 245,  
246 (Mich 1986) (“A standard incident report prepared by the Bedford Township Police  
Department indicated \* \* \* that the ‘*charge*’ was ‘CSC in the 1st degree’)” (emphasis added).



1 To be sure, ultimately prosecutors have discretion, and it is the district attorney’s office  
2 that chooses whether to proceed with criminal prosecution. District attorneys can choose to  
3 forgo filing criminal charges or choose to file charges other than what the police have identified  
4 in the course of their investigation. All of this is true, and all of this is immaterial. The test is  
5 not whether a person viewing the Ad could glean one possible meaning of the Ad’s text that  
6 would be false. Nor is the test whether Defendants could have been clearer in their word choice.  
7 As the U.S. Supreme Court has held, “it is irrelevant whether trained lawyers or judges might  
8 with the luxury of time have chosen more precise words.” *Air Wis. Airlines Corp. v. Hoeper*,  
9 571 US 237, 255 (2014); *see also Lawrence v. Altice USA*, 841 F App’x 273, 275–76 (2d Cir  
10 2021) (a “defendant’s characterization of criminal allegations” not false even if it “does not  
11 satisfy a fussy insistence upon literal accuracy.”). Here, Defendants’ use of “charged” in the  
12 Ad mirrored the “charges” language in the official incident report. The Ad is true. At the very  
13 least, the Ad is “not ‘false,’ as that term is used in ORS 260.532(1)” because it is plain that a  
14 “reasonable inference can be drawn from the evidence that the statement is factually correct[.]”  
15 *Comm. of One Thousand to Re-Elect State Senator Walt Brown*, 296 Or at 202 (emphasis  
16 added).

17 To the extent this Court nonetheless finds use of “charged” in the Ad to be false, the  
18 question then becomes whether it was a “false statement of *material fact*.” ORS 260.532(1)  
19 (emphasis added). In other words, the Court must decide whether the use of the term “charged”  
20 instead of “booked for” or “accused by police of” was something that could prejudice Erickson.  
21 In *Eustace v. Speckhart*, the Court of Appeals found that a statement that was, in fact,  
22 inaccurate, was nevertheless not a false statement within the meaning of ORS 260.532(1)  
23 because the court could “not see how respondents’ asserted interests could have been  
24 prejudiced by this error.” 14 Or App at 491. Here, using “charged” instead of “booked for” or  
25 “accused by police of” is not more prejudicial to Erickson and is therefore not a false statement  
26 of material fact. The distinction between what police accuse and how prosecutors file formal

1 charges regarding is inside legal baseball that can scarcely be said to be meaningful to the  
2 general public.

3 Erickson will not be able to offer substantial evidence to argue otherwise.

4 **B. Plaintiff cannot present substantial evidence of Defendants’ knowledge or**  
5 **reckless disregard of falsity because they believed the statement was true.**

6 Even if the Ad were false, Erickson must—and cannot—present substantial evidence  
7 to show it was probable that Defendants knew or recklessly disregarded the truth when  
8 publishing the Ad. Defendants relied on official police records in making the statement and  
9 believed it was true to say Erickson was charged with the drug offense.

10 Reckless conduct amounting to actual malice “is not measured by whether a reasonably  
11 prudent man would have published, or would have investigated before publishing.” *St. Amant*  
12 *v. Thompson*, 390 US 727, 731 (1968). Rather, “‘knowledge’ or ‘reckless disregard’ is a  
13 subjective matter, a question of state of mind, quite distinct from any question of objective  
14 reasonableness or prudence.” *McNabb v. Oregonian Pub. Co.*, 69 Or App 136, 141 (1984).  
15 Malice may not be inferred from the fact of defamatory publication alone, or from the mere  
16 fact that the accusations are of a serious nature. *Id.* at 140. The Court of Appeals has, on at  
17 least one occasion, reversed the lower court’s denial of an anti-SLAPP motion brought to strike  
18 an ORS 260.532 claim when the plaintiff “failed to present sufficient evidence from which a  
19 reasonable factfinder could find that defendants knew that [their] assertions were false at the  
20 time the defendants published their statements.” *Wingard*, 290 Or App at 524 (parentheticals  
21 omitted). The relevant inquiry is about what Defendants subjectively thought at the time they  
22 published the Ad.

23 The Court is allowed to consider declarations in deciding this motion, ORS 31.150(4),  
24 and Defendants submit the sworn declarations of Andrea Salinas and campaign manager  
25 Shannon Geison. Geison explains that the Committee obtained and reviewed public records  
26 regarding Erickson’s 2016 arrest. Geison Decl, ¶ 6. Given that these records stated that

1 Erickson was “charged” with illegal possession of oxycodone, the Committee believed that  
2 Erickson was “charged” with illegal possession of oxycodone when it included that fact in the  
3 Ad. *Id.* at ¶ 8. Specifically, Geison declares under penalty of perjury that the Committee  
4 reviewed the incident and DUII reports as well as the plea petition and understood that listing  
5 “Possession of oxycodone” under “Charges” signified that Erickson was charged with the  
6 felony drug offense during his arrest, and Defendants used the term “charged” consistent with  
7 that understanding. *Id.* The Committee also believed that the district attorney’s decision to  
8 “dismiss felony possession of controlled substance upon tender of guilty plea” meant that there  
9 was a charge levied but ultimately not pursued in court. *Id.* Salinas, who approved the Ad,  
10 declares that she had the same understanding and belief regarding the Ad’s accuracy. Salinas  
11 Decl, ¶¶ 5-7.

12 There is no “substantial evidence” Erickson could possibly present to rebut Defendants’  
13 sworn statements describing their subjective intent at the time the Ad was published.

14 Instead, Erickson’s complaint alleges that Defendants were contacted by the Hood  
15 River district attorney’s office about the Ad and told that Plaintiff was not charged with  
16 possession of drugs. But for multiple reasons, this allegation cannot possibly constitute the  
17 “substantial evidence” Erickson needs to present a prima facie case of Defendants’ knowledge  
18 of falsity. First, what matters is what Defendants knew “at the time” they published the  
19 statement, not what they were told after. *Wingard*, 290 Or App at 524. The Hood River district  
20 attorney did not speak with the Committee until *after* the Ad had already been published.  
21 Geison Decl, ¶ 13. Second, the district attorney stated only that the district attorney’s office  
22 did not file charges against Erickson. *Id.* Whether the district attorney ultimately *filed* the  
23 charge against Erickson is, as explained above, irrelevant; the Ad does not claim that the  
24 district attorney filed charges against Erickson. *Id.* Defendants used the term “charged” to  
25 mean that Erickson was arrested by police for an offense listed under “Charges” in the official  
26

1 incident report, which is why they referenced that report in the Ad itself. Geison Decl, Ex. B  
2 at 2, Ex. D at 1.

3 **III. The Court should award Defendants their reasonable attorney fees and costs.**

4 ORS 31.152(3) provides that “[a] defendant who prevails on a special motion to strike  
5 made under ORS 31.150 shall be awarded reasonable attorney fees and costs.” For the reasons  
6 stated above, the Court should grant Defendants’ special motion to strike under ORS 31.150.  
7 Accordingly, the Court must also award Defendants their attorney’s fees and costs.

8 **CONCLUSION**

9 For the foregoing reasons, Defendants respectfully request that this Court grant their  
10 ORS 31.150 special motion to strike, dismiss Plaintiff’s Complaint, and award them their  
11 reasonable attorney’s fees and costs pursuant to ORS 31.152(3).

12 DATED this 2nd day of November, 2022.

13 MARKOWITZ HERBOLD PC

14 By: *s/ Harry B. Wilson*

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*Attorneys for Defendants Andrea Salinas for  
Oregon Committee and Andreas Salinas*

*\*Pro Hac Vice Applications Forthcoming*

**ATTORNEY CERTIFICATE OF SERVICE**

I hereby certify that on November 2, 2022, I have made service of the foregoing **DEFENDANTS' SPECIAL MOTION TO STRIKE AND MOTION FOR ATTORNEY FEES** on the party/ies listed below in the manner indicated

Jill O. Gibson  
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- U.S. Mail
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- Odyssey File & Serve™

DATED this 2nd day of November, 2022.

*s/ Harry B. Wilson*

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Of Attorney for Defendants

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