OFFICE OF THE SECRETARY OF STATE

BEV CLARNO
SECRETARY OF STATE

A. RICHARD VIAL
DEPUTY SECRETARY OF STATE

ELECTIONS DIVISION
STEPHEN TROUT
DIRECTOR

255 Capitol Street NE
Salem, Oregon 97310
Information (503) 986-1518

Fax 503-373-7414
sos.oregon.gov/elections

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The following statement is from Secretary of State Bev Clarno:

In September, I rejected initiative petitions 35, 36, and 37 because I believed these petitions violated the single subject rule of the Oregon Constitution. That decision was challenged in court and today the court has ruled in our favor.

I did not feel it was appropriate to publicly comment on this litigation prior to the judge's decision. Now that the court has issued its ruling, I would like to address some of the inaccuracies I have noticed in media coverage of the case.

The Secretary of State is granted exclusive authority to determine whether initiative petitions have followed the required constitutional process. Initiative petitions are often found to violate the constitutional process. Since 1994, more than 180 initiatives have been rejected because they failed to follow the constitutional process.

On October 2, 2019, the petitioners filed three new petitions that removed the sections I had identified as violating the constitutional process. Those petitions are currently active and moving through the process.

On October 14, 2019, I was notified by the Department of Justice that a complaint had been filed in Marion County Circuit Court challenging my decision. My office authorized the Department of Justice to accept the filing of the complaint, and we scheduled a meeting to discuss the case and our options for October 21.

Unbeknownst to me, the Department of Justice had apparently worked with the plaintiff to set a schedule of dates, which included a hearing on November 14 and a deadline for my response brief on November 6. I had no involvement in setting these dates, which were unacceptable to my office given the fact that an election involving over 1.7 million Oregonians was taking place on November 5, making the November 6 deadline virtually impossible.

On October 21, we attended the meeting with the Department of Justice to discuss the case. In attendance were myself, the Deputy Secretary, the Elections Director, the Deputy Attorney General, Special Counsel to the Attorney General, and an Assistant Attorney General.

To our surprise, the Department of Justice quickly made clear their position that winning this case was unlikely — a dramatic departure from their opinion only a few weeks prior that the case was a close call. The Department of Justice further advised we should drop the case and reinstate the initiatives and presented me with a form to sign that would give the department complete and full authority to settle the matter without my consent. I refused to sign this form.

I then asked if I could hire my own lawyer to represent me, since it was evident the Department of Justice was not going to vigorously defend me in court. That request was met with an immediate and absolute "no." The department insisted it was my lawyer and would be the only one to represent me.

I was extremely concerned by this attitude. I believe it is my duty as Secretary of State to protect the voters from having to vote on overly complicated ballot initiatives, which is why I felt it appropriate to defend the case in court. I therefore decided to contact Attorney General Rosenblum directly with my request to hire independent counsel. I also began the process of inquiring of lawyers with experience in single subject litigation in order to expedite the process, given the short timeline already set with the court.

On October 23, I decided the best course of action was to hire independent counsel after determining there were qualified attorneys with experience in the single subject rule that were available and interested in representing us.

On October 24, we again spoke with representatives of the Department of Justice and requested they stop all work on the case, since I decided I would be pursuing the matter with independent counsel. The following morning, October 25, I received approval from Attorney General Rosenblum to move forward with my own counsel.

A contract was negotiated with Schwabe, Williamson & Wyatt and signed on October 31. It was important to me to hire this firm, and W. Michael Gillette in particular, because, as a former Justice of the Oregon Supreme Court, he had extensive experience and knowledge of the single subject rule. It was my urgent desire to protect the voters and I wanted the best attorney with experience to defend this in court.

An article was published in the Oregonian on October 30 which claimed that Attorney General Rosenblum had declined to represent us in this case. The article attributes quotes from Attorney General Rosenblum saying: “I do not believe there is any compelling reason to argue for a change in the current law.” First, this misconstrued the situation as we understood it, given the shifting stances by the Department of Justice in our discussions with them. But more importantly, it is inappropriate for an attorney to comment publicly on pending litigation, given the remarks could potentially influence the case in violation of the Oregon Rules of Professional Conduct (1.9(c) and 3.6). Furthermore, I believe it is in violation of our attorney-client privilege with the Department of Justice — a privilege which applies even after the department stopped work on the case.

We inquired of the Department of Justice as to whether Attorney General Rosenblum had, in fact, made the quotes and, if so, would she be retracting them. The department refused to answer this inquiry and, to our knowledge, no such retraction was issued.

Public officials and agencies should be able to rely upon the counsel and advice provided by the Department of Justice and trust that litigation will be handled appropriately and ethically. Oregonians should know their public officials will conduct themselves in a professional and ethical manner and act with the highest integrity. Although the actions of the Department of Justice made it unnecessarily difficult to mount a defense in this case to protect the voters, I am grateful to the Schwabe firm for their willingness to quickly jump in and put forth the vigorous argument this case deserved.