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FILED
JEFFERSON COUNTY
2006 AUG 28 PM 4:05
CIRCUIT COURT
STATE OF OREGON

**IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF JEFFERSON**

STATE OF OREGON ex rel, FANNIE
REGNIER,

Relator,

vs.

KATHY MARSTON,

Defendant.

Case No. 06CU 2096

PEREMPTORY WRIT OF
MANDAMUS

A Petition for Peremptory Writ of Mandamus has been filed alleging the following facts
(paragraphs 1-18):

1

The Oregon Secretary of State has issued a Recall Manual. Said Recall Manual included approved forms, including an approved form for gathering signatures – said form is SEL 351. The version of form SEL 351 that is incorporated in the 2006 Recall Manual as a perforated page was revised in January 2006.

2

On or shortly before June 26, 2006, relator submitted to defendant Exhibit 1 for the approval of form required by the Recall Manual at page 7.

3

On July 3, 2006, Defendant approved relator's form as indicated by defendant having inserted

1 onto the form (and Exhibit 1) the petition ID found in the upper right hand corner of the form and
2 as indicated by the first paragraph of defendant's August 22, 2006 letter to relator, a copy of
3 which is marked "Exhibit 2," is attached hereto, and like all other exhibits attached hereto is by
4 this reference made a part hereof.

5 4

6 The Oregon Secretary of State revised the SEL 351 signature form in May 2006. The only
7 difference between the January 2006 SEL 351 form and the May 2006 SEL 351 form is the
8 words at the bottom left hand corner of the form. The January version says, "circulator
9 signature." The May version says, "signature of county elections official."

10 5

11 Exhibit 1, the form approved by defendant on July 3, 2006, contains the January 2006 words
12 "circulator signature" instead of the May 2006 words, "signature of county elections official."

13 6

14 Relator collected signatures on forms identical to Exhibit 1 and submitted some of them to
15 defendant for verification on August 18, 2006.

16 7

17 By letter dated August 22, 2006 (Exhibit 2), defendant rejected said signatures because they
18 were not on May 2006 SEL form 351.

19 8

20 Relator obtained her Recall Manual from defendant or defendant's employees. The Recall
21 Manual defendant distributed to the public and to relator included the January 2006 SEL 351
22 form and it included an insert which included the May 2006 SEL 351 form. In other words,
23 neither defendant nor her employees removed the January 2006 SEL 351 form before distributing
24 the 2006 Recall Manual.

25 9

26 Defendant's August 22, 2006 letter to relator (Exhibit 2) references earlier letters defendant

1 into the form (and Exhibit 1) the position ID found in the upper right hand corner of the form and
2 as indicated by the first paragraph of defendant's August 22, 2006 letter to relator, a copy of
3 which is marked "Exhibit 1," is attached hereto, and like all other exhibits attached hereto is by
4 this reference made a part herof.

5

6 The Oregon Secretary of State revised the SCL 151 signature form in May 2006. The only
7 difference between the January 2006 SCL 151 form and the May 2006 SCL 151 form is the
8 words at the bottom left hand corner of the form. The January version says, "circulate
9 signature." The May version says, "signature of county elections official."

10

11 Exhibit 1, the form approved by defendant on July 3, 2006, contains the January 2006 words
12 "circulate signature" instead of the May 2006 words, "signature of county elections official"

13

14 Relator collected signatures on forms identical to Exhibit 1 and submitted some of them to
15 defendant for verification on August 16, 2006.

16

17 By letter dated August 22, 2006 (Exhibit 2), defendant rejected said signatures because they
18 were not on May 2006 SCL form 151.

19

20 Relator obtained her Recall Manual from defendant or defendant's employees. The Recall
21 Manual defendant distributed to the public and to relator included the January 2006 SCL 151
22 form and it included an insert which included the May 2006 SCL 151 form. In other words,
23 neither defendant nor her employees removed the January 2006 SCL 151 form before distributing
24 the 2006 Recall Manual.

25

26 Defendant's August 22, 2006 letter to relator (Exhibit 2) references earlier letters defendant

1 sent to a person and recall committee different from relator and the recall committee for which
2 relator is the chief petitioner. Defendant sent no such letters to relator or to the treasurer for the
3 recall committee for which relator is the chief petitioner. *See* the affidavits of Fannie Regnier,
4 Mike Alley, and Linda Skavlan.

5 **10**

6 Relator is the chief petitioner for the Recall Bill Bellamy Committee.

7 **11**

8 Defendant is the County Clerk for Jefferson County.

9 **12**

10 Defendant is required to approve properly submitted signature forms for recall efforts.

11 **13**

12 Defendant is required to count signatures provided her by relator when said signatures are on
13 the form approved by defendant.

14 **14**

15 Defendant is required to verify that the signatures provided her by relator are from registered
16 voters registered to vote in Jefferson County.

17 **15**

18 When defendant has determined that relator has provided her with enough signatures of
19 registered voters of Jefferson County to qualify for a recall, defendant is required to notify Bill
20 Bellamy that sufficient signatures have been submitted to qualify for a recall.

21 **16**

22 If Bill Bellamy does not resign, defendant is then required conduct a recall election.

23 **17**

24 Relator is entitled to an award of costs and attorney fees should defendant file a false return.
25 ORS 34.210(1). Relator is entitled to an award of costs and attorney fees when she becomes the
26 prevailing party. ORS 34.210(2).

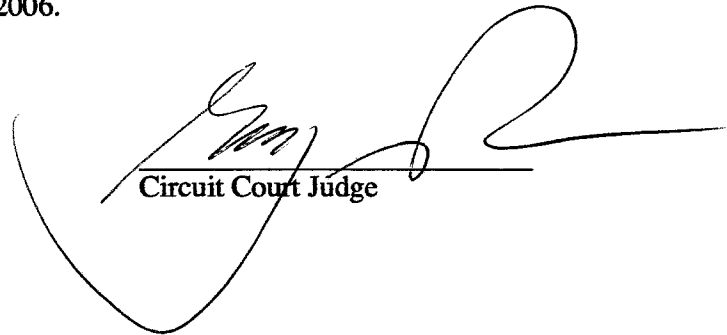
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This Court is empowered to fine defendant. ORS 34.230.

Command

Defendant is hereby commanded to perform her duty to count and verify the validity of the signatures provided her by relator on forms similar to Exhibit 1. *or show cause why she should not be compelled to do so*

Dated this 28 day of August 2006.



Circuit Court Judge

Petition for Recall Signature Sheet

Do not sign this petition more than once.

One or More **Multiple** petition circulators will be paid. mark one

Fannie E. Regnier
circulator name

petition ID 06-05-RBB
6/26/06
date

This is a recall petition. Signers of this page must be active registered voters in the following county only: Jefferson

Petition for Recall of

Bill Bellamy Jefferson County Commissioner Position #3
name of this public official

6/26/06
prospective petition filed m/d/y

Note: A copy of the petition setting forth the reasons for demanding the recall is printed on the back of this signature sheet. (Oregon Constitution, Article II, §18)

signature

date signed m/d/y

print name

residence address street, city, zip code

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circulator certification This certification must be signed by the circulator!

I hereby certify that every person who signed this sheet did so in my presence, and I believe each person is a qualified voter in the public official's electoral district. (ORS 249.865, ORS 198.430) Warning! Falsely signing this statement may result in conviction of a felony with a fine of up to \$125,000 and/or prison for up to 5 years. (ORS 260.715)

circulator signature

date signed m/d/y

printed name of circulator

circulator's address street, city, zip code

county elections official certification

I hereby certify

signatures on this petition are those of active registered voters in

County/City/District of Oregon.

circulator signature

date signed m/d/y

SEL 351 Rev. 1/04 ORS 194.004, 204.300

sheet number



JEFFERSON COUNTY
KATHLEEN B. MARSTON, COUNTY CLERK

66 S.E. D STREET, SUITE C - MADRAS, OR 97741 · PH: 541.475.4451 · FAX: 541.325.5018

August 22, 2006

Recall Bill Bellamy Committee
Attn: Fannie Regnier
898 SW Highway 97
Madras, OR 97741

Dear Mrs. Regnier,

In processing the "Petition for Recall Signature Sheets" submitted to this office for verification Friday, August 18, 2006, I discovered the signature sheets submitted to this office were not on the signature sheet version approved by this office July 3, 2006.

I immediately contacted the Oregon Secretary of State's office for further clarification and advice. I was advised by that office that the sheets had to be rejected based on the following administrative rules:

- 2006 Recall Manual (adopted by Oregon Administrative Rule No. 165-014-0005), Page 8, Paragraph 2, "The elections official processes signature sheets submitted for verification for each recall petition by:
 - Comparing the submitted signature sheet to the approved versions"
- Oregon Administrative Rule 165-014-0110, Paragraph 3(a) –
 - (3) Prior to verification, each petition cover and signature sheet is first reviewed, and subsequently removed, if it does not meet the following criteria:
 - (a) The cover and signature sheet submitted is the same as the version or one of the versions approved for circulation including the "back to back" printing requirement.

In a letter hand delivered to Linda Skavlan June 27, 2006, I reviewed all the deficiencies found on the prospective recall petition forms filed in this office June 26, 2006. The third bulleted paragraph clearly states that SEL 351 was "revised by the Oregon Secretary of State's office in May, 2006. Please submit the correct information on the revised form (enclosed)."

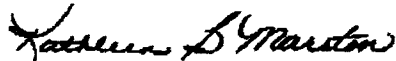
In a letter hand delivered to Linda Skavlan July 3, 2006, I clearly stated "*I have reviewed the revised prospective recall petition forms filed in this office today (July 3, 2006). These forms are approved and filed.*" The "Petition for Recall Signature Sheet" filed on July 3, 2006 (in response to the deficiencies addressed in the letter dated June 27, 2006) was the correct and approved version. The "Petition for Recall Signature Sheets" submitted to this office Friday, August 18, 2006 were not the approved version of the "Petition for Recall Signature Sheet".

Based on the above rules and prior communications with your committee, the signature sheets submitted to this office on August 18, 2006 are rejected. You may continue to collect signatures for this recall effort (on the approved form, a copy of which is attached). As stated in previous correspondence, you have until 5 p.m. September 25, 2006 to submit the required number of valid signatures (886).

Enclosed are copies of the following items:

1. A copy of the "Petition for Recall Signature Sheet" submitted to this office June 26 which was not approved for circulation;
2. A copy of the letter dated June 27, 2006 outlining the deficiencies on the documents filed June 26, 2006;
3. A copy of the "Petition for Recall Signature Sheet" submitted to this office July 3, 2006, which was approved for circulation;
4. A copy of the letter dated July 3, 2006 indicating approval of the revised forms filed in this office July 3, 2006.

Please contact this office if you have additional questions or concerns.



Kathleen B. Marston
Jefferson County Clerk

CC: Mike Alley, Treasurer