

1 JURISDICTION

- 2 1. This Court has jurisdiction over this mandamus proceeding pursuant to ORS
3 34.120(1). The Court issues this Writ pursuant to ORS 34.130(3).

4 PARTIES

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7 2. Plaintiff-Relator Seth Alan Woolley is an elector of Oregon who resides at
8 3403 N.E. Stanton Street in Portland, Multnomah County, Oregon.
- 9 3. Plaintiff-Relator is adversely affected and aggrieved by the failure of
10 Defendant to comply with Multnomah County Charter § 4.20(3), which
11 imposed upon her a continuing obligation to resign from the office of
12 Multnomah County Commissioner, when she began to run for Portland City
13 Commission.
- 14 4. Defendant Loretta Smith is a Multnomah County Commissioner.

15 FACTS

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18 5. On September 12, 2017, WILLAMETTE WEEK reported that Loretta Smith
19 announced her candidacy for Portland City Commissioner. See Declaration of
20 Seth A. Woolley, Exhibit 1.
- 21 6. On and after October 3, 2017, Loretta Smith filed to her County Commissioner
22 campaign account on ORESTAR the receipt of several large (>\$500 per
23 individual) campaign contributions from individuals; several large donations

1 from corporations (up to \$4,000 each); and several large donations from
2 political committees (up to \$2,500 each). All of these amounts are in excess
3 of contributions to candidates for Multnomah County office allowed by the
4 Multnomah County Charter §11.60.

- 5 7. On January 2, 2018, the PORTLAND TRIBUNE reported on Loretta Smith's
6 campaign activities during 2017. See Declaration of Seth A. Woolley, Exhibit
7 2:

8 But Smith's actions since Sept. 12 using a campaign consultant to
9 put out a news release about her city run, retaining a political
10 consultant for her campaign, publicizing her new "Loretta Smith for
11 Portland City Council" campaign logo, and registering the website
12 LorettaforPortland.com, while raising large contributions could be
13 enough in a judge's eyes to say she should have resigned her job in
14 the fall.

- 15 8. On November 27, 2017, Relator Woolley filed an ORS 260.345 election law
16 complaint against Loretta Smith, alleging, *inter alia*, her violation of
17 Multnomah County Charter § 4.20(3) and a number of state and county
18 campaign finance laws. This case was docketed as 17-C&E-15. See
19 Declaration of Seth A. Woolley, Exhibit 3.
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21 9. On November 27, 2017, Relator Woolley also filed a similar complaint with
22 the Multnomah County Director of Elections (Tim Scott) and Multnomah
23 County Attorney (Jenny Madkour), including an allegation that Loretta Smith

1 was in violation of Multnomah County Charter § 4.20(3). See Declaration of
2 Seth A. Woolley, Exhibit 4.

3 10. On December 21, 2017, the Secretary of State in docket 17-C&E-15 issued a
4 Final Determination that Loretta Smith had been a candidate for Portland City
5 Commissioner since September 12, 2017, if not earlier. The Secretary
6 determined that her failure to amend her campaign finance account on the
7 state's ORESTAR system to state accurately the office she was running for
8 was a violation of state campaign finance law and warranted imposition of a
9 \$250 fine. See Declaration of Seth A. Woolley, Exhibit 5.

10 11. On December 28, 2017, Multnomah County Attorney, Jenny Madkour,
11 responded to the complaint filed with Multnomah County. She stated: "The
12 alleged violation of Charter section 4.20, running in the midterm, raises policy
13 and process questions that require further consideration. I cannot comment on
14 the timeline of that work." See Declaration of Seth A. Woolley, Exhibit 6.

15 12. On January 11, 2018, Loretta Smith's campaign manager, Jake Weigler, was
16 quoted by the press as stating that all of her fundraising since September 12,
17 2017, "should be considered for a race for city council."

18 To date, Smith has raised \$57,000 for her city council campaign,
19 according to Weigler, who said that campaign finance limits only
20 apply to candidates running for county office. "As the Secretary of
21 State has now determined all her fundraising since Sept. 12 should
22 be considered for a race for city council, the county's fundraising
23 limits do not apply," Weigler told The Skanner.

1 See Declaration of Seth A. Woolley, Exhibit 7.

2
3 OBLIGATION OF THE DEFENDANT TO PERFORM THE ACT
4

- 5 13. Multnomah County Charter § 4.20(3) (Declaration of Seth A. Woolley, Exhibit
6 8) provides that "No elected official of Multnomah County may run for
7 another elective office in midterm without resigning first." The rest of the
8 section, specifically the combination of subsection (1)(a) and other sentences in
9 subsection (3), make it clear that "midterm" includes the entire 2017 calendar
10 year.
- 11 14. It was unlawful for Loretta Smith to commence running for another elective
12 office without resigning first from her Multnomah County Commissioner
13 position.
- 14 15. The numerous contributions to Loretta Smith's campaign account, in excess of
15 the limits applicable to a candidacy for Multnomah County office under
16 Multnomah County Charter § 11.60, indicate that in 2017 she was in fact
17 running as a candidate for some other elective office.
- 18 16. Loretta Smith since the beginning of her current term as Multnomah County
19 Commissioner (in 2015) has not been legally eligible to run for another term
20 as Multnomah County Commissioner, under Multnomah County Charter §
21 4.20(2).

- 1 17. Because Loretta Smith in 2017 was running for an elective office other than
2 her current Multnomah County Commissioner seat, the Multnomah County
3 Charter § 4.20(3) requires that she resign as County Commissioner.
- 4 18. The Multnomah County Charter goes further and mandates that the mere filing
5 of a candidacy for some other office constitutes an automatic resignation of the
6 County Commissioner position, but it does not require such filing as the only
7 act that constitutes a "run for another elective office."
- 8 19. The Multnomah County Charter § 4.20(3) requirement to resign isn't limited
9 to when a candidate makes a "filing" pertaining to another office. Just
10 "run"ning for another office triggers the resignation requirement.
- 11 20. Multnomah County Charter § 4.20(3) does not define the term "run for another
12 elective office in midterm." It would appear logical to assume that anyone
13 who is a legal "candidate" for an office is engaged in a "run for [that] elective
14 office." ORS 260.005 states:

15 (1)(a) "Candidate" means:

16 (A) An individual whose name is printed on a ballot, for
17 whom a declaration of candidacy, nominating petition or
18 certificate of nomination to public office has been filed or
19 whose name is expected to be or has been presented, with the
20 individual's consent, for nomination or election to public
21 office;

22 (B) An individual who has solicited or received and accepted a
23 contribution, made an expenditure, or given consent to an
24 individual, organization, political party or political committee
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26

1 to solicit or receive and accept a contribution or make an
2 expenditure on the individual's behalf to secure nomination or
3 election to any public office at any time, whether or not the
4 office for which the individual will seek nomination or
5 election is known when the solicitation is made, the
6 contribution is received and retained or the expenditure is
7 made, and whether or not the name of the individual is printed
8 on a ballot;

9
10 21. Loretta Smith qualifies as a "candidate" for Portland City Commissioner under
11 state law, long before the end of 2017, because:

12 (1) Her "name is expected to be or has been presented, with the individual's
13 consent, for nomination or election to public office;" or

14 (2) She "has solicited or received and accepted a contribution, made an
15 expenditure, or given consent to an individual, organization, political
16 party or political committee to solicit or receive and accept a contribution
17 or make an expenditure on the individual's behalf to secure nomination
18 or election to any public office at any time."

19 22. On December 21, 2017, the Secretary of State in docket 17-C&E-15 issued a
20 Final Determination that confirmed that Loretta Smith had been a candidate for
21 Portland City Commissioner since September 12, 2017, if not earlier. See ¶ ?
22 above.

1 THE OMISSION OF THE DEFENDANT TO PERFORM THE ACT

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3 23. Loretta Smith has not resigned from the office of Multnomah County
4 Commissioner.

5 24. Loretta Smith refuses to perform her duty to resign per Multnomah County
6 Charter § 4.20(3).

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8 LACK OF OTHER SPEEDY REMEDIES

9
10 25. The Secretary of State has determined that he lacks jurisdiction to enforce
11 Multnomah County Charter § 4.20(3).

12 26. In the docket 17-C&E-15 Final Determination, the Secretary of State
13 concluded that he did not have jurisdiction over local election laws and thus
14 would not direct any local official to comply with local election laws.

15 27. Regarding Relator Woolley's November 27, 2017, complaint filed with the
16 Multnomah County Director of Elections and Multnomah County Attorney,
17 Multnomah County Attorney Jenny Madkour declined to take action or even to
18 provide a timeline for resolving Relator's complaint and stated that Relator
19 "may opt to pursue this matter in court." See Declaration of Seth A. Woolley,
20 Exhibit 7.

21 28. Relator is aware of no source for enforcement of Multnomah County Charter
22 Multnomah County Charter § 4.20(3), other than this Court, which affords the

1 3. Granting such other relief the Court deems appropriate.

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3 DATED this ___ day of _____, 2018
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8 _____
9 Clerk of the Court
10 Multnomah County Circuit Court

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12 Respectfully submitted by:

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17 _____
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