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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PORTLAND DIVISION

MARC THIELMAN, et al.	)	
	)	
Plaintiff,	)	Case No. 3:22-cv-01516-SB
	)	
v.	)	
	)	June 26, 2023
SHEMIA FAGAN, et al.	)	
	)	
Defendant.	)	Portland, Oregon
	)	

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ORAL ARGUMENT  
TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE STACIE F. BECKERMAN  
UNITED STATES DISTRICT COURT MAGISTRATE JUDGE

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## TRANSCRIPT OF PROCEEDINGS

(June 26, 2023)

(In open court:)

DEPUTY COURTROOM CLERK: Your Honor, we are here in the matter of Thielman, et al. v. Fagan, et al. Case No. 3:22-cv-01516-SB for oral argument on the Secretary of State's Motion to Dismiss First Amended Complaint, Docket No. 73, and the Joint Motion to Dismiss First Amended Complaint, joining Secretary of State's motion, Docket No. 75, for oral argument.

Counsel, please identify yourselves, beginning with plaintiff.

MR. JONCUS: Yes. Hi, Judge Beckerman. I'm Stephen Joncus. I'm here with Plaintiff Marc Thielman, and Plaintiff Chuck Wiese. Ben Edtl is in the crowd. Janice Dysinger, Sandra Nelson, and Loretta Johnson are also here.

THE COURT: Thank you. Good afternoon.

For the defendants.

MR. MARSHALL: Good afternoon, Your Honor, Brian Marshall for the Secretary of State.

We have been invited to sit, if the Court prefers that.

THE COURT: Please do.

MS. PATEL: Good afternoon, Your Honor. Bijal Patel, here for the State.

1           THE COURT: Good afternoon. Parties requested  
2 oral argument.

3           Oh, go ahead.

4           MR. JONES: Andrew Jones on behalf of Multnomah  
5 County, Your Honor. Thank you.

6           THE COURT: Okay. Thank you.

7           I will allow both sides as much time as you need to  
8 argue the motion and defend the motion. Because the  
9 defendant is the moving party, I'll start with the  
10 defendants' counsel.

11          MR. MARSHALL: Thank you, Your Honor. There are  
12 two grounds for our motion. The first is jurisdictional --  
13 that the plaintiffs lack standing and thus the Court lacks  
14 subject matter jurisdiction.

15          I will argue that the plaintiffs have failed to plead  
16 injury in fact and failed to plead a cognizable injury in  
17 fact, and then my colleague, Ms. Patel, will explain the  
18 complaints -- the complaint fails to also meet the  
19 traceability component of standing with respect to most of  
20 the 36 county defendants who have been named, and then  
21 she'll pass it back to me to argue that the complaint fails  
22 to state a claim under *Anderson-Burdick*, the standard that  
23 governs the plaintiffs' Fourteenth Amendment claims; and, of  
24 course, we invite the Court's questions throughout.

25          THE COURT: I will remind the folks on the phone

1 to please mute your phones.

2 MR. MARSHALL: So on the injury in fact component,  
3 I think the starting place is the concession in the  
4 plaintiffs' opposition to the motion to dismiss, that they  
5 are, in fact, not seeking to allege that there's actually  
6 fraud in Oregon's elections, rather they are seeking to  
7 allege that individuals in Oregon fear there is fraud.

8 Without that critical allegation that there is, in  
9 fact, fraud, all of the plaintiffs' contentions that there  
10 are, in fact, problems with the underlying vote count  
11 ultimately fall away. Because there cannot be such an  
12 injury because they -- the only allegation that the vote  
13 count is incorrect is that vote by mail allows invalid votes  
14 to be fraudulently cast and counted. Plaintiffs have  
15 disclaimed that there's any allegation of fraud in their  
16 complaint, and so that basis no longer exists.

17 And the plaintiffs have also disclaimed -- and with --  
18 with plaintiffs disclaiming fraud, they also disclaim the  
19 machine counting allegation, that is, that allowing foreign  
20 adversaries to fraudulently manipulate ballot counts is  
21 occurring.

22 So the underlying basis of the plaintiffs' claim that  
23 there's some problem with the ultimate vote count is out of  
24 the case, according to the plaintiffs' opposition. At least  
25 that's our understanding of their position as of now.

1           Now, even if they did seek to pursue that allegation or  
2 revive it somehow, despite that concession, it is still --  
3 the underlying issue is that they would still have a  
4 generalized grievance. Because their claims are not that  
5 there are too many barriers between themselves and the  
6 ballot box, rather their claims are twofold: that others are  
7 voting illegally or that the ultimate ballot counts are  
8 inaccurate due to an allegation that machine counts are  
9 unreliable.

10           But either of those bases are shared in common with  
11 others. They're, in fact, shared in common with all others.  
12 Even those who are not voters. So a 15-year-old, for  
13 example, in Oregon has no right to vote, but they still have  
14 the same interest as the plaintiffs do in having a reliable  
15 vote count in Oregon elections in order that they are  
16 governed by officials and governed under laws for  
17 initiatives that reflect the will of the people, and that is  
18 an incredibly important interest, obviously. It's a  
19 preeminent interest. But it's also one that's a generalized  
20 interest and is an interest that is not specific to these  
21 plaintiffs, and therefore it's not cognizable under the  
22 Article III jurisdiction of this court.

23           So that is our -- those are our two principle grounds  
24 of our motion on standing on injury in fact.

25           As I understand it, the piece that the plaintiffs are

1 continuing to pursue is a notion that there's some sort of  
2 emotional injury or that their dissatisfaction with Oregon's  
3 elections is sufficient for them to enter into the Court and  
4 that that kind of emotional injury is sufficient to  
5 constitute an injury in fact.

6 That is -- essentially has the same problems as the  
7 other generalized grievance, that it's essentially a policy  
8 preference articulated in the voice of emotional injury that  
9 is not unique to any particular plaintiff, but rather is  
10 unique to their dissatisfaction with -- with Oregon's  
11 elections and the manner of them. Specifically, that we  
12 vote by mail and that we count ballots through machines.  
13 But their distaste or distrust of that process -- distaste  
14 for or distrust of that process is the kind of policy  
15 preference that is a prototypical example of a generalized  
16 grievance that is insufficient to gain standing.

17 Now, there is one citation to the voters' interest --  
18 or to the interest in -- in voters' underlying --  
19 plaintiffs -- plaintiffs rely on *Purcell* -- *Purcell* as one  
20 of their key pieces of case law in order to say that this  
21 is, in fact, a sufficiently -- a sufficient interest in the  
22 reliability and confidence in elections. That case is not a  
23 case about injury in fact standing. That is a case about  
24 the court's exercise of its equitable powers and how it  
25 weighs the balance of interests when it is considering

1 issuing preliminary relief close to an election. It doesn't  
2 have anything to do with the initial question, which is, "Is  
3 there a cognizable injury in fact?"

4 So in our view, the plaintiffs' complaint does not  
5 articulate an injury in fact. The only avenues to an injury  
6 in fact that are possible are foreclosed for two reasons:  
7 one, that the plaintiffs have disclaimed reliance on actual  
8 fraud or disclaimed that they are seeking to allege actual  
9 fraud; and, secondly, because anything that they would  
10 allege, that is based off of these set of allegations, would  
11 be a generalized grievance.

12 For that reason, the first prong of standing has not  
13 been met, and therefore plaintiffs are not able to establish  
14 standing, and the Court lacks subject matter jurisdiction.

15 So if the Court doesn't have questions at this point on  
16 that issue, I will hand it to my colleague, Ms. Patel.

17 THE COURT: Thank you.

18 Ms. Patel.

19 MS. PATEL: Thank you, Your Honor. So as an  
20 initial matter, in January, plaintiffs amended their  
21 complaint to include all 36 counties. To date, 24 of those  
22 defendants have not been served. So only the 13 defendants  
23 have been served. That's the Secretary of State and the  
24 12 -- what I'm going to refer to as the original counties.  
25 Under FRCP Rule 4, if a party is not served within 90 days



1 of the complaint being filed, the Court may -- the Court  
2 must, on its own motion, dismiss the action against those  
3 defendants.

4 Am I too close? Thank you.

5 So by our calculations, the first amended complaint was  
6 filed on January 27, 2023. If we add 90 days, they should  
7 have been served on April 27th -- by April 27, 2023.

8 Now, we didn't raise this in our papers because at that  
9 time plaintiffs still had an opportunity to serve. At this  
10 point, that opportunity has now passed.

11 In any event, service aside, most of these defendants  
12 can also be dismissed under the jurisdictional arguments  
13 that we have, that my colleague, Mr. Marshall, made, that I  
14 will make, and we will make further on.

15 Even if the Court was to find that plaintiffs have a  
16 cognizable injury in their lack of confidence in the  
17 elections or the negative feelings about the elections  
18 process and the way it's being administered, they must still  
19 show that the defendants are the ones that caused the harm,  
20 i.e., that there's a causal connection that their injury was  
21 caused by the defendants' conduct.

22 Now, we combed through the first amended complaint to  
23 find some connection between the plaintiffs and the  
24 defendant counties; and, Your Honor, if it's helpful, we  
25 have provided a chart to Ms. Williams and to the parties

1 that we hope will kind of outline their allegations and the  
2 traceability.

3 So for the Secretary of State, in seven of the  
4 counties, we do think there's enough to discuss the standing  
5 issue because -- as a plaintiff who's registered to vote and  
6 there are allegations of traceable conduct -- although we do  
7 maintain that those -- that those claims fail on the  
8 jurisdictional issues, but at least we could discuss them  
9 here today.

10 For the remaining counties, plaintiffs fail the  
11 traceability requirement for four primary reasons. The  
12 first is that the plaintiffs are only registered to vote in  
13 nine of these counties. A plaintiff cannot allege a  
14 defendant county harmed their voting rights in a county in  
15 which they are not even registered to vote. The harm has to  
16 have a causal connection to the plaintiffs' harm to the  
17 defendant.

18 So even if they were harmed by another county's  
19 mismanagement, assuming that that is true, this is still, as  
20 Mr. Marshall explained, a generalized grievance. We all  
21 share the effect of a misplaced ballot. This is not an  
22 injury that's unique to any of these plaintiffs.

23 But the remaining 27 counties, the plaintiffs fail to  
24 establish a line of causation between the defendants'  
25 actions, the alleged election misadministration, and alleged

1 harm. As we briefed quite thoroughly, the traceability  
2 standard requires that the defendants' connection to the  
3 alleged harm be more than attenuated. What does that mean?  
4 That means plausible. Not hypothetical, not speculative,  
5 and not conjecture.

6 But here any allegations of harm are based on pure  
7 conjecture. They're asking that the Court conclude that,  
8 because this -- they suspect that the laws are not being  
9 followed in one county in which they vote, every county is  
10 harming them.

11 Even if their suspicions were true, they still fail  
12 because they have to assert a concrete and personalized  
13 injury that's traceable to the conduct of the defendants.

14 For 20 defendants, there are either no allegations or  
15 the allegations are insufficient of conduct that is  
16 traceable to the defendants. And we say that these 20  
17 should be dismissed entirely for failing the traceability  
18 prong for standing.

19 For seven of the counties, we found no allegations at  
20 all.

21 For 16 counties, the only allegations are that they  
22 have not removed enough voters from the registration lists.  
23 Now, any injury that comes from being a person being  
24 registered incorrectly is shared with all of the voters, a  
25 generalized grievance; and, in any event, they have no cause

1 of action tied to the fact that there's too many people on  
2 the registration lists alone.

3 Plaintiffs do not address the defendants' traceability  
4 argument in their briefings, except in their response, that  
5 they -- they seem to allege that because a couple of  
6 counties may have some irregularities in their elections  
7 processes that this is transferable to all of the  
8 counties -- the allegations under the standing standard have  
9 to show -- have to allow for a plausible inference that the  
10 defendants' conduct harmed the plaintiffs in an actual way.

11 But there's nothing specific about what these counties  
12 have allegedly done to harm the plaintiffs. They don't say  
13 that they -- that they suffered no injury attributable to  
14 the defendants by the mere existence of names on the  
15 registration list. That they suspect that all the counties  
16 are engaged in some kind of collective elections conspiracy  
17 is mere speculation.

18 The very conjecture that this Court is not permitted to  
19 entertain such implausible inferences to fault fails to meet  
20 the traceability requirement of standing.

21 Because standing requires that plaintiffs fairly trace  
22 their injury to the conduct of each defendant, we ask that  
23 plaintiffs' claims against every county defendant for which  
24 they cannot meet this requirement be dismissed.

25 So in summary, this means dismissing every county in

1 which no plaintiff is registered to vote, dismissing every  
2 county in which no specific conduct is alleged to have  
3 caused the plaintiffs' injuries, and for the counties that  
4 have not been served as a procedural matter, dismissal from  
5 this case under Rule 4.

6 Thank you, Your Honor.

7 THE COURT: Ms. Patel, if the Court were to  
8 dismiss those counties who have not been served, should the  
9 dismissal be with prejudice or without prejudice?

10 MS. PATEL: Your Honor, the rule requires the  
11 dismissal be without prejudice. However, for the reasons  
12 that we've outlined in our motion and that we articulate  
13 today, we ask that they be dismissed with prejudice.

14 THE COURT: Thank you.

15 Mr. Marshall, before I turn to defendants'  
16 Rule 12(b)(6) motion, was there anything further on  
17 standing? I thought I would pause at standing and give  
18 Mr. Joncus a chance to respond.

19 MR. MARSHALL: Nothing further on standing in our  
20 initial presentation, Your Honor.

21 THE COURT: Thank you.

22 Mr. Joncus.

23 MR. JONCUS: The standing requirement that counsel  
24 relies on is there to ensure that judges do not engage in  
25 policymaking and cross over the boundary into infringing on

1 the right of the legislature. Their argument does not  
2 address the situation we have here. The situation we have  
3 here -- and I think it's very important to look to the  
4 hypothetical at the very beginning of our opposition  
5 brief -- what if the Government of Oregon is in complete  
6 control of the elections? They decide who wins and who  
7 loses; they can -- they can hide any fraud because it's all  
8 under wraps of computers. They block all opportunities, all  
9 attempts by the citizens to interrogate the validity of the  
10 elections. According to counsel's argument, there is no way  
11 out of that box, no legal theory that will allow a free  
12 people to escape from the tyranny of that Government.

13 Now, we don't know if that's the case. But with the  
14 circumstances we have and the evidence we have, we can't  
15 tell the difference. There's no way to tell the difference.  
16 The Constitution starts with, "We the People of the United  
17 States, in order to form more perfect union," and it goes on  
18 to say, "secure the blessings of liberty. We established,  
19 as a constitution for the United States of America."

20 This Government belongs to We the People, not the  
21 bureaucrats who have closed us out of running these  
22 elections and interrogating these elections and  
23 cross-examining these elections.

24 THE COURT: I want to pause and remind the folks  
25 on the phone to please mute. We can hear any noise in your

1 background, and we're picking up another conversation. If  
2 the noise continues, we're going to have to terminate the  
3 public lines.

4 So please mute your phones, everybody.

5 Mr. Joncus, go ahead. I apologize for the  
6 interruption.

7 MR. JONCUS: I'm sorry that I -- I wasn't -- I'm  
8 the one that spread the telephone number around; so I  
9 apologize for that. I thought it was intended for that.

10 THE COURT: Not a problem. Courts are open to the  
11 public, and I want to facilitate any interest in the  
12 hearing. I just want to make sure it's not disruptive.

13 MR. JONCUS: So the fundamental argument we have  
14 is based on statements by -- in *Purcell* and others, that --  
15 *Purcell* says -- and *Purcell* was about timing of actions  
16 before an elections. That's what it's cited for. But it  
17 also talked about the importance of confidence in the  
18 integrity of elections. Because the law at issue was an  
19 Arizona law that required drivers' licenses to be presented  
20 in order to vote and in order to register, and that law was  
21 challenged, and it was enjoined by the Ninth Circuit right  
22 before the election. The district court refused an  
23 injunction. The Ninth Circuit enjoined it right before the  
24 election. The Supreme Court said you can't do that. It's  
25 too soon -- too late in the process. So that's what *Purcell*

1 is mainly known for. But it talks about confidence -- the  
2 importance of confidence in the integrity of the election  
3 process. It says, "Confidence in the integrity of our  
4 electoral process is essential to the functioning of our  
5 participatory democracy."

6 "The right of such suffrage" -- the right to vote --  
7 "is denied by debasement or dilution of the weight of the  
8 citizen's vote, just as effectively by wholly prohibiting  
9 the free exercise of franchise."

10 It also points out voter fraud drives honest citizens  
11 out of the process and breeds distrust. Voters who fear --  
12 an emotion. Voters who fear that legitimate votes will be  
13 outweighed by fraudulent ones will feel disenfranchised.  
14 And then, citing *Purcell*, Justice Thomas, in a dissenting  
15 opinion for the court not taking up a cert, in  
16 *Republican Party v. Degraffenreid* -- I'm sure I pronounced  
17 that poorly -- said, "Elections enable self-governance only  
18 when -- only when they include processes that give citizens,  
19 including the losing candidates and their supporters,  
20 confidence in the fairness of the election."

21 So confidence in the fairness of the election is the  
22 critical issue here. Because the only way you can escape  
23 that box that I talked about, that box canyon where a  
24 government has gotten complete control over the election  
25 process and complete control of any access to interrogate it



1 by the public so that you cannot determine whether there's  
2 fraud or not, we will never be able to allege fraud.  
3 Because the government has it all wrapped up in computers  
4 that we can't get to, and they -- they're blocking us from  
5 getting to them. The only other criteria is confidence in  
6 the election process.

7 And what Justice Thomas says, "If you don't have  
8 confidence, if the public does not have confidence, there is  
9 no self-government."

10 That is amazing to talk about in the United States of  
11 America, where we have a situation with no self-government.  
12 Potentially. We don't know. But because we don't know, our  
13 current system, which doesn't allow us to know, is  
14 unconstitutional.

15 What are the facts? Election fraud is nothing new.  
16 It's happened throughout our history. Now we have  
17 mechanistic ways to make it more effective and more  
18 efficient because we're all computerized, and it's all  
19 impersonal.

20 There's a nationwide criminal conspiracy to pack the  
21 ballot box and steal elections. Now, these are facts that  
22 are plead. We have cites to those facts. So they have to  
23 be treated as true for the purpose of a motion to dismiss.

24 There is evidence of strong and rampant fraud in Oregon  
25 in the counties with the largest populations in the state.

1 Every county west of the mountains. A vote-by-mail system  
2 is something akin to an honor system.

3 What do we know about honor systems? It's human  
4 nature. Beings -- it's a nature of human beings to cheat.  
5 Even in our most prestigious institutions of learning, like  
6 West Point, where there's a strict honor code, people cheat.

7 Judge Posner has written that absentee voting is to  
8 voting in person as a take-home exam is to a proctored one.  
9 Everyone knows with a take-home exam, you can cheat. You  
10 can have someone else fill out the exam. Mail-in voting  
11 permits fundamentally simpler and more effective ways to  
12 commit voter fraud on a vast scale.

13 All the evidence of stolen elections involves absentee  
14 ballots and the like. So absentee ballots are a more  
15 restricted form of mail-in voting. Oregon is unique. It's  
16 the only state that has a hundred percent mail-in voting,  
17 and it started 20 years ago. Absentee ballots are fine with  
18 us as long as there are protections, but absentee ballots is  
19 where you see all the fraud.

20 It's like -- mail-in voting is like leaving your car in  
21 a bad neighborhood with the doors unlocked and the keys in  
22 the ignition. You're asking for problems. You're asking  
23 for someone to steal your car when you do that, and that's  
24 what this system does.

25 We have phantom voters. We have two huge problems. We

1 have lots of phantom voters and lots of excess ballots being  
2 printed.

3 More people are registered to vote in Oregon than are  
4 eligible to vote. The legislature has passed laws that  
5 undermine clean voter rolls. ORS 247.275 prohibits --  
6 prohibits removing names from the voter roll because they  
7 did not vote. Counties do not clean their voters rolls.  
8 Federal law requires reasonable efforts to remove names of  
9 ineligible voters. 52 U.S.C. § 20507, the National Voter  
10 Registration Act of 1993. 14 counties reported removing  
11 five or fewer voter registrations in a four-year period.  
12 Five or fewer.

13 Lane County's election officials have not updated voter  
14 rolls in over four years, and they have no plan to do so  
15 before the 2022 election.

16 Washington County, a sample of 4,400 voters records.  
17 13 percent were dead. One as long as 2010. Twelve dead  
18 voters in Washington County cast their ballots. Washington  
19 County had another sample of 248 records. Eighty-five  
20 registered voters had moved out of the county out of those  
21 248. Eighty-five. And all of those 85 had voted in  
22 Washington County. Illegal votes in Washington County.

23 Lane County had 85 voters registered at an Amazon  
24 Parkway address where no one lives. Lane County has a  
25 Walmart parking lot with 12 registered voters. One can

1 deduce from this kind of behavior that it is a policy of  
2 Oregon and its counties to violate federal law, to violate  
3 the National Voter Registration Act intentionally. That is  
4 a really good reason for crisis of confidence.

5 Oregon law registers people as voters on the most  
6 flimsiest of grounds.

7 Anthony Hanson lived at his address in Portland,  
8 Oregon, for a total of two weeks, and he somehow got  
9 registered as a voter. He now lives in Baltimore, and he  
10 still receives ballots at that address in Portland.

11 ORS 247.019 permits registration of voters where the  
12 only ID required is the last four digits of a social  
13 security number. This one is hard for me to wrap my head  
14 around. Anybody can invent four-digit numbers, and it's an  
15 online registration where you submit an electronic copy of  
16 your supposed signature.

17 You can be -- it's trivial to generate thousands,  
18 hundreds of thousands of phantom voters with four-digit  
19 numbers, and no one will ever know did if ever -- you can't  
20 identify people with a four-digit number. You can't go buy  
21 anything in the store with only the last four digits of your  
22 credit card.

23 You can't get your driver's license with the last four  
24 digits of your social security number. You can't go get a  
25 manicuring license with the last four digits of your

1 driver's license. You can't go get a passport with the last  
2 four digits of your social security number.

3 Social security number: You can register vote in  
4 Oregon with the last four digits of your social security  
5 number. The only reason for a law like that is to permit  
6 illegal voters to be registered. That's the only reason for  
7 something like that. It is clear as day and a reason -- and  
8 a really good reason why it's a crisis of confidence.  
9 There's no other explanation. No one can look at these  
10 rules and have confidence that our system is secure and  
11 accurate.

12 Excess ballots. Every University of Oregon student  
13 gets two ballots. The SEIU Union solicited recycling  
14 ballots. They sent out emails, asking for help with filling  
15 out ballots. So they put out a box in the bin. "Put your  
16 ballots here, your excess ballots." You can't vote two  
17 times. If you vote two times, the system will kick you out,  
18 but they recycle them. Why does the Union want recycled old  
19 ballots that can't be used? What are they going to do with  
20 a stack of ballots?

21 Well, the form is very valuable. They're asking people  
22 to come help fill them out for them, and witnesses say they  
23 were told how to fill those ballots out.

24 Now, what is the Union going to do with a stack of  
25 filled-out ballots? How hard is it to bribe some election

1 official to walk in there with a thousand ballots and say,  
2 "Here's a thousand dollars. Here's \$5,000. Here's \$10,000  
3 if you will substitute that thousand ballots for the ones --  
4 that stack of a thousand ballots you have over there."

5 There is no chain of custody for these ballots. Once  
6 they're taken out of the envelope, it's over. They're  
7 counted, and you can't go back and undo that.

8 How hard is it for the Union or other organizations --  
9 the Union is not the only one -- to have employees  
10 infiltrate.

11 THE COURT: Give us a moment to turn your  
12 microphone back on. I believe it's muted.

13 Let me remind everyone on the phone, once again, to  
14 mute your phones. I think some of the attorneys on the  
15 phone are having trouble hearing.

16 MR. JONCUS: Okay. It turned off.

17 How hard is it for these -- an organization who wants  
18 to defraud our elections to infiltrate them -- these  
19 election systems -- and be the conduit for these stacks of  
20 ballots -- excess ballots?

21 So what the State is doing is figuring out ways to  
22 sprinkle as many ballots around the state as possible so  
23 that criminals will scoop them up and find a way to get them  
24 into the system.

25 In Lane County election workers were witnessed carrying

1 large bags stuffed with what appeared to be paper late at  
2 night out of the election office. There goes the 10,000  
3 ballots that got replaced by the ones filled out by SEIU.

4 Ballot harvesting: An insidious practice designed to  
5 facilitate cheating. Antifa publishes instructions on how  
6 to vote more than once. Interest groups search out  
7 vulnerable citizens, such as nursing home residents, to get  
8 votes from them. They brag -- they brag online of how  
9 they've assisted blind elderly people with filling out  
10 ballots. Quote, "I filled out" -- "I filled it out not the  
11 way they told me, but I filled it out."

12 There's no chain of custody, as I mentioned, for  
13 ballots. Oregon bureaucrats cannot tell you that your vote  
14 was counted. They can only tell you that it was received.  
15 Once the ballot is separated from the envelope, there's no  
16 way to ensure your vote was counted. There's no way for We  
17 the People to know that it wasn't replaced.

18 The only control on the validity of a vote is an  
19 ineffective signature check. Signatures can be easily  
20 formed -- forged by machines. There's videos on the  
21 internet showing how to do it.

22 Very high rates of ballot challenges and rejections are  
23 inherent in signature checks. It's inherent in vote by  
24 mail. 5,000 ballots were rejected out of Clackamas County  
25 in the last -- 2022 election. They were rejected too late

1 for them to be cured after the deadline. Those 5,000  
2 ballots are either fake, or they're legitimate. Either  
3 answer is not a good answer. If they're fake, that means --  
4 that just shows you how much fraud is going on. If they are  
5 legitimate, there's 5,000 people who voted -- 5,000 people  
6 who voted, but their ballots weren't counted.

7 Election observation is a sham. Observers cannot see  
8 the process. They have small monitors that rotate the view  
9 every 45 seconds so that no task can be seen beginning to  
10 end. They can't see the entire process to -- from beginning  
11 to the end. The ballots are stored in a back room that they  
12 can't see.

13 In-person observation of counting is not even allowed  
14 in Douglas County. They have to watch through small  
15 displays with a wide-angle lens. You can't tell what's  
16 going on. You can't even tell what the piece of paper is  
17 they're feeding into the machine. Cameras were only on in  
18 Douglas County for seven out of 35 days their votes were  
19 counted.

20 No mechanism exists for challenging the conduct of an  
21 election official. Complaints are ignored. And once the  
22 ballot gets counted, it gets out of the envelope, it's gone.  
23 There's never -- there's no appeal process. There's no way  
24 to undo the problem.

25 In Washington County, observers sought to challenge 230



1 signatures, but the vast majority were accepted despite the  
2 challenge. Can't ever recover that. No right to appeal.  
3 No way to undo the problem.

4 The audit process is a sham. Oregon Director of  
5 Elections relies on so-called risk-limiting audits. They  
6 tout risk-limiting audits as one of the pillars of Oregon's  
7 purported transparent and robust security measures.

8 No county can do a risk-limiting audit in the state of  
9 Oregon. No county has ever done a risk-limiting audit in  
10 the state of Oregon. And even if it was done, it's done by  
11 the same people who have a motive to stay in power, not We  
12 the People.

13 Computerized systems present an inherent and undeniable  
14 security risk. The parts and components are manufactured  
15 with Chinese components under the supervision of the  
16 People's Liberation Army. With thousands of people who --  
17 they have thousands of people dedicated to compromising  
18 western technology's computers. It's impossible to mitigate  
19 a risk like that. You can't mitigate it with observation,  
20 with monitoring, because those chips can be comprised in  
21 ways that cannot be detected.

22 Machines -- there's multiple experts who have hacked  
23 machines in minutes. They are not rigorously tested. Every  
24 single one, every single one has a WiFi chip in it, a WiFi  
25 modem, which can be activated by software and start

1 communicating unbeknownst to election officials.

2       Unexpected anomalies are rampant. An example is  
3 Mei Wong, a candidate for Metro in the last primary, in May  
4 of 2022. Between 4:36 and 4:44 a.m. on a Sunday morning --  
5 May 29th -- her vote total, as reported by the Secretary of  
6 State, dropped by 6,371 votes. She has the screenshots to  
7 prove it.

8       Between 8:32 and 8:36 p.m., that same day, Sunday --  
9 what are they doing on Sunday? -- May 29th, her vote total  
10 decreased by 3,855 votes.

11       Between 4:57 a.m. and 4:58 a.m. on Saturday, June 10th,  
12 her vote total decreased by 6,390 votes.

13       No explanation given. When she asked, she was given  
14 the run-around. She's filed suit in this Court to try to  
15 get answers, and the State is trying to get that case  
16 dismissed. That cannot happen in a legitimately run system.  
17 That is, like, one of the fuzzy screens in The Matrix -- in  
18 the movie The Matrix. Zzzt-zzzt. It shows you the fraud  
19 going on behind the scenes.

20       Public records requests are a very poor and ineffective  
21 tool. But the only one the public has to try and understand  
22 what is going on with this system; yet Oregon officials are  
23 thwarting the ability of We the People to investigate the  
24 system through that means, through public records requests.

25       Janice Dysinger, a plaintiff in this case, in this

1 courtroom today, used to obtain ballot images and cast vote  
2 records at reasonable prices. At Multnomah County it was  
3 \$159 for the cast vote record and the ballot images. In  
4 Lincoln County, \$60. In Clatsop County \$64. In Polk County  
5 \$120. But then the authorities discovered that such records  
6 might reveal fraud.

7 One county clerk admitted to Ms. Dysinger that the  
8 Secretary of State's office told her to hold off on  
9 responding to any public records requests. Ignore those  
10 public records requests. That's a violation of the law.

11 Under the direction of the Secretary of State, counties  
12 are now quoting astronomical numbers to get the same  
13 records. Benton County, \$6,798; Harney County, \$7,939;  
14 Linn County, \$77,376; Deschutes County, \$93,703 to get the  
15 cast vote record and the ballot images.

16 Why did they do that? What -- it was to block We the  
17 People from interrogating this system. They came up with a  
18 frivolous rationale. The rationale is some people, even  
19 though they are not supposed to, write their name on the  
20 ballot. The Secretary says, "Oh, we can't have that. We  
21 can't have someone who waives their right to privacy be  
22 discovered by someone who looks at the ballot images. So we  
23 have to tell the counties to look at every single ballot  
24 image before they turn it over," and that's what this is.  
25 That's the time required to look at every single image to

1 make sure someone didn't violate the rule and write their  
2 name on the ballot, waiving their right to privacy. But  
3 still the Secretary of State says, "We're going to protect  
4 that privacy, and we're going to block the public from  
5 seeing those records."

6 Senate Bill 166 codified that reason. It just got  
7 approved this month.

8 By law now, such a ballot --

9 THE COURT: Let me pause you, Mr. Joncus.

10 We're having interference again from the folks on the  
11 phone. If you are not clear on how to mute, I'm going to  
12 ask you to hang up the phone. But if you know how to mute  
13 your phone, please mute your phone at this time.

14 Mr. Joncus, go ahead.

15 MR. JONCUS: Because someone might write their  
16 name on the ballot, by law now, such a ballot cannot be  
17 disclosed in the public records request. So they have  
18 established a rule in law that any future request for ballot  
19 images or -- cast vote records and ballot images are going  
20 to cost us on the order of 50,000 to 100,000 per county.

21 Oregon's lawmakers are doing everything they can to  
22 invite fraud and theft of our elections.

23 HB 3291 permits the counting of ballots -- and this was  
24 last year it was passed -- permits the counting of ballots  
25 received by mail up to seven days after an election. What

1 they advertised, when they did the Bill, was, "Well, the  
2 ballots are still required to be postmarked by Election  
3 Day."

4 But the Post Office doesn't postmark ballot mail. They  
5 have never done that. The law was constructed with a  
6 loophole which allows ballots without a postmark to be  
7 received after Election Day and counted.

8 This law makes it even easier for criminals to cheat.  
9 They can see what the results look like on Election Day;  
10 then they can calculate how many more votes they need for  
11 their preferred official to win, and they feed phantom votes  
12 into the system. They fill out more ballots that they got  
13 from SEIU, from University Oregon students, or Oregon State.  
14 Same thing. Bribe an election official: Read these  
15 thousand ballots with our candidate marked on each one.

16 And then the one I talked about before, House Bill  
17 4133, only four digits of a social security number are  
18 required to register to vote. Incredible. Hard to wrap  
19 your head around that. What they are doing is saying park  
20 your car on the street, unlocked, with keys in the ignition,  
21 and put a sign on it that says, "Take me." That's what our  
22 government is doing to us.

23 We have extraordinary evidence of why we have lost  
24 confidence, have no confidence in the system.

25 We are no longer able to govern ourselves. We no

1 longer have control of our electoral process.

2 It is We the People who own this state. We own this  
3 government. We are the ones that are supposed to be doing  
4 the elections. Yes, we can delegate it to people, but if  
5 those people take over and block our will and refuse to let  
6 us in, all of a sudden, we're in a situation of tyranny. We  
7 will never be able to vote them out. We will never be able  
8 to meet the standards that counsel wants to say are  
9 necessary to have standing.

10 Confidence is very important. In a lot of different  
11 areas. Bank failures this year. What was the rallying cry  
12 of the government? "Restore confidence. We were going to  
13 save these banks to restore public confidence so we don't  
14 have a market crash." The debt ceiling limit. What's the  
15 argument by Janet Yellen? "You have to increase the debt  
16 limit to avoid harming consumer confidence so we don't have  
17 an economic crisis."

18 Shemia Fagan, the defendant in this lawsuit, resigned  
19 over a corruption scandal. She is corrupt. She's the one  
20 responsible for our election system, and she is corrupt.  
21 Governor Kotek said, "Let's remember" -- in response to  
22 Shemia Fagan resigning, "Let's remember this is an  
23 unprecedented situation." Kotek said, "This is a scandal.  
24 This is a crisis of confidence in the agency, the Secretary  
25 of State agency, the one controlling our elections. So most

1 of my conversations have been about 'How do you handle  
2 that?'"

3 That's a quote from OPB.

4 My answer to Governor Kotek is, "You stop opposing this  
5 lawsuit. You agree to an injunction against mail-in voting  
6 and computerized vote tabulation. You work with us to  
7 create a voting system that is run by We the People and can  
8 be audited by We the People. This Government belongs to We  
9 the People. You work for We the People. We the People tell  
10 you to -- who will represent us. We the People will be in  
11 complete control of the election process, and We the People  
12 will be in complete control of auditing the election."

13 Because we have lost confidence, we have lost  
14 self-governance, and it doesn't require proof of fraud to  
15 have lost self-governance.

16 Now, the law -- elections are the most fundamental --  
17 have the most fundamental significance under our  
18 constitutional structure. *Illinois Board of Elections v.*  
19 *Socialist Workers Party*. 440 U.S. 173, 1979. Through  
20 elections, we exercise self-governing.

21 And then Justice Thomas's quote, that I relied on a  
22 lot, "Elections enable self-governance only when" -- only  
23 when -- "they include processes that give citizens,  
24 including losing candidates and their supporters, confidence  
25 in the fairness of an election."

1           So we have outlined an extraordinary amount of evidence  
2 of why there's no confidence. That soars way over the  
3 threshold for standing.

4           What would -- what would the discovery in a trial look  
5 like? Well, this statement tells you right here what it  
6 looks like. Elections enable self-governance only when they  
7 include processes that give citizens confidence in the  
8 fairness of an election.

9           So we'll have a competition over what processes there  
10 are and how they give confidence in the fairness of  
11 elections. But in the final analysis, we believe they  
12 will -- there will be a finding of no confidence in the  
13 fairness of the election, and mail-in voting and  
14 computerized tabulation of votes will be declared  
15 unconstitutional.

16           I've already quoted *Purcell*. Confidence in the  
17 integrity of our election process is essential to the  
18 functioning of participating in democracy.

19           Now, confidence is not an objective measure. It cannot  
20 be measured objectively. But it doesn't make -- that  
21 doesn't prevent it from being the criteria for a  
22 constitutional violation for winning a case. *Brown v. Board*  
23 *of Education*. That case -- 1954. That case, even though  
24 there were tangible factors involved about the separate but  
25 equal school facilities for black children and white



1 children, the Court didn't go there. The Court didn't add  
2 up the amount of money that black schools got, the amount of  
3 money that white schools got, the facilities, the quality of  
4 the teachers. It did none of that. It said it ruled  
5 exclusively on the idea that separation of blacks from  
6 similar-aged other -- children of other similar age and  
7 qualifications because -- only because of their race  
8 generates a feeling of inferiority as to their status in the  
9 community that may affect -- not that it will affect -- that  
10 may affect their heart and minds in a way unlikely ever to  
11 be undone. That feeling was concrete enough to strike down  
12 all the laws on "separate but equal" prior to that time.

13 Here, there is evidence of undeniable feelings of lack  
14 of confidence. There's -- the facts show that there's no  
15 reason that anybody should have confidence in this election  
16 system. Oregon operates a system that shuts people out,  
17 prevents We the People from validating the results,  
18 generates suspicion and distrust in our government.

19 The facts show that We the People have completely lost  
20 control of our elections and election integrity.

21 Due process. The right to vote is a fundamental right  
22 protected by the due process clause of the Fourteenth  
23 Amendment. It's the most fundamental -- has the most --  
24 voting has the most fundamental significance under our  
25 constitutional structure. *Illinois State Board of*

1 *Elections.*

2       Because how the People govern themselves -- elections  
3 are the lifeblood of a democracy. There's no right more  
4 basic in our democracy than the right to participate in  
5 electing our political leaders. *McCutcheon v. FEC*, U.S.  
6 Supreme Court, 2014.

7       The right to vote is a fundamental political right.  
8       *Reynolds v. Sims*, 377 U.S. 533, 1964, United States  
9 Supreme Court.

10       The right to have one's vote counted is as strong as  
11 the right to put a ballot in the ballot box.

12       Here, we can put the ballot in the ballot box. We  
13 never know whether our vote was counted. That was *United*  
14 *States v. Mosley*, 238 U.S. 383, 1915; and I -- Justice  
15 Thomas -- my favorite quote from *Degraffenreid* is his  
16 dissenting opinion. I won't repeat that. It is this lack  
17 of confidence in the integrity of Oregon's election system  
18 that is the injury that gives plaintiffs standing.

19       The characteristic of a trusted election system is  
20 transparency. Transparency being a bedrock principle in  
21 democracies. Elections developed in the United States with  
22 disparate small precincts, each counting votes. They knew  
23 their neighbors. They knew who was eligible to vote, who  
24 lived in the neighborhood. Dead people didn't tend to show  
25 up to vote. The votes were kept in the precinct. Actual

1 pieces of paper. You could go back and audit them if there  
2 was a question. You had both parties or whatever number of  
3 parties witnessing the entire process, witnessing an audit.  
4 Transparency is necessary to engender trust. That election  
5 system is in control of We the People; the audit system is  
6 in control of We the People.

7 Here we -- plaintiffs and all Oregonians -- have been  
8 shut out of the election process. Oregonians are not  
9 allowed to know or verify the trustworthiness of their  
10 elections. We're told, "Trust us." That's the only answer:  
11 "Trust us."

12 We don't trust you, Oregon. You're showing us why we  
13 shouldn't trust you by the way you pass laws and the way you  
14 treat us and the way you run the system.

15 These harms are suffered by each plaintiff  
16 individually. Each individual has a standing to sue because  
17 of disadvantage to themselves.

18 Voters who allege facts showing disadvantage to  
19 themselves as individuals have standing to sue. *Baker v.*  
20 *Carr*, 369 U.S. 186, 1962.

21 So in response to some of counsel's arguments:  
22 Generalized grievance. Well, yes. These are pretty  
23 generalized grievances. But counsel doesn't give you any  
24 option, any way that we can escape this hypothetical box  
25 where we are near a tyrannical government controlling the

1 vote, reelecting themselves, and not allow us to see the  
2 fraud.

3 Our grievances will always be generalized. There will  
4 always be concern about the election, about their confidence  
5 in elections. We'll never -- we'll never be able to show  
6 fraud. If that's the standard, we are Venezuela. We will  
7 never get out of that box.

8 By the way, Venezuela used to be a very prosperous  
9 nation, the most prosperous nation in South America. Then  
10 they got computerized voting, and the politicians fixed the  
11 vote in those computers. They will never escape that,  
12 except by arms.

13 So the cases are pretty uniform about standing. It's  
14 to prevent judges from making -- policymaking instead of  
15 elected representatives. But in this case, because there's  
16 no confidence in our elected representatives, we have no  
17 confidence in this voting system that elected them. That's  
18 not an option.

19 Now, it may not be a tyrannical government controlling  
20 the vote. It certainly looks like it, but we can't tell  
21 from the outside one way or the other. We can't prove that  
22 they're stealing elections. It looks the same way. Either  
23 could be true. But that means that's why it's  
24 unconstitutional. Because we have to know. It's our state.  
25 It's our government. It is those standing cases that

1 counsel relies on that assumes there's a political process  
2 to correct the problem. Here there's no political process  
3 to correct the problem.

4 The public is unable to discover fraud because it's  
5 hidden from view. We've got proprietary computers and  
6 ballot processes without chain of custody. The State has no  
7 answer for what legal means a free People can use to  
8 extricate themselves from this box. No political process is  
9 possible. Are we supposed to take up arms?

10 This Court is the only way out. This Court has  
11 jurisdiction over this problem. There couldn't be a more  
12 fundamental problem of a People not being free anymore.  
13 This Court most definitely has jurisdiction over this case.

14 Now, counsel also made in their argument that *Brown* was  
15 not a standing case. No, it wasn't. They cleared that --  
16 standing has a low hurdle to get over the first hump. They  
17 cleared that by miles. They won the case in the Supreme  
18 Court on a feeling of inferiority.

19 The whole idea of election law is an odd peg to fit  
20 into the standing doctrine square hole. Harms are always  
21 widespread. Harms affect the structure of democratic  
22 governance itself. The more this is true, the more it's  
23 widespread, the more the courts are tempted to defer to the  
24 political branches; but, again, political branches are not  
25 an option here.

1           When the very rules regarding the franchise in  
2 elections are broken, it is that broken system that the  
3 incumbent officials have to thank for their incumbency.  
4 They like it that way. Such officials will not be motivated  
5 to reform the system that put them in power. Instead, they  
6 will tend to sincerely believe that the system is just fine.

7           One must be always aware that the Constitution forbids,  
8 quote, "sophisticated as well as simple-minded modes of  
9 discrimination," *Reynolds v. Sims*, Supreme Court, 1964.

10           To the extent that the citizen's right to vote is  
11 debased, he is that much less a citizen. That's our  
12 standing there. Because, as *Purcell* tells us, people who  
13 don't have confidence in the voting system just decide not  
14 to vote.

15           Counsel quoted -- I got a laugh out of this one.  
16 Counsel quoted a case saying that general emotional harm  
17 cannot suffice for injury in fact for standing purposes,  
18 quoting *Human -- Human v. Babbit*, a D.C. Circuit case.  
19 *Human Society -- Humane Society*. I'm sorry. In that case,  
20 members of the Humane Society claimed damages because they  
21 had a lost opportunity to study Asian elephants. They  
22 claimed they were emotionally injured as a result of  
23 Elephant Lota's move from the zoo.

24           That has nothing to do with this case. This is not  
25 about an emotional damage. This is about lack of confidence

1 that the government is counting our votes properly.

2 You have to go -- you can go way back and find case --  
3 Supreme Court case law. *Yick Wo v. Hopkins*, 111 U.S. 356,  
4 1886. It is held that states establishing means for  
5 election systems may be held to account as to whether those  
6 are reasonable regulations. It's always open to inquiry to  
7 the federal courts.

8 So, again, I go back to my illustration. If I left my  
9 car in a bad neighborhood, with the doors unlocked and the  
10 keys in the ignition and a sign on the roof saying, "Steal  
11 me," I would be really worried if it would be there if I got  
12 back in an hour or two. That's exactly -- that's exactly  
13 the problem that Oregonians have. Because Oregon has  
14 designed a system that's designed to be stolen.

15 That's all I have, Your Honor, on that subject.

16 THE COURT: Thank you, Mr. Joncus.

17 Let me ask a few questions. You have acknowledged that  
18 the grievances to the named plaintiffs in this case are  
19 generalized grievances. They are shared by all voters or  
20 all people in Oregon, and they are not particularized just  
21 to these group of plaintiffs. Have you found any cases in  
22 which the court has asserted jurisdiction, subject matter  
23 jurisdiction, over such a generalized grievance as it  
24 relates to voting?

25 MR. JONCUS: Well, let me state a caveat on the

1 generalized grievance. To answer your question first,  
2 *Yick Wo v. Hopkins*, 111 -- I'm sorry -- 118 U.S. 356, 1886,  
3 says the regulations are always subject to inquiry by the  
4 court.

5 But every election also has winners and losers, and  
6 whether you characterize the equal protection between us and  
7 the people who vote, who actually are running the  
8 government, that -- it's helping them and hurting the people  
9 who don't want those people in government.

10 So there's a division between the people who win and  
11 lose elections. We know that's very -- that's been a  
12 pattern over the last decades.

13 So it's a generalized grievance and a term that affects  
14 everyone, but the ones getting harmed are the ones that are  
15 losing elections and on whichever side it is.

16 So, no, I don't think I found any cases -- current  
17 cases, but then I think this is a very unique claim. A  
18 first-time claim, a claim of first impression. I don't know  
19 of anybody else who has claimed that their state's election  
20 system is so bad that people have lost confidence; that it's  
21 unconstitutional.

22 And, again, the reason for that rule that courts resist  
23 taking jurisdiction -- finding standing where there's --  
24 because they don't want to invade the province of the  
25 legislative branch, the political process, it doesn't apply



1 in a case, where as here, we don't know whether we have a  
2 tyrannical government that is controlling everything. We  
3 can't tell.

4 And for that reason, the provenance of the political  
5 party and a -- the political process needs to be invaded.  
6 They need to be told that what they're doing is  
7 unconstitutional.

8 Did I answer your question? Did that answer your  
9 question?

10 THE COURT: It did.

11 Let me ask you a follow-up question. You've described  
12 a black box that creates suspicion and creates a lack of  
13 confidence in the election system, and it could be that this  
14 black box is hiding actual fraud. "We don't know. We can't  
15 tell," is what you just said. Does that support the  
16 defendants' argument that the injury here is speculative?  
17 "We don't know there's actual fraud. We think there might  
18 be"?

19 MR. JONCUS: No. Because we are not alleging  
20 fraud. It's lack of confidence. Lack of confidence is  
21 enough when you read *Purcell v. Gonzalez* and you read  
22 Justice Thomas's comment in his dissenting opinion.

23 Now, let me ask -- let me pose this question: Who  
24 would disagree that self-governance is enabled only when  
25 there's processes to give citizens confidence in the

1 fairness of an election? Who would disagree with that  
2 statement?

3 Counsel states the opinion was done by a dissenting  
4 judge, a solo judge in dissent; so it's not the opinion of  
5 the Supreme Court. It's not, but it's pretty profound.  
6 It's profound because it makes the measure of whether  
7 something is confident -- constitutional, the public's  
8 confidence in it. Confidence in its legitimacy.

9 Now, we can -- you know, after we get over the hurdle  
10 of the motion to dismiss, there will be a trial on whether  
11 we're right or they're right about what processes exist to  
12 make -- to ensure the public that they should have  
13 confidence in the election system.

14 But that's a matter for trial, for litigation. We're  
15 talking about here a motion to dismiss. And the legal  
16 standard is that lack of confidence is enough for a  
17 constitutional violation. It's enough to get over a motion  
18 to dismiss. It's enough to -- a feeling like that is enough  
19 to win a Supreme Court case in 1954.

20 THE COURT: Finally, Mr. Joncus, I don't believe  
21 you responded to Ms. Patel's argument with respect to  
22 traceability, specifically with respect to the fact that  
23 there's some counties named as defendants who don't have a  
24 matching plaintiff who voted in that county or who's  
25 registered to vote in that county.

1           MR. JONCUS: This is a class action complaint; so  
2 it's -- you know, we haven't been -- we haven't been -- a  
3 class hadn't been approved yet, but it's on behalf of the  
4 voters in Oregon.

5           So, you know, if -- I don't have a huge problem if the  
6 right avenue forward is to dismiss those counties, and then  
7 I can file a new compliant, and then we can join them.

8           We do have -- we did not serve a number of the  
9 counties. It was a matter of too many other things to do,  
10 but if they are dismissed without -- they should be  
11 dismissed without prejudice, and we can sue them again and  
12 get them served.

13           And if it's necessary to have a representative of each  
14 county, we will have no problem with doing that.

15           The primary -- the primary defendant here is the State  
16 of Oregon, the Secretary of State. They're the ones that  
17 write the laws that the counties have to follow. The  
18 counties are a source of evidence for us to uncover what's  
19 been going on.

20           Now, I would much rather -- I would -- I want an  
21 injunction against the counties. I want an injunction against  
22 the State, and I would much rather take discovery on the  
23 counties as parties rather than as third parties.

24           But I do recognize the procedural shortcoming of us not  
25 having served the counties that we added to the lawsuit in

1 the amended complaint.

2 THE COURT: Mr. Joncus, one procedural or  
3 technical matter is that the plaintiffs have named  
4 Shemia Fagan in her official capacity, and she has since  
5 resigned, as you noted. Do you -- is it your position that  
6 the government -- sorry -- that the Court should substitute  
7 Ms. Fagan with her successor -- her acting successor?

8 MR. JONCUS: I think that is standard.

9 THE COURT: Okay. Let me turn back to  
10 Mr. Marshall, then.

11 Any reply on the standing issue?

12 MR. MARSHALL: Well, first, just on the  
13 substitution issue -- on the substitution question.

14 THE COURT: Is the green button on?

15 MR. MARSHALL: It is. On the substitution  
16 question --

17 THE COURT: Why don't we swap microphones.

18 MR. MARSHALL: On the substitution question, we  
19 agree that under Rule 25(d) because Secretary Fagan was  
20 named in her official capacity, acting-Secretary Myers has  
21 been substituted as operation of law, and once the Governor  
22 designates -- or "appoints," I should say, a new Secretary  
23 of State, that Secretary of State will become a named  
24 defendant in this action for the same reason.

25 Moving on to the fraud -- to the injury in fact

1 standing questions -- it seems that the traceability  
2 questions have been resolved through the Court's inquiry to  
3 counsel regarding certain counties. On the injury in fact  
4 question, I'm a little bit confused as to whether or not  
5 there is an abandonment of these fraud claims. Because  
6 there seems to be a number of allegations that still -- that  
7 there are pieces of it that are continuing to be pursued,  
8 but I think that it's very clear in the papers and then  
9 ultimately at the end of counsel's presentation that they  
10 aren't seeking to meet the requirements of Rule 9(b). They  
11 are not seeking to claim that with particularity, and that  
12 they -- in their papers, on page 27, in the opposition --  
13 say very specifically that they are not relying on  
14 allegations of fraud.

15 And when the ultimate question, as the Court noted, is  
16 "We don't know" -- or the ultimate conclusion of a series of  
17 allegations is, "We don't know," that's insufficient, both  
18 under 12(b)(1) because, in order to establish subject matter  
19 jurisdiction, that's the obligation of the plaintiffs, and  
20 it's also insufficient under 12(b)(6), when we get to  
21 failure to state a claim, because facts consistent with the  
22 claim to relief are not sufficient. It has to be -- nudge  
23 it toward the realm of possibility, that is, it cannot  
24 simply be, under *Twombly*, equally consistent with -- with a  
25 claim to relief or no claim to relief.

1 I think, once we are out of that world -- well, you  
2 know, even if the Court were inclined to look at these  
3 allegations, I just -- most of them are ultimately  
4 conclusory allegations that are not entitled to the  
5 presumption of truth.

6 So I'll just -- there was one piece that was  
7 highlighted by counsel today. This claim from paragraph 84  
8 of the first amended complaint -- that is a single sentence,  
9 that says that there are more individuals in Oregon  
10 registered to vote than are eligible to vote. You can look  
11 at the entirety of the first amended complaint, and you have  
12 no idea what the basis for that claim is. Just pure  
13 conclusory allegation.

14 And we provide, at ECF 64-7, a public record that says,  
15 specifically, that there are 2.96 million voters registered  
16 to vote at the time that that public record was made, and  
17 there are 3.19 million voters who are eligible to vote.

18 And given that it's subject to judicial notice and  
19 therefore can be considered on a motion to dismiss and in  
20 the allegations of the complaint and in the response there's  
21 nothing to suggest anything beyond the bottom line  
22 conclusory allegation that this is fraud or there are more  
23 individuals registered to vote than are voting, those, under  
24 *Twombly* and *Iqbal*, do not -- are not entitled to the  
25 presumption of validity.

1           So moving to the confidence claim. *Purcell*, it seems  
2           conceded, is not -- does not create an injury in fact under  
3           Article III. There's no court that has considered it. This  
4           is not the first case. We cite many cases where other  
5           election conspiracy cases have been brought to federal  
6           court, and they've basically been dismissed on two grounds.  
7           Number one, there's no sufficient allegations to demonstrate  
8           any of the underlying conclusory allegations of fraud, just  
9           like in this -- in this case; and, secondly, that the claims  
10          relating to confidence of the voters are generalized  
11          grievances. They are essentially policy disputes that are  
12          not cognizable in federal courts.

13          One of the cases is in our very first paragraph of our  
14          motion to dismiss. *Washington State Election Integrity*.  
15          The Western District of Washington dismissed, as a  
16          generalized grievance, very similar claims to those that are  
17          being asserted here, also a vote-by-mail state, for  
18          essentially the same reasons.

19          Now, *Purcell* is a case that talks about the interest in  
20          confidence when the court is exercising one of the -- two of  
21          the three -- two of the four prongs of the equitable  
22          inquiry -- balance of equities and public interest -- when  
23          it is determining the remedy for an alleged election law  
24          violation, particularly in a preliminary injunction posture.  
25          That doesn't mean it's sufficient to get -- open the

1 courthouse door as an injury in fact, nor does it mean that  
2 that is a freestanding action that can be brought in --  
3 under the Fourteenth Amendment, that you can go into court  
4 and say, "I don't have confidence that the election -- that  
5 these laws are adequate to count my vote."

6 That is my injury in fact, and that is my freestanding  
7 Fourteenth Amendment claim.

8 *Purcell* has been -- was decided in 2006. There's been  
9 legions of similar claims filed across the country. No one  
10 has cited this for -- for this proposition. None of the  
11 other courts have cited it, and the citation to *Yick Wo*,  
12 that's not a -- I mean, it's an 1886 case that is not about  
13 voting.

14 So I -- there's just no authority for the claim that we  
15 can go -- that this is sufficient for -- for voter  
16 confidence.

17 So it sounds like the claim -- the argument, then, is  
18 that there should be an exception to the rule against  
19 bringing generalized grievances into federal court and that  
20 there should be an exception in this instance because the  
21 plaintiffs' claims go to the core of the democratic process  
22 and that, therefore, the Court should not require standing  
23 in a voting case.

24 Well, courts do require voting in standing cases -- do  
25 require standing in voting cases. There's no authority for



1 the Court to abandon Article III limitations on its  
2 jurisdiction simply because they think they have a policy  
3 rationale that supports it in this instance.

4 And the second is -- I'm -- the second thing I would  
5 just like to say is that I'm just frankly puzzled by the  
6 motion that there are not judicial avenues to seek the types  
7 of claims that they are asserting in this Court.

8 So the first is one that the plaintiffs have several  
9 references to, including in argument today, which is the  
10 National Voter Registration Act. The NVRA has a  
11 free-standing statutory right in order to seek -- to enforce  
12 federal voter registration laws. They claim in argument and  
13 in the opposition that the state is violating that law.  
14 They're incorrect about that, but it is a statutory right  
15 that has nothing to do with the types of claims and remedies  
16 that -- or the types of claims they're seeking to assert  
17 here, and then there are state court actions. And I'll just  
18 name two. The first that I would point out is ORS 246.910,  
19 which is a right for any person adversely affected -- which  
20 has been interpreted to encompass all voters -- by any act  
21 or failure to act by the Secretary of State, a county  
22 clerk -- and it goes on -- has the ability to go into  
23 circuit court and seek to challenge and appeal any decision  
24 of an election official. So the idea that there's -- it's  
25 here or nowhere, I -- I'm just flabbergasted by that claim.

1           The notion that candidates could be affected -- well,  
2 they have their own specific remedies under Oregon election  
3 law. ORS 258.016 provides for a contest, which means that a  
4 candidate, if they think they lost because there were  
5 illegal votes or there's fraud in the count of the votes --  
6 I'm reading from the statute here -- can go into circuit  
7 court on an expedited basis and challenge the results of the  
8 election because they say any of the things that are  
9 purportedly alleged here are true.

10           And you can go to court, get a trial in circuit court,  
11 and get a judicial determination of whether the vote count  
12 is accurate.

13           Now, I mean, I'm a defense lawyer. I think I have  
14 given enough case ideas to the plaintiffs for this, but it  
15 is just not accurate to say that there are no -- that the  
16 only remedy available is a Fourteenth Amendment  
17 constitutional claim in a federal court in order to enforce  
18 the underlying principles of election law.

19           Now, I think maybe the most important thing that  
20 counsel said is that, yes, these grievances are generalized,  
21 and they will always be generalized because that goes to the  
22 question that may be central to the Court's decision at the  
23 end of this case -- or at the end of this hearing or when  
24 it's submitted, which is whether -- whether dismissal should  
25 be without leave to amend or with leave to amend.

1 I think that given the -- that the actual fraud  
2 claim -- allegations have been explicitly disclaimed and the  
3 basic position of counsel is that it is impossible to plead,  
4 and that he lacks access to the facts necessary to plead  
5 those claims, that that means that there's no reason to  
6 grant leave to amend for that reason, and the problem with  
7 the emotional injury route is that it is inherently a  
8 generalized grievance. It's also not an injury in fact,  
9 just as a legal matter, but neither of those are pleading  
10 problems. They are legal problems that present an  
11 insurmountable barrier. Thus for leave to amend to be  
12 granted, would be futile.

13 And when leave to amend -- when repleading is futile,  
14 the court dismisses with prejudice, not -- or not -- without  
15 leave to amend, I should say, rather than with leave to  
16 amend.

17 I think that completes what I had planned to say about  
18 the 12(b)(1) component of the motion.

19 THE COURT: Thank you.

20 Mr. Joncus, anything further on standing?

21 MR. JONCUS: Yeah. I don't think I said that  
22 we're not relying on allegations. Yes, we're relying on  
23 these allegations, and many of them indicate fraud. We're  
24 not making a claim of fraud. That's the difference. We  
25 can't make a claim of fraud without a whole bunch of

1 evidence that we have no access to, and the -- but these  
2 are -- this is smoke. And where you have smoke, you have a  
3 fire. There's -- we have no doubt there's fraud going on.  
4 We are not making that claim. We're making a broader claim  
5 that the whole system needs to be thrown out because of all  
6 of these indications that no one can have confidence in this  
7 system, knowing these facts.

8       Again, you know, their argument is too good to be true.  
9 No way out of this box. If this government is actually  
10 tyrannical and controlling the elections and preventing us  
11 from seeing the evidence of fraud, there's no way out. We  
12 are -- we are Venezuela.

13       There is a way out that they won't acknowledge. The  
14 way out is what Justice Thomas said. You don't have  
15 self-governance unless you have confidence in the elections.  
16 It's confidence in the elections that is their variable.  
17 That is the criteria for whether it's constitutional or not.

18       Now, counsel talked about several statutes where you  
19 can challenge the decision. That, again, requires lots of  
20 evidence that we don't have because they destroy the  
21 evidence when -- as soon as they take that ballot out of the  
22 envelope, the evidence can't be collected in the short  
23 statute of limitations period. It is like whack-a-mole to  
24 try and attack all these problems by going to the -- the  
25 Registration Act and complaining about the number of

1 registrations.

2 The overall evidence is they're not doing what they are  
3 required to do under federal law because they haven't taken  
4 people off the rolls. I mean, it's self-evident. You can't  
5 be a county as big as Multnomah County and only remove five  
6 people in four years.

7 The point about the number of voters -- number of  
8 registered voters and number of eligible voters -- well, we  
9 don't trust their numbers. Those numbers are doctored too  
10 that they put on their website.

11 We've added up the numbers from all the individual  
12 counties, and they don't agree with their numbers. That's,  
13 you know, another reason why we don't have confidence. We  
14 don't -- you know, conclusory allegation is -- is an  
15 allegation that "John breached the contract with me" without  
16 going through the specifics. That's a specific fact.  
17 That's not a conclusory allegation. That is a specific  
18 fact. I don't have to give him a cite or a calculation in  
19 order to support that fact in the complaint. I will do that  
20 when we get to discovery and experts. We will support that  
21 conclusion. They will ask -- ask discovery of us. "How do  
22 you support that conclusion?"

23 So I think the most important thing is to back away  
24 from all of the case law that talks about standing because  
25 virtually every single case, election case, gets dismissed

1 on standing, and they are all -- they are all similar in  
2 that they all claim fraud of one point or another.

3 We're different. We are not claiming fraud. We don't  
4 have a -- I mean, we don't have a claim for fraud. We have  
5 allegations of fraud that support our lack of confidence,  
6 but we don't have a claim for fraud. And in our -- in our  
7 situation, since we cannot tell the difference between a  
8 government that is completely in control of the election  
9 process and barring our vote and reelecting themselves by  
10 tyrants or one that isn't, they both look the same. From  
11 our perspective, from the People's perspective, that can't  
12 be constitutional because it is our system. It belongs --  
13 this government belongs to us. We have to know. We have to  
14 be confident in that system in order -- to enable  
15 self-governance. If we don't have confidence in that  
16 system, we are no longer citizens. We are subjects under a  
17 king or queen.

18 THE COURT: Thank you.

19 Mr. Marshall, you've already addressed some of the  
20 12(b)(6) section of your motion, but did you want to add  
21 anything with respect to the failure to state a claim?

22 MR. MARSHALL: I do, and I'll try to be brief.

23 And the response -- the motion says -- explains why  
24 Fourteenth -- why under Ninth Circuit law all of the  
25 Fourteenth Amendment claims asserted under the rubric of the

1 right to vote are analyzed under *Anderson-Burdick*. That's  
2 both equal protection claims and due process claims.

3 Under *Anderson-Burdick*, the burden on the individual  
4 voter is weighed against the state interest, and the first  
5 thing I want to point out is that huge chunks of the claims  
6 that are asserted or the allegations in the complaint are --  
7 are not related to a burden on voters at all.

8 So there's large sets of descriptions of public records  
9 claims that would be state statutory claims that could be  
10 brought in state court for excessive fees or versions of, I  
11 guess, what has been called here "a runaround." And all of  
12 those are not cognizable Fourteenth Amendment claims under  
13 the right to vote rubric that they have described, that none  
14 of that fits into the question of "Is there a barrier  
15 between the voter and the ballot box?" That's what the  
16 right to vote under the Fourteenth Amendment is about.

17 And so when, for example, there's a long lines case  
18 that is brought in a polling place jurisdiction, the court  
19 weighs whether there's a sufficient state interest for the  
20 specific practices that are challenged. Usually, in those  
21 cases, plaintiffs say there's too few -- it takes too long  
22 to vote because there's too few polling places, there are  
23 too few places to vote at those polling places, and thus  
24 it's too burdensome against the state interest in only  
25 providing those particular requirement -- or those

1 particular numbers of polling places or the particular  
2 number of voting stations at those polling places. And so  
3 the court weighs the burden on the individual voter versus  
4 the state interest in the policy.

5 None of the things that are talked about in the  
6 transparency realm, like these public records claims or the  
7 election observation claims, read on any of -- of those  
8 issues at all, and so they -- they have a series of  
9 allegations that don't link to any type of -- of substantive  
10 claim. That's true also of the election observation claims.  
11 I mean, it's not to say there aren't claims in the world  
12 about those. I named a handful of them already relating to  
13 the specific challenged statute under state law, but those  
14 are not there.

15 Then we get to things like the registration claim.  
16 First, again, this is not an NVRA claim. It's essentially a  
17 claim that it is too easy to vote in Oregon. For this to  
18 even link back to the type of fraud allegations that they  
19 would like to support, there's a huge chain of causation  
20 that all has to be true, much of which is not allowed --  
21 alleged.

22 So the first is that the registered voter, who should  
23 not be a registered voter, there should be -- there has to  
24 first be an erroneously registered voter. So that's the  
25 first step. I think they probably are making that



1 allegation, at least in a conclusionary way.

2 The second, though, is that the registered voter has to  
3 receive a ballot. In Oregon, inactive voters, who are  
4 different from canceled voters, do not receive a ballot.  
5 That's the *Whitehead* case out of the Oregon Supreme Court.  
6 It's also clear from the vote-by-mail manual, I believe.

7 The third, that ballot then has to be intercepted by a  
8 bad actor.

9 Fourth, the interceptor has to vote the ballot  
10 fraudulently and in violation of state and federal law.

11 Fifth, the ballot has to be accepted and accepted over  
12 a signature verification issue.

13 And, sixth, the ballot can't be successfully challenged  
14 by an election observer under the Oregon statute provided --  
15 providing both for -- providing for a -- for challenges of  
16 individual ballots.

17 So I don't think they get over the ordinary pleading  
18 standard that applies to most claims under *Twombly*, but they  
19 certainly don't get over and I think they have conceded they  
20 don't get over Rule 9(b), and it sounds like the workaround  
21 that I'm now understanding at argument is that this is an  
22 allegation of fraud. It's not a claim of fraud.

23 The problem with that argument is that Rule 9(b) says,  
24 "In alleging fraud or mistake, a party must state with  
25 particularity the circumstances constituting fraud or

1 mistake." It doesn't only govern claims of fraud. It  
2 governs all allegations of fraud. We cite authority on this  
3 point that it even encompasses fraud committed by third  
4 parties, and it doesn't only relate -- it couldn't -- I  
5 mean, the rule doesn't -- wouldn't make any sense. Because  
6 so far as I know, there's no standalone claim called a claim  
7 of mistake at all. So the rules are very clearly talking  
8 about all allegations of fraud.

9       The need for there to be particularity of such  
10 allegations exists regardless of whether it's a claim or  
11 just a pleading of fraud. And there's -- much of these  
12 allegations is not -- much of the chain of causation is not  
13 alleged at all. That which is alleged, I think, does not  
14 meet the requirements of *Twombly* and certainly doesn't meet  
15 the requirements of Rule 9(b).

16       THE COURT: Mr. Marshall, anything further with  
17 respect to the Rule 12(b)(6) motion?

18       MR. MARSHALL: Not at this time.

19       THE COURT: Mr. Joncus?

20       MR. JONCUS: Well, that's a lot of steps you have  
21 to go through to prove an election violation for a single  
22 voter. It's impossible. That's why we're in this situation  
23 in the first place. That never happens because that  
24 information isn't available. Who the voter was that had --  
25 wasn't supposed to be registered, how they -- when they

1 voted. You know, the steps that he went through.

2 The allegations of fraud here are not for the point of  
3 proving fraud, which is why you need specific allegations  
4 under Rule 9(b). It's to show why people have no  
5 confidence. Because these are -- these facts are known by  
6 people. That's what it's showing.

7 Now, the *Anderson-Burdick* test is a balancing test  
8 between, you know, some rule and the State's interest in  
9 that rule. But it's about discrete rules. It's about  
10 whether there's a -- the rule for deadlines on correcting  
11 the ballot and a missing signature was too tight or not and  
12 why the State thought that was a necessary rule and why it's  
13 unconstitutional what the -- the reason is it's  
14 unconstitutional.

15 We are making a much bigger, more global claim that  
16 that confidence in our electoral process is essential to the  
17 functioning of our democracy. There is no justification,  
18 none whatsoever that they made or is even possible to be  
19 made for the State to have taken away our right to see  
20 what's going on on the inside of these elections. There's  
21 absolutely no rationale that they have given or could give  
22 for why the State has a right to do that. Because, again,  
23 these are our elections. It's our government. We get to  
24 choose who leads us, who represents us. We get to run the  
25 elections, not the bureaucrats in Salem.

1           Again, from counsel's argument, there's no way out of  
2 the box. No way out of this catch-22, unless -- unless we  
3 can make a claim for lack of confidence, and  
4 Justice Thomas's statement is valid, which I think -- I  
5 didn't hear counsel say that it wasn't valid. It just -- he  
6 doesn't like that it's a minority opinion. The whole  
7 Supreme Court didn't say it, but I don't think you can argue  
8 that Justice Thomas isn't right when he says, "Elections  
9 enable self-governance only when they include processes that  
10 give citizens confidence in the fairness of elections."  
11 Only when. So without confidence, you don't have  
12 self-governance. That is our claim.

13           We're not saying it's too easy to vote. We're saying  
14 it's too easy to cheat. Their system is designed to enable  
15 cheating.

16           That alone is enough for us to have standing: The  
17 facts we have pled about how their system enables cheating.  
18 You can register as a voter with a four-digit number that  
19 you made up and a signature that you made up and a name that  
20 you made up. That's all you need, and you can vote. You  
21 can vote a thousand times. You can vote 10,000 times if you  
22 do -- register 10,000 people like that. 10,000 phantom  
23 voters.

24           That's unconscionable. It is unconscionable that our  
25 government enacted that law. But it exposes. It exposes

1 what they are doing. It exposes that they are tyrants, that  
2 they are controlling the elections because they're trying to  
3 clamp down and make it even harder for candidates that --  
4 for them to lose an election. Because it's the criminals  
5 that are going to go out there that -- to support their rule  
6 that will register a thousand names, fake names, under a  
7 thousand -- or 10,000, four-digit numbers. And, you know,  
8 the four-digit number is not a limit. Because a social  
9 security number has five additional digits. So it doesn't  
10 matter if you register five people with a social security  
11 four-digit number of 2222. Because that could still be a  
12 unique number when you consider the other five digits.

13 There's a hundred thousand other social security  
14 numbers with the last four digits of 2222.

15 This is a novel claim. I have not seen any other --  
16 I'm not -- as you know, I'm not an election lawyer expert,  
17 but I have not seen any other case that makes the claim we  
18 are making, and we -- we have certainly -- our allegations  
19 are so thorough that, reading them, I don't think you could  
20 have confidence that our election system is accurate,  
21 secure, and gives you confidence.

22 It's their behavior in making and operating the system  
23 is what's dividing us. We have huge divisions in the state  
24 and in this country. If the elections could be audited at  
25 the local level, you could go back and look at the paper.

1 Both sides -- all three sides -- all four sides -- whatever  
2 number of sides you have -- you could agree to the result of  
3 the election. Now, we don't. We can't because we can't  
4 look under the hood.

5 It's their behavior that is causing societal division.  
6 It creates disenfranchisement. It creates lack of  
7 confidence.

8 This idea to computerize elections was a bad one from  
9 the beginning. Experts warned about it. It is the most  
10 susceptible to fraud. France -- we -- we look to France as  
11 being -- we'd like to be more like France in many ways.  
12 They don't do computerized election systems. They do it on  
13 paper.

14 Vote Amish. Vote Amish. On paper, small groups, small  
15 precincts. Auditable after the fact. Sure, there can be  
16 fraud even in that system, but it has got to be on a small  
17 scale because it's so divided and spread out whatever fraud  
18 there is. There will always be some level of fraud.

19 Our claims soar way over the threshold of showing why  
20 there isn't confidence in these elections. We're not trying  
21 to show various little elements, actions that counsel  
22 mentioned. We're trying to show lack of confidence in the  
23 elections and why people don't have confidence, and people  
24 understanding these facts would never think that we have a  
25 safe and secure system. Accurate system.

1           That's my response, Your Honor.

2           THE COURT: Thank you.

3           We do need to wrap up by 5:00; so we have just a few  
4 minutes left.

5           Mr. Marshall, if you have anything further, I'll give  
6 you the final word as the moving party.

7           MR. MARSHALL: Your Honor, related to these  
8 claims, there are two pieces of Oregon's election system  
9 that are challenged. Vote by mail and machine counts. Over  
10 and over we're hearing about other issues that are not  
11 challenged in this complaint, about registration issues,  
12 about other aspects that are not part of what is actually  
13 challenged by the complaint.

14           For *Anderson-Burdick*-type claims to be asserted in this  
15 Court and to assert a right-to-vote claim, there has to be a  
16 showing of a specific state policy that burdens voters.  
17 They don't show the burden, and many of the complaints in  
18 the -- and many of the allegations in the complaint really  
19 do not relate at all to the two practices that they are  
20 challenging.

21           There are a lot of other things to be said. They're  
22 not to be said at a motion to dismiss, but it's fair to say  
23 that there are obviously huge factual disputes between the  
24 parties, but that -- about the fairness and accuracy of  
25 Oregon's elections, but none of them are relevant to whether

1 the plaintiffs have a claim that can be asserted in this  
2 Court, and therefore we ask that the complaint be dismissed  
3 without leave to amend.

4 THE COURT: Thank you.

5 I will take the motions under advisement today. With  
6 the addition of the new counties in the amended complaint,  
7 the Court no longer has full consent, and so I will docket  
8 my findings and recommendations as soon as I can. At that  
9 point, we will be assigned a backup district judge, and any  
10 party can object to my findings and recommendations within  
11 14 days. The other parties may respond within 14 days, and  
12 then the district judge will take the motions under  
13 advisement.

14 Thank you all for your time today. Court is adjourned.

15 (Hearing concluded.)  
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## C E R T I F I C A T E

Marc Thielman, et al. v. Shemia Fagan, et al.

3:22-cv-01516-SB

Oral Argument

June 26, 2023

I certify, by signing below, that the foregoing is a true and correct transcript of the record, taken by stenographic means, of the proceedings in the above-entitled cause. A transcript without an original signature, conformed signature, or digitally signed signature is not certified.

/s/Jill L. Jessup, CSR, RMR, RDR, CRR, CRC

Official Court Reporter  
Oregon CSR No. 98-0346

Signature Date: 7/21/2023  
CSR Expiration Date: 9/30/2023

<p><b>DEPUTY COURTROOM CLERK: [1]</b> 3/4</p> <p><b>MR. JONCUS: [12]</b> 3/13 13/23 15/7 15/13 22/16 28/15 39/25 41/19 43/1 44/8 51/21 58/20</p> <p><b>MR. JONES: [1]</b> 4/4</p> <p><b>MR. MARSHALL: [10]</b> 3/20 4/11 5/2 13/19 44/12 44/15 44/18 54/22 58/18 63/7</p> <p><b>MS. PATEL: [3]</b> 3/24 8/19 13/10</p> <p><b>THE COURT: [26]</b> 3/18 3/23 4/1 4/6 4/25 8/17 13/7 13/14 13/21 14/24 15/10 22/11 28/9 39/16 41/10 42/20 44/2 44/9 44/14 44/17 51/19 54/18 58/16 58/19 63/2 64/4</p>	<p><b>14 [3]</b> 19/10 64/11 64/11</p> <p><b>15-year-old [1]</b> 6/12</p> <p><b>16 [1]</b> 11/21</p> <p><b>166 [2]</b> 2/4 28/6</p> <p><b>172nd [1]</b> 2/3</p> <p><b>173 [1]</b> 31/19</p> <p><b>186 [1]</b> 35/20</p> <p><b>1886 [3]</b> 39/4 40/2 48/12</p> <p><b>1915 [1]</b> 34/14</p> <p><b>1954 [2]</b> 32/23 42/19</p> <p><b>1962 [1]</b> 35/20</p> <p><b>1964 [2]</b> 34/8 38/9</p> <p><b>1979 [1]</b> 31/19</p> <p><b>1993 [1]</b> 19/10</p>	<p><b>383 [1]</b> 34/14</p> <p><b>3:22-cv-01516-SB [2]</b> 1/5 65/4</p> <p><b>4</b></p> <p><b>4,400 [1]</b> 19/16</p> <p><b>4133 [1]</b> 29/17</p> <p><b>440 [1]</b> 31/19</p> <p><b>45 [1]</b> 24/9</p> <p><b>4:36 and [1]</b> 26/4</p> <p><b>4:44 [1]</b> 26/4</p> <p><b>4:57 [1]</b> 26/11</p> <p><b>4:58 [1]</b> 26/11</p>
<p><b>\$</b></p> <p><b>\$10,000 [1]</b> 22/2</p> <p><b>\$120 [1]</b> 27/5</p> <p><b>\$159 [1]</b> 27/3</p> <p><b>\$5,000 [1]</b> 22/2</p> <p><b>\$6,798 [1]</b> 27/13</p> <p><b>\$60 [1]</b> 27/4</p> <p><b>\$64 [1]</b> 27/4</p> <p><b>\$7,939 [1]</b> 27/13</p> <p><b>\$77,376 [1]</b> 27/14</p> <p><b>\$93,703 [1]</b> 27/14</p>	<p><b>2</b></p> <p><b>2.96 million [1]</b> 46/15</p> <p><b>20 [3]</b> 11/14 11/16 18/17</p> <p><b>2006 [1]</b> 48/8</p> <p><b>2010 [1]</b> 19/17</p> <p><b>2014 [1]</b> 34/6</p> <p><b>2022 [3]</b> 19/15 23/25 26/4</p> <p><b>2023 [7]</b> 1/7 3/2 9/6 9/7 65/6 65/16 65/17</p> <p><b>20507 [1]</b> 19/9</p> <p><b>22 [1]</b> 60/2</p> <p><b>2222 [2]</b> 61/11 61/14</p> <p><b>230 [1]</b> 24/25</p> <p><b>238 [1]</b> 34/14</p> <p><b>24 [1]</b> 8/21</p> <p><b>246.910 [1]</b> 49/18</p> <p><b>247.019 [1]</b> 20/11</p> <p><b>247.275 [1]</b> 19/5</p> <p><b>248 [2]</b> 19/19 19/21</p> <p><b>25 [1]</b> 44/19</p> <p><b>258.016 [1]</b> 50/3</p> <p><b>26 [3]</b> 1/7 3/2 65/6</p> <p><b>27 [4]</b> 9/6 9/7 10/23 45/12</p> <p><b>27th [1]</b> 9/7</p> <p><b>29th [2]</b> 26/5 26/9</p>	<p><b>5</b></p> <p><b>5,000 [4]</b> 23/24 24/1 24/5 24/5</p> <p><b>50,000 [1]</b> 28/20</p> <p><b>500 [1]</b> 2/13</p> <p><b>501 [1]</b> 2/13</p> <p><b>503 [1]</b> 2/20</p> <p><b>52 [1]</b> 19/9</p> <p><b>533 [1]</b> 34/8</p> <p><b>5:00 [1]</b> 63/3</p>
<p><b>'</b></p>	<p><b>3</b></p> <p><b>3,855 [1]</b> 26/10</p> <p><b>3.19 million [1]</b> 46/17</p> <p><b>301 [1]</b> 2/19</p> <p><b>326-8191 [1]</b> 2/20</p> <p><b>3291 [1]</b> 28/23</p> <p><b>344 [1]</b> 2/4</p> <p><b>35 [1]</b> 24/18</p> <p><b>356 [2]</b> 39/3 40/2</p> <p><b>36 [2]</b> 4/20 8/21</p> <p><b>369 [1]</b> 35/20</p> <p><b>377 [1]</b> 34/8</p>	<p><b>6</b></p> <p><b>6,371 [1]</b> 26/6</p> <p><b>6,390 [1]</b> 26/12</p> <p><b>7</b></p> <p><b>7/21/2023 [1]</b> 65/16</p> <p><b>73 [1]</b> 3/8</p> <p><b>75 [1]</b> 3/10</p>
<p><b>'How [1]</b> 31/1</p>		<p><b>8</b></p> <p><b>8191 [1]</b> 2/20</p> <p><b>84 [1]</b> 46/7</p> <p><b>85 [2]</b> 19/21 19/23</p> <p><b>8:32 and [1]</b> 26/8</p> <p><b>8:36 [1]</b> 26/8</p>
<p><b>/</b></p>		<p><b>9</b></p> <p><b>9/30/2023 [1]</b> 65/17</p> <p><b>90 [2]</b> 8/25 9/6</p> <p><b>97086 [1]</b> 2/4</p> <p><b>97201 [2]</b> 2/7 2/10</p> <p><b>97204 [1]</b> 2/19</p> <p><b>97214 [1]</b> 2/14</p> <p><b>98-0346 [1]</b> 65/17</p>
<p><b>/s/Jill [1]</b> 65/15</p>		<p><b>A</b></p> <p><b>a.m [3]</b> 26/4 26/11 26/11</p> <p><b>abandon [1]</b> 49/1</p> <p><b>abandonment [1]</b> 45/5</p> <p><b>ability [2]</b> 26/23 49/22</p> <p><b>able [6]</b> 8/13 17/2 29/25 30/7</p>
<p><b>0</b></p>		
<p><b>0346 [1]</b> 65/17</p>		
<p><b>1</b></p>		
<p><b>10,000 [5]</b> 23/2 60/21 60/22 60/22 61/7</p> <p><b>100 [2]</b> 2/7 2/10</p> <p><b>100,000 [1]</b> 28/20</p> <p><b>1000 [1]</b> 2/19</p> <p><b>10th [1]</b> 26/11</p> <p><b>111 [2]</b> 39/3 40/2</p> <p><b>118 [1]</b> 40/2</p> <p><b>12 [8]</b> 8/24 13/16 19/25 45/18 45/20 51/18 54/20 58/17</p> <p><b>13 [1]</b> 8/22</p> <p><b>13 percent [1]</b> 19/17</p> <p><b>13203 [1]</b> 2/3</p>		

<p><b>A</b></p> <p><b>able... [2]</b> 30/7 36/5</p> <p><b>about [40]</b></p> <p><b>above [1]</b> 65/10</p> <p><b>above-entitled [1]</b> 65/10</p> <p><b>absentee [5]</b> 18/7 18/13 18/14 18/17 18/18</p> <p><b>absolutely [1]</b> 59/21</p> <p><b>accepted [3]</b> 25/1 57/11 57/11</p> <p><b>access [3]</b> 16/25 51/4 52/1</p> <p><b>according [2]</b> 5/24 14/10</p> <p><b>account [1]</b> 39/5</p> <p><b>accuracy [1]</b> 63/24</p> <p><b>accurate [5]</b> 21/11 50/12 50/15 61/20 62/25</p> <p><b>acknowledge [1]</b> 52/13</p> <p><b>acknowledged [1]</b> 39/17</p> <p><b>across [1]</b> 48/9</p> <p><b>act [6]</b> 19/10 20/3 49/10 49/20 49/21 52/25</p> <p><b>acting [2]</b> 44/7 44/20</p> <p><b>acting-Secretary [1]</b> 44/20</p> <p><b>action [5]</b> 9/2 12/1 43/1 44/24 48/2</p> <p><b>actions [4]</b> 10/25 15/15 49/17 62/21</p> <p><b>activated [1]</b> 25/25</p> <p><b>actor [1]</b> 57/8</p> <p><b>actual [7]</b> 8/7 8/8 12/10 34/25 41/14 41/17 51/1</p> <p><b>actually [4]</b> 5/5 40/7 52/9 63/12</p> <p><b>add [3]</b> 9/6 33/1 54/20</p> <p><b>added [2]</b> 43/25 53/11</p> <p><b>addition [1]</b> 64/6</p> <p><b>additional [1]</b> 61/9</p> <p><b>address [5]</b> 12/3 14/2 19/24 20/7 20/10</p> <p><b>addressed [1]</b> 54/19</p> <p><b>adequate [1]</b> 48/5</p> <p><b>adjourned [1]</b> 64/14</p> <p><b>administered [1]</b> 9/18</p> <p><b>admitted [1]</b> 27/7</p> <p><b>adversaries [1]</b> 5/20</p> <p><b>adversely [1]</b> 49/19</p> <p><b>advertised [1]</b> 29/1</p> <p><b>advisement [2]</b> 64/5 64/13</p> <p><b>affect [4]</b> 33/9 33/9 33/10 37/21</p> <p><b>affected [2]</b> 49/19 50/1</p> <p><b>affects [1]</b> 40/13</p> <p><b>after [5]</b> 24/1 28/25 29/7 42/9 62/15</p> <p><b>afternoon [4]</b> 3/18 3/20 3/24 4/1</p> <p><b>again [12]</b> 22/13 28/10 37/24</p>	<p>39/8 40/22 43/11 43/21 52/8 52/19 56/16 59/22 60/1</p> <p><b>against [7]</b> 9/2 12/23 31/5 43/21 48/18 55/4 55/24</p> <p><b>age [1]</b> 33/6</p> <p><b>aged [1]</b> 33/6</p> <p><b>agency [2]</b> 30/24 30/25</p> <p><b>ago [1]</b> 18/17</p> <p><b>agree [4]</b> 31/5 44/19 53/12 62/2</p> <p><b>ahead [3]</b> 4/3 15/5 28/14</p> <p><b>akin [1]</b> 18/2</p> <p><b>al [8]</b> 1/4 1/7 2/5 2/8 3/5 3/5 65/3 65/3</p> <p><b>all [45]</b></p> <p><b>allegation [13]</b> 5/8 5/12 5/15 5/19 6/1 6/8 46/13 46/22 53/14 53/15 53/17 57/1 57/22</p> <p><b>allegations [32]</b> 8/10 10/1 10/6 11/6 11/14 11/15 11/19 11/21 12/8 45/6 45/14 45/17 46/3 46/4 46/20 47/7 47/8 51/2 51/22 51/23 54/5 55/6 56/9 56/18 58/2 58/8 58/10 58/12 59/2 59/3 61/18 63/18</p> <p><b>allege [8]</b> 5/5 5/7 8/8 8/10 10/13 12/5 17/2 35/18</p> <p><b>alleged [9]</b> 10/25 10/25 11/3 13/2 47/23 50/9 56/21 58/13 58/13</p> <p><b>allegedly [1]</b> 12/12</p> <p><b>alleging [2]</b> 41/19 57/24</p> <p><b>allow [5]</b> 4/7 12/9 14/11 17/13 36/1</p> <p><b>allowed [3]</b> 24/13 35/9 56/20</p> <p><b>allowing [1]</b> 5/19</p> <p><b>allows [2]</b> 5/13 29/6</p> <p><b>alone [2]</b> 12/2 60/16</p> <p><b>already [3]</b> 32/16 54/19 56/12</p> <p><b>also [15]</b> 3/16 4/18 5/17 5/18 6/19 9/12 15/17 16/10 37/14 40/5 45/20 47/17 51/8 56/10 57/6</p> <p><b>although [1]</b> 10/6</p> <p><b>always [8]</b> 36/3 36/4 37/20 38/7 39/6 40/3 50/21 62/18</p> <p><b>Am [1]</b> 9/4</p> <p><b>amazing [1]</b> 17/10</p> <p><b>Amazon [1]</b> 19/23</p> <p><b>amend [8]</b> 50/25 50/25 51/6 51/11 51/13 51/15 51/16 64/3</p> <p><b>amended [9]</b> 3/7 3/8 8/20 9/5 9/22 44/1 46/8 46/11 64/6</p> <p><b>Amendment [8]</b> 4/23 33/23 48/3</p>	<p>48/7 50/16 54/25 55/12 55/16</p> <p><b>America [3]</b> 14/19 17/11 36/9</p> <p><b>Amish [2]</b> 62/14 62/14</p> <p><b>amount [3]</b> 32/1 33/2 33/2</p> <p><b>analysis [1]</b> 32/11</p> <p><b>analyzed [1]</b> 55/1</p> <p><b>Anderson [5]</b> 4/22 55/1 55/3 59/7 63/14</p> <p><b>Anderson-Burdick [4]</b> 4/22 55/1 55/3 59/7</p> <p><b>Anderson-Burdick-type [1]</b> 63/14</p> <p><b>ANDREW [2]</b> 2/12 4/4</p> <p><b>angle [1]</b> 24/15</p> <p><b>anomalies [1]</b> 26/2</p> <p><b>another [5]</b> 10/18 15/1 19/19 53/13 54/2</p> <p><b>answer [8]</b> 24/3 24/3 31/4 35/10 37/7 40/1 41/8 41/8</p> <p><b>answers [1]</b> 26/15</p> <p><b>Anthony [1]</b> 20/7</p> <p><b>Antifa [1]</b> 23/5</p> <p><b>any [29]</b> 5/15 7/9 9/11 10/22 11/6 11/23 11/25 14/7 14/25 15/11 16/25 27/9 28/18 35/23 35/24 39/21 40/16 44/11 47/8 49/19 49/20 49/23 50/8 56/7 56/9 58/5 61/15 61/17 64/9</p> <p><b>anybody [3]</b> 20/14 33/15 40/19</p> <p><b>anymore [1]</b> 37/12</p> <p><b>anything [9]</b> 8/2 8/9 13/16 20/21 46/21 51/20 54/21 58/16 63/5</p> <p><b>apologize [2]</b> 15/5 15/9</p> <p><b>appeal [3]</b> 24/23 25/2 49/23</p> <p><b>APPEARANCES [1]</b> 1/23</p> <p><b>appeared [1]</b> 23/1</p> <p><b>applies [1]</b> 57/18</p> <p><b>apply [1]</b> 40/25</p> <p><b>appoints [1]</b> 44/22</p> <p><b>approved [2]</b> 28/7 43/3</p> <p><b>April [2]</b> 9/7 9/7</p> <p><b>April 27 [1]</b> 9/7</p> <p><b>April 27th [1]</b> 9/7</p> <p><b>are [162]</b></p> <p><b>areas [1]</b> 30/11</p> <p><b>aren't [2]</b> 45/10 56/11</p> <p><b>argue [4]</b> 4/8 4/15 4/21 60/7</p> <p><b>argument [20]</b> 1/13 3/6 3/10 4/2 12/4 14/1 14/10 15/13 30/15 37/14 41/16 42/21 48/17 49/9 49/12 52/8 57/21 57/23 60/1 65/5</p> <p><b>arguments [2]</b> 9/12 35/21</p>
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<p><b>A</b></p> <p><b>Arizona [1]</b> 15/19</p> <p><b>arms [2]</b> 36/12 37/9</p> <p><b>Army [1]</b> 25/16</p> <p><b>around [5]</b> 15/8 20/14 22/22 26/14 29/19</p> <p><b>Article [3]</b> 6/22 47/3 49/1</p> <p><b>articulate [2]</b> 8/5 13/12</p> <p><b>articulated [1]</b> 7/8</p> <p><b>as [62]</b></p> <p><b>Asian [1]</b> 38/21</p> <p><b>aside [1]</b> 9/11</p> <p><b>ask [9]</b> 12/22 13/13 28/12 39/17 41/11 41/23 53/21 53/21 64/2</p> <p><b>asked [1]</b> 26/13</p> <p><b>asking [5]</b> 11/7 18/22 18/22 21/14 21/21</p> <p><b>aspects [1]</b> 63/12</p> <p><b>assert [3]</b> 11/12 49/16 63/15</p> <p><b>asserted [6]</b> 39/22 47/17 54/25 55/6 63/14 64/1</p> <p><b>asserting [1]</b> 49/7</p> <p><b>assigned [1]</b> 64/9</p> <p><b>assisted [1]</b> 23/9</p> <p><b>assumes [1]</b> 37/1</p> <p><b>assuming [1]</b> 10/19</p> <p><b>astronomical [1]</b> 27/12</p> <p><b>attack [1]</b> 52/24</p> <p><b>attempts [1]</b> 14/9</p> <p><b>attenuated [1]</b> 11/3</p> <p><b>attorneys [2]</b> 2/12 22/14</p> <p><b>attributable [1]</b> 12/13</p> <p><b>audit [6]</b> 25/4 25/8 25/9 35/1 35/3 35/5</p> <p><b>Auditable [1]</b> 62/15</p> <p><b>audited [2]</b> 31/8 61/24</p> <p><b>auditing [1]</b> 31/12</p> <p><b>audits [2]</b> 25/5 25/6</p> <p><b>authorities [1]</b> 27/5</p> <p><b>authority [3]</b> 48/14 48/25 58/2</p> <p><b>available [2]</b> 50/16 58/24</p> <p><b>avenue [3]</b> 2/3 2/19 43/6</p> <p><b>avenues [2]</b> 8/5 49/6</p> <p><b>avoid [1]</b> 30/16</p> <p><b>aware [1]</b> 38/7</p> <p><b>away [3]</b> 5/11 53/23 59/19</p>	<p><b>backup [1]</b> 64/9</p> <p><b>bad [5]</b> 18/21 39/9 40/20 57/8 62/8</p> <p><b>bags [1]</b> 23/1</p> <p><b>Baker [1]</b> 35/19</p> <p><b>balance [2]</b> 7/25 47/22</p> <p><b>balancing [1]</b> 59/7</p> <p><b>ballot [36]</b></p> <p><b>ballots [39]</b></p> <p><b>Baltimore [1]</b> 20/9</p> <p><b>Bank [1]</b> 30/11</p> <p><b>banks [1]</b> 30/13</p> <p><b>barrier [2]</b> 51/11 55/14</p> <p><b>barriers [1]</b> 6/5</p> <p><b>barring [1]</b> 54/9</p> <p><b>based [3]</b> 8/10 11/6 15/14</p> <p><b>bases [1]</b> 6/10</p> <p><b>basic [2]</b> 34/4 51/3</p> <p><b>basically [1]</b> 47/6</p> <p><b>basis [4]</b> 5/16 5/22 46/12 50/7</p> <p><b>be [104]</b></p> <p><b>because [59]</b></p> <p><b>BECKERMAN [2]</b> 1/15 3/13</p> <p><b>become [1]</b> 44/23</p> <p><b>bedrock [1]</b> 34/20</p> <p><b>been [24]</b> 3/22 4/20 8/13 8/22 8/23 9/7 13/4 13/8 31/1 35/7 40/11 43/2 43/2 43/3 43/19 44/21 45/2 47/5 47/6 48/8 48/8 49/20 51/2 55/11</p> <p><b>before [8]</b> 1/15 13/15 15/16 15/22 15/23 19/15 27/24 29/16</p> <p><b>beginning [5]</b> 3/11 14/4 24/9 24/10 62/9</p> <p><b>behalf [2]</b> 4/4 43/3</p> <p><b>behavior [3]</b> 20/1 61/22 62/5</p> <p><b>behind [1]</b> 26/19</p> <p><b>being [11]</b> 9/1 9/18 11/8 11/23 11/23 19/1 32/21 34/20 37/12 47/17 62/11</p> <p><b>beings [2]</b> 18/4 18/4</p> <p><b>believe [5]</b> 22/12 32/11 38/6 42/20 57/6</p> <p><b>belongs [4]</b> 14/20 31/8 54/12 54/13</p> <p><b>below [1]</b> 65/8</p> <p><b>Ben [1]</b> 3/15</p> <p><b>Ben Edtl [1]</b> 3/15</p> <p><b>Benton [1]</b> 27/13</p> <p><b>between [12]</b> 6/5 9/23 10/24 26/4 26/8 26/11 40/6 40/10 54/7 55/15 59/8 63/23</p> <p><b>beyond [1]</b> 46/21</p>	<p><b>big [1]</b> 53/5</p> <p><b>bigger [1]</b> 59/15</p> <p><b>BIJAL [2]</b> 2/9 3/25</p> <p><b>Bijal Patel [1]</b> 3/25</p> <p><b>Bill [3]</b> 28/6 29/1 29/16</p> <p><b>bin [1]</b> 21/15</p> <p><b>bit [1]</b> 45/4</p> <p><b>black [4]</b> 32/25 33/2 41/12 41/14</p> <p><b>blacks [1]</b> 33/5</p> <p><b>blessings [1]</b> 14/18</p> <p><b>blind [1]</b> 23/9</p> <p><b>block [4]</b> 14/8 27/16 28/4 30/5</p> <p><b>blocking [1]</b> 17/4</p> <p><b>Board [3]</b> 31/18 32/22 33/25</p> <p><b>both [7]</b> 4/7 35/2 45/17 54/10 55/2 57/15 62/1</p> <p><b>bottom [1]</b> 46/21</p> <p><b>Boulevard [1]</b> 2/13</p> <p><b>boundary [1]</b> 13/25</p> <p><b>box [16]</b> 6/6 14/11 16/23 16/23 17/21 21/15 34/11 34/12 35/24 36/7 37/8 41/12 41/14 52/9 55/15 60/2</p> <p><b>brag [2]</b> 23/8 23/8</p> <p><b>branch [1]</b> 40/25</p> <p><b>branches [2]</b> 37/24 37/24</p> <p><b>breached [1]</b> 53/15</p> <p><b>breeds [1]</b> 16/11</p> <p><b>BRIAN [2]</b> 2/6 3/20</p> <p><b>bribe [2]</b> 21/25 29/14</p> <p><b>brief [2]</b> 14/5 54/22</p> <p><b>briefed [1]</b> 11/1</p> <p><b>briefings [1]</b> 12/4</p> <p><b>bringing [1]</b> 48/19</p> <p><b>broader [1]</b> 52/4</p> <p><b>broken [2]</b> 38/2 38/2</p> <p><b>brought [4]</b> 47/5 48/2 55/10 55/18</p> <p><b>Brown [2]</b> 32/22 37/14</p> <p><b>bunch [1]</b> 51/25</p> <p><b>burden [4]</b> 55/3 55/7 56/3 63/17</p> <p><b>burdens [1]</b> 63/16</p> <p><b>burdensome [1]</b> 55/24</p> <p><b>Burdick [5]</b> 4/22 55/1 55/3 59/7 63/14</p> <p><b>bureaucrats [3]</b> 14/21 23/13 59/25</p> <p><b>button [1]</b> 44/14</p> <p><b>buy [1]</b> 20/20</p>
<p><b>B</b></p> <p><b>Babbit [1]</b> 38/18</p> <p><b>back [12]</b> 4/21 22/7 22/12 24/11 35/1 39/2 39/8 39/12 44/9 53/23 56/18 61/25</p> <p><b>background [1]</b> 15/1</p>	<p><b>calculate [1]</b> 29/10</p> <p><b>calculation [1]</b> 53/18</p>	<p><b>C</b></p>

<p><b>C</b></p> <p><b>calculations [1]</b> 9/5</p> <p><b>called [3]</b> 25/5 55/11 58/6</p> <p><b>came [1]</b> 27/17</p> <p><b>Cameras [1]</b> 24/17</p> <p><b>can [50]</b></p> <p><b>can't [30]</b> 14/14 15/24 17/4 20/19 20/20 20/23 20/24 21/1 21/16 21/19 22/7 24/10 24/12 24/15 24/16 25/2 25/19 27/20 27/21 36/20 36/21 41/3 41/14 51/25 52/22 53/4 54/11 57/13 62/3 62/3</p> <p><b>canceled [1]</b> 57/4</p> <p><b>candidate [3]</b> 26/3 29/15 50/4</p> <p><b>candidates [4]</b> 16/19 31/24 50/1 61/3</p> <p><b>cannot [13]</b> 5/11 10/13 12/24 17/1 23/13 24/7 25/21 26/16 28/16 32/19 38/17 45/23 54/7</p> <p><b>canyon [1]</b> 16/23</p> <p><b>capacity [2]</b> 44/4 44/20</p> <p><b>car [4]</b> 18/20 18/23 29/20 39/9</p> <p><b>card [1]</b> 20/22</p> <p><b>Carr [1]</b> 35/20</p> <p><b>carrying [1]</b> 22/25</p> <p><b>case [40]</b></p> <p><b>Case No. 3:22-cv-01516-SB [1]</b> 3/6</p> <p><b>cases [11]</b> 36/13 36/25 39/21 40/16 40/17 47/4 47/5 47/13 48/24 48/25 55/21</p> <p><b>cast [6]</b> 5/14 19/18 27/1 27/3 27/15 28/19</p> <p><b>catch [1]</b> 60/2</p> <p><b>catch-22 [1]</b> 60/2</p> <p><b>causal [2]</b> 9/20 10/16</p> <p><b>causation [3]</b> 10/24 56/19 58/12</p> <p><b>cause [2]</b> 11/25 65/11</p> <p><b>caused [3]</b> 9/19 9/21 13/3</p> <p><b>causing [1]</b> 62/5</p> <p><b>caveat [1]</b> 39/25</p> <p><b>ceiling [1]</b> 30/14</p> <p><b>central [1]</b> 50/22</p> <p><b>cert [1]</b> 16/15</p> <p><b>certain [1]</b> 45/3</p> <p><b>certainly [4]</b> 36/20 57/19 58/14 61/18</p> <p><b>certified [1]</b> 65/13</p> <p><b>certify [1]</b> 65/8</p> <p><b>chain [5]</b> 22/5 23/12 37/6 56/19 58/12</p> <p><b>challenge [5]</b> 24/25 25/2 49/23</p>	<p>50/7 52/19</p> <p><b>challenged [7]</b> 15/21 55/20 56/13 57/13 63/9 63/11 63/13</p> <p><b>challenges [2]</b> 23/22 57/15</p> <p><b>challenging [2]</b> 24/20 63/20</p> <p><b>chance [1]</b> 13/18</p> <p><b>characteristic [1]</b> 34/19</p> <p><b>characterize [1]</b> 40/6</p> <p><b>chart [1]</b> 9/25</p> <p><b>cheat [5]</b> 18/4 18/6 18/9 29/8 60/14</p> <p><b>cheating [3]</b> 23/5 60/15 60/17</p> <p><b>check [1]</b> 23/19</p> <p><b>checks [1]</b> 23/23</p> <p><b>children [3]</b> 32/25 33/1 33/6</p> <p><b>Chinese [1]</b> 25/15</p> <p><b>chip [1]</b> 25/24</p> <p><b>chips [1]</b> 25/20</p> <p><b>choose [1]</b> 59/24</p> <p><b>Chuck [1]</b> 3/15</p> <p><b>chunks [1]</b> 55/5</p> <p><b>circuit [7]</b> 15/21 15/23 38/18 49/23 50/6 50/10 54/24</p> <p><b>circumstances [2]</b> 14/14 57/25</p> <p><b>citation [2]</b> 7/17 48/11</p> <p><b>cite [3]</b> 47/4 53/18 58/2</p> <p><b>cited [3]</b> 15/16 48/10 48/11</p> <p><b>cites [1]</b> 17/22</p> <p><b>citing [1]</b> 16/14</p> <p><b>citizen [1]</b> 38/11</p> <p><b>citizen's [2]</b> 16/8 38/10</p> <p><b>citizens [9]</b> 14/9 16/10 16/18 23/7 31/23 32/7 41/25 54/16 60/10</p> <p><b>Clackamas [1]</b> 23/24</p> <p><b>claim [43]</b></p> <p><b>claimed [3]</b> 38/20 38/22 40/19</p> <p><b>claiming [1]</b> 54/3</p> <p><b>claims [30]</b> 4/23 6/4 6/6 10/7 12/23 45/5 47/9 47/16 48/9 48/21 49/7 49/15 49/16 51/5 54/25 55/2 55/2 55/5 55/9 55/9 55/12 56/6 56/7 56/10 56/11 57/18 58/1 62/19 63/8 63/14</p> <p><b>clamp [1]</b> 61/3</p> <p><b>class [2]</b> 43/1 43/3</p> <p><b>Clatsop [1]</b> 27/4</p> <p><b>clause [1]</b> 33/22</p> <p><b>clean [2]</b> 19/5 19/7</p> <p><b>clear [4]</b> 21/7 28/11 45/8 57/6</p> <p><b>cleared [2]</b> 37/15 37/17</p> <p><b>clearly [1]</b> 58/7</p> <p><b>clerk [2]</b> 27/7 49/22</p>	<p><b>close [2]</b> 8/1 9/4</p> <p><b>closed [1]</b> 14/21</p> <p><b>code [1]</b> 18/6</p> <p><b>codified [1]</b> 28/6</p> <p><b>cognizable [6]</b> 4/16 6/21 8/3 9/16 47/12 55/12</p> <p><b>colleague [3]</b> 4/17 8/16 9/13</p> <p><b>collected [1]</b> 52/22</p> <p><b>collective [1]</b> 12/16</p> <p><b>combed [1]</b> 9/22</p> <p><b>come [1]</b> 21/22</p> <p><b>comes [1]</b> 11/23</p> <p><b>comment [1]</b> 41/22</p> <p><b>commit [1]</b> 18/12</p> <p><b>committed [1]</b> 58/3</p> <p><b>common [2]</b> 6/10 6/11</p> <p><b>communicating [1]</b> 26/1</p> <p><b>community [1]</b> 33/9</p> <p><b>competition [1]</b> 32/9</p> <p><b>complaining [1]</b> 52/25</p> <p><b>complaint [22]</b> 3/7 3/9 4/18 4/21 5/16 8/4 8/21 9/1 9/5 9/22 43/1 44/1 46/8 46/11 46/20 53/19 55/6 63/11 63/13 63/18 64/2 64/6</p> <p><b>complaints [3]</b> 4/18 24/21 63/17</p> <p><b>complete [5]</b> 14/5 16/24 16/25 31/11 31/12</p> <p><b>completely [2]</b> 33/19 54/8</p> <p><b>completes [1]</b> 51/17</p> <p><b>compliant [1]</b> 43/7</p> <p><b>component [3]</b> 4/19 5/2 51/18</p> <p><b>components [2]</b> 25/14 25/15</p> <p><b>comprised [1]</b> 25/20</p> <p><b>compromising [1]</b> 25/17</p> <p><b>computerize [1]</b> 62/8</p> <p><b>computerized [6]</b> 17/18 25/13 31/6 32/14 36/10 62/12</p> <p><b>computers [5]</b> 14/8 17/3 25/18 36/11 37/5</p> <p><b>conceded [2]</b> 47/2 57/19</p> <p><b>concern [1]</b> 36/4</p> <p><b>concession [2]</b> 5/3 6/2</p> <p><b>conclude [1]</b> 11/7</p> <p><b>concluded [1]</b> 64/15</p> <p><b>conclusion [3]</b> 45/16 53/21 53/22</p> <p><b>conclusionary [1]</b> 57/1</p> <p><b>conclusory [6]</b> 46/4 46/13 46/22 47/8 53/14 53/17</p> <p><b>concrete [2]</b> 11/12 33/11</p> <p><b>conduct [8]</b> 9/21 10/6 11/13 11/15 12/10 12/22 13/2 24/20</p>
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<p><b>C</b></p> <p><b>conduit</b> [1] 22/19</p> <p><b>confidence</b> [68]</p> <p><b>confident</b> [2] 42/7 54/14</p> <p><b>conformed</b> [1] 65/12</p> <p><b>confused</b> [1] 45/4</p> <p><b>conjecture</b> [3] 11/5 11/7 12/18</p> <p><b>connection</b> [4] 9/20 9/23 10/16 11/2</p> <p><b>consent</b> [1] 64/7</p> <p><b>consider</b> [1] 61/12</p> <p><b>considered</b> [2] 46/19 47/3</p> <p><b>considering</b> [1] 7/25</p> <p><b>consistent</b> [2] 45/21 45/24</p> <p><b>conspiracy</b> [3] 12/16 17/20 47/5</p> <p><b>constitute</b> [1] 7/5</p> <p><b>constituting</b> [1] 57/25</p> <p><b>constitution</b> [3] 14/16 14/19 38/7</p> <p><b>constitutional</b> [8] 31/18 32/22 33/25 42/7 42/17 50/17 52/17 54/12</p> <p><b>constructed</b> [1] 29/5</p> <p><b>consumer</b> [1] 30/16</p> <p><b>contentions</b> [1] 5/9</p> <p><b>contest</b> [1] 50/3</p> <p><b>continues</b> [1] 15/2</p> <p><b>continuing</b> [2] 7/1 45/7</p> <p><b>contract</b> [1] 53/15</p> <p><b>control</b> [11] 14/6 16/24 16/25 23/18 30/1 31/11 31/12 33/20 35/5 35/6 54/8</p> <p><b>controlling</b> [6] 30/25 35/25 36/19 41/2 52/10 61/2</p> <p><b>conversation</b> [1] 15/1</p> <p><b>conversations</b> [1] 31/1</p> <p><b>copy</b> [1] 20/15</p> <p><b>core</b> [1] 48/21</p> <p><b>correct</b> [3] 37/2 37/3 65/9</p> <p><b>correcting</b> [1] 59/10</p> <p><b>corrupt</b> [2] 30/19 30/20</p> <p><b>corruption</b> [1] 30/19</p> <p><b>cost</b> [1] 28/20</p> <p><b>could</b> [12] 10/8 35/1 36/23 41/13 50/1 55/9 59/21 61/11 61/19 61/24 61/25 62/2</p> <p><b>couldn't</b> [2] 37/11 58/4</p> <p><b>counsel</b> [17] 3/11 4/10 13/23 30/8 35/23 37/1 37/14 38/15 38/16 42/3 45/3 46/7 50/20 51/3 52/18 60/5 62/21</p> <p><b>counsel's</b> [4] 14/10 35/21 45/9 60/1</p>	<p><b>count</b> [8] 5/10 5/13 5/23 6/15 7/12 48/5 50/5 50/11</p> <p><b>counted</b> [10] 5/14 22/7 23/14 23/16 24/6 24/19 24/22 29/7 34/10 34/13</p> <p><b>counties</b> [32] 8/21 8/24 9/24 10/4 10/10 10/13 10/23 11/19 11/21 12/6 12/8 12/11 12/15 13/3 13/8 17/25 19/7 19/10 20/2 27/11 27/23 42/23 43/6 43/9 43/17 43/18 43/21 43/23 43/25 45/3 53/12 64/6</p> <p><b>counting</b> [6] 5/19 24/13 28/23 28/24 34/22 39/1</p> <p><b>country</b> [2] 48/9 61/24</p> <p><b>counts</b> [4] 5/20 6/7 6/8 63/9</p> <p><b>county</b> [43]</p> <p><b>county's</b> [2] 10/18 19/13</p> <p><b>couple</b> [1] 12/5</p> <p><b>course</b> [1] 4/24</p> <p><b>court</b> [62]</p> <p><b>court's</b> [4] 4/24 7/24 45/2 50/22</p> <p><b>courthouse</b> [2] 2/18 48/1</p> <p><b>courtroom</b> [1] 27/1</p> <p><b>courts</b> [7] 15/10 37/23 39/7 40/22 47/12 48/11 48/24</p> <p><b>crash</b> [1] 30/14</p> <p><b>CRC</b> [2] 2/18 65/15</p> <p><b>create</b> [2] 31/7 47/2</p> <p><b>creates</b> [4] 41/12 41/12 62/6 62/6</p> <p><b>credit</b> [1] 20/22</p> <p><b>criminal</b> [1] 17/20</p> <p><b>criminals</b> [3] 22/23 29/8 61/4</p> <p><b>crisis</b> [4] 20/4 21/8 30/17 30/24</p> <p><b>criteria</b> [3] 17/5 32/21 52/17</p> <p><b>critical</b> [2] 5/8 16/22</p> <p><b>cross</b> [2] 13/25 14/23</p> <p><b>cross-examining</b> [1] 14/23</p> <p><b>crowd</b> [1] 3/15</p> <p><b>CRR</b> [2] 2/18 65/15</p> <p><b>cry</b> [1] 30/11</p> <p><b>CSR</b> [4] 2/18 65/15 65/17 65/17</p> <p><b>cured</b> [1] 24/1</p> <p><b>current</b> [2] 17/13 40/16</p> <p><b>custody</b> [3] 22/5 23/12 37/6</p> <p><b>cv</b> [3] 1/5 3/6 65/4</p> <hr/> <p><b>D</b></p> <p><b>D.C</b> [1] 38/18</p> <p><b>damage</b> [1] 38/25</p> <p><b>damages</b> [1] 38/20</p> <p><b>date</b> [3] 8/21 65/16 65/17</p>	<p><b>day</b> [5] 21/7 26/8 29/3 29/7 29/9</p> <p><b>days</b> [6] 8/25 9/6 24/18 28/25 64/11 64/11</p> <p><b>dead</b> [3] 19/17 19/17 34/24</p> <p><b>deadline</b> [1] 24/1</p> <p><b>deadlines</b> [1] 59/10</p> <p><b>debased</b> [1] 38/11</p> <p><b>debasement</b> [1] 16/7</p> <p><b>debt</b> [2] 30/14 30/15</p> <p><b>decades</b> [1] 40/12</p> <p><b>decide</b> [2] 14/6 38/13</p> <p><b>decided</b> [1] 48/8</p> <p><b>decision</b> [3] 49/23 50/22 52/19</p> <p><b>declared</b> [1] 32/14</p> <p><b>decreased</b> [2] 26/10 26/12</p> <p><b>dedicated</b> [1] 25/17</p> <p><b>deduce</b> [1] 20/1</p> <p><b>defend</b> [1] 4/8</p> <p><b>defendant</b> [13] 1/8 2/5 2/8 2/11 4/9 9/24 10/14 10/17 12/22 12/23 30/18 43/15 44/24</p> <p><b>defendants</b> [12] 3/19 4/20 8/22 8/22 9/3 9/11 9/19 11/13 11/14 11/16 12/14 42/23</p> <p><b>defendants'</b> [8] 4/10 9/21 10/24 11/2 12/3 12/10 13/15 41/16</p> <p><b>defense</b> [1] 50/13</p> <p><b>defer</b> [1] 37/23</p> <p><b>definitely</b> [1] 37/13</p> <p><b>defraud</b> [1] 22/18</p> <p><b>Degraffenreid</b> [2] 16/16 34/15</p> <p><b>delegate</b> [1] 30/4</p> <p><b>democracies</b> [1] 34/21</p> <p><b>democracy</b> [5] 16/5 32/18 34/3 34/4 59/17</p> <p><b>democratic</b> [2] 37/21 48/21</p> <p><b>demonstrate</b> [1] 47/7</p> <p><b>denied</b> [1] 16/7</p> <p><b>Department</b> [2] 2/6 2/9</p> <p><b>Deschutes</b> [1] 27/14</p> <p><b>described</b> [2] 41/11 55/13</p> <p><b>descriptions</b> [1] 55/8</p> <p><b>designates</b> [1] 44/22</p> <p><b>designed</b> [4] 23/4 39/14 39/14 60/14</p> <p><b>despite</b> [2] 6/2 25/1</p> <p><b>destroy</b> [1] 52/20</p> <p><b>detected</b> [1] 25/21</p> <p><b>determination</b> [1] 50/11</p> <p><b>determine</b> [1] 17/1</p> <p><b>determining</b> [1] 47/23</p> <p><b>developed</b> [1] 34/21</p> <p><b>did</b> [11] 6/1 19/7 20/19 27/16</p>
---	--	--

<p><b>D</b></p> <p><b>did...</b> [7] 29/1 33/4 41/8 41/8 41/10 43/8 54/20</p> <p><b>didn't</b> [7] 9/8 28/1 33/1 33/1 34/24 60/5 60/7</p> <p><b>difference</b> [4] 14/15 14/15 51/24 54/7</p> <p><b>different</b> [3] 30/10 54/3 57/4</p> <p><b>digit</b> [7] 20/14 20/18 20/20 60/18 61/7 61/8 61/11</p> <p><b>digitally</b> [1] 65/12</p> <p><b>digits</b> [10] 20/12 20/21 20/24 20/25 21/2 21/4 29/17 61/9 61/12 61/14</p> <p><b>dilution</b> [1] 16/7</p> <p><b>direction</b> [1] 27/11</p> <p><b>Director</b> [1] 25/4</p> <p><b>disadvantage</b> [2] 35/17 35/18</p> <p><b>disagree</b> [2] 41/24 42/1</p> <p><b>disclaim</b> [1] 5/18</p> <p><b>disclaimed</b> [5] 5/15 5/17 8/7 8/8 51/2</p> <p><b>disclaiming</b> [1] 5/18</p> <p><b>disclosed</b> [1] 28/17</p> <p><b>discover</b> [1] 37/4</p> <p><b>discovered</b> [2] 27/5 27/22</p> <p><b>discovery</b> [4] 32/4 43/22 53/20 53/21</p> <p><b>discrete</b> [1] 59/9</p> <p><b>discrimination</b> [1] 38/9</p> <p><b>discuss</b> [2] 10/4 10/8</p> <p><b>disenfranchised</b> [1] 16/13</p> <p><b>disenfranchisement</b> [1] 62/6</p> <p><b>dismiss</b> [13] 3/7 3/8 5/4 9/2 13/8 17/23 42/10 42/15 42/18 43/6 46/19 47/14 63/22</p> <p><b>dismissal</b> [4] 13/4 13/9 13/11 50/24</p> <p><b>dismissed</b> [11] 9/12 11/17 12/24 13/13 26/16 43/10 43/11 47/6 47/15 53/25 64/2</p> <p><b>dismisses</b> [1] 51/14</p> <p><b>dismissing</b> [2] 12/25 13/1</p> <p><b>disparate</b> [1] 34/22</p> <p><b>displays</b> [1] 24/15</p> <p><b>disputes</b> [2] 47/11 63/23</p> <p><b>disruptive</b> [1] 15/12</p> <p><b>dissatisfaction</b> [2] 7/2 7/10</p> <p><b>dissent</b> [1] 42/4</p> <p><b>dissenting</b> [4] 16/14 34/16 41/22 42/3</p> <p><b>distaste</b> [2] 7/13 7/13</p> <p><b>district</b> [8] 1/1 1/2 1/16 2/18</p>	<p>15/22 47/15 64/9 64/12</p> <p><b>distrust</b> [4] 7/13 7/14 16/11 33/18</p> <p><b>divided</b> [1] 62/17</p> <p><b>dividing</b> [1] 61/23</p> <p><b>division</b> [3] 1/3 40/10 62/5</p> <p><b>divisions</b> [1] 61/23</p> <p><b>do</b> [38]</p> <p><b>docket</b> [3] 3/8 3/10 64/7</p> <p><b>Docket No. 73</b> [1] 3/8</p> <p><b>Docket No. 75</b> [1] 3/10</p> <p><b>doctored</b> [1] 53/9</p> <p><b>doctrine</b> [1] 37/20</p> <p><b>does</b> [10] 8/4 11/3 14/1 17/8 18/24 21/18 41/15 47/2 48/1 58/13</p> <p><b>doesn't</b> [16] 8/1 8/15 17/13 29/4 31/14 32/20 32/21 35/23 40/25 47/25 58/1 58/4 58/5 58/14 60/6 61/9</p> <p><b>doing</b> [10] 22/21 26/9 28/21 29/19 29/22 30/3 41/6 43/14 53/2 61/1</p> <p><b>dollars</b> [1] 22/2</p> <p><b>don't</b> [46]</p> <p><b>done</b> [6] 12/12 25/9 25/10 25/10 29/5 42/3</p> <p><b>door</b> [1] 48/1</p> <p><b>doors</b> [2] 18/21 39/9</p> <p><b>doubt</b> [1] 52/3</p> <p><b>Douglas</b> [2] 24/14 24/18</p> <p><b>down</b> [2] 33/11 61/3</p> <p><b>driver's</b> [2] 20/23 21/1</p> <p><b>drivers'</b> [1] 15/19</p> <p><b>drives</b> [1] 16/10</p> <p><b>dropped</b> [1] 26/6</p> <p><b>due</b> [4] 6/8 33/21 33/22 55/2</p> <p><b>Dysinger</b> [3] 3/16 26/25 27/7</p> <hr/> <p><b>E</b></p> <p><b>each</b> [6] 12/22 29/15 34/22 35/15 35/16 43/13</p> <p><b>easier</b> [1] 29/8</p> <p><b>easily</b> [1] 23/19</p> <p><b>easy</b> [3] 56/17 60/13 60/14</p> <p><b>ECF</b> [1] 46/14</p> <p><b>ECF 64-7</b> [1] 46/14</p> <p><b>economic</b> [1] 30/17</p> <p><b>Edtl</b> [1] 3/15</p> <p><b>Education</b> [1] 32/23</p> <p><b>effect</b> [1] 10/21</p> <p><b>effective</b> [2] 17/17 18/11</p> <p><b>effectively</b> [1] 16/8</p>	<p><b>efficient</b> [1] 17/18</p> <p><b>efforts</b> [1] 19/8</p> <p><b>Eighty</b> [2] 19/19 19/21</p> <p><b>Eighty-five</b> [2] 19/19 19/21</p> <p><b>either</b> [5] 6/10 11/14 24/2 24/2 36/22</p> <p><b>elderly</b> [1] 23/9</p> <p><b>elected</b> [3] 36/15 36/16 36/17</p> <p><b>electing</b> [1] 34/5</p> <p><b>election</b> [66]</p> <p><b>elections</b> [54]</p> <p><b>electoral</b> [3] 16/4 30/1 59/16</p> <p><b>electronic</b> [1] 20/15</p> <p><b>elements</b> [1] 62/21</p> <p><b>Elephant</b> [1] 38/23</p> <p><b>elephants</b> [1] 38/21</p> <p><b>eligible</b> [5] 19/4 34/23 46/10 46/17 53/8</p> <p><b>else</b> [2] 18/10 40/19</p> <p><b>emails</b> [1] 21/14</p> <p><b>emotion</b> [1] 16/12</p> <p><b>emotional</b> [6] 7/2 7/4 7/8 38/16 38/25 51/7</p> <p><b>emotionally</b> [1] 38/22</p> <p><b>employees</b> [1] 22/9</p> <p><b>enable</b> [6] 16/17 31/22 32/6 54/14 60/9 60/14</p> <p><b>enabled</b> [1] 41/24</p> <p><b>enables</b> [1] 60/17</p> <p><b>enacted</b> [1] 60/25</p> <p><b>encompass</b> [1] 49/20</p> <p><b>encompasses</b> [1] 58/3</p> <p><b>end</b> [5] 24/10 24/11 45/9 50/23 50/23</p> <p><b>enforce</b> [2] 49/11 50/17</p> <p><b>engage</b> [1] 13/24</p> <p><b>engaged</b> [1] 12/16</p> <p><b>engender</b> [1] 35/4</p> <p><b>enjoined</b> [2] 15/21 15/23</p> <p><b>enough</b> [10] 10/4 11/22 33/11 41/21 42/16 42/17 42/18 42/18 50/14 60/16</p> <p><b>ensure</b> [3] 13/24 23/16 42/12</p> <p><b>enter</b> [1] 7/3</p> <p><b>entertain</b> [1] 12/19</p> <p><b>entire</b> [2] 24/10 35/3</p> <p><b>entirely</b> [1] 11/17</p> <p><b>entirety</b> [1] 46/11</p> <p><b>entitled</b> [3] 46/4 46/24 65/10</p> <p><b>envelope</b> [4] 22/6 23/15 24/22 52/22</p> <p><b>equal</b> [4] 32/25 33/12 40/6 55/2</p> <p><b>equally</b> [1] 45/24</p>
---	---	--

<p><b>E</b></p> <p><b>equitable</b> [2] 7/24 47/21</p> <p><b>equities</b> [1] 47/22</p> <p><b>erroneously</b> [1] 56/24</p> <p><b>escape</b> [4] 14/12 16/22 35/24 36/11</p> <p><b>essential</b> [3] 16/4 32/17 59/16</p> <p><b>essentially</b> [5] 7/6 7/7 47/11 47/18 56/16</p> <p><b>establish</b> [3] 8/13 10/24 45/18</p> <p><b>established</b> [2] 14/18 28/18</p> <p><b>establishing</b> [1] 39/4</p> <p><b>et</b> [8] 1/4 1/7 2/5 2/8 3/5 3/5 65/3 65/3</p> <p><b>even</b> [19] 6/1 6/12 9/15 10/15 10/18 11/11 18/5 24/13 24/16 25/10 27/18 29/8 32/23 46/2 56/18 58/3 59/18 61/3 62/16</p> <p><b>event</b> [2] 9/11 11/25</p> <p><b>ever</b> [5] 20/19 20/19 25/2 25/9 33/10</p> <p><b>every</b> [13] 11/9 12/23 12/25 13/1 18/1 21/12 24/9 25/23 25/24 27/23 27/25 40/5 53/25</p> <p><b>everybody</b> [1] 15/4</p> <p><b>everyone</b> [3] 18/9 22/13 40/14</p> <p><b>everything</b> [2] 28/21 41/2</p> <p><b>evidence</b> [13] 14/14 17/24 18/13 29/23 32/1 33/13 43/18 52/1 52/11 52/20 52/21 52/22 53/2</p> <p><b>evident</b> [1] 53/4</p> <p><b>exactly</b> [2] 39/12 39/12</p> <p><b>exam</b> [3] 18/8 18/9 18/10</p> <p><b>examining</b> [1] 14/23</p> <p><b>example</b> [4] 6/13 7/15 26/2 55/17</p> <p><b>except</b> [2] 12/4 36/12</p> <p><b>exception</b> [2] 48/18 48/20</p> <p><b>excess</b> [4] 19/1 21/12 21/16 22/20</p> <p><b>excessive</b> [1] 55/10</p> <p><b>exclusively</b> [1] 33/5</p> <p><b>exercise</b> [3] 7/24 16/9 31/20</p> <p><b>exercising</b> [1] 47/20</p> <p><b>exist</b> [1] 42/11</p> <p><b>existence</b> [1] 12/14</p> <p><b>exists</b> [3] 5/16 24/20 58/10</p> <p><b>expedited</b> [1] 50/7</p> <p><b>expert</b> [1] 61/16</p> <p><b>experts</b> [3] 25/22 53/20 62/9</p> <p><b>Expiration</b> [1] 65/17</p> <p><b>explain</b> [1] 4/17</p>	<p><b>explained</b> [1] 10/20</p> <p><b>explains</b> [1] 54/23</p> <p><b>explanation</b> [2] 21/9 26/13</p> <p><b>explicitly</b> [1] 51/2</p> <p><b>exposes</b> [3] 60/25 60/25 61/1</p> <p><b>extent</b> [1] 38/10</p> <p><b>extraordinary</b> [2] 29/23 32/1</p> <p><b>extricate</b> [1] 37/8</p> <hr/> <p><b>F</b></p> <p><b>facilitate</b> [2] 15/11 23/5</p> <p><b>facilities</b> [2] 32/25 33/3</p> <p><b>fact</b> [27] 4/16 4/17 5/2 5/5 5/9 5/10 6/11 6/24 7/5 7/21 7/23 8/3 8/5 8/6 12/1 38/17 42/22 44/25 45/3 47/2 48/1 48/6 51/8 53/16 53/18 53/19 62/15</p> <p><b>factors</b> [1] 32/24</p> <p><b>facts</b> [12] 17/15 17/21 17/22 33/14 33/19 35/18 45/21 51/4 52/7 59/5 60/17 62/24</p> <p><b>factual</b> [1] 63/23</p> <p><b>FAGAN</b> [10] 1/7 2/5 2/8 3/5 30/18 30/22 44/4 44/7 44/19 65/3</p> <p><b>fail</b> [4] 10/7 10/10 10/23 11/11</p> <p><b>failed</b> [2] 4/15 4/16</p> <p><b>failing</b> [1] 11/17</p> <p><b>fails</b> [3] 4/18 4/21 12/19</p> <p><b>failure</b> [3] 45/21 49/21 54/21</p> <p><b>failures</b> [1] 30/11</p> <p><b>fair</b> [1] 63/22</p> <p><b>fairly</b> [1] 12/21</p> <p><b>fairness</b> [9] 16/20 16/21 31/25 32/8 32/10 32/13 42/1 60/10 63/24</p> <p><b>fake</b> [3] 24/2 24/3 61/6</p> <p><b>fall</b> [1] 5/11</p> <p><b>far</b> [1] 58/6</p> <p><b>fault</b> [1] 12/19</p> <p><b>favorite</b> [1] 34/15</p> <p><b>fear</b> [3] 5/7 16/11 16/12</p> <p><b>FEC</b> [1] 34/5</p> <p><b>federal</b> [10] 19/8 20/2 39/7 47/5 47/12 48/19 49/12 50/17 53/3 57/10</p> <p><b>feed</b> [1] 29/11</p> <p><b>feeding</b> [1] 24/17</p> <p><b>feel</b> [1] 16/13</p> <p><b>feeling</b> [4] 33/8 33/11 37/18 42/18</p> <p><b>feelings</b> [2] 9/17 33/13</p> <p><b>fees</b> [1] 55/10</p>	<p><b>few</b> [5] 39/17 55/21 55/22 55/23 63/3</p> <p><b>fewer</b> [2] 19/11 19/12</p> <p><b>Fifth</b> [1] 57/11</p> <p><b>figuring</b> [1] 22/21</p> <p><b>file</b> [1] 43/7</p> <p><b>filed</b> [4] 9/1 9/6 26/14 48/9</p> <p><b>fill</b> [4] 18/10 21/22 21/23 29/12</p> <p><b>filled</b> [5] 21/25 23/3 23/10 23/10 23/11</p> <p><b>filled-out</b> [1] 21/25</p> <p><b>filling</b> [2] 21/14 23/9</p> <p><b>final</b> [2] 32/11 63/6</p> <p><b>Finally</b> [1] 42/20</p> <p><b>find</b> [4] 9/15 9/23 22/23 39/2</p> <p><b>finding</b> [2] 32/12 40/23</p> <p><b>findings</b> [2] 64/8 64/10</p> <p><b>fine</b> [2] 18/17 38/6</p> <p><b>fire</b> [1] 52/3</p> <p><b>first</b> [24] 3/7 3/8 4/12 8/12 9/5 9/22 10/12 37/16 40/1 40/18 40/18 44/12 46/8 46/11 47/4 47/13 49/8 49/18 55/4 56/16 56/22 56/24 56/25 58/23</p> <p><b>first-time</b> [1] 40/18</p> <p><b>fit</b> [1] 37/19</p> <p><b>fits</b> [1] 55/14</p> <p><b>five</b> [8] 19/11 19/12 19/19 19/21 53/5 61/9 61/10 61/12</p> <p><b>fixed</b> [1] 36/10</p> <p><b>flabbergasted</b> [1] 49/25</p> <p><b>flimsiest</b> [1] 20/6</p> <p><b>folks</b> [3] 4/25 14/24 28/10</p> <p><b>follow</b> [2] 41/11 43/17</p> <p><b>follow-up</b> [1] 41/11</p> <p><b>followed</b> [1] 11/9</p> <p><b>forbids</b> [1] 38/7</p> <p><b>foreclosed</b> [1] 8/6</p> <p><b>foregoing</b> [1] 65/8</p> <p><b>foreign</b> [1] 5/19</p> <p><b>forged</b> [1] 23/20</p> <p><b>form</b> [3] 14/17 18/15 21/21</p> <p><b>formed</b> [1] 23/20</p> <p><b>forward</b> [1] 43/6</p> <p><b>found</b> [3] 11/19 39/21 40/16</p> <p><b>four</b> [21] 10/11 19/11 19/14 20/12 20/14 20/18 20/20 20/21 20/23 20/25 21/2 21/4 29/17 47/21 53/6 60/18 61/7 61/8 61/11 61/14 62/1</p> <p><b>four-digit</b> [7] 20/14 20/18 20/20 60/18 61/7 61/8 61/11</p> <p><b>four-year</b> [1] 19/11</p>
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<p><b>F</b></p> <p><b>Fourteenth [9]</b> 4/23 33/22 48/3 48/7 50/16 54/24 54/25 55/12 55/16</p> <p><b>Fourth [1]</b> 57/9</p> <p><b>France [3]</b> 62/10 62/10 62/11</p> <p><b>franchise [2]</b> 16/9 38/1</p> <p><b>frankly [1]</b> 49/5</p> <p><b>fraud [59]</b></p> <p><b>fraudulent [1]</b> 16/13</p> <p><b>fraudulently [3]</b> 5/14 5/20 57/10</p> <p><b>FRCP [1]</b> 8/25</p> <p><b>free [5]</b> 14/11 16/9 37/7 37/12 49/11</p> <p><b>free-standing [1]</b> 49/11</p> <p><b>freestanding [2]</b> 48/2 48/6</p> <p><b>frivolous [1]</b> 27/18</p> <p><b>full [1]</b> 64/7</p> <p><b>functioning [3]</b> 16/4 32/18 59/17</p> <p><b>fundamental [8]</b> 15/13 31/16 31/17 33/21 33/23 33/24 34/7 37/12</p> <p><b>fundamentally [1]</b> 18/11</p> <p><b>further [6]</b> 9/14 13/16 13/19 51/20 58/16 63/5</p> <p><b>futile [2]</b> 51/12 51/13</p> <p><b>future [1]</b> 28/18</p> <p><b>fuzzy [1]</b> 26/17</p>	<p>50/14 51/1 59/21</p> <p><b>gives [2]</b> 34/18 61/21</p> <p><b>global [1]</b> 59/15</p> <p><b>go [21]</b> 4/3 15/5 20/20 20/24 21/1 22/7 28/14 33/1 35/1 39/2 39/2 39/8 48/3 48/15 48/21 49/22 50/6 50/10 58/21 61/5 61/25</p> <p><b>goes [4]</b> 14/17 23/2 49/22 50/21</p> <p><b>going [19]</b> 8/24 15/2 21/19 21/24 24/4 24/16 26/19 26/22 28/3 28/4 28/11 28/19 30/12 43/19 52/3 52/24 53/16 59/20 61/5</p> <p><b>gone [1]</b> 24/22</p> <p><b>Gonzalez [1]</b> 41/21</p> <p><b>good [8]</b> 3/18 3/20 3/24 4/1 20/4 21/8 24/3 52/8</p> <p><b>got [11]</b> 20/8 23/3 28/6 29/12 33/2 33/3 36/10 37/5 38/15 39/11 62/16</p> <p><b>gotten [1]</b> 16/24</p> <p><b>govern [3]</b> 29/25 34/2 58/1</p> <p><b>governance [11]</b> 16/17 31/14 31/15 31/22 32/6 37/22 41/24 52/15 54/15 60/9 60/12</p> <p><b>governed [2]</b> 6/16 6/16</p> <p><b>governing [1]</b> 31/20</p> <p><b>government [25]</b> 14/5 14/12 14/20 16/24 17/3 17/9 17/11 29/22 30/3 30/12 31/8 33/18 35/25 36/19 36/25 39/1 40/8 40/9 41/2 44/6 52/9 54/8 54/13 59/23 60/25</p> <p><b>Governor [3]</b> 30/21 31/4 44/21</p> <p><b>governs [2]</b> 4/23 58/2</p> <p><b>grant [1]</b> 51/6</p> <p><b>granted [1]</b> 51/12</p> <p><b>green [1]</b> 44/14</p> <p><b>grievance [12]</b> 6/4 7/7 7/16 8/11 10/20 11/25 35/22 39/23 40/1 40/13 47/16 51/8</p> <p><b>grievances [7]</b> 35/23 36/3 39/18 39/19 47/11 48/19 50/20</p> <p><b>grounds [4]</b> 4/12 6/23 20/6 47/6</p> <p><b>group [1]</b> 39/21</p> <p><b>groups [2]</b> 23/6 62/14</p> <p><b>guess [1]</b> 55/11</p>	<p><b>hadn't [1]</b> 43/3</p> <p><b>hand [1]</b> 8/16</p> <p><b>handful [1]</b> 56/12</p> <p><b>handle [1]</b> 31/1</p> <p><b>hang [1]</b> 28/12</p> <p><b>Hanson [1]</b> 20/7</p> <p><b>happen [1]</b> 26/16</p> <p><b>happened [1]</b> 17/16</p> <p><b>happens [1]</b> 58/23</p> <p><b>Happy [1]</b> 2/4</p> <p><b>hard [5]</b> 20/13 21/25 22/8 22/17 29/18</p> <p><b>harder [1]</b> 61/3</p> <p><b>harm [8]</b> 9/19 10/15 10/16 11/1 11/3 11/6 12/12 38/16</p> <p><b>harmed [4]</b> 10/14 10/18 12/10 40/14</p> <p><b>harming [2]</b> 11/10 30/16</p> <p><b>harms [3]</b> 35/15 37/20 37/21</p> <p><b>Harney [1]</b> 27/13</p> <p><b>harvesting [1]</b> 23/4</p> <p><b>has [49]</b></p> <p><b>have [146]</b></p> <p><b>haven't [3]</b> 43/2 43/2 53/3</p> <p><b>having [4]</b> 6/14 22/15 28/10 43/25</p> <p><b>Hawthorne [1]</b> 2/13</p> <p><b>HB [1]</b> 28/23</p> <p><b>HB 3291 [1]</b> 28/23</p> <p><b>he [8]</b> 20/8 20/9 20/9 38/11 51/4 59/1 60/5 60/8</p> <p><b>head [2]</b> 20/13 29/19</p> <p><b>hear [2]</b> 14/25 60/5</p> <p><b>hearing [5]</b> 15/12 22/15 50/23 63/10 64/15</p> <p><b>heart [1]</b> 33/10</p> <p><b>held [2]</b> 39/4 39/5</p> <p><b>help [2]</b> 21/14 21/22</p> <p><b>helpful [1]</b> 9/24</p> <p><b>helping [1]</b> 40/8</p> <p><b>her [8]</b> 26/5 26/9 26/12 27/8 44/4 44/7 44/7 44/20</p> <p><b>here [27]</b> 3/4 3/14 3/17 3/25 10/9 11/6 14/2 14/3 16/22 21/16 32/5 33/13 34/12 35/7 37/2 37/25 41/1 41/16 42/15 43/15 47/17 49/17 49/25 50/6 50/9 55/11 59/2</p> <p><b>Here's [3]</b> 22/2 22/2 22/2</p> <p><b>Hi [1]</b> 3/13</p> <p><b>hidden [1]</b> 37/5</p> <p><b>hide [1]</b> 14/7</p> <p><b>hiding [1]</b> 41/14</p>
<p><b>G</b></p> <p><b>gain [1]</b> 7/16</p> <p><b>general [1]</b> 38/16</p> <p><b>generalized [20]</b> 6/4 6/19 7/7 7/15 8/11 10/20 11/25 35/22 35/23 36/3 39/19 39/23 40/1 40/13 47/10 47/16 48/19 50/20 50/21 51/8</p> <p><b>generate [1]</b> 20/17</p> <p><b>generates [2]</b> 33/8 33/18</p> <p><b>get [26]</b> 17/4 20/23 20/24 21/1 22/23 23/7 26/15 26/15 27/12 27/14 36/7 37/16 42/9 42/17 43/12 45/20 47/25 50/10 50/11 53/20 56/15 57/17 57/19 57/20 59/23 59/24</p> <p><b>gets [4]</b> 21/13 24/22 24/22 53/25</p> <p><b>getting [2]</b> 17/5 40/14</p> <p><b>give [12]</b> 13/17 16/18 22/11 31/23 32/7 32/10 35/23 41/25 53/18 59/21 60/10 63/5</p> <p><b>given [6]</b> 26/13 26/13 46/18</p>	<p><b>H</b></p> <p><b>hacked [1]</b> 25/22</p> <p><b>had [9]</b> 9/9 19/19 19/20 19/21 19/23 35/2 38/21 51/17 58/24</p>	

<p><b>H</b></p> <p><b>high</b> [1] 23/22</p> <p><b>highlighted</b> [1] 46/7</p> <p><b>him</b> [1] 53/18</p> <p><b>his</b> [3] 20/7 34/15 41/22</p> <p><b>history</b> [1] 17/16</p> <p><b>hold</b> [1] 27/8</p> <p><b>hole</b> [1] 37/20</p> <p><b>home</b> [3] 18/8 18/9 23/7</p> <p><b>honest</b> [1] 16/10</p> <p><b>honor</b> [16] 3/4 3/20 3/24 4/5 4/11 8/19 9/24 13/6 13/10 13/20 18/2 18/3 18/6 39/15 63/1 63/7</p> <p><b>HONORABLE</b> [1] 1/15</p> <p><b>hood</b> [1] 62/4</p> <p><b>hope</b> [1] 10/1</p> <p><b>Hopkins</b> [2] 39/3 40/2</p> <p><b>hour</b> [1] 39/12</p> <p><b>House</b> [1] 29/16</p> <p><b>how</b> [17] 7/24 21/23 21/25 22/8 22/17 23/5 23/8 23/21 24/4 28/11 28/12 29/10 32/10 34/2 53/21 58/25 60/17</p> <p><b>However</b> [1] 13/11</p> <p><b>huge</b> [6] 18/25 43/5 55/5 56/19 61/23 63/23</p> <p><b>human</b> [5] 18/3 18/4 38/18 38/18 38/19</p> <p><b>Humane</b> [2] 38/19 38/20</p> <p><b>hump</b> [1] 37/16</p> <p><b>hundred</b> [2] 18/16 61/13</p> <p><b>hundreds</b> [1] 20/18</p> <p><b>hurdle</b> [2] 37/16 42/9</p> <p><b>hurting</b> [1] 40/8</p> <p><b>hypothetical</b> [3] 11/4 14/4 35/24</p>	<p><b>illegal</b> [3] 19/22 21/6 50/5</p> <p><b>illegally</b> [1] 6/7</p> <p><b>Illinois</b> [2] 31/18 33/25</p> <p><b>illustration</b> [1] 39/8</p> <p><b>image</b> [2] 27/24 27/25</p> <p><b>images</b> [6] 27/1 27/3 27/15 27/22 28/19 28/19</p> <p><b>impersonal</b> [1] 17/19</p> <p><b>implausible</b> [1] 12/19</p> <p><b>importance</b> [2] 15/17 16/2</p> <p><b>important</b> [5] 6/18 14/3 30/10 50/19 53/23</p> <p><b>impossible</b> [3] 25/18 51/3 58/22</p> <p><b>impression</b> [1] 40/18</p> <p><b>inaccurate</b> [1] 6/8</p> <p><b>inactive</b> [1] 57/3</p> <p><b>inclined</b> [1] 46/2</p> <p><b>include</b> [5] 8/21 16/18 31/23 32/7 60/9</p> <p><b>including</b> [3] 16/19 31/24 49/9</p> <p><b>incorrect</b> [2] 5/13 49/14</p> <p><b>incorrectly</b> [1] 11/24</p> <p><b>increase</b> [1] 30/15</p> <p><b>Incredible</b> [1] 29/18</p> <p><b>incredibly</b> [1] 6/18</p> <p><b>incumbency</b> [1] 38/3</p> <p><b>incumbent</b> [1] 38/3</p> <p><b>indicate</b> [1] 51/23</p> <p><b>indications</b> [1] 52/6</p> <p><b>individual</b> [5] 35/16 53/11 55/3 56/3 57/16</p> <p><b>individually</b> [1] 35/16</p> <p><b>individuals</b> [4] 5/7 35/19 46/9 46/23</p> <p><b>ineffective</b> [2] 23/19 26/20</p> <p><b>ineligible</b> [1] 19/9</p> <p><b>inference</b> [1] 12/9</p> <p><b>inferences</b> [1] 12/19</p> <p><b>inferiority</b> [2] 33/8 37/18</p> <p><b>infiltrate</b> [2] 22/10 22/18</p> <p><b>information</b> [1] 58/24</p> <p><b>infringing</b> [1] 13/25</p> <p><b>inherent</b> [3] 23/23 23/23 25/13</p> <p><b>inherently</b> [1] 51/7</p> <p><b>initial</b> [3] 8/2 8/20 13/20</p> <p><b>initiatives</b> [1] 6/17</p> <p><b>injunction</b> [5] 15/23 31/5 43/21 43/21 47/24</p> <p><b>injured</b> [1] 38/22</p> <p><b>injuries</b> [1] 13/3</p> <p><b>injury</b> [30] 4/16 4/16 5/2 5/12 6/24 7/2 7/4 7/5 7/8 7/23 8/3 8/5 8/5 9/16 9/20 10/22 11/13 11/23</p>	<p>12/13 12/22 34/18 38/17 41/16 44/25 45/3 47/2 48/1 48/6 51/7 51/8</p> <p><b>inquiry</b> [4] 39/6 40/3 45/2 47/22</p> <p><b>inside</b> [1] 59/20</p> <p><b>insidious</b> [1] 23/4</p> <p><b>instance</b> [2] 48/20 49/3</p> <p><b>instead</b> [2] 36/14 38/5</p> <p><b>institutions</b> [1] 18/5</p> <p><b>instructions</b> [1] 23/5</p> <p><b>insufficient</b> [4] 7/16 11/15 45/17 45/20</p> <p><b>insurmountable</b> [1] 51/11</p> <p><b>integrity</b> [7] 15/18 16/2 16/3 32/17 33/20 34/17 47/14</p> <p><b>intended</b> [1] 15/9</p> <p><b>intentionally</b> [1] 20/3</p> <p><b>intercepted</b> [1] 57/7</p> <p><b>interceptor</b> [1] 57/9</p> <p><b>interest</b> [17] 6/14 6/18 6/19 6/20 6/20 7/17 7/18 7/21 15/11 23/6 47/19 47/22 55/4 55/19 55/24 56/4 59/8</p> <p><b>interests</b> [1] 7/25</p> <p><b>interference</b> [1] 28/10</p> <p><b>internet</b> [1] 23/21</p> <p><b>interpreted</b> [1] 49/20</p> <p><b>interrogate</b> [2] 14/9 16/25</p> <p><b>interrogating</b> [2] 14/22 27/17</p> <p><b>interruption</b> [1] 15/6</p> <p><b>invade</b> [1] 40/24</p> <p><b>invaded</b> [1] 41/5</p> <p><b>invalid</b> [1] 5/13</p> <p><b>invent</b> [1] 20/14</p> <p><b>investigate</b> [1] 26/23</p> <p><b>invite</b> [2] 4/24 28/22</p> <p><b>invited</b> [1] 3/22</p> <p><b>involved</b> [1] 32/24</p> <p><b>involves</b> [1] 18/13</p> <p><b>Iqbal</b> [1] 46/24</p> <p><b>irregularities</b> [1] 12/6</p> <p><b>is</b> [247]</p> <p><b>isn't</b> [4] 54/10 58/24 60/8 62/20</p> <p><b>issue</b> [8] 6/3 8/16 10/5 15/18 16/22 44/11 44/13 57/12</p> <p><b>issues</b> [4] 10/8 56/8 63/10 63/11</p> <p><b>issuing</b> [1] 8/1</p> <p><b>it</b> [119]</p> <p><b>it's</b> [80]</p> <p><b>its</b> [5] 7/24 9/2 20/2 42/8 49/1</p> <p><b>itself</b> [1] 37/22</p>
<p><b>I</b></p> <p><b>I'll</b> [5] 4/9 46/6 49/17 54/22 63/5</p> <p><b>I'm</b> [18] 3/13 3/14 8/24 15/7 15/7 16/16 28/11 38/19 40/2 45/4 49/4 49/5 49/25 50/6 50/13 57/21 61/16 61/16</p> <p><b>I've</b> [1] 32/16</p> <p><b>i.e</b> [1] 9/20</p> <p><b>ID</b> [1] 20/12</p> <p><b>idea</b> [5] 33/5 37/19 46/12 49/24 62/8</p> <p><b>ideas</b> [1] 50/14</p> <p><b>identify</b> [2] 3/11 20/20</p> <p><b>ignition</b> [3] 18/22 29/20 39/10</p> <p><b>Ignore</b> [1] 27/9</p> <p><b>ignored</b> [1] 24/21</p> <p><b>Ill</b> [3] 6/22 47/3 49/1</p>		

<p><b>J</b></p> <p><b>Janice [2]</b> 3/16 26/25  <b>Janice Dysinger [1]</b> 3/16  <b>January [2]</b> 8/20 9/6  <b>January 27 [1]</b> 9/6  <b>Jessup [2]</b> 2/18 65/15  <b>Jill [2]</b> 2/18 65/15  <b>John [1]</b> 53/15  <b>Johnson [1]</b> 3/16  <b>join [1]</b> 43/7  <b>joining [1]</b> 3/9  <b>Joint [1]</b> 3/8  <b>JONCUS [13]</b> 2/2 2/3 3/14 13/18  13/22 15/5 28/9 28/14 39/16  42/20 44/2 51/20 58/19  <b>JONES [2]</b> 2/12 4/4  <b>judge [7]</b> 1/16 3/13 18/7 42/4  42/4 64/9 64/12  <b>Judge Beckerman [1]</b> 3/13  <b>judges [2]</b> 13/24 36/14  <b>judicial [3]</b> 46/18 49/6 50/11  <b>June [4]</b> 1/7 3/2 26/11 65/6  <b>June 10th [1]</b> 26/11  <b>jurisdiction [11]</b> 4/14 6/22 8/14  37/11 37/13 39/22 39/23 40/23  45/19 49/2 55/18  <b>jurisdictional [3]</b> 4/12 9/12 10/8  <b>just [23]</b> 15/12 16/8 24/4 28/6  38/6 38/13 39/20 41/15 44/12  46/3 46/6 46/12 47/8 48/14 49/5  49/5 49/17 49/25 50/15 51/9  58/11 60/5 63/3  <b>Justice [10]</b> 2/6 2/9 16/14 17/7  31/21 34/14 41/22 52/14 60/4  60/8  <b>Justice Thomas's [1]</b> 60/4  <b>justification [1]</b> 59/17</p>	<p>61/16  <b>knowing [1]</b> 52/7  <b>known [2]</b> 16/1 59/5  <b>knows [1]</b> 18/9  <b>Kotek [3]</b> 30/21 30/23 31/4</p> <hr/> <p><b>L</b></p> <p><b>lack [13]</b> 4/13 9/16 33/13 34/16  38/25 41/12 41/20 41/20 42/16  54/5 60/3 62/6 62/22  <b>lacks [3]</b> 4/13 8/14 51/4  <b>Lane [4]</b> 19/13 19/23 19/24  22/25  <b>large [2]</b> 23/1 55/8  <b>largest [1]</b> 17/25  <b>last [11]</b> 20/12 20/21 20/23  20/25 21/1 21/4 23/25 26/3  28/24 40/12 61/14  <b>late [3]</b> 15/25 23/1 23/25  <b>laugh [1]</b> 38/15  <b>law [29]</b> 2/3 7/20 15/18 15/19  15/20 19/8 20/2 20/5 21/5 27/10  28/8 28/16 28/18 29/5 29/8  31/16 37/19 39/3 44/21 47/23  49/13 50/3 50/18 53/3 53/24  54/24 56/13 57/10 60/25  <b>lawmakers [1]</b> 28/21  <b>laws [8]</b> 6/16 11/8 19/4 33/12  35/13 43/17 48/5 49/12  <b>lawsuit [3]</b> 30/18 31/5 43/25  <b>lawyer [2]</b> 50/13 61/16  <b>leaders [1]</b> 34/5  <b>leads [1]</b> 59/24  <b>learning [1]</b> 18/5  <b>least [3]</b> 5/24 10/8 57/1  <b>leave [8]</b> 50/25 50/25 51/6 51/11  51/13 51/15 51/15 64/3  <b>leaving [1]</b> 18/20  <b>left [2]</b> 39/8 63/4  <b>legal [5]</b> 14/11 37/7 42/15 51/9  51/10  <b>legions [1]</b> 48/9  <b>legislative [1]</b> 40/25  <b>legislature [2]</b> 14/1 19/4  <b>legitimacy [1]</b> 42/8  <b>legitimate [3]</b> 16/12 24/2 24/5  <b>legitimately [1]</b> 26/16  <b>lens [1]</b> 24/15  <b>less [1]</b> 38/11  <b>let [9]</b> 22/13 28/9 30/5 39/17  39/25 41/11 41/23 41/23 44/9  <b>Let's [2]</b> 30/21 30/22  <b>level [2]</b> 61/25 62/18</p>	<p><b>Liberation [1]</b> 25/16  <b>liberty [1]</b> 14/18  <b>license [3]</b> 20/23 20/25 21/1  <b>licenses [1]</b> 15/19  <b>lifeblood [1]</b> 34/3  <b>like [26]</b> 18/5 18/14 18/20 18/20  21/5 21/7 25/19 26/17 29/9 32/5  32/6 36/20 38/4 42/18 47/9  48/17 49/5 52/23 56/6 56/15  56/19 57/20 60/6 60/22 62/11  62/11  <b>limit [3]</b> 30/14 30/16 61/8  <b>limitations [2]</b> 49/1 52/23  <b>limiting [4]</b> 25/5 25/6 25/8 25/9  <b>Lincoln [1]</b> 27/4  <b>line [2]</b> 10/24 46/21  <b>lines [2]</b> 15/3 55/17  <b>link [2]</b> 56/9 56/18  <b>Linn [1]</b> 27/14  <b>Linn County [1]</b> 27/14  <b>list [1]</b> 12/15  <b>lists [2]</b> 11/22 12/2  <b>litigation [1]</b> 42/14  <b>little [2]</b> 45/4 62/21  <b>lived [2]</b> 20/7 34/24  <b>lives [2]</b> 19/24 20/9  <b>LLC [1]</b> 2/3  <b>local [1]</b> 61/25  <b>long [4]</b> 18/18 19/17 55/17  55/21  <b>longer [5]</b> 5/16 29/25 30/1 54/16  64/7  <b>look [12]</b> 14/3 21/9 27/23 27/25  29/9 32/4 46/2 46/10 54/10  61/25 62/4 62/10  <b>looks [4]</b> 27/22 32/6 36/20  36/22  <b>loophole [1]</b> 29/6  <b>Loretta [1]</b> 3/16  <b>lose [2]</b> 40/11 61/4  <b>losers [1]</b> 40/5  <b>loses [1]</b> 14/7  <b>losing [3]</b> 16/19 31/24 40/15  <b>lost [8]</b> 29/23 31/13 31/13 31/15  33/19 38/21 40/20 50/4  <b>lot [5]</b> 19/25 30/10 31/22 58/20  63/21  <b>Lota's [1]</b> 38/23  <b>lots [3]</b> 19/1 19/1 52/19  <b>low [1]</b> 37/16</p>
<p><b>K</b></p> <p><b>kept [1]</b> 34/25  <b>key [1]</b> 7/20  <b>keys [3]</b> 18/21 29/20 39/10  <b>kick [1]</b> 21/17  <b>kind [5]</b> 7/4 7/14 10/1 12/16  20/1  <b>king [1]</b> 54/17  <b>knew [2]</b> 34/22 34/23  <b>know [31]</b> 14/13 17/12 17/12  17/13 18/3 20/19 23/17 28/12  34/13 35/9 36/24 40/11 40/18  41/1 41/14 41/17 42/9 43/2 43/5  45/16 45/17 46/2 52/8 53/13  53/14 54/13 58/6 59/1 59/8 61/7</p>	<p><b>M</b></p> <p><b>machine [4]</b> 5/19 6/8 24/17 63/9</p>	

<p><b>M</b></p> <p><b>machines [4]</b> 7/12 23/20 25/22 25/23</p> <p><b>made [8]</b> 9/13 37/14 46/16 59/18 59/19 60/19 60/19 60/20</p> <p><b>MAGISTRATE [1]</b> 1/16</p> <p><b>mail [15]</b> 5/13 7/12 18/1 18/10 18/15 18/16 18/20 23/24 28/25 29/4 31/5 32/13 47/17 57/6 63/9</p> <p><b>mail-in [6]</b> 18/10 18/15 18/16 18/20 31/5 32/13</p> <p><b>mainly [1]</b> 16/1</p> <p><b>maintain [1]</b> 10/7</p> <p><b>majority [1]</b> 25/1</p> <p><b>make [11]</b> 9/14 9/14 15/12 17/17 28/1 32/20 42/12 51/25 58/5 60/3 61/3</p> <p><b>makes [3]</b> 29/8 42/6 61/17</p> <p><b>making [8]</b> 36/14 51/24 52/4 52/4 56/25 59/15 61/18 61/22</p> <p><b>manicuring [1]</b> 20/25</p> <p><b>manipulate [1]</b> 5/20</p> <p><b>manner [1]</b> 7/11</p> <p><b>manual [1]</b> 57/6</p> <p><b>manufactured [1]</b> 25/14</p> <p><b>many [10]</b> 6/5 12/1 22/22 29/10 43/9 47/4 51/23 62/11 63/17 63/18</p> <p><b>MARC [3]</b> 1/4 3/14 65/3</p> <p><b>marked [1]</b> 29/15</p> <p><b>market [3]</b> 2/7 2/10 30/14</p> <p><b>MARSHALL [9]</b> 2/6 3/21 9/13 10/20 13/15 44/10 54/19 58/16 63/5</p> <p><b>matching [1]</b> 42/24</p> <p><b>Matrix [2]</b> 26/17 26/18</p> <p><b>matter [12]</b> 3/5 4/14 8/14 8/20 13/4 39/22 42/14 43/9 44/3 45/18 51/9 61/10</p> <p><b>may [11]</b> 9/1 12/6 26/3 26/5 26/9 33/9 33/10 36/19 39/5 50/22 64/11</p> <p><b>May 29th [2]</b> 26/5 26/9</p> <p><b>maybe [1]</b> 50/19</p> <p><b>McCutcheon [1]</b> 34/5</p> <p><b>me [14]</b> 4/21 20/13 22/13 23/11 28/9 29/21 39/11 39/17 39/25 41/11 41/23 41/23 44/9 53/15</p> <p><b>me ask [1]</b> 41/23</p> <p><b>mean [9]</b> 11/3 47/25 48/1 48/12 50/13 53/4 54/4 56/11 58/5</p> <p><b>means [10]</b> 11/4 12/25 24/3 26/24 36/23 37/7 39/4 50/3 51/5</p>	<p>65/10</p> <p><b>measure [2]</b> 32/19 42/6</p> <p><b>measured [1]</b> 32/20</p> <p><b>measures [1]</b> 25/7</p> <p><b>mechanism [1]</b> 24/20</p> <p><b>mechanistic [1]</b> 17/17</p> <p><b>meet [7]</b> 4/18 12/19 12/24 30/8 45/10 58/14 58/14</p> <p><b>Mei [1]</b> 26/3</p> <p><b>Mei Wong [1]</b> 26/3</p> <p><b>members [1]</b> 38/20</p> <p><b>mentioned [2]</b> 23/12 62/22</p> <p><b>mere [2]</b> 12/14 12/17</p> <p><b>met [1]</b> 8/13</p> <p><b>Metro [1]</b> 26/3</p> <p><b>microphone [1]</b> 22/12</p> <p><b>microphones [1]</b> 44/17</p> <p><b>might [3]</b> 27/6 28/15 41/17</p> <p><b>miles [1]</b> 37/17</p> <p><b>million [2]</b> 46/15 46/17</p> <p><b>minded [1]</b> 38/8</p> <p><b>minds [1]</b> 33/10</p> <p><b>minority [1]</b> 60/6</p> <p><b>minutes [2]</b> 25/23 63/4</p> <p><b>misadministration [1]</b> 10/25</p> <p><b>mismanagement [1]</b> 10/19</p> <p><b>misplaced [1]</b> 10/21</p> <p><b>missing [1]</b> 59/11</p> <p><b>mistake [3]</b> 57/24 58/1 58/7</p> <p><b>mitigate [2]</b> 25/18 25/19</p> <p><b>modem [1]</b> 25/25</p> <p><b>modes [1]</b> 38/8</p> <p><b>mole [1]</b> 52/23</p> <p><b>moment [1]</b> 22/11</p> <p><b>money [2]</b> 33/2 33/3</p> <p><b>monitoring [1]</b> 25/20</p> <p><b>monitors [1]</b> 24/8</p> <p><b>month [1]</b> 28/7</p> <p><b>more [19]</b> 11/3 14/17 17/17 17/17 18/11 18/14 19/3 23/6 29/10 29/12 34/3 37/11 37/22 37/22 37/23 46/9 46/22 59/15 62/11</p> <p><b>morning [1]</b> 26/4</p> <p><b>Mosley [1]</b> 34/14</p> <p><b>most [17]</b> 4/19 9/11 18/5 20/5 30/25 31/16 31/17 33/23 33/23 33/24 36/9 37/13 46/3 50/19 53/23 57/18 62/9</p> <p><b>motion [23]</b> 3/7 3/8 3/9 4/8 4/8 4/12 5/4 6/24 9/2 13/12 13/16 17/23 42/10 42/15 42/17 46/19 47/14 49/6 51/18 54/20 54/23</p>	<p>58/17 63/22</p> <p><b>motions [2]</b> 64/5 64/12</p> <p><b>motivated [1]</b> 38/4</p> <p><b>motive [1]</b> 25/11</p> <p><b>mountains [1]</b> 18/1</p> <p><b>move [1]</b> 38/23</p> <p><b>moved [1]</b> 19/20</p> <p><b>movie [1]</b> 26/18</p> <p><b>moving [4]</b> 4/9 44/25 47/1 63/6</p> <p><b>Mr. [17]</b> 9/13 10/20 13/15 13/18 13/22 15/5 28/9 28/14 39/16 42/20 44/2 44/10 51/20 54/19 58/16 58/19 63/5</p> <p><b>Mr. Joncus [10]</b> 13/18 13/22 15/5 28/9 28/14 39/16 42/20 44/2 51/20 58/19</p> <p><b>Mr. Marshall [7]</b> 9/13 10/20 13/15 44/10 54/19 58/16 63/5</p> <p><b>Ms. [8]</b> 4/17 8/16 8/18 9/25 13/7 27/7 42/21 44/7</p> <p><b>Ms. Dysinger [1]</b> 27/7</p> <p><b>Ms. Fagan [1]</b> 44/7</p> <p><b>Ms. Patel [4]</b> 4/17 8/16 8/18 13/7</p> <p><b>Ms. Patel's [1]</b> 42/21</p> <p><b>Ms. Williams [1]</b> 9/25</p> <p><b>much [9]</b> 4/7 24/4 38/11 43/20 43/22 56/20 58/11 58/12 59/15</p> <p><b>multiple [1]</b> 25/22</p> <p><b>MULTNOMAH [5]</b> 2/11 2/12 4/4 27/2 53/5</p> <p><b>must [4]</b> 9/2 9/18 38/7 57/24</p> <p><b>mute [7]</b> 5/1 14/25 15/4 22/14 28/11 28/12 28/13</p> <p><b>muted [1]</b> 22/12</p> <p><b>my [15]</b> 4/17 8/16 9/13 20/13 31/1 31/4 34/15 39/8 39/8 48/5 48/6 48/6 63/1 64/8 64/10</p> <p><b>Myers [1]</b> 44/20</p> <hr/> <p><b>N</b></p> <p><b>name [5]</b> 27/19 28/2 28/16 49/18 60/19</p> <p><b>named [7]</b> 4/20 39/18 42/23 44/3 44/20 44/23 56/12</p> <p><b>names [5]</b> 12/14 19/6 19/8 61/6 61/6</p> <p><b>nation [2]</b> 36/9 36/9</p> <p><b>National [3]</b> 19/9 20/3 49/10</p> <p><b>nationwide [1]</b> 17/20</p> <p><b>nature [2]</b> 18/4 18/4</p> <p><b>near [1]</b> 35/25</p> <p><b>necessary [5]</b> 30/9 35/4 43/13</p>
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<p><b>N</b></p> <p><b>necessary...</b> [2] 51/4 59/12</p> <p><b>need</b> [7] 4/7 29/10 41/6 58/9 59/3 60/20 63/3</p> <p><b>needs</b> [2] 41/5 52/5</p> <p><b>negative</b> [1] 9/17</p> <p><b>neighborhood</b> [3] 18/21 34/24 39/9</p> <p><b>neighbors</b> [1] 34/23</p> <p><b>neither</b> [1] 51/9</p> <p><b>Nelson</b> [1] 3/16</p> <p><b>never</b> [12] 17/2 24/23 29/5 30/7 30/7 34/13 36/5 36/5 36/7 36/11 58/23 62/24</p> <p><b>new</b> [4] 17/15 43/7 44/22 64/6</p> <p><b>night</b> [1] 23/2</p> <p><b>nine</b> [1] 10/13</p> <p><b>Ninth</b> [3] 15/21 15/23 54/24</p> <p><b>no</b> [71]</p> <p><b>No.</b> [3] 3/6 3/8 3/10</p> <p><b>noise</b> [2] 14/25 15/2</p> <p><b>none</b> [6] 33/4 48/10 55/13 56/5 59/18 63/25</p> <p><b>not</b> [114]</p> <p><b>not a</b> [1] 48/12</p> <p><b>noted</b> [2] 44/5 45/15</p> <p><b>nothing</b> [6] 12/11 13/19 17/15 38/24 46/21 49/15</p> <p><b>notice</b> [1] 46/18</p> <p><b>notion</b> [2] 7/1 50/1</p> <p><b>novel</b> [1] 61/15</p> <p><b>now</b> [29] 5/25 6/1 7/17 9/8 9/10 9/22 11/23 14/13 17/16 17/21 20/9 21/24 27/12 28/8 28/16 31/16 32/19 36/19 37/14 41/23 42/9 43/20 47/19 50/13 50/19 52/18 57/21 59/7 62/3</p> <p><b>nowhere</b> [1] 49/25</p> <p><b>nudge</b> [1] 45/22</p> <p><b>number</b> [23] 15/8 20/13 20/20 20/24 21/2 21/3 21/5 29/17 35/2 43/8 45/6 47/7 52/25 53/7 53/7 53/8 56/2 60/18 61/8 61/9 61/11 61/12 62/2</p> <p><b>numbers</b> [10] 20/14 20/19 27/12 53/9 53/9 53/11 53/12 56/1 61/7 61/14</p> <p><b>nursing</b> [1] 23/7</p> <p><b>NVRA</b> [2] 49/10 56/16</p>	<p><b>objectively</b> [1] 32/20</p> <p><b>obligation</b> [1] 45/19</p> <p><b>observation</b> [5] 24/7 24/13 25/19 56/7 56/10</p> <p><b>observer</b> [1] 57/14</p> <p><b>observers</b> [2] 24/7 24/25</p> <p><b>obtain</b> [1] 27/1</p> <p><b>obviously</b> [2] 6/18 63/23</p> <p><b>occurring</b> [1] 5/21</p> <p><b>odd</b> [1] 37/19</p> <p><b>off</b> [4] 8/10 22/16 27/8 53/4</p> <p><b>office</b> [4] 2/12 23/2 27/8 29/4</p> <p><b>official</b> [8] 22/1 24/21 29/11 29/14 44/4 44/20 49/24 65/16</p> <p><b>officials</b> [6] 6/16 19/13 26/1 26/22 38/3 38/4</p> <p><b>Oh</b> [2] 4/3 27/20</p> <p><b>Okay</b> [3] 4/6 22/16 44/9</p> <p><b>old</b> [2] 6/12 21/18</p> <p><b>once</b> [7] 22/5 22/13 23/6 23/15 24/21 44/21 46/1</p> <p><b>one</b> [38]</p> <p><b>one's</b> [1] 34/10</p> <p><b>ones</b> [8] 9/19 16/13 22/3 23/3 30/3 40/14 40/14 43/16</p> <p><b>online</b> [2] 20/15 23/8</p> <p><b>only</b> [34]</p> <p><b>OPB</b> [1] 31/3</p> <p><b>open</b> [4] 3/3 15/10 39/6 47/25</p> <p><b>operates</b> [1] 33/16</p> <p><b>operating</b> [1] 61/22</p> <p><b>operation</b> [1] 44/21</p> <p><b>opinion</b> [6] 16/15 34/16 41/22 42/3 42/4 60/6</p> <p><b>opportunities</b> [1] 14/8</p> <p><b>opportunity</b> [3] 9/9 9/10 38/21</p> <p><b>opposing</b> [1] 31/4</p> <p><b>opposition</b> [5] 5/4 5/24 14/4 45/12 49/13</p> <p><b>option</b> [3] 35/24 36/18 37/25</p> <p><b>oral</b> [5] 1/13 3/6 3/10 4/2 65/5</p> <p><b>order</b> [11] 6/15 7/20 14/17 15/20 15/20 28/20 45/18 49/11 50/17 53/19 54/14</p> <p><b>ordinary</b> [1] 57/17</p> <p><b>OREGON</b> [36]</p> <p><b>Oregon's</b> [8] 5/6 7/2 7/10 25/6 28/21 34/17 63/8 63/25</p> <p><b>Oregonians</b> [3] 35/7 35/8 39/13</p> <p><b>organization</b> [1] 22/17</p> <p><b>organizations</b> [1] 22/8</p> <p><b>original</b> [2] 8/24 65/11</p> <p><b>ORS</b> [4] 19/5 20/11 49/18 50/3</p>	<p><b>ORS 247.019</b> [1] 20/11</p> <p><b>ORS 258.016</b> [1] 50/3</p> <p><b>other</b> [18] 7/7 17/5 21/9 22/8 33/6 33/6 36/21 43/9 47/4 48/11 61/12 61/13 61/15 61/17 63/10 63/12 63/21 64/11</p> <p><b>others</b> [4] 6/6 6/11 6/11 15/14</p> <p><b>our</b> [57]</p> <p><b>ourselves</b> [1] 29/25</p> <p><b>out</b> [48]</p> <p><b>outline</b> [1] 10/1</p> <p><b>outlined</b> [2] 13/12 32/1</p> <p><b>outside</b> [1] 36/21</p> <p><b>outweighed</b> [1] 16/13</p> <p><b>over</b> [24] 13/25 16/24 19/14 22/4 22/6 27/24 30/5 30/19 32/2 32/9 37/11 37/13 37/16 39/23 40/12 42/9 42/17 57/11 57/17 57/19 57/20 62/19 63/9 63/10</p> <p><b>overall</b> [1] 53/2</p> <p><b>own</b> [4] 9/2 30/2 30/2 50/2</p> <hr/> <p><b>P</b></p> <p><b>p.m</b> [1] 26/8</p> <p><b>pack</b> [1] 17/20</p> <p><b>page</b> [1] 45/12</p> <p><b>page 27</b> [1] 45/12</p> <p><b>paper</b> [6] 23/1 24/16 35/1 61/25 62/13 62/14</p> <p><b>papers</b> [3] 9/8 45/8 45/12</p> <p><b>paragraph</b> [2] 46/7 47/13</p> <p><b>paragraph 84</b> [1] 46/7</p> <p><b>park</b> [1] 29/19</p> <p><b>parking</b> [1] 19/25</p> <p><b>Parkway</b> [1] 19/24</p> <p><b>part</b> [1] 63/12</p> <p><b>participate</b> [1] 34/4</p> <p><b>participating</b> [1] 32/18</p> <p><b>participatory</b> [1] 16/5</p> <p><b>particular</b> [4] 7/9 55/25 56/1 56/1</p> <p><b>particular requirement</b> [1] 55/25</p> <p><b>particularity</b> [3] 45/11 57/25 58/9</p> <p><b>particularized</b> [1] 39/20</p> <p><b>particularly</b> [1] 47/24</p> <p><b>parties</b> [9] 4/1 9/25 35/2 35/3 43/23 43/23 58/4 63/24 64/11</p> <p><b>parts</b> [1] 25/14</p> <p><b>party</b> [8] 4/9 8/25 16/16 31/19 41/5 57/24 63/6 64/10</p> <p><b>pass</b> [2] 4/21 35/13</p>
<p>(12) necessary... - pass</p>		

<p><b>P</b></p> <p><b>passed [3]</b> 9/10 19/4 28/24</p> <p><b>passport [1]</b> 21/1</p> <p><b>PATEL [6]</b> 2/9 3/25 4/17 8/16 8/18 13/7</p> <p><b>Patel's [1]</b> 42/21</p> <p><b>pattern [1]</b> 40/12</p> <p><b>pause [3]</b> 13/17 14/24 28/9</p> <p><b>peg [1]</b> 37/19</p> <p><b>people [55]</b></p> <p><b>People's [2]</b> 25/16 54/11</p> <p><b>per [1]</b> 28/20</p> <p><b>percent [2]</b> 18/16 19/17</p> <p><b>perfect [1]</b> 14/17</p> <p><b>period [2]</b> 19/11 52/23</p> <p><b>permit [1]</b> 21/5</p> <p><b>permits [4]</b> 18/11 20/11 28/23 28/24</p> <p><b>permitted [1]</b> 12/18</p> <p><b>person [4]</b> 11/23 18/8 24/13 49/19</p> <p><b>personalized [1]</b> 11/12</p> <p><b>perspective [2]</b> 54/11 54/11</p> <p><b>phantom [5]</b> 18/25 19/1 20/18 29/11 60/22</p> <p><b>phone [8]</b> 4/25 14/25 22/13 22/15 28/11 28/12 28/13 28/13</p> <p><b>phones [3]</b> 5/1 15/4 22/14</p> <p><b>picking [1]</b> 15/1</p> <p><b>piece [3]</b> 6/25 24/16 46/6</p> <p><b>pieces [4]</b> 7/20 35/1 45/7 63/8</p> <p><b>pillars [1]</b> 25/6</p> <p><b>place [3]</b> 5/3 55/18 58/23</p> <p><b>places [5]</b> 55/22 55/23 55/23 56/1 56/2</p> <p><b>plaintiff [12]</b> 1/5 2/2 3/12 3/14 3/15 7/9 10/5 10/13 13/1 26/25 35/15 42/24</p> <p><b>plaintiffs [34]</b></p> <p><b>plaintiffs' [10]</b> 4/23 5/4 5/9 5/22 5/24 8/4 10/16 12/23 13/3 48/21</p> <p><b>plan [1]</b> 19/14</p> <p><b>planned [1]</b> 51/17</p> <p><b>plausible [2]</b> 11/4 12/9</p> <p><b>plead [5]</b> 4/15 4/16 17/22 51/3 51/4</p> <p><b>pleading [3]</b> 51/9 57/17 58/11</p> <p><b>please [6]</b> 3/11 3/23 5/1 14/25 15/4 28/13</p> <p><b>pled [1]</b> 60/17</p> <p><b>point [10]</b> 8/15 9/10 18/6 49/18 53/7 54/2 55/5 58/3 59/2 64/9</p> <p><b>points [1]</b> 16/10</p>	<p><b>policy [7]</b> 7/7 7/14 20/1 47/11 49/2 56/4 63/16</p> <p><b>policymaking [2]</b> 13/25 36/14</p> <p><b>political [10]</b> 34/5 34/7 37/1 37/2 37/8 37/24 37/24 40/25 41/4 41/5</p> <p><b>politicians [1]</b> 36/10</p> <p><b>Polk [1]</b> 27/4</p> <p><b>polling [5]</b> 55/18 55/22 55/23 56/1 56/2</p> <p><b>poor [1]</b> 26/20</p> <p><b>poorly [1]</b> 16/17</p> <p><b>populations [1]</b> 17/25</p> <p><b>PORTLAND [8]</b> 1/3 1/8 2/7 2/10 2/14 2/19 20/7 20/10</p> <p><b>pose [1]</b> 41/23</p> <p><b>position [3]</b> 5/25 44/5 51/3</p> <p><b>Posner [1]</b> 18/7</p> <p><b>possibility [1]</b> 45/23</p> <p><b>possible [4]</b> 8/6 22/22 37/9 59/18</p> <p><b>Post [1]</b> 29/4</p> <p><b>postmark [2]</b> 29/4 29/6</p> <p><b>postmarked [1]</b> 29/2</p> <p><b>posture [1]</b> 47/24</p> <p><b>Potentially [1]</b> 17/12</p> <p><b>power [2]</b> 25/11 38/5</p> <p><b>powers [1]</b> 7/24</p> <p><b>practice [1]</b> 23/4</p> <p><b>practices [2]</b> 55/20 63/19</p> <p><b>precinct [1]</b> 34/25</p> <p><b>precincts [2]</b> 34/22 62/15</p> <p><b>preeminent [1]</b> 6/19</p> <p><b>preference [2]</b> 7/8 7/15</p> <p><b>preferred [1]</b> 29/11</p> <p><b>prefers [1]</b> 3/22</p> <p><b>prejudice [6]</b> 13/9 13/9 13/11 13/13 43/11 51/14</p> <p><b>preliminary [2]</b> 8/1 47/24</p> <p><b>present [2]</b> 25/13 51/10</p> <p><b>presentation [2]</b> 13/20 45/9</p> <p><b>presented [1]</b> 15/19</p> <p><b>prestigious [1]</b> 18/5</p> <p><b>presumption [2]</b> 46/5 46/25</p> <p><b>pretty [3]</b> 35/22 36/13 42/5</p> <p><b>prevent [2]</b> 32/21 36/14</p> <p><b>preventing [1]</b> 52/10</p> <p><b>prevents [1]</b> 33/17</p> <p><b>prices [1]</b> 27/2</p> <p><b>primary [4]</b> 10/11 26/3 43/15 43/15</p> <p><b>principle [2]</b> 6/23 34/20</p> <p><b>principles [1]</b> 50/18</p>	<p><b>printed [1]</b> 19/2</p> <p><b>prior [1]</b> 33/12</p> <p><b>privacy [3]</b> 27/21 28/2 28/4</p> <p><b>probably [1]</b> 56/25</p> <p><b>problem [13]</b> 5/23 15/10 24/24 25/3 37/2 37/3 37/11 37/12 39/13 43/5 43/14 51/6 57/23</p> <p><b>problems [7]</b> 5/10 7/6 18/22 18/25 51/10 51/10 52/24</p> <p><b>procedural [3]</b> 13/4 43/24 44/2</p> <p><b>proceedings [3]</b> 1/14 3/1 65/10</p> <p><b>process [29]</b> 7/13 7/14 9/18 15/25 16/3 16/4 16/11 16/25 17/6 24/8 24/10 24/23 25/4 30/1 31/11 32/17 33/21 33/22 35/3 35/8 37/1 37/2 37/8 40/25 41/5 48/21 54/9 55/2 59/16</p> <p><b>processes [9]</b> 12/7 16/18 31/23 32/7 32/9 37/6 41/25 42/11 60/9</p> <p><b>proctored [1]</b> 18/8</p> <p><b>profound [2]</b> 42/5 42/6</p> <p><b>prohibiting [1]</b> 16/8</p> <p><b>prohibits [2]</b> 19/5 19/6</p> <p><b>prong [2]</b> 8/12 11/18</p> <p><b>prongs [1]</b> 47/21</p> <p><b>pronounced [1]</b> 16/16</p> <p><b>proof [1]</b> 31/14</p> <p><b>properly [1]</b> 39/1</p> <p><b>proposition [1]</b> 48/10</p> <p><b>proprietary [1]</b> 37/5</p> <p><b>prosperous [2]</b> 36/8 36/9</p> <p><b>protect [1]</b> 28/3</p> <p><b>protected [1]</b> 33/22</p> <p><b>protection [2]</b> 40/6 55/2</p> <p><b>protections [1]</b> 18/18</p> <p><b>prototypical [1]</b> 7/15</p> <p><b>prove [3]</b> 26/7 36/21 58/21</p> <p><b>provenance [1]</b> 41/4</p> <p><b>provide [1]</b> 46/14</p> <p><b>provided [2]</b> 9/25 57/14</p> <p><b>provides [1]</b> 50/3</p> <p><b>providing [3]</b> 55/25 57/15 57/15</p> <p><b>province [1]</b> 40/24</p> <p><b>proving [1]</b> 59/3</p> <p><b>public [19]</b> 15/3 15/11 17/1 17/8 26/20 26/21 26/24 27/9 27/10 28/4 28/17 30/13 37/4 42/12 46/14 46/16 47/22 55/8 56/6</p> <p><b>public's [1]</b> 42/7</p> <p><b>publishes [1]</b> 23/5</p> <p><b>Purcell [13]</b> 7/19 7/19 15/14 15/15 15/15 15/25 16/14 32/16 38/12 41/21 47/1 47/19 48/8</p>
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<p><b>P</b></p> <p><b>pure</b> [2] 11/6 46/12  <b>purported</b> [1] 25/7  <b>purportedly</b> [1] 50/9  <b>purpose</b> [1] 17/23  <b>purposes</b> [1] 38/17  <b>pursue</b> [2] 6/1 7/1  <b>pursued</b> [1] 45/7  <b>put</b> [7] 21/15 21/15 29/21 34/11  34/12 38/5 53/10  <b>puzzled</b> [1] 49/5</p>	<p>64/10  <b>record</b> [5] 27/3 27/15 46/14  46/16 65/9  <b>records</b> [14] 19/16 19/19 26/20  26/24 27/2 27/5 27/9 27/10  27/13 28/5 28/17 28/19 55/8  56/6  <b>recover</b> [1] 25/2  <b>recycle</b> [1] 21/18  <b>recycled</b> [1] 21/18  <b>recycling</b> [1] 21/13  <b>reelecting</b> [2] 36/1 54/9  <b>refer</b> [1] 8/24  <b>references</b> [1] 49/9  <b>reflect</b> [1] 6/17  <b>reform</b> [1] 38/5  <b>refuse</b> [1] 30/5  <b>refused</b> [1] 15/22  <b>regarding</b> [2] 38/1 45/3  <b>regardless</b> [1] 58/10  <b>register</b> [7] 15/20 21/3 29/18  60/18 60/22 61/6 61/10  <b>registered</b> [21] 10/5 10/12  10/15 11/24 13/1 19/3 19/20  19/23 19/25 20/9 21/6 42/25  46/10 46/15 46/23 53/8 56/22  56/23 56/24 57/2 58/25  <b>registers</b> [1] 20/5  <b>registration</b> [12] 11/22 12/2  12/15 19/10 20/3 20/11 20/15  49/10 49/12 52/25 56/15 63/11  <b>registrations</b> [2] 19/11 53/1  <b>regulations</b> [2] 39/6 40/3  <b>rejected</b> [2] 23/24 23/25  <b>rejections</b> [1] 23/22  <b>relate</b> [2] 58/4 63/19  <b>related</b> [2] 55/7 63/7  <b>relates</b> [1] 39/24  <b>relating</b> [2] 47/10 56/12  <b>relevant</b> [1] 63/25  <b>reliability</b> [1] 7/22  <b>reliable</b> [1] 6/14  <b>reliance</b> [1] 8/7  <b>relied</b> [1] 31/21  <b>relief</b> [4] 8/1 45/22 45/25 45/25  <b>relies</b> [3] 13/24 25/5 37/1  <b>rely</b> [1] 7/19  <b>relying</b> [3] 45/13 51/22 51/22  <b>remaining</b> [2] 10/10 10/23  <b>remedies</b> [2] 49/15 50/2  <b>remedy</b> [2] 47/23 50/16  <b>remember</b> [2] 30/21 30/22  <b>remind</b> [3] 4/25 14/24 22/13</p>	<p><b>remove</b> [2] 19/8 53/5  <b>removed</b> [1] 11/22  <b>removing</b> [2] 19/6 19/10  <b>repeat</b> [1] 34/16  <b>replaced</b> [2] 23/3 23/17  <b>repleading</b> [1] 51/13  <b>reply</b> [1] 44/11  <b>reported</b> [2] 19/10 26/5  <b>REPORTER</b> [2] 2/18 65/16  <b>represent</b> [1] 31/10  <b>representative</b> [1] 43/13  <b>representatives</b> [2] 36/15 36/16  <b>represents</b> [1] 59/24  <b>Republican</b> [1] 16/16  <b>Republican Party</b> [1] 16/16  <b>request</b> [2] 28/17 28/18  <b>requested</b> [1] 4/1  <b>requests</b> [4] 26/20 26/24 27/9  27/10  <b>require</b> [4] 31/14 48/22 48/24  48/25  <b>required</b> [6] 15/19 20/12 27/25  29/2 29/18 53/3  <b>requirement</b> [5] 10/11 12/20  12/24 13/23 55/25  <b>requirements</b> [3] 45/10 58/14  58/15  <b>requires</b> [5] 11/2 12/21 13/10  19/8 52/19  <b>residents</b> [1] 23/7  <b>resigned</b> [2] 30/18 44/5  <b>resigning</b> [1] 30/22  <b>resist</b> [1] 40/22  <b>resolved</b> [1] 45/2  <b>respect</b> [5] 4/19 42/21 42/22  54/21 58/17  <b>respond</b> [2] 13/18 64/11  <b>responded</b> [1] 42/21  <b>responding</b> [1] 27/9  <b>response</b> [6] 12/4 30/21 35/21  46/20 54/23 63/1  <b>responsible</b> [1] 30/20  <b>restore</b> [2] 30/12 30/13  <b>restricted</b> [1] 18/15  <b>result</b> [2] 38/22 62/2  <b>results</b> [3] 29/9 33/17 50/7  <b>reveal</b> [1] 27/6  <b>revive</b> [1] 6/2  <b>Reynolds</b> [2] 34/8 38/9  <b>right</b> [32] 6/13 14/1 15/21 15/23  16/6 16/6 25/2 27/21 28/2 32/5  33/21 33/21 34/3 34/4 34/7 34/7  34/10 34/11 38/10 42/11 42/11</p>
<p><b>Q</b></p> <p><b>qualifications</b> [1] 33/7  <b>quality</b> [1] 33/3  <b>queen</b> [1] 54/17  <b>question</b> [14] 8/2 35/2 40/1 41/8  41/9 41/11 41/23 44/13 44/16  44/18 45/4 45/15 50/22 55/14  <b>questions</b> [5] 4/24 8/15 39/17  45/1 45/2  <b>quite</b> [1] 11/1  <b>quote</b> [5] 23/10 31/3 31/21  34/15 38/8  <b>quoted</b> [3] 32/16 38/15 38/16  <b>quoting</b> [2] 27/12 38/18</p>		
<p><b>R</b></p> <p><b>race</b> [1] 33/7  <b>raise</b> [1] 9/8  <b>rallying</b> [1] 30/11  <b>rampant</b> [2] 17/24 26/2  <b>rates</b> [1] 23/22  <b>rather</b> [7] 5/6 6/6 7/9 43/20  43/22 43/23 51/15  <b>rationale</b> [4] 27/18 27/18 49/3  59/21  <b>RDR</b> [2] 2/18 65/15  <b>read</b> [4] 29/14 41/21 41/21 56/7  <b>reading</b> [2] 50/6 61/19  <b>really</b> [4] 20/4 21/8 39/11 63/18  <b>realm</b> [2] 45/23 56/6  <b>reason</b> [15] 8/12 20/4 21/5 21/6  21/7 21/8 28/6 33/15 40/22 41/4  44/24 51/5 51/6 53/13 59/13  <b>reasonable</b> [3] 19/8 27/2 39/6  <b>reasons</b> [4] 8/6 10/11 13/11  47/18  <b>receive</b> [2] 57/3 57/4  <b>received</b> [3] 23/14 28/25 29/7  <b>receives</b> [1] 20/10  <b>recognize</b> [1] 43/24  <b>recommendations</b> [2] 64/8</p>		

**R**  
**right...** [11] 43/6 49/11 49/14  
 49/19 55/1 55/13 55/16 59/19  
 59/22 60/8 63/15  
**rights** [1] 10/14  
**rigorously** [1] 25/23  
**risk** [6] 25/5 25/6 25/8 25/9  
 25/14 25/19  
**risk-limiting** [4] 25/5 25/6 25/8  
 25/9  
**RMR** [2] 2/18 65/15  
**robust** [1] 25/7  
**roll** [1] 19/6  
**rolls** [4] 19/5 19/7 19/14 53/4  
**roof** [1] 39/10  
**room** [2] 2/19 24/11  
**rotate** [1] 24/8  
**route** [1] 51/7  
**rubric** [2] 54/25 55/13  
**rule** [21] 8/25 13/5 13/10 13/16  
 28/1 28/18 40/22 44/19 45/10  
 48/18 57/20 57/23 58/5 58/15  
 58/17 59/4 59/8 59/9 59/10  
 59/12 61/5  
**Rule 12** [2] 13/16 58/17  
**ruled** [1] 33/4  
**rules** [4] 21/10 38/1 58/7 59/9  
**run** [5] 26/14 26/16 31/7 35/14  
 59/24  
**run-around** [1] 26/14  
**runaround** [1] 55/11  
**running** [2] 14/21 40/7

**S**  
**safe** [1] 62/25  
**said** [11] 15/24 16/17 30/21  
 30/23 33/4 41/15 50/20 51/21  
 52/14 63/21 63/22  
**Salem** [1] 59/25  
**same** [10] 6/14 7/6 25/11 26/8  
 27/12 29/14 36/22 44/24 47/18  
 54/10  
**sample** [2] 19/16 19/19  
**Sandra** [1] 3/16  
**Sandra Nelson** [1] 3/16  
**Saturday** [1] 26/11  
**save** [1] 30/13  
**say** [20] 7/20 11/16 12/12 14/18  
 21/22 22/1 30/8 44/22 45/13  
 48/4 49/5 50/8 50/15 51/15  
 51/17 55/21 56/11 60/5 60/7  
 63/22  
**saying** [5] 29/19 38/16 39/10

60/13 60/13  
**says** [12] 15/15 16/3 17/7 27/20  
 28/3 29/21 40/3 46/9 46/14  
 54/23 57/23 60/8  
**SB** [3] 1/5 3/6 65/4  
**scale** [2] 18/12 62/17  
**scandal** [2] 30/19 30/23  
**scenes** [1] 26/19  
**school** [1] 32/25  
**schools** [2] 33/2 33/3  
**scoop** [1] 22/23  
**screens** [1] 26/17  
**screenshots** [1] 26/6  
**SE** [2] 2/3 2/13  
**search** [1] 23/6  
**second** [3] 49/4 49/4 57/2  
**secondly** [2] 8/9 47/9  
**seconds** [1] 24/9  
**Secretary** [17] 3/6 3/9 3/21 8/23  
 10/3 26/5 27/8 27/11 27/20 28/3  
 30/24 43/16 44/19 44/20 44/22  
 44/23 49/21  
**section** [1] 54/20  
**secure** [4] 14/18 21/10 61/21  
 62/25  
**security** [11] 20/13 20/24 21/2  
 21/3 21/4 25/7 25/14 29/17 61/9  
 61/10 61/13  
**see** [7] 18/19 24/7 24/10 24/12  
 29/9 36/1 59/19  
**seeing** [2] 28/5 52/11  
**seek** [4] 6/1 49/6 49/11 49/23  
**seeking** [6] 5/5 5/6 8/8 45/10  
 45/11 49/16  
**seem** [1] 12/5  
**seems** [3] 45/1 45/6 47/1  
**seen** [3] 24/9 61/15 61/17  
**SEIU** [3] 21/13 23/3 29/13  
**self** [14] 16/17 17/9 17/11 31/14  
 31/15 31/20 31/22 32/6 41/24  
 52/15 53/4 54/15 60/9 60/12  
**self-evident** [1] 53/4  
**self-governance** [10] 16/17  
 31/14 31/15 31/22 32/6 41/24  
 52/15 54/15 60/9 60/12  
**self-governing** [1] 31/20  
**self-government** [2] 17/9 17/11  
**Senate** [1] 28/6  
**sense** [1] 58/5  
**sent** [1] 21/14  
**sentence** [1] 46/8  
**separate** [2] 32/24 33/12  
**separated** [1] 23/15

**separation** [1] 33/5  
**series** [2] 45/16 56/8  
**serve** [2] 9/9 43/8  
**served** [8] 8/22 8/23 8/25 9/7  
 13/4 13/8 43/12 43/25  
**service** [1] 9/11  
**set** [1] 8/10  
**sets** [1] 55/8  
**seven** [4] 10/3 11/19 24/18  
 28/25  
**several** [2] 49/8 52/18  
**sham** [2] 24/7 25/4  
**share** [1] 10/21  
**shared** [4] 6/10 6/11 11/24  
 39/19  
**she** [6] 26/6 26/13 26/13 30/19  
 30/20 44/4  
**she'll** [1] 4/21  
**She's** [2] 26/14 30/19  
**SHEMIA** [5] 1/7 30/18 30/22  
 44/4 65/3  
**Shemia Fagan** [1] 44/4  
**short** [1] 52/22  
**shortcoming** [1] 43/24  
**should** [15] 9/6 11/17 13/8  
 33/15 42/12 43/10 44/6 44/22  
 48/18 48/20 48/22 50/24 51/15  
 56/22 56/23  
**shouldn't** [1] 35/13  
**show** [10] 9/19 12/9 33/14 33/19  
 34/24 36/5 59/4 62/21 62/22  
 63/17  
**showing** [6] 23/21 35/12 35/18  
 59/6 62/19 63/16  
**shows** [2] 24/4 26/18  
**shut** [1] 35/8  
**shuts** [1] 33/16  
**side** [1] 40/15  
**sides** [5] 4/7 62/1 62/1 62/1 62/2  
**sign** [2] 29/21 39/10  
**signature** [10] 20/16 23/19  
 23/23 57/12 59/11 60/19 65/11  
 65/12 65/12 65/16  
**signatures** [2] 23/19 25/1  
**signed** [1] 65/12  
**significance** [2] 31/17 33/24  
**signing** [1] 65/8  
**similar** [5] 33/6 33/6 47/16 48/9  
 54/1  
**similar-aged** [1] 33/6  
**SIMMONDS** [1] 2/6  
**simple** [1] 38/8  
**simple-minded** [1] 38/8



<p><b>S</b></p> <p><b>simpler [1]</b> 18/11</p> <p><b>simply [2]</b> 45/24 49/2</p> <p><b>Sims [1]</b> 38/9</p> <p><b>Sims, [1]</b> 34/8</p> <p><b>Sims, 377 [1]</b> 34/8</p> <p><b>since [2]</b> 44/4 54/7</p> <p><b>sincerely [1]</b> 38/6</p> <p><b>single [7]</b> 25/24 25/24 27/23 27/25 46/8 53/25 58/21</p> <p><b>sit [1]</b> 3/22</p> <p><b>situation [7]</b> 14/2 14/2 17/11 30/6 30/23 54/7 58/22</p> <p><b>sixth [1]</b> 57/13</p> <p><b>small [6]</b> 24/8 24/14 34/22 62/14 62/14 62/16</p> <p><b>smoke [2]</b> 52/2 52/2</p> <p><b>so [66]</b></p> <p><b>so-called [1]</b> 25/5</p> <p><b>soar [1]</b> 62/19</p> <p><b>soars [1]</b> 32/2</p> <p><b>social [9]</b> 20/12 20/24 21/2 21/3 21/4 29/17 61/8 61/10 61/13</p> <p><b>Socialist [1]</b> 31/19</p> <p><b>societal [1]</b> 62/5</p> <p><b>Society [3]</b> 38/19 38/19 38/20</p> <p><b>software [1]</b> 25/25</p> <p><b>solicited [1]</b> 21/13</p> <p><b>solo [1]</b> 42/4</p> <p><b>some [13]</b> 5/23 7/1 9/23 12/6 12/16 21/25 22/14 27/18 35/21 42/23 54/19 59/8 62/18</p> <p><b>somehow [2]</b> 6/2 20/8</p> <p><b>someone [6]</b> 18/10 18/23 27/21 27/22 28/1 28/15</p> <p><b>something [3]</b> 18/2 21/7 42/7</p> <p><b>soon [3]</b> 15/25 52/21 64/8</p> <p><b>sophisticated [1]</b> 38/8</p> <p><b>sorry [4]</b> 15/7 38/19 40/2 44/6</p> <p><b>sort [1]</b> 7/1</p> <p><b>sought [1]</b> 24/25</p> <p><b>sounds [2]</b> 48/17 57/20</p> <p><b>source [1]</b> 43/18</p> <p><b>South [1]</b> 36/9</p> <p><b>specific [10]</b> 6/20 12/11 13/2 50/2 53/16 53/17 55/20 56/13 59/3 63/16</p> <p><b>specifically [4]</b> 7/11 42/22 45/13 46/15</p> <p><b>specifics [1]</b> 53/16</p> <p><b>speculation [1]</b> 12/17</p> <p><b>speculative [2]</b> 11/4 41/16</p> <p><b>spread [2]</b> 15/8 62/17</p>	<p><b>sprinkle [1]</b> 22/22</p> <p><b>square [1]</b> 37/20</p> <p><b>STACIE [1]</b> 1/15</p> <p><b>stack [3]</b> 21/20 21/24 22/4</p> <p><b>stacks [1]</b> 22/19</p> <p><b>standalone [1]</b> 58/6</p> <p><b>standard [7]</b> 4/22 11/2 12/8 36/6 42/16 44/8 57/18</p> <p><b>standards [1]</b> 30/8</p> <p><b>standing [39]</b></p> <p><b>start [2]</b> 4/9 25/25</p> <p><b>started [1]</b> 18/17</p> <p><b>starting [1]</b> 5/3</p> <p><b>starts [1]</b> 14/16</p> <p><b>state [48]</b></p> <p><b>state's [5]</b> 3/7 3/9 27/8 40/19 59/8</p> <p><b>statement [3]</b> 32/5 42/2 60/4</p> <p><b>statements [1]</b> 15/14</p> <p><b>states [11]</b> 1/1 1/16 2/18 14/17 14/19 17/10 34/8 34/14 34/21 39/4 42/3</p> <p><b>stations [1]</b> 56/2</p> <p><b>status [1]</b> 33/8</p> <p><b>statute [4]</b> 50/6 52/23 56/13 57/14</p> <p><b>statutes [1]</b> 52/18</p> <p><b>statutory [3]</b> 49/11 49/14 55/9</p> <p><b>stay [1]</b> 25/11</p> <p><b>steal [3]</b> 17/21 18/23 39/10</p> <p><b>stealing [1]</b> 36/22</p> <p><b>stenographic [1]</b> 65/10</p> <p><b>step [1]</b> 56/25</p> <p><b>STEPHEN [2]</b> 2/2 3/14</p> <p><b>steps [2]</b> 58/20 59/1</p> <p><b>still [12]</b> 6/2 6/3 6/13 9/9 9/18 10/19 11/11 20/10 28/3 29/2 45/6 61/11</p> <p><b>stolen [2]</b> 18/13 39/14</p> <p><b>stop [1]</b> 31/4</p> <p><b>store [1]</b> 20/21</p> <p><b>stored [1]</b> 24/11</p> <p><b>street [3]</b> 2/7 2/10 29/20</p> <p><b>strict [1]</b> 18/6</p> <p><b>strike [1]</b> 33/11</p> <p><b>strong [2]</b> 17/24 34/10</p> <p><b>structure [3]</b> 31/18 33/25 37/21</p> <p><b>student [1]</b> 21/12</p> <p><b>students [1]</b> 29/13</p> <p><b>study [1]</b> 38/21</p> <p><b>stuffed [1]</b> 23/1</p> <p><b>subject [7]</b> 4/14 8/14 39/15 39/22 40/3 45/18 46/18</p>	<p><b>subjects [1]</b> 54/16</p> <p><b>submit [1]</b> 20/15</p> <p><b>submitted [1]</b> 50/24</p> <p><b>substantive [1]</b> 56/9</p> <p><b>substitute [2]</b> 22/3 44/6</p> <p><b>substituted [1]</b> 44/21</p> <p><b>substitution [4]</b> 44/13 44/13 44/15 44/18</p> <p><b>successfully [1]</b> 57/13</p> <p><b>successor [2]</b> 44/7 44/7</p> <p><b>such [10]</b> 5/11 12/19 16/6 23/7 27/5 28/8 28/16 38/4 39/23 58/9</p> <p><b>sudden [1]</b> 30/6</p> <p><b>sue [3]</b> 35/16 35/19 43/11</p> <p><b>suffered [2]</b> 12/13 35/15</p> <p><b>suffice [1]</b> 38/17</p> <p><b>sufficient [8]</b> 7/3 7/4 7/21 45/22 47/7 47/25 48/15 55/19</p> <p><b>sufficiently [1]</b> 7/21</p> <p><b>suffrage [1]</b> 16/6</p> <p><b>suggest [1]</b> 46/21</p> <p><b>suit [1]</b> 26/14</p> <p><b>Suite [2]</b> 2/4 2/13</p> <p><b>summary [1]</b> 12/25</p> <p><b>Sunday [3]</b> 26/4 26/8 26/9</p> <p><b>supervision [1]</b> 25/15</p> <p><b>support [7]</b> 41/15 53/19 53/20 53/22 54/5 56/19 61/5</p> <p><b>supporters [2]</b> 16/19 31/24</p> <p><b>supports [1]</b> 49/3</p> <p><b>supposed [5]</b> 20/16 27/19 30/3 37/9 58/25</p> <p><b>Supreme [10]</b> 15/24 34/6 34/9 37/17 38/9 39/3 42/5 42/19 57/5 60/7</p> <p><b>sure [4]</b> 15/12 16/16 28/1 62/15</p> <p><b>susceptible [1]</b> 62/10</p> <p><b>suspect [2]</b> 11/8 12/15</p> <p><b>suspicion [2]</b> 33/18 41/12</p> <p><b>suspicious [1]</b> 11/11</p> <p><b>SW [3]</b> 2/7 2/10 2/19</p> <p><b>swap [1]</b> 44/17</p> <p><b>system [44]</b></p> <p><b>systems [5]</b> 18/3 22/19 25/13 39/5 62/12</p> <hr/> <p><b>T</b></p> <p><b>tabulation [2]</b> 31/6 32/14</p> <p><b>take [9]</b> 18/8 18/9 29/21 30/5 37/9 43/22 52/21 64/5 64/12</p> <p><b>take-home [2]</b> 18/8 18/9</p> <p><b>taken [4]</b> 22/6 53/3 59/19 65/9</p> <p><b>takes [1]</b> 55/21</p>
--	--	---

<p><b>T</b></p> <p><b>taking [2]</b> 16/15 40/23  <b>talk [1]</b> 17/10  <b>talked [5]</b> 15/17 16/23 29/16 52/18 56/5  <b>talking [2]</b> 42/15 58/7  <b>talks [3]</b> 16/1 47/19 53/24  <b>tangible [1]</b> 32/24  <b>task [1]</b> 24/9  <b>teachers [1]</b> 33/4  <b>technical [1]</b> 44/3  <b>technology's [1]</b> 25/18  <b>telephone [1]</b> 15/8  <b>tell [12]</b> 14/15 14/15 23/13 23/14 24/15 24/16 27/23 31/9 36/20 41/3 41/15 54/7  <b>tells [2]</b> 32/5 38/12  <b>tempted [1]</b> 37/23  <b>tend [2]</b> 34/24 38/6  <b>term [1]</b> 40/13  <b>terminate [1]</b> 15/2  <b>test [2]</b> 59/7 59/7  <b>tested [1]</b> 25/23  <b>than [8]</b> 11/3 19/3 23/6 34/4 43/23 46/10 46/23 51/15  <b>thank [17]</b> 3/18 4/5 4/6 4/11 8/17 8/19 9/4 13/6 13/14 13/21 38/3 39/16 51/19 54/18 63/2 64/4 64/14  <b>that [427]</b>  <b>that's [45]</b>  <b>theft [1]</b> 28/22  <b>their [52]</b>  <b>them [27]</b> 7/3 7/11 10/8 11/10 17/5 21/18 21/22 21/22 22/18 22/23 22/23 23/8 24/1 30/7 35/1 36/17 38/5 40/8 43/7 43/11 43/12 46/3 51/23 56/12 61/4 61/19 63/25  <b>themselves [7]</b> 6/5 34/2 35/17 35/19 36/1 37/8 54/9  <b>then [18]</b> 4/17 4/20 16/14 27/5 29/10 29/16 31/21 36/9 40/17 43/6 43/7 44/10 45/8 48/17 49/17 56/15 57/7 64/12  <b>theory [1]</b> 14/11  <b>there [64]</b>  <b>there's [58]</b>  <b>there's a [1]</b> 59/10  <b>therefore [5]</b> 6/21 8/13 46/19 48/22 64/2  <b>these [39]</b>  <b>they [143]</b></p>	<p><b>they're [18]</b> 6/11 11/7 17/4 21/21 22/6 22/6 24/2 24/3 24/17 36/22 41/6 42/11 43/16 49/14 49/16 53/2 61/2 63/21  <b>they've [2]</b> 23/9 47/6  <b>THIELMAN [4]</b> 1/4 3/5 3/14 65/3  <b>thing [5]</b> 29/14 49/4 50/19 53/23 55/5  <b>things [5]</b> 43/9 50/8 56/5 56/15 63/21  <b>think [26]</b> 5/3 10/4 14/3 22/14 40/16 40/17 41/17 44/8 45/8 46/1 49/2 50/4 50/13 50/19 51/1 51/17 51/21 53/23 56/25 57/17 57/19 58/13 60/4 60/7 61/19 62/24  <b>third [4]</b> 2/19 43/23 57/7 58/3  <b>this [91]</b>  <b>Thomas [5]</b> 16/14 17/7 34/15 52/14 60/8  <b>Thomas's [3]</b> 31/21 41/22 60/4  <b>thorough [1]</b> 61/19  <b>thoroughly [1]</b> 11/1  <b>those [36]</b>  <b>though [3]</b> 27/19 32/23 57/2  <b>thought [3]</b> 13/17 15/9 59/12  <b>thousand [9]</b> 22/1 22/2 22/3 22/4 29/15 60/21 61/6 61/7 61/13  <b>thousands [4]</b> 20/17 20/18 25/16 25/17  <b>three [2]</b> 47/21 62/1  <b>threshold [2]</b> 32/3 62/19  <b>through [10]</b> 7/12 9/22 24/14 26/24 26/24 31/19 45/2 53/16 58/21 59/1  <b>throughout [2]</b> 4/24 17/16  <b>thrown [1]</b> 52/5  <b>thus [3]</b> 4/13 51/11 55/23  <b>thwarting [1]</b> 26/23  <b>tied [1]</b> 12/1  <b>tight [1]</b> 59/11  <b>time [9]</b> 4/7 9/9 27/25 28/13 33/12 40/18 46/16 58/18 64/14  <b>times [4]</b> 21/17 21/17 60/21 60/21  <b>timing [1]</b> 15/15  <b>today [7]</b> 10/9 13/13 27/1 46/7 49/9 64/5 64/14  <b>told [5]</b> 21/23 23/11 27/8 35/10 41/6  <b>too [18]</b> 6/5 9/4 12/1 15/25 15/25 23/25 43/9 52/8 53/9</p>	<p>55/21 55/21 55/22 55/23 55/24 56/17 59/11 60/13 60/14  <b>tool [1]</b> 26/21  <b>total [4]</b> 20/8 26/5 26/9 26/12  <b>tout [1]</b> 25/6  <b>toward [1]</b> 45/23  <b>trace [1]</b> 12/21  <b>traceability [9]</b> 4/19 10/2 10/11 11/1 11/17 12/3 12/20 42/22 45/1  <b>traceable [3]</b> 10/6 11/13 11/16  <b>transcript [4]</b> 1/14 2/23 65/9 65/11  <b>transferable [1]</b> 12/7  <b>transparency [4]</b> 34/20 34/20 35/4 56/6  <b>transparent [1]</b> 25/7  <b>treat [1]</b> 35/14  <b>treated [1]</b> 17/23  <b>trial [4]</b> 32/4 42/10 42/14 50/10  <b>trivial [1]</b> 20/17  <b>trouble [1]</b> 22/15  <b>true [10]</b> 10/19 11/11 17/23 36/23 37/22 50/9 52/8 56/10 56/20 65/9  <b>trust [6]</b> 35/4 35/10 35/11 35/12 35/13 53/9  <b>trusted [1]</b> 34/19  <b>trustworthiness [1]</b> 35/9  <b>truth [1]</b> 46/5  <b>try [4]</b> 26/14 26/21 52/24 54/22  <b>trying [4]</b> 26/15 61/2 62/20 62/22  <b>turn [4]</b> 13/15 22/11 27/24 44/9  <b>turned [1]</b> 22/16  <b>Twelve [1]</b> 19/17  <b>two [15]</b> 4/12 6/23 8/6 18/25 20/8 21/13 21/16 21/17 39/12 47/6 47/20 47/21 49/18 63/8 63/19  <b>twofold [1]</b> 6/6  <b>Twombly [4]</b> 45/24 46/24 57/18 58/14  <b>type [3]</b> 56/9 56/18 63/14  <b>types [3]</b> 49/6 49/15 49/16  <b>tyrannical [4]</b> 35/25 36/19 41/2 52/10  <b>tyranny [2]</b> 14/12 30/6  <b>tyrants [2]</b> 54/10 61/1</p> <hr/> <p><b>U</b></p> <p><b>U.S [7]</b> 31/19 34/5 34/8 34/14 35/20 39/3 40/2</p>
--	--	---

<p><b>U</b></p> <p><b>U.S.C [1]</b> 19/9</p> <p><b>ultimate [4]</b> 5/23 6/7 45/15 45/16</p> <p><b>ultimately [3]</b> 5/11 45/9 46/3</p> <p><b>unable [1]</b> 37/4</p> <p><b>unbeknownst [1]</b> 26/1</p> <p><b>unconscionable [2]</b> 60/24 60/24</p> <p><b>unconstitutional [7]</b> 17/14 32/15 36/24 40/21 41/7 59/13 59/14</p> <p><b>uncover [1]</b> 43/18</p> <p><b>undeniable [2]</b> 25/13 33/13</p> <p><b>under [36]</b></p> <p><b>underlying [6]</b> 5/10 5/22 6/3 7/18 47/8 50/18</p> <p><b>undermine [1]</b> 19/5</p> <p><b>understand [2]</b> 6/25 26/21</p> <p><b>understanding [3]</b> 5/25 57/21 62/24</p> <p><b>undo [3]</b> 22/7 24/24 25/3</p> <p><b>undone [1]</b> 33/11</p> <p><b>Unexpected [1]</b> 26/2</p> <p><b>uniform [1]</b> 36/13</p> <p><b>union [6]</b> 14/17 21/13 21/18 21/24 22/8 22/9</p> <p><b>unique [6]</b> 7/9 7/10 10/22 18/15 40/17 61/12</p> <p><b>UNITED [9]</b> 1/1 1/16 2/18 14/16 14/19 17/10 34/8 34/13 34/21</p> <p><b>University [2]</b> 21/12 29/13</p> <p><b>unless [3]</b> 52/15 60/2 60/2</p> <p><b>unlikely [1]</b> 33/10</p> <p><b>unlocked [3]</b> 18/21 29/20 39/9</p> <p><b>unprecedented [1]</b> 30/23</p> <p><b>unreliable [1]</b> 6/9</p> <p><b>up [16]</b> 15/1 16/15 17/3 22/23 27/17 28/12 28/25 33/2 34/25 37/9 41/11 53/11 60/19 60/19 60/20 63/3</p> <p><b>updated [1]</b> 19/13</p> <p><b>us [26]</b> 14/21 17/4 17/13 18/18 22/11 28/20 29/22 30/6 31/6 31/10 35/10 35/11 35/12 35/14 36/1 38/12 40/6 43/18 43/24 52/10 53/21 54/13 59/24 59/24 60/16 61/23</p> <p><b>use [1]</b> 37/7</p> <p><b>used [3]</b> 21/19 27/1 36/8</p> <p><b>Usually [1]</b> 55/20</p>	<p><b>V</b></p> <p><b>valid [2]</b> 60/4 60/5</p> <p><b>validating [1]</b> 33/17</p> <p><b>validity [3]</b> 14/9 23/18 46/25</p> <p><b>Valley [1]</b> 2/4</p> <p><b>valuable [1]</b> 21/21</p> <p><b>variable [1]</b> 52/16</p> <p><b>various [1]</b> 62/21</p> <p><b>vast [2]</b> 18/12 25/1</p> <p><b>Venezuela [3]</b> 36/6 36/8 52/12</p> <p><b>verification [1]</b> 57/12</p> <p><b>verify [1]</b> 35/9</p> <p><b>versions [1]</b> 55/10</p> <p><b>versus [1]</b> 56/3</p> <p><b>very [16]</b> 12/18 14/3 14/4 21/21 23/22 26/20 30/10 36/8 38/1 40/11 40/17 45/8 45/13 47/13 47/16 58/7</p> <p><b>videos [1]</b> 23/20</p> <p><b>view [3]</b> 8/4 24/8 37/5</p> <p><b>violate [3]</b> 20/2 20/2 28/1</p> <p><b>violating [1]</b> 49/13</p> <p><b>violation [6]</b> 27/10 32/22 42/17 47/24 57/10 58/21</p> <p><b>virtually [1]</b> 53/25</p> <p><b>voice [1]</b> 7/8</p> <p><b>vote [75]</b></p> <p><b>voted [5]</b> 19/21 24/5 24/6 42/24 59/1</p> <p><b>voter [22]</b> 16/10 18/12 19/5 19/6 19/9 19/11 19/13 20/3 20/9 48/15 49/10 49/12 55/4 55/15 56/3 56/22 56/23 56/24 57/2 58/22 58/24 60/18</p> <p><b>voters [33]</b></p> <p><b>voters' [2]</b> 7/17 7/18</p> <p><b>votes [16]</b> 5/13 16/12 19/22 23/8 24/18 26/6 26/10 26/12 29/10 29/11 32/14 34/22 34/25 39/1 50/5 50/5</p> <p><b>voting [22]</b> 6/7 10/14 18/7 18/8 18/10 18/15 18/16 18/20 31/5 31/7 32/13 33/24 36/10 36/17 38/13 39/24 46/23 48/13 48/23 48/24 48/25 56/2</p> <p><b>vulnerable [1]</b> 23/7</p> <hr/> <p><b>W</b></p> <p><b>waives [1]</b> 27/21</p> <p><b>waiving [1]</b> 28/2</p> <p><b>walk [1]</b> 22/1</p> <p><b>Walmart [1]</b> 19/25</p> <p><b>want [10]</b> 14/24 15/11 15/12</p>	<p>21/18 40/9 40/24 43/20 43/21 54/20 55/5</p> <p><b>wants [2]</b> 22/17 30/8</p> <p><b>warned [1]</b> 62/9</p> <p><b>was [38]</b></p> <p><b>Washington [8]</b> 19/16 19/18 19/18 19/22 19/22 24/25 47/14 47/15</p> <p><b>wasn't [5]</b> 15/7 23/17 37/15 58/25 60/5</p> <p><b>watch [1]</b> 24/14</p> <p><b>way [31]</b> 9/18 12/10 14/10 14/15 16/22 22/23 23/11 23/16 23/16 24/23 25/3 32/2 33/10 35/13 35/13 35/14 35/24 36/8 36/21 36/22 37/10 38/4 39/2 52/9 52/11 52/13 52/14 57/1 60/1 60/2 62/19</p> <p><b>ways [5]</b> 17/17 18/11 22/21 25/21 62/11</p> <p><b>we [166]</b></p> <p><b>we'd [1]</b> 62/11</p> <p><b>we'll [3]</b> 32/9 36/5 36/5</p> <p><b>we're [21]</b> 15/1 15/2 17/18 28/3 28/4 28/10 30/6 35/10 42/11 42/14 51/22 51/22 51/23 52/4 54/3 58/22 60/13 60/13 62/20 62/22 63/10</p> <p><b>we've [3]</b> 13/12 37/5 53/11</p> <p><b>website [1]</b> 53/10</p> <p><b>weeks [1]</b> 20/8</p> <p><b>weighed [1]</b> 55/4</p> <p><b>weighs [3]</b> 7/25 55/19 56/3</p> <p><b>weight [1]</b> 16/7</p> <p><b>well [12]</b> 21/21 29/1 32/5 35/22 38/8 39/25 44/12 46/1 48/24 50/1 53/8 58/20</p> <p><b>went [1]</b> 59/1</p> <p><b>were [17]</b> 10/18 11/11 13/7 19/17 21/23 22/25 23/24 23/25 24/17 24/18 25/1 30/12 32/24 34/25 38/22 46/2 50/4</p> <p><b>weren't [1]</b> 24/6</p> <p><b>west [2]</b> 18/1 18/6</p> <p><b>western [2]</b> 25/18 47/15</p> <p><b>whack [1]</b> 52/23</p> <p><b>what [42]</b></p> <p><b>what's [5]</b> 24/15 30/14 43/18 59/20 61/23</p> <p><b>whatever [3]</b> 35/2 62/1 62/17</p> <p><b>whatsoever [1]</b> 59/18</p> <p><b>when [27]</b> 7/25 16/18 16/18 18/23 26/13 29/1 31/22 31/23</p>
---	--	--

**W**

**when...** [19] 32/6 38/1 41/21  
41/24 45/15 45/20 47/20 47/22  
50/23 51/13 51/13 52/21 53/20  
55/17 58/25 60/8 60/9 60/11  
61/12

**where** [13] 16/23 17/11 18/6  
18/19 19/24 20/11 20/15 35/25  
40/23 41/1 47/4 52/2 52/18

**whether** [16] 17/1 34/13 39/5  
40/6 41/1 42/6 42/10 45/4 50/11  
50/24 50/24 52/17 55/19 58/10  
59/10 63/25

**which** [19] 8/2 10/15 11/9 12/23  
13/1 13/2 17/13 25/25 29/6  
39/22 49/9 49/19 49/19 50/3  
50/24 56/20 58/13 59/3 60/4

**whichever** [1] 40/15

**white** [2] 32/25 33/3

**Whitehead** [1] 57/5

**who** [37]

**who's** [2] 10/5 42/24

**whole** [4] 37/19 51/25 52/5 60/6

**wholly** [1] 16/8

**why** [19] 21/8 21/18 27/16 29/23  
32/2 35/12 36/23 44/17 53/13  
54/23 54/24 58/22 59/3 59/4  
59/12 59/12 59/22 62/19 62/23

**wide** [1] 24/15

**wide-angle** [1] 24/15

**widespread** [2] 37/21 37/23

**Wiese** [1] 3/15

**WiFi** [2] 25/24 25/24

**will** [46]

**Williams** [1] 9/25

**win** [3] 29/11 40/10 42/19

**winnings** [1] 40/5

**winning** [1] 32/22

**wins** [1] 14/6

**within** [3] 8/25 64/10 64/11

**without** [14] 5/8 13/9 13/11 29/6  
37/6 43/10 43/11 50/25 51/14  
51/25 53/15 60/11 64/3 65/11

**witnessed** [1] 22/25

**witnesses** [1] 21/22

**witnessing** [2] 35/3 35/3

**Wo** [3] 39/3 40/2 48/11

**won** [1] 37/17

**won't** [2] 34/16 52/13

**Wong** [1] 26/3

**word** [1] 63/6

**work** [2] 31/6 31/9

**workaround** [1] 57/20

**workers** [2] 22/25 31/19

**world** [2] 46/1 56/11

**worried** [1] 39/11

**would** [19] 6/3 8/9 8/10 13/17  
32/4 32/4 39/11 39/11 41/24  
42/1 43/20 43/20 43/22 49/4  
49/18 51/12 55/9 56/19 62/24

**wouldn't** [1] 58/5

**wrap** [3] 20/13 29/18 63/3

**wrapped** [1] 17/3

**wraps** [1] 14/8

**write** [4] 27/19 28/1 28/15 43/17

**written** [1] 18/7

**Y**

**Yeah** [1] 51/21

**year** [4] 6/12 19/11 28/24 30/11

**years** [3] 18/17 19/14 53/6

**Yellen** [1] 30/15

**yes** [5] 3/13 30/4 35/22 50/20  
51/22

**yet** [2] 26/22 43/3

**Yick** [3] 39/3 40/2 48/11

**Yick Wo** [1] 40/2

**you** [123]

**You're** [3] 18/22 18/22 35/12

**you've** [2] 41/11 54/19

**your** [41]

**Your Honor** [12] 3/4 3/20 3/24  
4/5 4/11 8/19 9/24 13/6 13/10  
39/15 63/1 63/7

**yourselves** [1] 3/11

**Z**

**zoo** [1] 38/23

**zzzt** [2] 26/18 26/18

**Zzzt-zzzt** [1] 26/18