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

GORDON LEITCH,

Relator,

vs.

BILL BRADBURY,

Respondent.

Case No. 06C 11178

AMENDED PETITION FOR
PEREMPTORY WRIT OF
MANDAMUS and COMPLAINT

(Mandamus – ORS 34.105 - 34.240)

Comes now, plaintiff, by and through counsel, who for his Amended Petition for
Peremptory Writ of Mandamus does allege as follows.

**First Cause of Action
Mandamus**

1

Gordon Leitch is a member of the Republican Party.

2

On December 23, 2005, Gordon Leitch delivered his fully executed declaration of candidacy
for nomination for public office (Governor) to the Secretary of State’s Elections Division, Room
141, State Capitol, Salem, Oregon. A true copy of the fully executed declaration of candidacy is
marked “Exhibit 1,” is attached hereto, and by this reference made a part hereof.

3

At the same time he delivered his fully executed declaration of candidacy for nomination for

1 public office (Governor) to the Secretary of State, Gordon Leitch delivered five (5), twenty dollar
2 (\$20.00) United States gold coins as payment in full of the filing fee for Governor.

3 **4**

4 Bill Bradbury is Secretary of State.

5 **5**

6 Pursuant to ORS 249.035, a declaration of candidacy for state office shall be filed with the
7 Secretary of State.

8 **6**

9 Pursuant to ORS 249.002(10), “state office” includes Governor.

10 **7**

11 Pursuant to OAR 165-002-0025, the location for filing declarations of candidacy for state
12 office and for paying filing fees for said office is the Elections Division, Room 141, State Capitol,
13 Salem, Oregon.

14 **8**

15 Pursuant to ORS 249.056(1)(b) the filing fee for Governor is \$100.

16 **9**

17 On December 23, 2005 the Secretary of State’s Elections Division accepted both the
18 declaration of candidacy and the filing fee provided to it by Gordon Leitch.

19 **10**

20 Shortly after receiving Gordon Leitch’s declaration of candidacy and filing fee, the
21 Secretary of State’s Elections Division exercised its statutory duty to date and time stamp the
22 declaration of candidacy. ORS 249.006.

23 **11**

24 Shortly after receiving Gordon Leitch’s declaration of candidacy and filing fee, the
25 Secretary of State’s Elections Division exercised its statutory duty to register Gordon Leitch as a
26 candidate for Governor. ORS 254.076.

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12

On or about January 10, 2006, Bill Bradbury acting through his Elections Division Operations Manager, Brenda Bayes, illegally revoked Gordon Leitch’s registration as candidate for Governor.

13

On or about January 10, 2006, Bill Bradbury, acting through his Elections Division Operations Manager, Brenda Bayes, notified Gordon Leitch in writing that Mr. Leitch had not delivered acceptable “legal tender” in payment of the required filing fee.

14

On or about January 16, 2006, Gordon Leitch demanded in writing that Bill Bradbury re-register Gordon Leitch as candidate for Governor because Gordon Leitch had, in fact and in law, tendered payment of \$100.00 in legal tender to Bill Bradbury’s Elections Division.

15

On or about February 2, 2006, Gordon Leitch filed his Petition for Peremptory Writ of Mandamus and Complaint.

16

On or about February 6, 2006, Gordon Leitch returned to the Elections Division of the Oregon Secretary of State’s office and tendered \$100.00 in silver coins of the United States of America to the Secretary of State as payment of the filing fee for Governor.

17

Shortly after receiving and accepting Gordon Leitch’s tender of \$100.00 in silver coins of the United States of America, Bill Bradbury returned Gordon Leitch to the list of candidates for Governor who will be on the ballot for the May 16, 2006 primary election.

18

There are two ways a person can become a candidate for a major political party, filing by declaration and filing by petition. ORS 249.020. Filing by declaration is governed by ORS

1 249.002-249.078; OAR 165-010-0005(1); and 2006 State Candidate’s Manual: Major Political
2 Party pgs. 6-7. To file by declaration, a candidate for Governor must tender a \$100.00 filing fee to
3 the Oregon Secretary of State. ORS 249.020(2); ORS 249.056(1)(b); 2006 State Candidate’s
4 Manual: Major Political Party pg. 7. Filing by petition is governed by ORS 249.002-249.078;
5 OAR 165-010-0005(1); and 2006 State Candidate’s Manual: Major Political Party pgs. 10-12 and
6 21-24. To file by petition, a candidate for Governor must tender petitions containing at least 1,000
7 valid signatures. 2006 State Candidate’s Manual: Major Political Party pg. 24.

8 **18**

9 Each and every Major Party candidate for Governor for the May 16, 2006 primary election
10 filed by declaration. Attached hereto, marked “Exhibit 2,” and by this reference made a part
11 hereof, is the Secretary of State’s list of all Major Party candidates for Governor for the May 16,
12 2006 primary election.

13 **19**

14 Gordon Leitch is the only Major Party candidate for Governor for the May 16, 2006 primary
15 election who paid the required \$100.00 filing fee by tendering silver coins of the United States of
16 America to the Secretary of State.

17 **20**

18 United States Constitution Article I, §10, Clause 1 prohibits the State of Oregon from making
19 “any Thing but gold and silver Coin a Tender in Payment of Debts.”

20 **21**

21 United States Constitution Article I, §10, Clause 1 prohibits the State of Oregon and its
22 Secretary of State from authorizing or accepting the tender of anything other than gold or silver
23 coins as payment of the filing fee for the office of Governor of the State of Oregon.

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Gordon Leitch is the only person who has paid the required filing fee for Governor using the only form of payment authorized by United States Constitution Article I, §10, Clause 1, hence Gordon Leitch is the only person who has paid the required filing fee for Governor.

23

Since no other Major Party Candidate for Governor has paid the required filing fee for Governor, the Secretary of State is not authorized to list any Major Party Candidate for Governor other than Gordon Leitch on his list of candidates for Governor and he is not authorized to include any Major Party Candidate for Governor other than Gordon Leitch on the ballot for the May 16, 2006 primary election.

24

This court may issue a writ of mandamus to compel the performance of an act which the law specially enjoins as a duty resulting from an office. ORS 34.110.

25

The writ shall be allowed by this court. On the filing of the order of allowance, the clerk or court administrator forthwith shall issue the writ in accordance with the petition. ORS 34.130(3).

26

When the right to require the performance of the act is clear, and it is apparent that no valid excuse can be given for not performing it, a peremptory mandamus shall be allowed in the first instance. ORS 34.160.

27

Gordon Leitch is entitled to an award of attorney fees. ORS 34.210.

Prayer

On Gordon Leitch’s first claim for action, he prays that the court immediately issue a peremptory writ of mandamus to Bill Bradbury commanding him to immediately remove all candidates other than Gordon Leitch as Major Party Candidates for Governor and to file, not later

1 than the 61st day before the date of the primary election, with each county clerk a statement that
2 Gordon Leitch is the only Major Party Candidate for Governor and an award of costs including
3 attorney fees.

4 DATED: March 8, 2006.

JAMES E. LEUENBERGER PC

6 James E. Leuenberger OSB 89154
7 Attorney for relator

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FILING OF CANDIDACY FOR MAJOR POLITICAL PARTY

PLEASE TYPE OR LEGIBLY PRINT IN BLACK INK.

NOTE: This information is a matter of public record and may be published or reproduced.

<input type="checkbox"/> DEMOCRATIC PARTY REPUBLICAN PARTY <input checked="" type="checkbox"/>		FILING FOR OFFICE OF Governor
NAME OF CANDIDATE Gordon Leitch		DISTRICT, DEPARTMENT OR POSITION NUMBER
NAME SHOULD APPEAR ON BALLOT AS FOLLOWS Gordon Leitch		RESIDENCE ADDRESS (STREET/ROUTE, CITY, STATE, ZIP CODE) 885 S.W. Red Hills Dr. Dundee, Ore. 97115
TELEPHONE (HOME) (503) 554-9964	TELEPHONE (WORK) (503) 296-6200	COUNTY OF RESIDENCE Yamhill
FAX NA	EMAIL NA	MAILING ADDRESS WHERE ALL CORRESPONDENCE WILL BE SENT 885 S.W. Red Hills Dr. Dundee, Ore. 97115
WEBSITE		
<input checked="" type="checkbox"/> SECRETARY OF STATE OF OREGON		<input type="checkbox"/> COUNTY ELECTIONS OFFICIAL OF _____ COUNTY

FILING OF CANDIDACY BY DECLARATION, WITH THE REQUIRED FILING FEE (ORS 249.056).

FILING FEES

OFFICE	FILING OF CANDIDACY BY DECLARATION (ORS 249.056)	STATE VOTERS' PAMPHLET (ORS 251.095)
UNITED STATES PRESIDENT	n/a	\$1000
UNITED STATES VICE PRESIDENT	n/a	\$1000
UNITED STATES SENATOR	\$150	\$1000
UNITED STATE REPRESENTATIVE	\$100	\$1000
STATEWIDE OFFICES	\$100	\$1000
STATE SENATOR OR REPRESENTATIVE	\$ 25	\$ 300
COUNTY OFFICE	\$ 50	\$ 300

RECEIVED
 2005 DEC 23 AM 10:21
 BILL BRADBURY
 SECRETARY OF THE STATE

Filing of candidacy by **PROSPECTIVE** petition, with the required proposed signature sheet signed by the candidate (SEL 102) and statement one or more circulators will or will not be paid (SEL 300) (ORS 249.020).

Filing of candidacy by **COMPLETED** petition, with the required signature sheets properly certified by the appropriate county elections officials (ORS 249.020, 249.064).

2004 FILING DATES State Primary Election May 18, 2004

Filing For Candidacy: First Day March 31, 2003
Filing For Candidacy: Last Day March 9, 2004

Filing For State Voters' Pamphlet: March 11, 2004
Deadline To Withdraw Candidacy: March 12, 2004

FOR OFFICE USE ONLY

INITIALS 

CASH OR CHECK NUMBER CASH

RECEIPT NUMBER 50642

CANDIDATE ID NUMBER 2269

OFFICE NUMBER 401

PRINCIPAL CAMPAIGN COMMITTEE ID # H956

REQUIRED INFORMATION

OCCUPATION (PRESENT EMPLOYMENT - PAID OR UNPAID)

Retired

OCCUPATIONAL BACKGROUND (PREVIOUS EMPLOYMENT - PAID OR UNPAID)

**Eye Physician and Surgeon (Ophthalmologist) 1963-1994
U.S. Department of Commerce, Bureau of the Census Dec. 1999-Sept. 2000**

EDUCATIONAL BACKGROUND (SCHOOLS ATTENDED, use attachment if needed)

Complete name of school - no acronyms	Last grade level completed	Diploma/Degree/Certificate (AA, BA, BS, MA, PhD, etc.)	Course of study (optional)
Ainsworth Grade School	8th	Gradn. Certif.	Elementary
Lincoln High School	12th	" "	High School
Whitman College	16th	BA	Math-Physics
Johns Hopkins Medical School	20th	MD	Medical
Other: Internship and graduate medical specialty study in ophthalmology Montreal General Hospital; 24th grade level; certificate of residency completion.			

PRIOR GOVERNMENTAL EXPERIENCE (ELECTED OR APPOINTED)

Precinct Committeeman

NOTE: This information is a matter of public record and may be published or reproduced.

By signing this document, I hereby state:

- THAT I accept the nomination for the office indicated above;
- THAT I shall qualify for said office if elected;
- THAT, if not nominated, I shall not accept the nomination or endorsement of any political party other than the one named above;
- THAT I have been a member of the indicated major political party, subject to the exceptions stated in ORS 249.046, for at least 180 days before the deadline for filing a nominating petition or declaration of candidacy (ORS 249.031); and
- THAT all information provided by me on this form, including my occupation, educational and occupational background, and prior governmental experience, is true to the best of my knowledge.

Gordon Leitch
Candidate's signature

23 December 2005
Date signed

WARNING: Supplying false information on this form may result in conviction of a felony with a fine of up to \$100,000 and/or prison for up to five years. (ORS 260.715).

No person shall file a nominating petition or declaration of candidacy for more than one lucrative office before the date of the primary election, unless the person first files a written withdrawal with the officer who accepted the filing (ORS 249.013(2)).



May 16, 2006 Primary Election Candidate List Filed by Office

Return to the [Open Office Summary](#).

GOVERNOR

David W. Beem (REPUBLICAN)
1919 FAIRGROUNDS RD SE #19
SALEM, OR 97301
(503)365-1945(H), (971)240-2680(W)
Date filed: Jun 17, 2005 by Fee
Qualified For Office: Yes

Fax: No fax number specified.
E-Mail: davidwbeem@email.com
Web-Site: `

GOVERNOR

William E. Spidal (REPUBLICAN)
40521 ANDERSON RD
NEHALEM, OR 97131
(503)939-1540(H)
Date filed: Aug 03, 2005 by Fee
Qualified For Office: Yes

Fax: No fax number specified.
E-Mail: No E-Mail address specified.
Web-Site: No Web-Site address specified.

GOVERNOR

Kevin Mannix (REPUBLICAN)
2007 STATE ST
SALEM, OR 97301
(503)371-8145(H), (503)364-1913(W)
Date filed: Nov 07, 2005 by Fee
Qualified For Office: Yes

Fax: (503)362-0513
E-Mail: maureen@mannixfororegon.org
Web-Site: No Web-Site address specified.

Exhibit 2 Page 1 of 4

GOVERNOR

Ted Kulongoski (DEMOCRAT)
PO BOX 399
PORTLAND, OR 97207
(503)546-0416(W)
Date filed: Nov 21, 2005 by Fee
Qualified For Office: Yes

Fax: No fax number specified.
E-Mail: info@tedforgov.com
Web-Site: www.tedforgov.com

GOVERNOR

Pete Sorenson (DEMOCRAT)
ELECT SORENSON
804 PEARL ST
EUGENE, OR 97401
(541)485-6726(H), (541)682-3721(W)
Date filed: Dec 12, 2005 by Fee
Qualified For Office: Yes

Fax: (541)302-5775
E-Mail: info@petesorenson.com
Web-Site: www.petesorenson.com

GOVERNOR

Jason A. Atkinson (REPUBLICAN)
PO BOX 1965
WILSONVILLE, OR 97070
(541)664-9878(H), (541)955-0911(W)
Date filed: Jan 27, 2006 by Fee
Qualified For Office: Yes

Fax: No fax number specified.
E-Mail: info@atkinsonforgovernor.com
Web-Site: www.atkinsonforgovernor.com

GOVERNOR

W. Ames Curtright (REPUBLICAN)
PO BOX 1350
JEFFERSON, OR 97352
(503)209-7388(H), (503)743-4905(W)
Date filed: Feb 06, 2006 by Fee
Qualified For Office: Yes

Fax: (509)743-2719

Exhibit 2 Page 2 of 4

E-Mail: info@amesfororegon.gov
Web-Site: www.amesfororegon.gov

GOVERNOR

Gordon Leitch (REPUBLICAN)
885 SW RED HILLS DR
DUNDEE, OR 97115
(503)554-9964(H), (503)296-6200(W)
Date filed: Feb 06, 2006 by Fee
Qualified For Office: Yes

Fax: No fax number specified.
E-Mail: No E-Mail address specified.
Web-Site: www.leitch4govr.com

GOVERNOR

Jim Hill (DEMOCRAT)
PO BOX 82243
PORTLAND, OR 97282
(503)399-3572(W)
Date filed: Feb 09, 2006 by Fee
Qualified For Office: Yes

Fax: No fax number specified.
E-Mail: jefjh2002@hotmail.com
Web-Site: No Web-Site address specified.

GOVERNOR

Ron Saxton (REPUBLICAN)
PO BOX 163
PORTLAND, OR 97207
(503)235-7091(H), (503)224-2006(W)
Date filed: Feb 21, 2006 by Fee
Qualified For Office: Pending

Fax: (503)226-0079
E-Mail: info@votesaxton.com
Web-Site: www.votesaxton.com

GOVERNOR

Bob Leonard Forthan (REPUBLICAN)
6304 NE 23RD
PORTLAND, OR 97211
(503)287-6356(H), (503)287-1381(W)
Date filed: Mar 06, 2006 by Fee

Exhibit 2 Page 3 of 4

Qualified For Office: Pending

Fax: No fax number specified.

E-Mail: No E-Mail address specified.

Web-Site: No Web-Site address specified.

Exhibit 2 Page 4 of 4