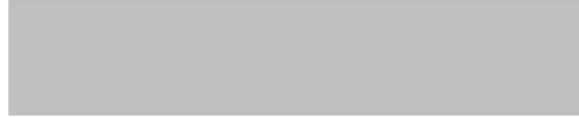


JENNIFER RAE GUNTER



CHRISTINA LYNN MILCAREK



SANDRA ANNE BIELEN



Plaintiffs, appearing Pro Se

**UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
PORTLAND DIVISION**

Case No.: 3:22-CV-93-AC

**JENNIFER RAE GUNTER; and  
CHRISTINA LYNN MILCAREK; and  
SANDRA ANNE BIELEN**

Plaintiff(s),

v.

**MOTION FOR TEMPORARY  
RESTRAINING ORDER - OHA  
DIRECTOR NOT ELIGIBLE TO  
HOLD OFFICE**

**PATRICK ALLEN in his individual  
capacity and in his capacity as the Director of  
Oregon Health Authority; and KATE  
BROWN in her individual capacity and in her  
capacity as the Governor of Oregon**

Defendant(s)

---

**UNITED STATES DISTRICT COURT**  
**FOR DISTRICT OF OREGON**  
**PORTLAND DIVISION**

**JENNIFER RAE GUNTER; and**  
**CHRISTINA LYNN MILCAREK; and**  
**SANDRA ANNE BIELEN**

Plaintiff(s),

v.

Case No.: 3:22-CV-93-AC

**PATRICK ALLEN in his individual**  
**capacity and in his capacity as the**  
**Director of Oregon Health Authority; and**  
**KATE BROWN in her individual**  
**capacity and in her capacity**  
**as the Governor of Oregon**

Defendant(s).

**MOTION FOR TEMPORARY RESTRAINING ORDER**  
**OHA DIRECTOR NOT ELIGIBLE TO HOLD OFFICE**

LR 7-2 CERTIFICATION The undersigned hereby certifies that this Motion complies with the applicable word count limitation because it contains 2,144 words including headings, footnotes, and quotations, but excluding the caption, and signature block.

**I. PARTIES**

1. Jennifer Rae Gunter, Christina Lynn Milcarek, and Sandra Anne Bielen are all tax paying citizens of the State of Oregon and they all reside in Oregon, filing as pro-se Plaintiffs.
2. Respondent Patrick Allen (“Allen”) is alleged to be the current Director of the Oregon Health Authority (OHA). Official Secretary of Senate records indicate Allen’s term began on 9-25-17 and expired on 9-24-21. The Senate held a hearing, confirming Patrick Allen on November 15, 2017, with 29 Ayes.

**OREGON HEALTH AUTHORITY, DIRECTOR OF THE (ORS 413.033)**

**Allen, Patrick - Salem**

Term: Serves at the pleasure of the Governor.  
9-25-17 - 9-24-21

10-23-17 Governor’s message received and transmitted to Interim Committee on Rules and Executive Appointments.

11-13-17 Hearing held.

11-14-17 Recommendation: Be confirmed en bloc.

11-15-17 Confirmed en bloc.

Ayes, 29; excused, 1--Girod.

11-15-17 Devlin, Ferrioli declared conflict of interest.

- 
3. Defendant Kate Brown (“Brown”) is the current Governor of the State of Oregon.

## **II. Statement of Claim**

4. Since 9/24/21 Governor Brown has impermissibly infringed upon Petitioners’ State Constitutional rights. Kate Brown has authority to appoint the Director of the Oregon Health Authority under ORS 413.033, section 2. She has failed to re-appoint, seek re-confirmation, or appoint a successor since expiration of Patrick Allen’s term.

Furthermore, Allen is ineligible to serve more than a 4-year term:

- a. Under ORS 236.140 – Term, Removal, Vacancy in Appoint Offices

Any person holding an appointive office in any of the offices, departments or institutions of this state shall hold the same for an indefinite **term not exceeding four years, or for the term specified for the office by law.** A

person holding an appointive office shall at all times serve at the pleasure of and be subject to removal by the appointive power that made the appointment unless a different standard for removal from the office is specified by law. The appointive power may in all cases appoint a successor. [Amended by 2013 c.425 §1]

**b.** Kate Brown has sworn an oath to uphold both the US and Oregon Constitutions. Article III, section 4 of the Oregon Constitution provides for Senate confirmation of executive appointments and re-appointments. Appointment of the Director of the Oregon Health Authority is subject to Senate confirmation under ORS 171.562 and ORS 171.565.

**5.** Since Patrick Allen has been ineligible for office, he continues to give the appearance of authority by acting as Director of OHA.

**6. Likelihood of success on the merits.**

a. Federal Rule of Civil Procedure number 65 permits this Court to issue a temporary restraining order under certain conditions. Specifically, the Rules provide: “The decision to grant a preliminary injunction requires weighing whether the moving party (1) establish that he is likely to succeed on the merits, (2) that he is likely to suffer irreparable harm in the absence of preliminary relief, (3) that the balance of equities tips in his favor, and (4) that an injunction is in the public interest.” *Fowler v. Benson*, 924F.3d 247, 256 (6<sup>th</sup> Cir. 2019, quoting *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008)).

b. Plaintiffs will show in Motion for TRO and Complaint that Patrick Allen’s appointment expired. No records were found to show a declaration of vacancy or

to re-appoint; nor were any public records found to re-confirm Patrick Allen or to name a successor to the position of Director of OHA. (See Exhibit B of Complaint).

- c. Plaintiffs were also unable to find any public announcement of Governor Brown's intention to re-appoint and re-confirm Patrick Allen or a new Director.
- d. It is inconceivable that under this set of facts that the Plaintiffs would lose their case on the merits. As such, Plaintiff's Motion for Temporary Restraining Order should be granted because of Plaintiffs' great likelihood of success on the merits.
- e. Plaintiffs' Motion for Temporary Restraining Order should be granted because of Plaintiffs' likelihood of success.

**7. Irreparable harm in the absence of relief.**

- a. Plaintiffs show this Honorable Court that their harm is immediate and irreparable in the absence of preliminary relief. The harm to Plaintiffs is irreparable because the "actual of threatened violation of core constitutional rights is presumed irreparable" by the federal courts. *Siegel v. LePore*, 234 F.3d 1034, 1044 (7<sup>th</sup> Cir. 2017). Plaintiffs expect that elected officials, like Brown, should faithfully and expeditiously carry out her oath of office as well as all power, authority and duty inherent in the position of Governor of the State of Oregon.
- b. The harm to Plaintiffs is immediate because the State of Oregon is still under an Emergency Declaration. Under ORS 413.042, the Director of Oregon Health Authority "may adopt rules necessary for the administration of the laws that the OHA is charged with administering." OHA has "direct supervision of all matters relating to the preservation of life and health of the people of Oregon - ORS

431.110(1). OHA also has the authority to, by rule, “prescribe the measures and methods for...controlling reportable diseases.” – ORS 433.004(d).

1. Given the Director of OHA has such broad authority over Oregonians and is unconfirmed, the Citizens are at risk from over-reach of power and interpretations of the law which is a breach of Article III, Section 1 – Separation of Powers.
2. Furthermore, Allen nor Brown have the legislative authority to change the confirmation process of rules and orders in the operation within the branches of government.
- c. Plaintiffs Motion for Temporary Restraining Order should be granted because Plaintiffs will suffer.

8. **Balance of Equity.**

- a. According to Article III, section 4 of the Oregon Constitution:  
Senate confirmation of executive appointments.

(1) The Legislative Assembly in the manner provided by law may require that all appointments and **reappointments to state public office made by the Governor shall be subject to confirmation by the Senate.**

(2) The appointee **shall not be eligible to serve until confirmed** in the manner required by law and if not confirmed in that manner, **shall not be eligible to serve in the public office.** (Emphasis added).

- b. The appointment of the Director is subject to confirmation by the

Senate under [ORS 171.562 \(Procedures for confirmation\)](#)<sup>1</sup> and [171.565 \(Vote required for confirmation\)](#)<sup>2</sup>.

- c. Conspiracy against rights - Without Senate re-confirmation, or Governor Brown declaring a vacancy, she knowingly let Patrick Allen operate illegally past his legal four-year term. Patrick Allen remained publicly in office without personal proper recusal of duties, is indeed, a violation of 18 USC 241 conspiracy against rights. Furthermore, Brown lacked in her responsibilities of appointing a director and announcing the position vacancy.
- d. Deprivation of Rights Under Color of Law - By allowing a person to hold such a high office position illegally, Plaintiff's are threatened and harmed by a mis-use of tax funds, exposure to fraud, and potential for life threatening denial of claims and appeals under the states medical programs is a violation under 18 USC 242, 42 USC 1983.
- e. To our knowledge and belief based on Article 1 Section 22 of the Oregon Constitution, Governor Brown was never given authority to change any laws or rules with respect to re-confirmation or terms by the Senate of the OHA Director. **“Suspension of operation of laws.** The operation of the laws shall never be suspended, except by the Authority of the Legislative Assembly.”
- f. In their public's interest, Plaintiffs' show that the balance of the equity weighs in their favor as they request a Temporary Restraining Order halting any further damages.

## 9. Public Interest.

---

<sup>1</sup> [https://oregon.public.law/statutes/ors\\_171.562](https://oregon.public.law/statutes/ors_171.562)

<sup>2</sup> [https://oregon.public.law/statutes/ors\\_171.565](https://oregon.public.law/statutes/ors_171.565)

- a. What is at stake: Oregonian’s trust and faith in the professionalism of their elected officials; trust and faith in State office holders, agencies and departments to lawfully carry out their statutory duties and powers; trust and faith that taxpayer monies have not been mis-used or fraudulently spent; and reacting to the best interest of Oregonians health and safety.
- b. A breach and negligence occurred against plaintiff’s interests in the sovereignty of the Senate confirmation process, their public trust in our elected officials (Defendant’s) are behaving against the code of ethics and against the best interest towards them and Oregonians. Plaintiffs have suffered infliction of emotional and physical distress, worry and equities. which is a violation of 18 USC 242
- c. Government Ethics – ORS 244.010 states<sup>3</sup>:
  - i. (1) The Legislative Assembly declares that service as a public official is a public trust and that, as one safeguard for that trust, **the people require all public officials to comply with the applicable provisions of this chapter.** (Emphasis added).
- d. Plaintiffs’ show this Honorable Court that this Motion for Temporary Restraining Order is in the public interest as every Oregonian’s health and well-being are threatened by the lack of ethics from use of position or office.

### III. CONCLUSION

10. Based upon the facts presented, Plaintiffs request this Honorable Court grant their

---

<sup>3</sup> [https://oregon.public.law/statutes/ors\\_244.010](https://oregon.public.law/statutes/ors_244.010)

Motion for Temporary Restraining Order to: (1) Restrain Defendant Allen from conducting daily business based on his scope of office in his official capacity as OHA Director until an official investigation for proof of Senate re-appointment and re-confirmation by legally extending his term beyond 9-24-21; (2) restrain and enjoin Defendants and their agencies from implementing further activities, policies, procedures, mandates, rules and laws that would fall under the position of Director of the Oregon Health Authority; (3) request that all polices, procedures, mandates, rules, and laws that were issued or enacted after 9-24-21 be placed on hold until a full OHA investigation; (4) make a criminal referral to the appropriate law enforcement entity.

**IV. CERTIFICATION AND CLOSING**

**11.** If the Plaintiff’s Motion for Temporary Restraining Order is not granted, further actions of irreparable harm and damage to the public’s trust, rights and interest, and the safety of Oregonians are at stake from Patrick Allen illegally holding a position by Governor Brown who did not re-appoint Allen but ignored procedural terms of re-confirmation. **Such acts of fraud, deceit, and ignorance are shocking and egregious.**

Respectfully submitted this \_\_\_\_\_.

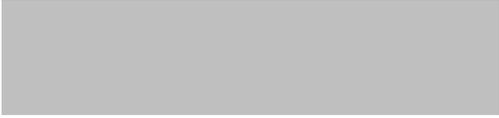
/s/ Jennifer Rae Gunter



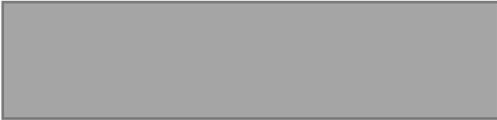
/s/ Christina Lynn Milcarek



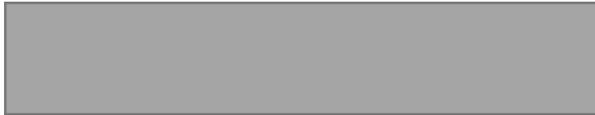
/s/ Sandra Anne Bielen



JENNIFER RAE GUNTER



CHRISTINA LYNN MILCAREK



SANDRA ANNE BIELEN



Plaintiffs, appearing Pro Se

**UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
PORTLAND DIVISION**

Case No.: 3:22-CV-93-AC

**JENNIFER RAE GUNTER; and  
CHRISTINA LYNN MILCAREK; and  
SANDRA ANNE BIELEN**

Plaintiff(s),

**FIRST AMENDED  
PRELIMINARY INJUNCTION  
AND VERIFIED COMPLAINT  
OHA DIRECTOR NOT  
ELIGIBLE TO HOLD OFFICE**

v.

**DEMAND FOR JURY TRIAL**

**PATRICK ALLEN in his individual  
capacity and in his capacity as the Director of  
Oregon Health Authority; and KATE  
BROWN in her individual capacity and in her  
capacity as the Governor of Oregon**

Defendant(s)

**UNITED STATES DISTRICT COURT**

**FOR DISTRICT OF OREGON**

**PORTLAND DIVISION**

**JENNIFER RAE GUNTER; and  
CHRISTINA LYNN MILCAREK; and  
SANDRA ANNE BIELEN**

Plaintiff(s),

v.

Case No.: 3:22-CV-93-AC

**PATRICK ALLEN in his individual  
capacity and in his capacity as the  
Director of Oregon Health Authority; and  
KATE BROWN in her individual capacity  
and in her capacity as the Governor  
of Oregon**

Defendant(s).

**FIRST AMENDED PRELIMINARY INJUNCTION AND VERIFIED COMPLAINT  
OHA DIRECTOR NOT ELIGIBLE TO HOLD OFFICE**

**DEMAND FOR JURY TRIAL**

LR 7-2 CERTIFICATION The undersigned hereby certifies that this Complaint complies with the applicable word count limitation because it contains 2,960 words including headings, footnotes, and quotations, but excluding the caption, and signature block.

**I. PARTIES**

1. Jennifer Rae Gunter, Christina Lynn Milcarek, and Sandra Anne Bielen are all tax paying citizens of the State of Oregon and they all reside in Oregon, filing as pro-se Plaintiffs.
2. Defendant Patrick Allen (“Allen”) is alleged to be the current Director of the Oregon Health Authority (OHA). Official Secretary of Senate records indicate Allen’s term began on 9-25-17 and expired on 9-24-21.
3. Defendant Kate Brown (“Brown”) is the current Governor of the State of Oregon.

## **II. Basis for Jurisdiction**

4. Plaintiffs incorporate the foregoing paragraphs as if set forth in full herein
5. This Court has subject matter jurisdiction over Plaintiffs’ claims under 28 U.S.C. §1331, 28 U.S.C. §§1343(a)(3), (4), 28 U.S.C. §1367, 28 U.S.C. § 2201, 28 U.S.C 1391.

## **III. Statement of Claim, Damage, Public Interest**

6. Plaintiff’s challenge that Patrick Allen is alleged Director of the Oregon Health Authority (OHA) and is not eligible to serve in public office.  
Without current senate re-appointment and re-confirmation all policies, rules, adoptive measures, procedures or initiatives he is communicating or attempting to create and enforce are null and void after **his term expired**.  
**(See Exhibit A for Organization Chart)**.
7. According to Article III, section 4 of the Oregon Constitution:  
Senate confirmation of executive appointments.  
(1) The Legislative Assembly in the manner provided by law may require  
that all appointments and **reappointments to state public office made  
by the Governor shall be subject to confirmation by the Senate.**

- (2) The appointee **shall not be eligible to serve until confirmed** in the manner required by law and if not confirmed in that manner, **shall not be eligible to serve in the public office**. (Emphasis added).
8. Governor Kate Brown has authority to declare vacancies and appoint the Director of OHA under ORS 413.033 Section 2<sup>1</sup>.
9. The appointment of the Director is subject to confirmation by the Senate under [ORS 171.562 \(Procedures for confirmation\)](https://oregon.public.law/statutes/ors_171.562)<sup>2</sup> and [171.565 \(Vote required for confirmation\)](https://oregon.public.law/statutes/ors_171.565)<sup>3</sup>.
10. Under ORS 236.140 – Term, Removal, Vacancy in Appointive Offices
- a. Any person holding an appointive office in any of the offices, departments or institutions of this state shall hold the same for an indefinite **term not exceeding four years, or for the term specified for the office by law**. A person holding an appointive office shall at all times serve at the pleasure of and be subject to removal by the appointive power that made the appointment unless a different standard for removal from the office is specified by law. The appointive power may in all cases appoint a successor.
- [Amended by 2013 c.425 §1].
1. Based on these facts, Patrick Allen is ineligible to serve or be appointed for a second term, receive re-appointment and re-confirmation by Senate, so a successor **must** be named.
11. “Patrick Allen was tapped by Governor Kate Brown in September of 2017

---

<sup>1</sup> [https://oregon.public.law/statutes/ors\\_413.033](https://oregon.public.law/statutes/ors_413.033)

<sup>2</sup> [https://oregon.public.law/statutes/ors\\_171.562](https://oregon.public.law/statutes/ors_171.562)

<sup>3</sup> [https://oregon.public.law/statutes/ors\\_171.565](https://oregon.public.law/statutes/ors_171.565)

to permanently take over as Director of the Oregon Health Authority replacing former director Lynne Saxton.”<sup>4</sup>

12. Governor Brown is required to take an oath by the Oregon Constitution Article XV Section 3) Every person elected or appointed to any office under this Constitution, shall, before entering on the duties thereof, take an oath or affirmation to support the Constitution of the United States, and of this State, and an oath of office.
13. In her official capacity, Governor Brown is enjoined to uphold and defend the Constitution of the United States and the Constitution of the State of Oregon and its procedures and laws.
14. According to <https://www.oregonlegislature.gov/secretary-of-senate>:  
The record of Senate action on the Governor’s executive appointments and re-appointments to boards, commissions and other positions requiring Senate confirmation:
  - a. The 2017-2018 document shows Patrick Allen was confirmed as follows<sup>5</sup> (also See page 20 of Exhibit B)

**OREGON HEALTH AUTHORITY, DIRECTOR OF THE (ORS 413.033)**

**Allen, Patrick** - Salem

Term: Serves at the pleasure of the Governor.

9-25-17 - 9-24-21

10-23-17 Governor's message received and transmitted to Interim Committee on Rules and Executive Appointments.

11-13-17 Hearing held.

11-14-17 Recommendation: Be confirmed en bloc.

11-15-17 Confirmed en bloc.

Ayes, 29; excused, 1--Girod.

11-15-17 Devlin, Ferrioli declared conflict of interest.

---

<sup>4</sup> [Oregon Live Article](#)

<sup>5</sup> <https://www.oregonlegislature.gov/secretary-of-senate/ExecutiveAppointments/2017-2018%20Interim%20Executive%20Appointments.pdf>

- b. In reviewing all documentation after that date, there is no record that Director Patrick Allen of OHA was re-appointed, or re-confirmed, or submitted again for re-appointment or re-confirmation in 2021 by Governor Brown to the Senate.
- c. Given no Senate re-confirmation can be found for Director Allen, Governor Brown appears to have committed a crime under section 242 of Title 18. A person acting under color of any law to willfully deprive a person of a right or privilege protected by the constitution or laws of the United States by using her position to allow fraud to Oregonian's by not **acknowledging** and **removing** Patrick Allen from public position after his term expired.
- d. If Director Allen cannot be proven re-confirmed by the Senate, he has committed fraud by remaining in his position and carrying out daily duties and collecting salary, compensations and benefits as OHA Director by not exiting after his expired term. See OHA Patrick Allen daily calendar (**Exhibit C**). Without proven Senate re-confirmation process, Governor Brown has also committed fraud, by allowing Patrick Allen to remain in his position, by allowing him the appearance of authority (**See Exhibit D**), and by not removing him and declaring his seat vacant according to the law and requirements of his expiration of service.
- e. A citizen and Court should expect the highest standard of ethical conduct for Public Office which, by definition, includes upholding and abiding by the law and their oaths of service (if applicable).

It's unconscionable to believe that both Director Patrick Allen and Governor Kate Brown both are not aware or overlooked this very critical and legal requirement. Director Allen had to be aware his term ended, and Governor Brown had to be aware **Senate ONLY** confirmed him through 9/24/21, and any further time as Director of OHA would need Senate approval. Such failure on both parties to follow the law places the health and safety of Plaintiffs and Oregonians at extreme risk and threatens our democracy under Article III Section 1 of the Oregon Constitution (Separations of Powers).

f. Please see all submitted confirmations from January 2021 through January 11, 2022, from Governor Brown. As shown to the court Patrick Allen has not been resubmitted for an extended term re-confirmation at any time in the last year prior to his term expiring or at any time thereafter. **(Exhibit E)**.

15. Without Senate re-confirmation of Patrick Allen, Governor Brown failed to uphold her Oath of Office to the Oregon Constitution under Article III Section 4.<sup>6</sup>

16. To our knowledge and belief based on Article 1 Section 22 of the Oregon Constitution, Governor Brown was never given legislative authority to change any laws or rules with respect to re-confirmation by the Senate of the OHA Director.

**“Suspension of operation of laws.** The operation of the laws shall never be suspended, except by the Authority of the Legislative Assembly.”

17. Without Senate re-confirmation, Governor Brown committed a Class A Misdemeanor

---

<sup>6</sup> <https://sos.oregon.gov/blue-book/Documents/oregon-constitution.pdf>

Class A misdemeanors:

- a. Official misconduct in the first degree. Or. Rev. Stat. Ann. § 162.415<sup>7</sup>.
- b. Punishable by sentence of imprisonment of up to 364 days. Or. Rev. Stat. Ann. § 161.615. Fine not to exceed \$6,250. Or. Rev. Stat. Ann. § 161.635.

18. Without Senate re-confirmation, Governor Brown potentially committed a Class B Misdemeanor if she provided Patrick Allen any confidential information after 9-24-21.

Class B misdemeanors:

- a. Misuse of confidential information. Or. Rev. Stat. Ann. § 162.425<sup>8</sup>.
- b. Punishable by sentence of imprisonment of up to 6 months. Or. Rev. Stat. Ann. § 161.615. Fine not to exceed \$2,500. Or. Rev. Stat. Ann. § 161.635.

19. Without Senate re-confirmation, Governor Brown potentially committed a Class C Misdemeanor.

Class C misdemeanors:

- a. Official misconduct in the second degree. Or. Rev. Stat. Ann. § 162.405.
- b. Punishable by sentence of imprisonment of up to 30 days. Or. Rev. Stat. Ann. § 161.615. Fine not to exceed \$1,250. Or. Rev. Stat. Ann. § 161.635.

20. Negligence – Given Patrick Allen’s term had expired, Governor Brown and Patrick Allen, both knowingly were negligent within their positions by allowing him to operate past his legal term timeline, by carrying out daily duties of by enforcement, enacting rules, adoption of rules, carrying out daily duties such as and not limited to

---

<sup>7</sup> [https://oregon.public.law/statutes/ors\\_162.415](https://oregon.public.law/statutes/ors_162.415)

<sup>8</sup> [https://oregon.public.law/statutes/ors\\_162.425](https://oregon.public.law/statutes/ors_162.425)

conferences, directions, directives, sending and receiving email, accepting and making phone calls related to official duties under the guise of official capacities, plan making, and advisement of governmental bodies by attending meetings that could have been of confidential nature on topics and by conducting business between the OHA directors' position, its bodies, officers, affiliates, partner's and the Governor's office or officers and be Privy to confidential information that his office might have access to within the forms of and not limited to medical records and monies.

21. Conspiracy against rights - Without Senate re-confirmation, or Governor Brown declaring a vacancy, she knowingly let Patrick Allen operate illegally past his legal four-year term. Patrick Allen remained publicly in office without personal proper recusal of duties, is indeed, a violation of 18 USC 241 conspiracy against rights.
22. Governor Brown failed in her responsibilities of appointing a new director, therefore damaging Plaintiff's First Amendment Rights of free speech by usurping Plaintiff's power they gave to the Senate. By ignoring the Senate's authority for confirmation, Governor Brown took away the process in which the Senate exercises the representation of the Plaintiff's voice.
  - a. Plaintiffs' were not offered a citizen initiative to vote on or placing any proposed statutes of such manner of abolishing the senate terms set forth or to abolish appointments and re-confirmations.
23. Governor Brown, acting outside the scope set forth by the Senate, has indeed violated Plaintiffs' right to voice and free speech under the First Amendment of the US Constitution and Article I, Section 8 of the Oregon Constitution. Freedom of speech

is a principle that supports the freedom of an individual or a community to articulate their opinions and ideas without fear of retaliation, censorship, or legal sanction.

Governor Brown has censored and disenfranchised our voice through the Senate appointment and reconfirmation process from our duly elected officials.

24. Deprivation of Rights Under Color of Law - By allowing a person to hold such a high office position illegally, Plaintiffs are threatened and harmed by a misuse of tax funds, exposure to fraud, and potential for life threatening denial of claims and appeals by Oregonian's under the state's medical programs is a violation under 18 USC 242, 42 USC 1983. Many elderly and poor Oregonian's depend upon timely and lawful administration of the Oregon Health Plan, so their health, equity and well-being is threatened by Allen continuing in his position. Furthermore, disenfranchising the First Amendment rights of the Plaintiffs'.

25. Theft - Without Senate re-confirmation, Patrick Allen collected monies and salary unlawfully from the people of Oregon by conducting official business, attending meetings, giving directions and enacting rules that affect all Oregonians daily lives. Also using taxpayer's public building facilities to conduct daily business. Governor Brown would also have allowed her monthly budget to include and compensate an unlawfully held position by Patrick Allen.

a. This is an offense involving fraud and deception under ORS 164.085<sup>9</sup> to deceive Oregonians.

26. Government Ethics – ORS 244.010 states<sup>10</sup>

a. (1) The Legislative Assembly declares that service as a public

---

<sup>9</sup> [https://oregon.public.law/statutes/ors\\_164.085](https://oregon.public.law/statutes/ors_164.085)

<sup>10</sup> [https://oregon.public.law/statutes/ors\\_244.010](https://oregon.public.law/statutes/ors_244.010)

official is a public trust and that, as one safeguard for that trust, **the people require all public officials to comply with the applicable provisions of this chapter.** (Emphasis added).

27. For these reasons above, Plaintiffs have infliction of negligent physical and mental distress, shock and trauma, loss of faith and added escalating distrust of officials conducting illegal business and misuse of their tax funds. **Public office is a ‘public trust’** in that elected officials operate the government for the public interest. For this reason, public officials and employees must adhere to a high standard of ethical behavior to ensure that the exercised First Amendment right of voting through chosen Senate representation is upheld and not disenfranchised.
28. U.S. v. Throckmorton, 98 US 61 WHEREAS, officials and even judges have no immunity (See, Owen vs. City of Independence, 100 S Ct. 1398; Maine vs. Thiboutot, 100 S. Ct. 2502; and Hafer vs. Melo, 502 U.S. 21; officials and judges are deemed to know the law and sworn to uphold the law; officials and judges cannot claim to act in good faith in willful deprivation of law, they certainly cannot plead ignorance of the law, even the Citizen cannot plead ignorance of the law, the courts have ruled there is no such thing as ignorance of the law, it is ludicrous for learned officials and judges to plead ignorance of the law therefore there is no immunity, judicial or otherwise, in matters of rights secured by the Constitution for the United States of America. See: Title 42 U.S.C. Sec. 1983. "When lawsuits are brought against federal officials, they must be brought against them in their "individual" capacity not their official capacity. When federal officials perpetrate constitutional torts, they do so ultra vires (beyond the powers) and lose the shield of immunity."

#### IV. Relief

29. Plaintiffs ask courts to conduct a full audit investigation of all forms of daily duties but not limited to, communication (written, verbal, email, recordings, publications, voicemails, Power Point slides, etc., meetings between the Defendants, meetings that Patrick Allen and Governor Brown may have attended where confidential information was and could be shared).
30. Enjoin OHA and Governor Brown, all Agency Subdivisions, contractors, officers, agency employees, and agents, including anyone acting in formal and informal concert with them, from creating, implementing, applying, or taking any action whatsoever under the guise of any public health and safety. This includes but not limited to **any** type of administrative orders, temporary rules, and recommendations towards health and safety until a thorough investigation can be completed reviewing everything that occurred after Allen's term expired and a new Director is Senate confirmed.
31. Declare all rules, adopted rules, administrative orders and rules, temporary standards and rules, and fines implemented by Patrick Allen or Kate Brown after his term end are **null and void**, by removing them from public law and enforcement.
32. Declare Patrick Allen unlawfully holds his position and is ineligible for re-appointment according to ORS 236.140.
33. Declare **immediate removal** Of Patrick Allen and Governor Brown from Office upon the acts of negligence, fraud, and egregious unlawful activities outlined in this complaint.
34. Declare in order to maintain continuity of Public Office, Plaintiff's request invoking

Oregon States Succession Plan.

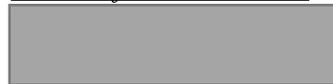
35. Declare and order repayment and return of all but not limited to compensations collected by Patrick Allen in the form or under guise of salaries, bonuses, and incentives, healthcare, and gifts received from the State of Oregon after his term ended to be returned to the state of Oregon.
36. Award Plaintiffs damages caused by states negligent and unlawful activities of misuse of State taxes, funding and budgets for failure to carry out elected duties lawfully by code of ethics, in good faith in the form of but not limited to, their reasonable fees, costs, and expenses, including attorneys' fees.
37. Grant other such relief as this Court may deem proper.

**V. Certification and Closing**

38. If preliminary injunction of the verified complaint is not granted, Plaintiff's will experience further actions of harm and damage against their First Amendment rights. The interest and safety of all Oregonian's will continue to be violated along with the public's trust, rights, and a suppression of their voice with irreparable damages. The immediate safety of Plaintiffs, and all Oregonians are at stake from Patrick Allen illegally holding a position by Governor Brown who did not re-appoint him while both defendants ignore protected procedural terms of re-confirmation and limits.  
**Such acts of fraud, deceit, and ignorance are shocking and egregious.**

Respectfully submitted this 31<sup>st</sup> day of January 2022.

/s/ Jennifer Rae Gunter



[Redacted]

/s/ Christina Lynn Milcarek

[Redacted]

/s/ Sandra Anne Bielen

[Redacted]