

**Mei Wong**  
**Dana Hindman-Allen**  
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 (City of) Happy Valley,  
 (State of) Oregon [97086]

**IN THE UNITED STATES COURT OF APPEALS  
 FOR THE NINTH CIRCUIT**

<p>MEI WONG;          DANA HINDMAN-ALLEN,</p> <p style="text-align: center;">Plaintiff(s) – Appellants,</p> <p>v.</p> <p>SHEMIA FAGAN, et al.,</p> <p style="text-align: center;">Defendant(s) – Appellees.</p>	<p>DOCKET/CASE NO. 24-77</p> <p>D.C. No. 3:22-cv-01714-SB          District of Oregon, Portland</p> <p>JUDGES: WARDLAW, PAEZ and          NGUYEN</p> <p>VERIFIED MOTION FOR          RECONSIDERATION</p>

**VERIFIED MOTION FOR RECONSIDERATION**

**COMETH NOW, Mei Wong and Dana Hindman-Allen, pro se / propria persona,** both living [wo]men, *sui juris*, creation(s) of God, both People of the Territory of Oregon, with and claiming all of their inherent, un-LIEN-able Constitutionally secured Rights, come before this court, by Special Appearance, pursuant to F.R.A.P Rule 27, to move this court reconsider its January 18, 2024 Order dismissing Plaintiffs’ (Appellants’) filed appeal for “lack of jurisdiction” and, in just consideration of the circumstances presented below, grant and/or accept Plaintiffs’ appeal, or to re-appeal, in good faith.

**INTRODUCTION**

It is the honorable intent of Plaintiffs to establish the facts leading up to the Supreme Court of the United States’ direction to file with the Ninth Circuit of Appeals, the reason and intent in

filing with the Ninth Circuit Court of Appeals, and to provide some reasonable and lawful insight for Plaintiffs' determination in pursuing justice in this matter.

### **BACKGROUND**

1. On Memorial weekend, May 29, 2022, at 4:36am and 4:44am., Plaintiff Mei Wong took screenshots of the Secretary of State's Elections website in the Metro District 2 race where votes decreased by 6371. The same day, May 29, 2022, Plaintiff Mei Wong took screenshots of Clackamas County Elections website at 8:32pm and Secretary of State's Elections website at 8:36pm where votes decreased by 3855. On Saturday, June 4, 2022, at 5:44am and 5:45am., Plaintiff Mei Wong took screenshots of the Secretary of State's Elections website in the Metro District 2 race where votes decreased by 6376. On Friday, June 10, 2022, at 4:57am and 4:58am., Plaintiff Mei Wong took screenshots of the Secretary of State's Elections website in the Metro District 2 race where votes decreased by 6390.
2. Plaintiff (Mei Wong) sent letter/notice (EXHIBIT A) dated June 6, 2022 to Shemia Fagan, Secretary of State of Oregon.
3. On June 9, 2022, the Secretary of State directed the county clerk to do a hand recount of random races. It conducted a recount of 9% of Candidate Dana Hindman-Allen's race with three other candidates and recounted 151,004 precinct committee votes. No recount was done for candidate Mei Wong's race.
4. Bob Roberts and Alma Whalen from the Secretary of State's office responded (EXHIBIT B) a week later on June 13, 2022 asking for clarification to the initial letter.
5. Plaintiff (Mei Wong) highlighted the complaints on the initial letter (EXHIBIT C) and sent it back to Bob Roberts and further replied to Alma Whalen requesting a hand recount on June 14, 2022.
6. On June 24, 2022, Plaintiff Mei Wong sent a letter to Clackamas County Clerk Sherry Hall confirming the request for a hand recount and discussion with Clackamas County Elections Manager Becky Doll to do a hand recount. It was clear in all the communications to the State and County from the beginning what are the intentions of the Defendants.

7. Defendant(s) accepted the replies and refused to open a complaint, then referred to Clackamas County Elections office for further questions of the upload of election results (EXHIBIT D).
8. Clackamas County was cc'd on the letter dated June 6, 2022 (EXHIBIT E).
9. Candidate/Plaintiff Dana Hindman-Allen made similar requests (EXHIBIT F) and received the same replies. Clackamas County "*can conduct a full hand recount of Plaintiff Mei Wong's race for the two candidates with the most votes as Defendant's counsel stated at any time.*"
10. After two months of discussions and emails, all Plaintiff's requests were denied (EXHIBIT G).
11. Plaintiffs were told explicitly we will receive a quote from the County to do a hand recount of the original ballots. After the formal complaints were sent to the State and County, Sherry Hall directed both Plaintiffs to put the hand recount on a public records request form in addition to the formal complaints sent to the State and County. Plaintiff Dana Hindman-Allen obliged the request on July 6<sup>th</sup>, 2022 and Plaintiff Mei Wong on July 15<sup>th</sup>, 2022.
12. Clackamas County Clerk, Sherry Hall and Elections Manager, Becky Doll later told We, the Plaintiffs, they would provide a quote for a deposit and a full hand recount. Then subsequently sent a letter (EXHIBIT H) on July 22, 2022 via email, stating they will not do a hand recount as per the Elections Manager of the Secretary of State's Office, Debra Scroggin.
13. All the on-going communications were lending to the impression and the intentions to fill the request. Neither Hindman-Allen or Wong's public records request were ever filled.
14. After two months of discussions and emails, all requests were denied.
15. Plaintiff(s), were left with no recourse but to file a necessary lawful complaint into this Court in the pursuit of justice. Plaintiff's complaint was filed on November 4, 2022.
16. On December 1, 2022, Stephen L. Madkour and Sarah Foreman, attorneys for the Defendant(s), filed a Joint Motion for Extension of Time to Respond to The Complaint. In good faith, the Plaintiff(s) acknowledged and agreed to said request for extension of time.
17. On January 9, 2023, attorneys for the Defendant(s) contacted the Plaintiff(s) to request conferment on the Defendant's proposed Joint Motion to Dismiss. Plaintiff(s) accepted the offer to confer on "special conditions" to which the attorney(s) for the Defendant(s) denied.

18. On January 12, 2023, Defendant's attorney(s), Brian Simmonds Marshall and Bijal Patel, entered their appearance on behalf of Shemia Fagan, Debra Scroggin, Alma Whalen, Bob Roberts and The Office of the Secretary of State of Oregon.
19. On January 17, 2023, attorney(s) for the Defendant(s) filed a Joint Motion to Dismiss the Plaintiff's complaint.
20. On January 31, 2023, Plaintiffs filed a response and objection to the Joint Motion to Dismiss the Plaintiffs' complaint.
21. On February 14, 2023, attorney(s) for the Defendant(s) filed a reply to Joint Motion to Dismiss.
22. On February 15, 2023, Magistrate Judge Stacie F. Beckerman determined that the Joint Motion to Dismiss was suitable for disposition without oral argument. No further briefing was permitted, absent leave of the court.
23. On February 17, 2023, notice was sent to Plaintiffs to consent to proceed before a U.S. Magistrate Judge. Plaintiffs did not reply.
24. On March 29, 2023, Plaintiffs filed a Judicial Notice.
25. On April 5, 2023, Magistrate Judge Stacie F. Beckerman moved to strike the Judicial Notice.
26. On April 11, 2023, Plaintiffs filed an Objection to Magistrate Judge's Order to Strike Judicial Notice.
27. On April 12, 2023, Judge Marco A. Hernandez Affirms Magistrate Judge Stacie F. Beckerman's Order to Strike.
28. On May 30, 2023, Plaintiffs contacted attorneys for the Defendant(s) to confer.
29. On June 6, 2023, Plaintiffs and attorneys for the Defendant(s) conferred and no agreement was reached.
30. On June 30, 2023, Magistrate Judge Stacie F. Beckerman recommended that the District Judge grant Defendants' motion to dismiss Plaintiffs' complaint with prejudice.
31. On July 14, 2023, Plaintiffs filed an Objection to Magistrate Judge Stacie F. Beckerman's recommendation.
32. On July 28, 2023, attorneys for the Defendant(s) filed an Objection to Plaintiff(s) Objection.

33. On September 4, 2023, Article III Judge, Marco A. Hernandez wherein Magistrate Beckerman's findings and recommendation were affirmed and Defendants' Joint Motion to Dismiss was granted.
34. On November 17, 2023, Plaintiffs filed a Petition for Writ of Certiorari with the Supreme Court of the United States and was received on November 21, 2023.
35. A Letter dated November 27, 2023, from the Office of the Clerk of the Supreme Court of the United States was received on November 30, 2023 instructing Plaintiffs to first appeal to the United States court of appeals pursuant to 28 U.S.C. 1254. (See EXHIBIT I).
36. Plaintiffs filed Notice of Appeal on December 29, 2023 and appeal was docketed on January 4, 2024 and transaction entered on January 8, 2024.
37. On January 18, 2024 the United States Court of Appeals entered an Order (EXHIBIT J) dismissing Plaintiffs' appeal for lack of jurisdiction.

### **ARGUMENT**

There is no local District Rule for Oregon, nor is there a Rule in The Federal Rules of Civil Procedure or Federal Rules of Appellate Procedure for a motion to reconsider. The Ninth Circuit, however, has affirmed that motions to reconsider should be treated as motions to alter or amend under Federal Rules of Civil Procedure 59(e). Sierra On-Line, Inc. v. Phoenix Software, Inc., 739 F.2d 1415, 1419 (9<sup>th</sup> Cir. 1984). The purpose and scope of such a type of motion have been analyzed as follows:

Motions for a new trial or to alter or amend a judgment must clearly establish either a manifest error of law or fact or must present newly discovered evidence. (Citations omitted). These motions cannot be used to raise arguments which could, and should, have been made before the judgment issued. (Citations omitted). Moreover, they cannot be used to argue a case under a new legal theory. (Citations omitted).

The Ninth Circuit has identified three reasons sufficient to warrant a court's reconsideration of a prior order: (1) an intervening change in controlling law; (2) the discovery of new evidence not previously available; and (3) the need to correct clear or manifest error in law or fact, to prevent manifest injustice. School Dist. No. 1J v. ACandS, Inc., 5 F.3d 1255, 1263 (9<sup>th</sup>

Cir. 1993). Upon demonstration of one of these three grounds, the movant must then come forward with “facts or law of a strongly convincing nature to induce the court to reverse its prior decision.” Donaldson v. Liberty Mut. Ins. Co., 947 F. Supp. 429, 430 (D. Haw. 1996).

Whatever the purpose of Rule 59(e), it should be supposed that it is intended to give an unhappy litigant one additional chance to sway the judge. Federal Deposit Insurance Corp. v. Meyer, 781 F.2d 1260, 1268 (7<sup>th</sup> Cir. 1986). The majority holds that a motion for reconsideration should not be granted “absent highly unusual circumstances, unless the district court committed clear error....” 389 Orange Street Partners v. Arnold, 179 F.3d 656 – Court of Appeals, (9<sup>th</sup> Cir. 1999). “[T]he major grounds that justify reconsideration involve an intervening change of controlling law, the availability of new evidence, or the need to correct a clear error or **prevent manifest injustice.**” Pyramid Lake Paiute Tribe v. Hodel, 882 F.2d 364, 369 n.5 (9<sup>th</sup> Cir. 1989) (quoting 18 C. Wright, A. Miller & E. Cooper, Federal Practice and Procedure § 4478, at 790); see Frederick S. Wyle. P.C. v. Texaco, Inc., 764 F.2d 604, 609 (9<sup>th</sup> Cir. 1985); see also Keene Corp. v. International Fidelity Ins. Co., 561 F. Supp. 656, 665 (N.D. Ill. 1982) (reconsideration available “to correct manifest errors of law or fact or to present newly discovered evidence”) *emphasis added*.

Upon the district court magistrate’s order dismissing Plaintiffs’ complaint with prejudice, Plaintiffs began to prepare the next steps in seeking justice. Post research and conference, given the controversial nature of the subject matter of Plaintiffs’ claims against the Defendants, Plaintiffs felt it necessary, due to what Plaintiffs determined to be an unlawful and unfair ruling, to draft and directly submit a Petition for Writ of Certiorari, pursuant to U.S. Supreme Court Rule 13(3). U.S. Supreme Court Rule 13(3) does not explicitly evidence the requirement of a case to first be filed with a United States court of appeals. Rule 13(3) states as follows:

*The time to file a petition for a writ of certiorari runs from the date of entry of the judgment or order sought to be reviewed, and not from the issuance date of the mandate (or its equivalent under local practice). But if a petition for rehearing is timely filed in the lower court by any party, or if the lower court appropriately entertains an untimely petition for rehearing or sua sponte considers rehearing, the time to file the petition for a writ of certiorari for all parties (whether or not they requested rehearing or joined in the petition for rehearing) runs from the date of the denial of rehearing or, if rehearing is granted, the subsequent entry of judgment.*

In the November 27, 2023 letter (EXHIBIT I) sent to Plaintiffs from the Clerk of the United States Supreme Court, 28 U.S. Code § 1254 is cited as the authority which required Plaintiffs' matter to be first appealed to a United States court of appeals. Plaintiffs acknowledge an oversight in cognizance of the aforementioned statute governing an appellate court's prior certification in further appeal to the United States Supreme Court. However, said oversight, comes with the territory of great anxiety and distress of being first-hand witnesses of election fraud, coupled with the distress knowing that several thousands of Oregonian voters were cheated out of their original and rightful intent in whom they cast a vote. The ballot records, that are of preponderant congruence with Plaintiffs' evidence of election fraud, will be set for destruction in March. Without the Court of Appeals' good faith forgiveness and mercy in granting Plaintiffs permission to appeal, the result shall manifest a tremendous miscarriage of justice. Plaintiffs are not attorneys, nor are they seasoned litigants. "Pro Se pleadings are to be considered without regard to technicality; pro se litigants are not to be held to the same high standards of perfection as lawyers." Picking v. Pennsylvania R. Co., 151 Fed. @nd 240; Pucket v. Cox, 456 @nd 233. Furthermore, as the United States Supreme Court unanimously held a pro se complaint, "however in-artfully pleaded," must be held to "less stringent standards than formal pleadings drafted by lawyers" and can only be dismissed for failure to state a claim if it appears "beyond doubt that the [plaintiff] can prove no set of facts in support of his claim which would entitle him to relief." *Id.*, at 520 521. See, Haines vs. Kerner, et al. 404 U.S. 519,92 S.Ct. 594,30 L. Ed. 2d 652.

In the Order (EXHIBIT J) from the United States Court of Appeals for the Ninth Circuit, 28 U.S. Code § 2107(a) is cited as the authority wherein the appellate court lacks jurisdiction to accept the appeal. Plaintiffs comprehend the appellate court's lack of jurisdiction post thirty (30) days pursuant to the above-stated citation. However, 28 U.S. Code § 2107(c)(1)(2) does provide an allowance to reopen an appeal based upon certain circumstances, which are cited as follows:

- c) *The district court may, upon motion filed not later than 30 days after the expiration of the time otherwise set for bringing appeal, extend the time for appeal upon a showing of excusable neglect or good cause. In addition, if the district court finds—*
  - 1) *that a party entitled to notice of the entry of a judgment or order did not receive such notice from the clerk or any party within 21 days of its entry, and*
  - 2) *that no party would be prejudiced,*

*the district court may, upon motion filed within 180 days after entry of the judgment or order or within 14 days after receipt of such notice, whichever is earlier, reopen the time for appeal for a period of 14 days from the date of entry of the order reopening the time for appeal.*

Based upon the above-stated, there is an existent window of remedy at law wherein a party seeking appeal, after the (appeal) tolling of time has passed, can motion the court for the reopening of the appeal tolling of time in regard to the presence of certain circumstances. It has been made clear and affirmed by Plaintiffs, and admission by and through Magistrate Beckerman's Findings and Recommendation that an injustice and injury was done to Plaintiffs, thus denial of a right to appeal, based upon a statutory tolling of time, would indeed be a gross miscarriage of justice.

### **CONCLUSION**

It is an absolute certainty that if Plaintiffs are denied any leeway to appeal that it would certainly be verifiable and validated prejudice wherein the Plaintiffs and the voters Clackamas County and Oregon in congruence, would be the victims of voter fraud.

Via this motion for reconsideration, it is not the intent of the Plaintiffs to prejudicially sway the court in their favor against the cause for fair and prudent justice, but instead to preserve the course of justice that, if neglected, would indeed undoubtedly lead to a serious, gross miscarriage of justice.

Where there is an available legal redress or equitable relief to an injured party, but is not forthcoming in timely fashion, it is effectively the same as no remedy at all. (*Lex dilationes abhorret* and *lustitia differtur iustitia negatur* = "The law abhors delay" and "Justice delayed is justice denied.").

Furthermore, the Judicature Acts of 1873 and 1875 made it very clear that the Maxims of Equity prevail when a conflict of law arises. Said Acts did not alter the nature of legal and equitable rights. Said Acts did not "fuse" law and equity. They did not abolish the distinctions between law and equity, not between legal and equitable principles nor between legal and equitable interests. Some of the applicable Maxims of Equity are as follows:

- *"One who seeks equity must do equity"*



- *“Equity aids the vigilant, and not those that slumber on their rights”*
- *“He who comes into equity must come with clean hands”*
- *“Equity delights to do justice and not by halves.”*
- *“Equity follows the law.”*
- *“Equity will not allow a statute to be used as a cloak for fraud.”*
- *“Equity regards as done what ought to be done.”*

Plaintiffs saw done in the spirit of equity by giving the defendants fair and timely notice to cure their error(s). Plaintiffs have been vigilant and have not slumbered in pursuit of preserving their rights (Therefore to him that knoweth how to do well, and doeth it not, to him it is sin. – James 4:17 = “He who refuses to correct a wrong, occasions, allows or permits it”). Plaintiffs have come in with clean hands as it is their duty to bring to light any irregularities or problems (And have no fellowship with the unfruitful works of darkness, but reprove them rather. – Ephesians 5:11). Plaintiffs’ seeking of justice has not been with the intent of personal ill-gotten gain, but for the common good of justice. Plaintiffs, to the best of their comprehension, have followed the law in good faith to see justice done. Plaintiffs accusations against the Defendants were due to direct observance of negligence in addressing a matter of serious importance wherein it was, and is, evident that the Defendants were either by gross negligence, or ignorance, using the statutes in a circumvented way to abrogate the official responsibilities of their offices. Finally, it is the equitable intent of the Plaintiffs to regard as done what ought to be done, which is to not permit fraud to persist.

The above-stated, was well summed up in a quote from the Judicature Acts of 1873-75, as stated:

*“Wherever there is any conflict or variance between the rules of equity and the rules of (common) law in the same matter, the rules of equity SHALL prevail.”*

### **PRAYER FOR RELIEF**

Pursuant to the above-stated, Plaintiffs hereby move this Honorable Court to enter an Order to allow Plaintiffs to proceed with their appeal, or in the alternative, enter an Order of

recommendation to the district court to reopen the time of appeal pursuant to 28 U.S. Code 2107(c)(1)(2).

Subscribe To and Sworn To, Juris et de jure, Before God [Titus1:2] this \_\_\_\_ day of January 2024.

Respectfully Submitted,

By: \_\_\_\_\_ [L.S./SEAL]

**Mei: Wong**  
Without recourse, Without prejudice,  
All Rights Retained.

By: \_\_\_\_\_ [L.S./SEAL]

**Dana: Hindman-Allen**  
Without recourse, Without prejudice,  
All Rights Retained.

**CERTIFICATION**

We hereby certify that the foregoing statements made by me are true and correct the best of our knowledge and belief. We are aware that if any of the foregoing statements made by either of us are willfully false, we are subject to punishment.

Subscribe To and Sworn To, Juris et de jure, Before God [Titus1:2] this \_\_\_\_ day of January 2024.

By: \_\_\_\_\_ [L.S./SEAL]

**Mei: Wong**  
Without recourse, Without prejudice,  
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By: \_\_\_\_\_ [L.S./SEAL]

**Dana: Hindman-Allen**  
Without recourse, Without prejudice,  
All Rights Retained.

**CERTIFICATE/PROOF OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of the Month of \_\_\_\_\_, in the Year of Our Lord Two-Thousand and Twenty-Four (2024), I am depositing via United States Postal Service, (OR Next day Delivery/Fed Ex/Online Court Portal) under necessity, a true and correct copy of the foregoing document upon the person in the manner indicated below; and the parties in and of interest listed in the case (state) including the agency business owner/head personally by forwarding to the business addresses thereof and as stated in the case or by hand delivery provided it to the same. All prepaid.

Sworn under penalty of perjury under the laws of the state of OREGON AND 28 USC 1746.

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By: \_\_\_\_\_ [L.S./SEAL]

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