

IN THE CIRCUIT COURT FOR THE STATE OF OREGON  
FOR THE COUNTY OF MULTNOMAH

STATE OF OREGON,

PLAINTIFF,

vs.

JOSEPH GIBSON,

DEFENDANT.

No. 19CR53042

JOSEPH GIBSON'S MOTION TO  
CHANGE VENUE

**INTRODUCTION**

COMES NOW Joey Gibson, the defendant, by and through the Angus Lee Law Firm, PLLC, and moves this court for a change of venue.

A uniform and organized campaign of propaganda from Portland leaders, news media, and political opponents has demonized Mr. Gibson, as a violent, white supremacist, Nazi. Political leaders in Portland, sensing the public mood, have repeatedly exacerbated and exploited this propaganda campaign, to the point of issuing formal resolutions condemning him. They publicly declared their support for a business taking legal action against him, and even publicly attacked counsel for Mr. Gibson in that parallel civil case. What is worse, Mayor Ted Wheeler, outspoken in his personal criticism of Mr. Gibson, is actually the highest ranking police official in the City of Portland.

1 Every leading Portland newspaper reported not just the filing of that lawsuit, but there were  
2 also further stories concerning the amendment of plaintiffs' complaint, and the engagement of  
3 counsel for Mr. Gibson in that case.

4 If ever there was a case where a change of venue was appropriate, this is it. It is hard to  
5 imagine the volume and vitriol of pretrial publicity, and community contempt, needed to justify a  
6 change of venue if what is found here does not suffice.

## 7 LAW

### 8 A. *Change of Venue*

9 A defendant is entitled to a change of venue if the circumstances in the county where he or  
10 she has been charged are such that a fair trial cannot be obtained. 1 Crim Law 7-29 (OSB Legal  
11 Pubs 2013) (citing U.S. Const., Amend. VI, XIV § 1; Or. Const. Art I, § 11; ORS 131.355).

12 Under ORS 131.355, a trial court, upon motion of the defendant, "shall" order the place of  
13 trial to be changed to another county if the court is satisfied that there exists in the county where  
14 the action is commenced so great a prejudice against the defendant that the defendant cannot obtain  
15 a fair and impartial trial.

16 In addition, Article I, section 11, of the Oregon Constitution, and the Sixth Amendment to  
17 the United States Constitution, made applicable to the states through the Fourteenth Amendment,  
18 *Duncan v. Louisiana*, 391 U.S. 145, 88 S. Ct. 1444 (1968), secures to criminal defendants the right  
19 to trial by an impartial jury--"a basic requirement of due process." *In re Murchison*, 349 U.S. 133,  
20 136, 75 S. Ct. 623, 625 (1955).

21 A presumption of prejudice arises in cases of extreme negative publicity. *Skilling v. United*  
22 *States*, 561 U.S. 358, 381, 130 S. Ct. 2896, 2915 (2010). This is an extreme case and prejudice

1 should be presumed. In this case masked Antifa are outside of the courthouse to intimidate and  
2 harass the accused and counsel before and after hearings. It is hard to recall such an extreme case  
3 of public prejudice.

4 It has long been the law of Oregon that the statutory rights of change of venue “should  
5 receive a broad and liberal, rather than a technical and strict, construction, and the courts ought not  
6 to be too astute, in discovering some refined and subtle distinction to avoid their operation...”  
7 *Straub v. State*, 121 Ore. 451, 456-457 (1927). Decades later, the Oregon Supreme Court would  
8 issue a writ of mandamus confirming the right to a change of venue even in misdemeanor cases,  
9 again confirming the liberal treatment to be given to such motions. *State ex rel. Ricco v. Biggs*,  
10 198 Ore. 413, 426 (1953) (“In the light of the actual prejudice alleged, if it in truth exists, a trial in  
11 that county would indeed be a mockery”).

12 The right to change venue, and particularly the right for defendants subjected to massive  
13 blasts of adverse publicity, is also grounded in numerous U.S. Supreme Court cases finding a want  
14 of due process where a change of venue was denied. *E.g., Rideau v. Louisiana*, 373 U.S. 723,  
15 83 S Ct 1417, 10 L Ed 2d 663 (1963) (the Supreme Court reversed the defendant’s conviction,  
16 concluding that the trial court’s denial of the defendant’s motion to change venue in light of pretrial  
17 publicity violated due process); *Irvin v. Dowd*, 366 U.S. 717, 81 S Ct 1639, 6 L Ed 2d 751 (1961)  
18 (due process of law denied when change granted, but only to adjoining county, and second motion  
19 for change of venue was denied).

20 Reported cases do not reveal one quite like this, albeit perhaps its inverse: a defendant  
21 accused of theft of livestock had his trial transferred from Malheur County to Multnomah County,  
22 for example. *State v. Jenkins*, 29 Or. App. 751, 754 (1977). Here, the degree of community

1 hostility is extraordinary and extreme, to the point where Mr. Gibson cannot appear in public in  
2 Multnomah County without encountering masked residents who spit upon him and physically  
3 attack him. When Mr. Gibson’s arraignment was held in this matter, masked protesters verbally  
4 berated him and counsel as they left the building.

5 Very recently two individuals were arrested in Portland for assaulting a man simply  
6 because he was wearing a ‘MAGA’ hat.<sup>1</sup>

7 “The violation of the spirit of the law is as pernicious in its consequences as the violation  
8 of its letter. The right of the accused in a criminal case to a trial by jury would be of little advantage  
9 if the jury had to come from a community biased and prejudiced against him by influences which  
10 he was unable to countervail.” *Biggs*, 198 Ore. at 429.

11 “The constitution provides that ‘in all criminal prosecutions’ the accused shall have ‘a fair  
12 and impartial trial’. It makes no exceptions.” *Id.*, at 430. This issue is particularly pronounced  
13 where protected political speech, opposite of the majority view of Multnomah County residents  
14 and elected officials, is central to the case.

15 [i]n a case such as this, a [Multnomah County] jury is ‘unlikely to be neutral with  
16 respect to the content of [the] speech,” posing “a real danger of becoming an  
17 instrument for the suppression of . . . “vehement, caustic, and sometimes  
18 unpleasan[t]” ‘expression. Such a risk is unacceptable; ‘in public debate [we] must  
19 tolerate insulting, and even outrageous, speech in order to provide adequate  
20 “breathing space” to the freedoms protected by the First Amendment.

21 *Snyder v. Phelps*, 562 U.S. 443, 458, 131 S. Ct. 1207, 1219 (2011) (internal cites and quotations  
22 omitted).

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<sup>1</sup> Available at: [https://www.kptv.com/news/man-says-he-was-assaulted-outside-portland-bar-for-wearing/article\\_2ed3c054-c795-11e9-956e-1f42272a49fe.html](https://www.kptv.com/news/man-says-he-was-assaulted-outside-portland-bar-for-wearing/article_2ed3c054-c795-11e9-956e-1f42272a49fe.html)

1 **B. Evidence of facts and judicial notice.**

2 A trial court may take judicial notice of an adjudicative fact relevant to venue under rule  
3 OEC 201(b), which allows a court to take notice of a fact that is not subject to reasonable dispute  
4 in that it is either: (1) generally known within the territorial jurisdiction of the trial court; or (2)  
5 capable of accurate and ready determination by resort to sources whose accuracy cannot  
6 reasonably be questioned. ORS 40.065. A trial court must take judicial notice of an indisputable  
7 fact if requested by a party and supplied with the necessary information. OEC 201(d); ORS 40.070.

8 Mr. Gibson requests this court to take judicial notice of media and social media  
9 publications and postings identified, described, and hyperlinked below. *See also* supporting  
10 declaration of James L. Buchal and attached true copies of the materials cited below.

11 **FACTS**

12 1. The two highest ranking public officials for Multnomah County have both publicly weighed  
13 in in support of Cider Riot. For example, Congressman Earl Blumenauer has publicly stated  
14 on his Twitter account that he “stands with” plaintiff Cider Riot, for their stand “against hate,”  
15 referring to Mr. Gibson and the other defendants; a true copy of this Tweet is reproduced  
16 below.<sup>2</sup>



17  
<sup>2</sup> Available at: <https://twitter.com/repblumenauer/status/1125615184934924288>

1 2. Congressman Blumenauer’s tweet was retweeting of a post refereeing to Mr. Gibson as “alt-  
2 right.”<sup>3</sup>



3  
4 3. The Mayor of Portland, at a press conference on July 8, 2019, attacked Mr. Gibson and his  
5 civil attorney directly:

6 ... I think it showed some odd judgement on the part of Mr. Buchal to step forward  
7 and support somebody who comes to our community from Washington state. He’s  
8 publicly stated in the past that he comes here with others who are often committed  
9 publicly to committing acts of violence. My understanding is that, at one point,  
10 Mr. Gibson, said that he came to Portland because he believed he could get people  
11 on the Left to agitate against our local police officers. And he also did it in the  
12 context of a political campaign, a failed political campaign for the United States  
13 Senate. And I have to ask myself, what kind of person does that? The men and  
14 women that I know in the Portland Police Bureau, they give their all for this  
15 community and to think there’s somebody who comes from a different state to our

<sup>3</sup> Available at: <https://twitter.com/OJRCenter/status/1125573191114510336>

1 community to put the men and women of our police bureau in potential harm's way  
2 for his own political gain and publicity? That's beyond cynical. And so why Mr.  
3 Buchal could think that's worthy of protection and why he would put the GOP seal  
4 on it is frankly beyond me.<sup>4</sup>

- 5 4. The entire press conference was an effort by the Mayor to reframe all issues involving violence  
6 at demonstration as the fault of outsiders coming into the City, which is publicly understood  
7 to refer to Mr. Gibson and the events he has promoted within the City. He also accused Mr.  
8 Gibson, in substance, of "co-opting" the right of free speech, and "hiding behind" the First  
9 Amendment, saying that a small group of individuals "come here to Portland [not] to engage  
10 in demonstrations in favor of or in opposition to particular values, but they come here instead  
11 with the intent to commit acts of violence".<sup>5</sup>
- 12 5. The press conference, and the Mayor's remarks stating that Mr. Gibson's intention in coming  
13 to Portland was to incite violence, was widely reported.<sup>6 & 7</sup>
- 14 6. *Willamette Week* ran an article headlined "Joey Gibson's Strategy Now Is Just Baiting Antifa  
15 to Fight With Cops."<sup>8</sup>

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<sup>4</sup> The quoted material is taken from a video of the Mayor's press conference posted at <https://www.kgw.com/article/news/politics/mayor-wheeler-on-violent-portland-protests-this-is-not-the-world-i-want-to-live-in/283-35de6e8d-ffcb-47bb-acfe-77847f3e9e23>

<sup>5</sup> *Ibid.* (at approximately 1:10 to 1:15).

<sup>6</sup> *E.g.*, <https://www.kgw.com/article/news/politics/mayor-wheeler-on-violent-portland-protests-this-is-not-the-world-i-want-to-live-in/283-35de6e8d-ffcb-47bb-acfe-77847f3e9e23>.

<sup>7</sup> A. Zielinsky, *Portland Mercury*, "New Legal Claims and Defendants Added to Patriot Prayer Lawsuit," May 7, 2019 (available at <https://www.portlandmercury.com/blogtown/2019/05/07/26441628/new-charges-and-defendants-added-to-patriot-prayer-lawsuit>).

<sup>8</sup> Quoted in K. Shepard, *Willamette Week*, "Joey Gibson's Strategy Now Is Just Baiting Antifa to Fight With Cops," Sept. 15, 2017 (available at <https://www.wweek.com/news/2017/09/15/joey-gibsons-strategy-now-is-just-baiting-antifa-to-fight-with-cops/>).

- 1 7. Portland media has extensively publicized the civil lawsuit associated with the event in  
2 question in this case, parroting the false and libelous claims of plaintiffs’ attorneys such as  
3 “Portlanders have been terrorized by Joey Gibson”.<sup>9</sup>
- 4 8. The support of Portland media for Cider Riot in the parallel civil case may be further gauged  
5 by the fact that Cider Riot conducted a lengthy press conference announcing the suit with  
6 multiple media organizations in attendance in order to uncritically rebroadcast plaintiffs’  
7 claims. Oregon Public Broadcasting chimed in with headlines comparing this lawsuit to efforts  
8 to fight the Ku Klux Klan and one-sided reporting labeling Mr. Gibson as a “fascist bully”.<sup>10</sup>

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<sup>9</sup> E.g., A. Zielinsky, *Portland Mercury*, “Cider Riot is Suing Patriot Prayer and Joey Gibson for May Day Violence,” May 3, 2019 (available at <https://www.portlandmercury.com/blogtown/2019/05/03/26423657/cider-riot-is-suing-patriot-prayer-and-joey-gibson-for-may-day-violence>); J. Ramakrishnan, *The Oregonian*, “Owner of Cider Riot sues Patriot Prayer, Joey Gibson for \$1 million after May Day clash outside Portland bar,” May 3, 2019 (“Portland residents had been ‘terrorized’ by Gibson and his associates for too long”) (available at <https://www.oregonlive.com/crime/2019/05/owner-of-cider-riot-sues-joey-gibson-after-may-1-clash-outside-portland-bar.html>); *The Oregonian*, “4 new defendants named in \$1 million lawsuit filed against Joey Gibson after May Day clash,” May 7, 2019 (accusing Mr. Gibson of “causing mayhem and physical injury”) (available at <https://www.oregonlive.com/portland/2019/05/more-info-expected-about-1-million-lawsuit-filed-against-joey-gibson-after-may-day-clash.html>); Z. Sparlin, *Portland Tribune*, “Cider Riot, Patriot Prayer prepare for \$1 million lawsuit,” May 13, 2019 (calling Mr. Gibson a “thug”) (available at <https://pamplinmedia.com/pt/9-news/428167-334962-cider-riot-patriot-prayer-prepare-for-1-million-lawsuit->); K. Shepard, *Willamette Week*, “Owner of Local Bar Sues Joey Gibson After Fistfights And Pepper Spray On May Day,” May 3, 2019 (available at <https://www.wweek.com/news/courts/2019/05/03/owner-of-local-bar-sues-joey-gibson-after-fistfights-and-pepper-spray-on-may-day/>) (extensive quotations from complaint); K. Shepard, *Willamette Week*, “Lawyers Add New Claims and Defendants to Lawsuit Targeting Right-Wing Violence at Cider Riot. May 7, 2019 (available at <https://www.wweek.com/news/courts/2019/05/07/lawyers-add-new-claims-and-defendants-to-lawsuit-targeting-right-wing-violence-at-cider-riot/>).

<sup>10</sup> M. Powell, *OPB.com*, “Cider Riot Attorney Compares Patriot Prayer Lawsuit To Efforts Against KKK,” May 7, 2019 (available at <https://www.opb.org/news/article/oregon-abram-goldman-armstrong-cider-riot-attorney-patriot-prayer-lawsuit/>).



1 ***The Prevailing Hostile Media Coverage in Portland***

2 9. The coverage discussed above follows more than two years of continuous and hostile media  
3 coverage from leading papers such as *The Oregonian*, *Willamette Week*, the *Portland Tribune*,  
4 and the *Portland Mercury*. Nearly every article falsely labels Mr. Gibson with such terms as  
5 “white supremacist,”<sup>11</sup> “violent, far-right extremist,”<sup>12</sup> “far-right organizer,”<sup>13</sup> or even one of  
6 the “fascist agitators bring[ing] choreographed terror into our community”.<sup>14</sup>

7 10. Media articles also attempt to push the theme that Mr. Gibson’s legitimate protests are nothing  
8 more than “thinly veiled pretexts” to engage in street violence.<sup>15</sup> A perfect example of the  
9 degree to which the media and the Mayor collude in presenting false statements about Mr.  
10 Gibson may be seen in *The Oregonian*’s interview of the Mayor conducted by city government  
11 reporter Gordon Friedman:

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<sup>11</sup> A. Mesh, *Willamette Week*, “White Supremacists Are Brawling with Masked Leftists in the Portland Streets. Homeland Security is Watching,” May 23, 2017 (available at <https://www.wweek.com/news/2017/05/23/white-supremacists-are-brawling-with-masked-leftists-in-the-portland-streets-homeland-security-is-watching/>).

<sup>12</sup> B. Stenvick, *Portland Mercury*, “Joey Gibson Asks Patriot Prayer Fans to Buy Him a Car, Nov. 9, 2018 (available at <https://www.portlandmercury.com/blogtown/2018/11/09/24423951/joey-gibson-asks-patriot-prayer-fans-to-buy-him-a-car>).

<sup>13</sup> M. Harbarger, *The Oregonian*, “Portland police try hands-off approach as more protests planned,” Aug. 17, 2017 (available at [https://www.oregonlive.com/portland/2017/08/police\\_presence\\_at\\_protests.html](https://www.oregonlive.com/portland/2017/08/police_presence_at_protests.html)).

<sup>14</sup> H. Bouffard, *The Oregonian*, “Clowns to hold Patriot Prayer counter-demonstration, dance party Saturday,” Aug. 3, 2018 (quoting Leftist statement; available at [https://www.oregonlive.com/portland/2018/08/clowns\\_to\\_hold\\_patriot\\_prayer.html](https://www.oregonlive.com/portland/2018/08/clowns_to_hold_patriot_prayer.html)).

<sup>15</sup> K. Shepard, *Willamette Week*, “Texts Between Portland Police and Patriot Prayer Ringleader Joey Gibson Show Warm Exchange,” Feb. 14, 2019 (available at <https://www.wweek.com/news/courts/2019/02/14/texts-between-portland-police-and-patriot-prayer-ringleader-joe-gibson-show-warm-exchange/>).

1 FRIEDMAN: It's become clear that these Patriot Prayer rallies are scheduled  
2 fistfights.

3 WHEELER: Well-advertised.

4 FRIEDMAN: Well-advertised. They've broken out into riots. Are you going to  
5 continue allowing permits for these events?

6 . . . .

7 [WHEELER:] It's no secret that I'm no fan of the people from Vancouver who  
8 come down here and spout their venom. Their intentions have been – Joey Gibson  
9 made it very clear that his objective was to get the cops and Antifa into it with each  
10 other. The Police Bureau, having gone through this exercise a number of times, is  
11 smarter than that. They understand people are going to try to drag them in. Their  
12 objective is to focus relentlessly on giving people space to exercise their rights and  
13 protect the public.<sup>16</sup>

14 11. The Portland City Council introduced a “Resolution Condemning White Supremacy and Alt-  
15 Right Hate Groups,” which was widely understood to refer to Mr. Gibson’s activities in  
16 Portland.<sup>17</sup> Media coverage concerning the adoption of the Resolution specifically identified  
17 Mr. Gibson.<sup>18</sup>

18 12. In that case and others, even where media reports do avoid direct accusations that Mr. Gibson  
19 is personally a “racist” or “bigot” or “white nationalist,” they would say that the events he  
20 promoted through Facebook brought “white nationalists” into Portland, in substance assigning  
21 responsibility to Mr. Gibson for the views and positions of real extremists.<sup>19</sup>

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<sup>16</sup> G. Friedman, *The Oregonian*, “Transcript: Portland Mayor Ted Wheeler's interview with *The Oregonian*,” July 10, 2018 (available at <https://expo.oregonlive.com/news/erry-2018/07/63527cd9c76678/excerpts-of-portland-mayor-ted.html>).

<sup>17</sup> The press release for this introduction is posted at <https://www.portlandoregon.gov/wheeler/article/711936>.

<sup>18</sup> E. Morrison, *OPB.com*, “Portland City Council Passes Resolution Denouncing White Supremacist Groups,” Feb. 7, 2019 (available at <https://www.opb.org/news/article/portland-city-council-passes-resolution-denouncing-white-supremacists-groups/>).

<sup>19</sup> See, e.g., S. Kavanaugh, *The Oregonian*, “Aug. 2, 2018 (available at [https://www.oregonlive.com/portland/2018/08/patriot\\_prayer\\_antifa\\_to\\_face.html](https://www.oregonlive.com/portland/2018/08/patriot_prayer_antifa_to_face.html)); A. Williams, *PSU Vanguard*, “Fascism on the rise: Portland extremists reveal themselves,” July 24, 2017 (“As Gibson shouts ‘free speech’ and ‘freedom from cultural brainwashing’ from his loudspeaker, his

1 ***How the Unfortunate Fate of Ms. Elizabeth Hovde Supports the Motion***

2 13. On or about October 23, 2018, Mr. Gibson held a rally at Washington State University in  
3 Vancouver, and an Oregonian columnist Elizabeth Hovde, who is an adjunct professor at the  
4 University, accurately reported as follows:

5 For two hours, I watched challenging, inquisitive, respectful conversations  
6 happening on the campus plaza between people of different political persuasions.  
7 Instead of the violence predicted, Gibson brought something we need more of: talk  
8 that leads to increased understanding about opposing thoughts and the people  
9 behind them. It was the kind of conversation that helps people find common  
10 ground.<sup>20</sup>

11 14. When Ms. Hovde dared to report what had happened at the rally, the incredible level of  
12 community hate and prejudice toward Mr. Gibson was demonstrated by the extreme  
13 community reaction against her as a journalist. A petition was posted on change.org called  
14 “Demand The Oregonian Stop Platforming Violent Racism,” which gathered thousands of  
15 signatures, calling, among other things, for a boycott of Oregonian advertisers and the firing  
16 of Ms. Hovde.<sup>21</sup> It falsely accused Mr. Gibson of “inciting violence in Portland’s local  
17 community, including the stabbing on a MAX train last year which resulted in one injury and  
18 two deaths;” it accused *The Oregonian* “platform[ing] violent white supremacist  
19 organizations,” stating that because of *The Oregonian*’s “unconscionable, unethical, and  
20 dangerous behavior,” “community response has been swift and sharp criticism and outrage.”

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movement brings to the surface a violent, racist and un-American past”) (available at <https://psuvanguard.com/fascism-on-the-rise-portland-extremists-reveal-themselves/>)

<sup>20</sup> Available at:

[https://www.oregonlive.com/opinion/2018/10/elizabethhovde\\_the\\_misundersto.html](https://www.oregonlive.com/opinion/2018/10/elizabethhovde_the_misundersto.html)

<sup>21</sup> Available at: <https://www.change.org/p/the-oregonian-demand-the-oregonian-stop-platforming-violent-racism>

1 15. Several local groups also demanded that Ms. Hovde be fired, and that *The Oregonian* “issue a  
2 front page apology to our community for their callousness and carelessness in publishing” the  
3 piece.<sup>22</sup>

4 16. Numerous political leaders in Portland joined the attack, with Jake Weigler, Mayor Wheeler’s  
5 political consultant, Tweeting: “Time for Hovde to go. Please sign [the petition].”<sup>23</sup>



6  
7 17. Numerous so-called journalists attacked Ms. Hovde as well, including those employed (or even  
8 formerly employed) by *The Oregonian*;<sup>24</sup> some of the comments have since been deleted, but  
9 a summary in the *Portland Tribune* lists attacking journalists and no supporters.<sup>25</sup>

<sup>22</sup> R. Monahan, *Willamette Week*, “Portland Activists Call for a Boycott of The Oregonian’s Local Advertisers After Opinion Column Hails Joey Gibson,” Oct. 29, 2018 (available at <https://www.wweek.com/news/city/2018/10/29/portland-activists-call-for-a-boycott-of-the-oregonians-local-advertisers-after-opinion-column-hails-joey-gibson/>).

<sup>23</sup> <https://twitter.com/jakeweigler/status/1057002378766045184>.

<sup>24</sup> <https://twitter.com/annargriff/status/1056672603983642624>.

<sup>25</sup> Z. Sparling, *Portland Tribune*, “Editor says Joey Gibson headline ‘missed the mark’,” Oct. 29, 2018 (available at <https://pamplinmedia.com/pt/9-news/410457-310369-editor-says-joey-gibson-headline-missed-the-mark-pwoff>).

1 18. The Editorial Board of *The Oregonian* repudiated Ms. Hovde’s piece, calling Mr. Gibson a  
2 “provocateur who attracts white nationalists and, as a result Antifa, to his regular Portland  
3 rallies, which have increasingly become dangerous events that threaten our citizens’ safety and  
4 livelihoods”.<sup>26</sup>

5 19. In fact, Antifa routinely appears and engages in violence at events Mr. Gibson has nothing to  
6 do with, out of apparent hatred for President Trump and the Republican Party in general.

7 20. Worse still, numerous Portland public officials attacked Ms. Hovde as well. Mayor Wheeler  
8 immediately attacked Mr. Gibson by accusing Ms. Hovde of finding “common ground” with  
9 “hate extremism and violence.”<sup>27</sup>



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<sup>26</sup> Editorial, *The Oregonian*, Fostering discussion from our differences,” Oct. 31, 2018 (available at [https://www.oregonlive.com/opinion/2018/10/editorial\\_fostering\\_discussion.html](https://www.oregonlive.com/opinion/2018/10/editorial_fostering_discussion.html)).

<sup>27</sup> <https://twitter.com/tedwheeler/status/1056988815074545665>.

1 21. Multnomah County Chair Deborah Kafoury took the opportunity to attack Mr. Gibson by  
2 accusing Ms. Hovde of “[g]iving a voice to people who live only to stoke violence and hate.”<sup>28</sup>



3  
4 22. Other Oregon politicians chimed in as well, with State Sen. Sara Gelser stating that “There is  
5 no common ground with white supremacy. If someone finds some, that’s a very bad sign.”<sup>29</sup>



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<sup>28</sup> <https://twitter.com/dkafoury/status/1056741880971452416>.

<sup>29</sup> <https://twitter.com/SenSaraGelser/status/1056709575280287745>.

1 ***How the Unfortunate Case of Portland Police Lt. Jeffrey Niiya Supports the Motion***

2 23. Beginning in or about May 2017, Mr. Gibson was contacted by a representative of the Portland  
3 Police named Jeffrey Niiya, who sought information about Mr. Gibson’s planned activities  
4 within Portland. Mr. Gibson exchanged hundreds of text messages with him, because by  
5 providing information about his plans would help the Portland Police Bureau avoid violence  
6 and conflict by providing information for planning to maintain order. It has been publicly  
7 reported that Lt. Niiya kept the Mayor’s office, through his police liaison Berk Nelson, abreast  
8 of his communications from Mr. Gibson.<sup>30</sup>

9 24. When the City released text messages between Lt. Niiya and a representative of Antifa, Ms.  
10 June Davies, which demonstrated that he was engaging in the same sort of activity to try and  
11 gather intelligence about Antifa’s plans. According to an article in *The Oregonian*, Ms.  
12 Davies’ “peers” in Antifa found out about the text messages and she suffered threats.<sup>31</sup>

13 25. On February 14, 2019, Portland Commissioner Jo Ann Hardesty issued a statement, posted on  
14 the portlandoregon.gov website, saying: “I am not shocked, and I am not surprised at today’s  
15 reporting of Lt. Jeff Niiya’s collaboration with Patriot Prayer leader Joey Gibson over text to  
16 provide aid and support for their hate marches”.<sup>32</sup>

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<sup>30</sup> <https://www.oregonlive.com/crime/2019/02/mayors-staff-got-protest-intel-on-patriot-prayer-from-portland-cop-under-fire-for-texts-with-right-wing-leader.html>

<sup>31</sup> [https://www.oregonlive.com/portland/2017/12/portland\\_activist\\_ostracized\\_p.html](https://www.oregonlive.com/portland/2017/12/portland_activist_ostracized_p.html).

<sup>32</sup> <https://www.portlandoregon.gov/hardesty/article/712673>



1 26. She called for an “independent investigation into collaboration between Portland Police and  
2 alt-right/white supremacists groups and individuals, with the investigator being chosen by  
3 community groups”.<sup>33</sup>

4 27. Commissioner Chloe Eudaly issued her own statement accusing the Portland Police of  
5 “collaboration” with “white supremacist and right-wing extremist groups and individuals”—  
6 referring to Mr. Gibson; the statement, posted on the portlandoregon.gov website, asked:

7 1) Portlanders have sustained countless injuries at the hands of the Portland Police  
8 Bureau. I can’t recall of any instances of protestors from Proud Boys or Patriot  
9 Prayer being seriously injured by police. Is this accurate? If so, how do you explain  
10 this?

11 2) Can the Portland Police Bureau explicitly and unequivocally state that Patriot  
12 Prayer, Proud Boys, and similar alt-right, white supremacist gangs are a significant  
13 threat to our public safety?<sup>34</sup>

14 28. Commissioner Eudaly went so far as to accuse Mr. Gibson of being “bent on doing harm to  
15 our communities and responsible for terrorizing our city.”<sup>35</sup> She ignores the obvious fact that  
16 it is Antifa that attacks police and generally initiates violence, not the people who choose to  
17 attend his events, and that it is Antifa that is the significant threat to public safety.

18 29. Mayor Wheeler also accused Lt. Niiya, in substance, of “cross[ing] several boundaries” in  
19 failing to remain “objective,” in substance attacking Lt. Niiya for developing a friendly rapport  
20 with Mr. Gibson.<sup>36</sup>

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<sup>33</sup> *Ibid.*

<sup>34</sup> Available at <https://www.portlandoregon.gov/eudaly/article/712767>.

<sup>35</sup> *Ibid.*

<sup>36</sup> This statement is reported in N. Budnick, *Portland Tribune*, “Collusion or Dialog? Portland police texts raise questions,” Feb. 16, 2019 (available at <https://pamplinmedia.com/pt/9-news/420121-324167-collusion-or-dialogue-portland-police-texts-raise-questions>)



1 30. The Chief of Police and Mayor organized what they called a “listening session” for the Portland  
2 community, with the Police Chief stating that she “quickly recognized there was harm, impact  
3 and concern in the community” arising from Lt. Niiya’s garden-variety police work.<sup>37</sup>

4 31. In short, political leaders in Multnomah County are making statements to smear Mr. Gibson  
5 personally as a “white supremacist” engaged in “hate” activities and creating violence, in a  
6 context where the statements are popular, because they are by now widely believed by  
7 Multnomah County residents.

8 32. On February 15, 2019, it was publicly reported that Lt. Niiya had been removed from the Rapid  
9 Response Team that responds to Portland demonstrations, and it was later publicly reported  
10 that the Mayor’s Police Liaison, Berk Nelson, left the Mayor’s employ during the  
11 investigation.<sup>38</sup>

12 33. The widely-publicized fates of Ms. Hovde and Lt. Niiya create a climate of fear among anyone  
13 who might be disposed to address claims involving Mr. Gibson in an even-handed way,  
14 whether jury members or judges themselves.

15 ***The General Hateful Climate Against Political Conservatives in Portland Supports the Motion***

16 34. The political positions that Mr. Gibson espouses, including the importance of the First and  
17 Second Amendment, the importance of controlling national borders, and others, have become

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<sup>37</sup> Her statement is quoted in M. Bernstein, The Oregonian, “Frustration, not solutions, becomes focus of listening session on Portland cop’s texts with Patriot Prayer,” Feb. 21, 2019 (available at <https://www.oregonlive.com/news/2019/02/frustration-not-solutions-becomes-focus-of-listening-session-on-portland-cops-texts-with-patriot-prayer.html>).

<sup>38</sup> <https://www.portlandmercury.com/blogtown/2019/03/08/26130817/mayors-police-liaison-leaves-for-private-sector-job>.

1 subject to hostile and organized attack in Multnomah County, and the President of the United  
2 States, who is associated with these positions, subject to hostile and organized attack as well.

3 35. The Portland Public Schools have repeatedly encouraged children to leave class and protest in  
4 opposition to these political positions, because the Portland community opposes them.

5 36. The degree of hostility toward conservative positions and the President are sufficiently extreme  
6 within Multnomah County that three days of widespread demonstrations, in which Mr. Gibson  
7 had no involvement whatsoever, arose after the election of President Trump, with crowds  
8 rampaging through the streets and damaging property to the extent that the police declared a  
9 riot.<sup>39</sup>

10 37. One of the most significant attempts at organized violence against Mr. Gibson and those who  
11 had gathered at one of his events occurred at his Trump Free Speech Rally in Portland on June  
12 4, 2017. Mr. Gibson had obtained a permit for the event from the federal government, as it  
13 was to be held on federal property in downtown Portland.

14 38. As further evidence of the incredible hostility of Portland's political leaders, Mayor Ted  
15 Wheeler asked the federal government to revoke the permit Mr. Gibson had obtained, stating  
16 that there was no "place for bigotry or hatred in our community . . .".<sup>40</sup>

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<sup>39</sup> Some of these protests are summarized in J. Ryan, *The Oregonian*, Portland's anti-Trump protest turns violent, as rioters rampage in Pearl," Nov. 10, 2016 (available at [https://www.oregonlive.com/portland/2016/11/anti-trump\\_protests\\_held\\_for\\_f.html](https://www.oregonlive.com/portland/2016/11/anti-trump_protests_held_for_f.html)).

<sup>40</sup> The Mayor's statement is reported at <https://katu.com/news/local/mayor-wheeler-wants-federal-govt-to-pull-permit-for-alt-right-protest-on-june-4>. It was also issued through a series of Tweets on the Mayor's account (available at <https://twitter.com/tedwheeler/status/869257231576965120>)

1 39. Mayor Wheeler also stated that the City “has NOT and will not issue any permits” for any “alt  
2 right events”. This prompted a response from the ACLU stating that the government “cannot  
3 revoke or deny a permit based on the viewpoint of the demonstrators. Period.”<sup>41</sup>

4 40. Consistent with a general “by any means necessary” philosophy, local newspapers in Portland  
5 encourage vile behavior against anyone associated with the Trump Administration. On the  
6 Fourth of July, 2019, the Portland Mercury published the following:

7 Presidential crotch-fruit Eric Trump was recently spat on by an employee of  
8 Chicago cocktail bar the Aviary. The only upsetting thing about this is that it’s not  
9 something that happens every day—but it should. And it should happen any time  
10 anyone in the Trump family or their evil administration shows their face in public.<sup>42</sup>

11 41. On August 25, 2019, (not long after Mr. Gibson’s first appearance in court in this matter) local  
12 news reported that a man was assaulted in Portland for simply wearing a ‘MAGA’ hat.<sup>43</sup>

13 ***Other Media Coverage Since Charges Filed***

14 42. An article in the Portland Mercury is headlined “New Evidence Shows Joey Gibson's Role in  
15 Planning May Day Attack at Cider Riot.”<sup>44</sup> Public comment on the article include “Gibson  
16 and his buddies are just petty criminals,” and “I do think Gibson is a piece of s\*\*\*”.

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<sup>41</sup> Available at [https://twitter.com/ACLU\\_OR/status/869291118382292992](https://twitter.com/ACLU_OR/status/869291118382292992).

<sup>42</sup> <https://www.portlandmercury.com/this-too-shall-pass/2019/07/04/26746494/this-too-shall-pass-patriotic-spitters-and-other-american-women-heroes>

<sup>43</sup> Available at: [https://www.kptv.com/news/man-says-he-was-assaulted-outside-portland-bar-for-wearing/article\\_2ed3c054-c795-11e9-956e-1f42272a49fe.html](https://www.kptv.com/news/man-says-he-was-assaulted-outside-portland-bar-for-wearing/article_2ed3c054-c795-11e9-956e-1f42272a49fe.html)

<sup>44</sup> Available at: <https://www.portlandmercury.com/blogtown/2019/08/22/27017873/new-evidence-shows-joe-gibsons-role-in-planning-may-day-attack-at-cider-riot>

1 43. A Koin6 article refers to Mr. Gibson as “one of the main provocateurs in the protests that have  
2 roiled Portland for the past 3 years.”<sup>45</sup>

3 44. Another headline reads “Joey Gibson, Five Others Formally Indicted for May 1 Melee at  
4 Northeast Portland Bar”<sup>46</sup>

5 45. One recent online article entitled “Patriot Prayer Leader Joey Gibson Charged With Felony  
6 Rioting” has well over 100 comments. Comments include “Gibson is a terrorist,” “White trash  
7 supremacists do not like accountability one bit, do they?”, and the like.<sup>47</sup>

8 46. OPB published an article headlined “6 Men Indicted For Cider Riot! Brawl In Portland.”<sup>48</sup>  
9 This article, like some many others refers to Mr. Gibson as “far-right.”

10 47. Portland Mercury also published an article entitled “Undercover in Patriot Prayer: Insights  
11 From a Vancouver Democrat Who's Been Working Against the Far-Right Group from the  
12 Inside.”<sup>49</sup>

13 48. When the Portland Police filed a harassment charge against Luis Marquez, and local Antifa  
14 leader, acting, in part, based on information supplied by defendant Gibson, Portland media  
15 attacked the Police and District Attorney, forcing them to deny that Gibson had any influence

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<sup>45</sup> Available at <https://www.koin.com/news/crime/patriot-prayers-joe-gibson-i-face-felony-riot-charge/>

<sup>46</sup> Available at <https://www.wweek.com/news/2019/08/22/joe-gibson-five-others-formally-indicted-for-may-1-melee-at-northeast-portland-bar/>

<sup>47</sup> Available at <https://lawandcrime.com/high-profile/patriot-prayer-leader-joe-gibson-charged-with-felony-rioting/>

<sup>48</sup> Available at <https://www.opb.org/news/article/portland-cider-riot-brawl-six-men-indicted/>

<sup>49</sup> Available at <https://www.portlandmercury.com/blogtown/2019/08/26/27039560/undercover-in-patriot-prayer-insights-from-a-vancouver-democrat-whos-been-working-against-the-far-right-group-from-the-inside> (emphasis added).

1 on the charging decision. K. Shepard, *Willamette Week*, “Portland Police Launched a Criminal  
2 Investigation After Joey Gibson Complained About an Antifascist Demonstrator,” July 31,  
3 2019.<sup>50</sup> The media used the occasion to repeat Leftist attacks on the communications with Lt.  
4 Niiya.

5 49. Next, the media reported the indictment of defendants Ian Kramer and Matthew Cooper, taking  
6 the opportunity to reprint claims by Cider Riot in a civil case, and repeatedly mention Mr.  
7 Gibson, and to link Mr. Kramer to Mr. Gibson by falsely claiming Mr. Kramer was a “frequent  
8 Patriot Prayer rally participant”. M. Bernstein, *The Oregonian*, “Grand jury indicts two men  
9 in May Day attack of woman outside Cider Riot bar,” Aug. 7, 2019;<sup>51</sup> *see also* A. Zielinski,  
10 *Portland Mercury*, “Portland Police Arrest Right-Wing Protester for May Day Assault at Cider  
11 Riot, Aug. 7, 2019 (reiterating claims by Cider Riot);<sup>52</sup> K. Shepherd, *Willamette Week*, “Far-  
12 Right Brawler Ian Kramer Arrested For Felony Assault And Other Crimes For May Day Attack  
13 At Cider Riot,” Aug. 7, 2019;<sup>53</sup>

14 50. Other coverage reiterated the false narrative of “friendly texts between Lt. Jeff Niiya, a crowd  
15 control liaison, and Patriot Prayer founder Joey Gibson”. *The Oregonian*, “Portland’s mayor

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<sup>50</sup> <https://www.wweek.com/news/courts/2019/07/31/portland-police-launched-a-criminal-investigation-after-joe-gibson-complained-about-an-antifascist-demonstrator/>.

<sup>51</sup> <https://www.oregonlive.com/crime/2019/08/grand-jury-indicts-two-men-stemming-from-may-day-attack-of-woman-outside-cider-riot-bar.html>.

<sup>52</sup> <https://www.portlandmercury.com/blogtown/2019/08/07/26934813/portland-police-arrest-right-wing-protester-for-may-day-assault-at-cider-riot>.

<sup>53</sup> <https://www.wweek.com/news/courts/2019/08/07/far-right-brawler-ian-kramer-arrested-for-felony-assault-and-other-crimes-for-may-day-attack-at-cider-riot/>.

1 tells violent protesters not to come, warning, ‘We will be ready for you’: Morning Briefing for  
2 Wednesday, Aug. 7,” Aug. 7, 2019.<sup>54</sup>

3 51. Political leaders such as Mayor Wheeler continued to push the narrative that violence was not  
4 the result of Antifa attempts to de-platform conservative political expression, but the result of  
5 people “coming to Portland, Oregon to engage in acts of violence”—a reference that would,  
6 consistent with his prior direct attacks, be construed to refer to Mr. Gibson and Patriot Prayer.  
7 G. Friedman, The Oregonian, Mayor Wheeler and Chief Outlaw’s interview with The  
8 Oregonian: full transcript,” Aug. 6, 2019.<sup>55</sup>

9 52. The extraordinary attempts by Mayor Wheeler to support Antifa and condemn movants is best  
10 captured in a back and forth with an Oregonian Reporter:

11 FRIEDMAN: I think when people hear you talk about the folks who come from out  
12 of town and cause problems here, they feel that it disregards Portland’s homegrown  
13 antifa movement.

14 WHEELER: That has been one narrative. In fact, that is an unsubstantiated  
15 narrative that’s been carried in the last several weeks but some in what I would call  
16 extreme media sources.<sup>56</sup>

17 53. The Mayor’s submission that suggestions of violence caused by Antifa are “unsubstantiated”  
18 is remarkable.

19 54. In a recent article about Proud Boys, the *Portland Mercury* took the opportunity to write that  
20 “[i]n the past, *alt-right* rallies in downtown Portland have been organized by our local arm of

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<sup>54</sup> <https://www.oregonlive.com/pacific-northwest-news/2019/08/portlands-mayor-tells-violent-protesters-not-to-come-warning-we-will-be-ready-for-you-morning-briefing-for-wednesday-aug-7.html>.

<sup>55</sup> <https://www.oregonlive.com/news/g66l-2019/08/e9319d9d7c3182/mayor-wheeler-and-chief-outlaws-interview-with-the-oregonian-full-transcript.html>.

<sup>56</sup> *Ibid.*

1 *right-wing extremists, Patriot Prayer.*” A. Zielinski, *Portland Mercury*, “Portland Police  
2 Brace For August 17 Proud Boys Rally,” Aug. 2, 2019 (emphasis added).<sup>57</sup>

3 55. On August 14, 2019, Portland Mayor Ted Wheeler held a widely-publicized rally at which he  
4 further continued ongoing efforts to isolate and demonize right-wing protestors, declaring:

5 We stand here together, united as one putting aside any differences we may have to  
6 send a clear and unified message. This is our City. This is our home. . . . We stand  
7 in opposition to the rising national tide of hate, intolerance, bigotry and white  
8 supremacy, especially against rhetoric aimed at women, people of color, and  
9 immigrants. We stand here today in Pioneer Square, in the heart of our City . . . [a]  
10 place fondly known as Portland’s living room. But on occasion, some people have  
11 come here with a very different agenda. They started using our Square, and the rest  
12 of our downtown, as a place to spread their hate and intolerance, to spread their  
13 fear, and on occasion, to perpetrate acts of violence.

14 Now you know that Portland has a long and proud history of supporting the right  
15 to assembly, and a right to free speech; it’s engrained in our DNA. It’s part of  
16 Portland’s soul. We protested war. We protested hate. We protested racism. We  
17 protested sexism. And we have long been at the forefront of activism in this  
18 community.

19 But in the last years, as you are all aware, things have started to take a darker turn.  
20 ***People have been abusing that right, using the guise of free speech to commit***  
21 ***acts of violence.*** Violence is not a civil right. Right now, we are all witness to a  
22 national rhetoric that has whipped racialized violence into a frenzy, causing harm,  
23 causing pain, causing fear for many people here in our community. ***So hear me***  
24 ***loud and clear. To those of you who plan on using Portland on August 17<sup>th</sup> as a***  
25 ***platform to spread your hate, you are not welcome here.*** To those who provoke  
26 violence during otherwise peaceful demonstrations, you are not welcome here. To  
27 those who perpetrate racism, sexism, bigotry, ***you are not welcome here.*** And to  
28 any white supremacists who are planning to come to our community on August  
29 17<sup>th</sup>, ***you are not welcome here.***

30 Together as one, we’ve asked everyone that you see gathered here today to come  
31 together and rally around our beautiful City. This is the largest coalition that this  
32 City has seen in years. ***We stand together as elected leaders, faith leaders,***  
33 ***business leaders, civil rights leaders, school leaders, sports leaders, labor leaders,***

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<sup>57</sup> <https://www.portlandmercury.com/blogtown/2019/08/02/26905848/portland-police-brace-for-august-17-proud-boys-rally>.



1 *federal leaders, and many, many more, united as one. We declare this is our City.*  
2 *This is our home. We don't want your violence here.*<sup>58</sup>

3 56. While the remarks were focused upon an impending rally on August 17<sup>th</sup> that I did not organize,  
4 they were part and parcel of an attempt to falsely label Mr. Gibson and others as racists, bigots,  
5 and white supremacists. The Oregonian published a list of nearly 100 endorsers of the Mayor's  
6 position, demonstrating the high degree of hostility within the Portland community to any  
7 demonstrations contrary to the socialist goals of Antifa.<sup>59</sup>

8 57. The Mayor's rally then brought forward speakers who made it entirely clear that violence by  
9 Antifa was to be condoned, so long as it was in the service of suppressing what the Mayor and  
10 community called "hate speech". For example, Rabbi Debra Kolodny declared:

11 These fascist white nationalists have sponsored monthly hate rallies in Portland  
12 during the summer since 2017 under the guise of exercising their free speech and  
13 assembly rights. . . . Creating false equivalencies between violent white  
14 nationalists and those willing to defend our City against their violence is  
15 unacceptable. Pandering to a national climate that accuses Portland of being soft  
16 on Antifa is unacceptable. There is no equivalence between racist, anti-Semitic,  
17 Islamophobic, homophobic violence and those who say no to it. Antifa must not  
18 be scapegoated. We are in truth a City that is anti-fascist.<sup>60</sup>

19 58. The reference to rallies since 2017 is a direct reference to events which, unlike the Cider Riot  
20 event, Mr. Gibson had organized, and while there is no evidence he has engaged in racist, anti-

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<sup>58</sup> Mayor Wheeler's remarks appear at approximately 7:26 to 10:49 in a video of the rally posted by Fox News at <https://www.youtube.com/watch?v=WuAvHE2rAEI>.)

<sup>59</sup> J. Ramakrishnan, *The Oregonian*, "Nearly 100 groups join Portland mayor in warning Aug. 17 protesters," Aug. 13, 2019 (updated Aug. 14, 2019) (available at <https://www.oregonlive.com/portland/2019/08/nearly-100-groups-to-join-mayor-in-warning-aug-17-protesters.html>).

<sup>60</sup> The Rabbi's remarks appear at approximately 53:35 to 54:53 of the Fox News video.



1 Semitic, Islamophobic or homophobic violence, he is constantly and publicly accused of such  
2 things, creating a public climate that makes a fair trial impossible.

3 59. Following the August 17<sup>th</sup> demonstrations, the Mayor continued his attacks on “right-wing  
4 marchers for frightening Portlanders with the prospect of violence in the streets,”<sup>61</sup> continuing  
5 to push a narrative that falsely assigned moral responsibility to the citizens exercising First  
6 Amendment rights rather than the violent thugs attempting to “de-platform” them.

7 60. Newspaper reports confirmed the general hostility of the Portland community towards the  
8 right-wing demonstrators, suggesting that “passing cyclists and OMSI patrons jeered and  
9 flipped off the American flag toting marchers,”<sup>62</sup> which was consistent with my general  
10 experience of extraordinary community hostility to messages promoting patriotism or religious  
11 belief.

12 61. With the recent trial of Jeremy Christian, who fatally stabbed two people and severely injured  
13 another on a MAX train in 2017, the Portland media has been quick to use the opportunity to  
14 associate defendant with Mr. Christian, whose crimes are reviled throughout the Portland

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<sup>61</sup> A. Mesh, Willamette Week, “Portland Mayor Responds to Right-Wing Organizer’s Threat of Monthly Protests: ‘We Do Not Want Him Here in My City, Period,’” Aug. 17, 2019 (available at <https://www.wweek.com/news/courts/2019/08/17/portland-mayor-responds-to-right-wing-organizers-threat-of-monthly-protests-we-do-not-want-him-here-in-my-city-period/>).

<sup>62</sup> A. Mesh, Willamette Week, “Proud Boys Wander Lost Through Portland as Police Allow Wild Goose Chase by Antifascists,” Aug. 17, 2019 (available at <https://www.wweek.com/news/2019/08/17/proud-boys-wander-lost-through-portland-as-police-allow-wild-goose-chase-by-antifascists/>).

1 community.<sup>63</sup> A major effect was also coordinated to smear Mr. Gibson and Patriot Prayer as  
2 racists and white supremacists on the basis on media-solicited praise from actual Nazis.<sup>64</sup>

3 62. Academic research has log confirmed that jurors are not particularly honest during voir dire.<sup>65</sup>

4 The presence of numerous members of the venire both extraordinarily hostile to defendant,  
5 and motivated to punish him, cannot be remedied without such juror honesty. The recent  
6 controversy involving the conviction of Roger Stone by an activist Democrat underscores these  
7 risks.

### 8 CONCLUSION

9 For the foregoing reasons, the inhabitants of the county are so prejudiced against Mr.  
10 Gibson that Mr. Gibson cannot possibly expect an impartial trial in the county. This Court should  
11 order a transfer of venue to another county.

12 Respectfully submitted this Tuesday, February 18, 2020.

/s/ D. Angus Lee

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13 <sup>63</sup> W. Humphrey, *Portland Mercury*, "The Jeremy Christian Trial: A Primer on the 2017 MAX Train Stabbings," Jan. 21, 2020 (available at <https://www.portlandmercury.com/blogtown/2020/01/21/27849858/the-jeremy-christian-trial-a-primer-on-the-2017-max-train-stabbings>);

<sup>64</sup> S. Olmos, *Portland Tribune*, "Band of Others: Joey Gibson and the face of 'nativist bigotry'," Jan. 30, 2020 (available at <https://pamplinmedia.com/pt/450004-364153-band-of-others-joey-gibson-and-the-face-of-nativist-bigotry>).

<sup>65</sup> R. Seltzer *et al.*, "Juror honesty during voir dire," 19 J. Crim. Justice 451-62 (1991).

**CERTIFICATE OF SERVICE**

I, Carole A. Caldwell, hereby declare under penalty of perjury under the laws of the State of Oregon that the following facts are true and correct:

I am a citizen of the United States, over the age of 18 years, and not a party to or interested in the within entitled cause. I am an employee of Murphy & Buchal LLP and my business address is 3425 SE Yamhill Street, Suite 100, Portland, Oregon 97214.

On February 18, 2020, I caused the following document to be served:

JOSEPH GIBSON’S MOTION TO CHANGE VENUE

in the following manner on the parties listed below:

Brad Kalbaugh	( )	(BY FIRST CLASS US MAIL)
Multnomah County District Attorney's Office	(X)	(BY E-MAIL)
600 Multnomah County Courthouse	( )	(BY FAX)
1021 SW 4th Ave	( )	(BY HAND)
Portland OR 97204		
E-mail: brad.kalbaugh@mcda.us		
<i>Attorney for Plaintiff</i>		

Mackenzie Lewis, <i>pro se</i>	( )	(BY FIRST CLASS US MAIL)
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s/ Carole Caldwell