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

BETH WOOLSEY, GREG WOOLSEY, JEFF  
MCNEAL, KATHLEEN MCNEAL, MEGHAN  
ROGERS-CZARNECKI, STEFAN  
CZARNECKI, and ELIZABETH GEMEROY,

Plaintiffs,

v.

NEWBERG SCHOOL DISTRICT 29J, an  
Oregon public school district, TREVOR  
DEHART, RENEE POWELL, BRIAN  
SHANNON, and DAVE BROWN, individually  
and in their capacity as members of the board of  
directors of Newberg School District 29J,

Defendants.

Case No.: 21CV41198

FIRST AMENDED COMPLAINT FOR  
DECLARATORY AND INJUNCTIVE RELIEF  
FOR VIOLATION OF PUBLIC MEETING LAWS

NOT SUBJECT TO MANDATORY  
ARBITRATION

FEE AUTHORITY: ORS 21.135(1),(2)(f)(g):  
\$281.00

Plaintiffs allege:

1.

Defendant Newberg School District 29J (“District”) is a public school district, organized and existing under the laws of the state of Oregon. The District maintains its principal place of business at 714 East 6<sup>th</sup> Street, Newberg, Yamhill County, Oregon.

2.

At all material times, defendants Trevor DeHart, Renee Powell, Brian Shannon, and Dave Brown (referred to collectively as “defendant Board Members”) were duly elected and acting board

1 members of defendant Newberg School District 29J.

2 3.

3 At all material times, plaintiffs Beth Woolsey and Greg Woolsey were residents of Yamhill  
4 County, Oregon, living within the boundaries of defendant Newberg School District 29J.

5 4.

6 At all material times, plaintiffs Jeff McNeal and Kathleen McNeal were residents of Yamhill  
7 County, Oregon, living within the boundaries of defendant Newberg School District 29J.

8 5.

9 At all material times, plaintiffs Meghan Rogers-Czarnecki and Stefan Czarnecki were residents  
10 of Yamhill County, Oregon, living within the boundaries of defendant Newberg School District 29J.

11 6.

12 At all material times, plaintiff Elizabeth Gemeroy was a resident of Yamhill County, Oregon,  
13 living within the boundaries of defendant Newberg School District 29J.

14  
15 **Violation of ORS 192.630 - Oregon Public Meetings Law**  
16 **(Count One - Against All Defendants)**

17 7.

18 Plaintiffs reallege and incorporate paragraphs 1 through 6 above.

19 8.

20 On information and belief, at sometime prior to August 24, 2021, defendants Brian Shannon,  
21 David Brown, Renee Powell, and Trevor DeHart met and/or conferred outside of a public meeting to  
22 discuss and agree to retain attorney Tyler Smith as supplemental legal counsel to the board of  
23 directors.

24 9.

25 On or about August 18, 2021, defendant District published an agenda for its upcoming August  
26 24, 2021, board of directors special meeting and executive session “[t]o consult with counsel

1 concerning the legal rights and duties of a public body with regard to current litigation or litigation likely  
2 to be filed.” The agenda failed to include notice that the board of directors intended to vote to retain  
3 supplemental legal counsel or that board members had already consulted with Tyler Smith or had  
4 discussed among themselves the hiring of Tyler Smith as supplemental legal counsel prior to the  
5 August 24, 2021, meeting.

6 10.

7 On August 24, 2021, at approximately 9:00 a.m., defendant Brian Shannon emailed Dr. Joe  
8 Morelock, superintendent of defendant District, notifying him that “[t]his evening during our executive  
9 session I will be making a motion to add Tyler Smith as supplemental legal counsel representing the  
10 Board.” Defendant Brian Shannon directed Jennifer Nelson, the board secretary, to send Tyler Smith  
11 a Zoom link to the meeting that morning.

12 11.

13 At approximately 9:13 a.m, on August 24, 2021, Dr. Morelock emailed defendants Brian  
14 Shannon and David Brown, copying Tyler Smith. Dr. Morelock raised a concern that voting to retain  
15 Tyler Smith at that evening’s executive session would be a violation of the public meetings law.

16 12.

17 At approximately 11:59 a.m, on August 24, 2021, Tyler Smith emailed Dr. Morelock, asserting  
18 that there would be no violation of the public meetings law, as the “[s]election of an attorney is not  
19 something that requires a board vote at all.” Tyler Smith continued that the board would be in a public  
20 session prior to the executive session, so any vote to retain his services could occur at that time.

21 13.

22 At approximately 5:00 p.m., on August 24, 2021, during an executive session of the Newberg  
23 School District Board of Directors (“the Board”), defendants Shannon, Brown, Powell, and DeHart  
24 voted to hire Tyler Smith as supplemental legal counsel to the Board.

25 14.

26 A discussion regarding the above described events of August 24, 2021, occurred during the

1 Board's subsequent retreat meeting. When the three other members of the Board raised concerns  
2 regarding violations of the public meetings law by the vote to retain Tyler Smith, defendant Powell  
3 refused to comment, while defendant Brown said it was a really troubling time and the Board needed  
4 protection as a result of threatened legal action against the Board. Board member Brandy Penner then  
5 asserted that all four board member defendants knew that they intended to hire Tyler Smith prior to  
6 the meeting and that it was not a publically noticed matter – none of which denied this assertion. When  
7 Board member Rebecca Piros explained that it would be expensive to retain Tyler Smith at \$300 an  
8 hour, it was disclosed that Tyler Smith had already performed approximately seven hours of legal work  
9 at the request of the four Board member defendants. Defendant Brown asserted that it was not  
10 expensive to hire Tyler Smith, claiming there was a legal budget of approximately \$36,000.00 to pay  
11 for legal services to the Board, including Tyler Smith.

12 15.

13 Defendants' conduct violated the Oregon Public Meetings Law through one or more of the  
14 following:

- 15 (A) In failing to provide notice of the defendant Board members intent to discuss and to  
16 vote to retain attorney Tyler Smith on its published agenda for its August 24, 2021,  
17 meeting;
- 18 (B) In failing to provide notice to the three other Board members of the defendant Board  
19 members intent to discuss and to vote to retain attorney Tyler Smith at the August 24,  
20 2021, meeting;
- 21 (C) In willfully discussing and voting to retain Tyler Smith at the August 24, 2021, executive  
22 session;
- 23 (D) In willfully meeting with each other and/or discussing prior to the August 24, 2021,  
24 executive session the retention of Tyler Smith as supplemental legal counsel for the  
25 Board; and,
- 26 (E) In failing to permit public access to or public comment prior to the Board's vote to retain

1 Tyler Smith as supplemental legal counsel.

2 16.

3 Pursuant to ORS 192.680(4), defendants Shannon, Brown, Powell, and DeHart are jointly and  
4 severally liable with defendant District because each acted willfully, in that they were aware of the  
5 requirements of ORS 192.630(2) and intentionally disregarded those requirements.

6 17.

7 Plaintiffs are entitled to a declaratory judgment that:

- 8 1. defendants made the decision to retain Tyler Smith as supplemental legal counsel to  
9 the Board in violation of Oregon's Public Meetings Law; and,
- 10 2. the agreement to retain Tyler Smith is void because it was the result of intentional  
11 disregard of the law or willful misconduct by a quorum of the members of the Board.

12 18.

13 Plaintiffs are further entitled to an order demanding that all fees and costs paid to Tyler Smith  
14 as a result of the aforementioned vote be repaid to the Newberg School District 29J by defendants  
15 Shannon, Brown, Powell, and DeHart.

16 19.

17 Pursuant to ORS 192.680(3), plaintiffs are entitled to a judgment against all defendants  
18 awarding plaintiffs their reasonable attorneys' fees and costs incurred in pursuing this matter.

19  
20 **(Count Two - Against All Defendants)**

21 20.

22 Plaintiffs reallege and incorporate paragraphs 1 through 6 and 19 above.

23 21.

24 On November 5, 2021, defendant District published an agenda for the November 9, 2021,  
25 Board of Directors executive session and regular meeting. The agenda did not report that the  
26 dismissal of Superintendent Joe Morelock was to be discussed.

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22.

On information and belief, on November 8, 2021, at approximately 3:40 p.m., defendant District prepared the agenda for the November 9, 2021 5:00 p.m. executive session. The agenda was then made available to the general public less than 24 hours before the session was to be held and no explanation of the urgency for holding the meeting was provided. No information was provided to the public indicating that the dismissal of Superintendent Joe Morelock was to be discussed.

23.

Later on November 8, 2021, defendant Brown emailed the other Board members explaining that the executive session would cover three items: Gail Grobey American Flag being taken down, Dundee teacher lawsuit concerning Mike Gunn complaint and Superintendent complaints. No information was provided to all of the Board members or the general public to provide notice that the Board would be considering the dismissal of Superintendent Morelock.

24.

On November 9, 2021, at approximately 12:00 p.m., Tyler Smith emailed defendant Brown an updated packet for the executive session which outlined “process for consideration of Complaints relating to the Superintendent for tonight’s meeting(s),” and requested that a copy be sent to each Board member with a note to keep the contents confidential because they were attorney-client privileged and pertained to an executive session.

25.

At approximately 3:23 p.m., defendant Brown replied to Tyler Smith’s email and included all other Board members, explaining that the Board would be discussing complaints against Superintendent Morelock during that night’s special meeting executive session. No information was provided to all of the Board members or to the general public to provide notice that the Board would be considering the dismissal of Superintendent Morelock.

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1 26.

2 At the public meeting held on November 9, 2021, defendants Shannon, Brown, Powell, and  
3 DeHart voted to approve a motion to dismiss Superintendent Morelock and to issue him a 10-day  
4 notice of the termination of his employment contract.

5 27.

6 Defendants' conduct violated the Oregon Public Meetings Law through one or more of the  
7 following:

- 8 (A) In failing to provide the required public notice of the Board's intent to vote to  
9 dismiss Superintendent Morelock in violation of ORS 192.640;
- 10 (B) In willfully voting to dismiss Superintendent Morelock at the November 9, 2021,  
11 Board of Director's public meeting; and,
- 12 (C) In willfully meeting and/or discussing prior to the November 9, 2021, executive  
13 session whereby the quorum decided to dismiss Superintendent Morelock and issue  
14 a 10-day notice of termination of his employment contract.

15 28.

16 Pursuant to ORS 192.680(4), defendants Shannon, Brown, Powell, and DeHart are jointly and  
17 severally liable with defendant District because each acted willfully, in that they were aware of the  
18 requirements of ORS 192.630(1)-(2) and intentionally disregarded those requirements.

19 29.

20 Plaintiffs are entitled to a declaratory judgment that:

- 21 1. defendants made the decision to dismiss Superintendent Morelock and to issue a  
22 10-day notice of termination of his employment contract in violation of Oregon's  
23 Public Meetings Law; and,
- 24 2. the Motion terminating Superintendent Morelock's employment is void because it  
25 was the result of intentional disregard of the law or willful misconduct by a quorum of  
26 the members of the Board.

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30.

Plaintiffs are further entitled to an order demanding that all fees and costs paid to Superintendent Morelock as a result of the aforementioned vote be repaid to the District by defendants Shannon, Brown, Powell, and DeHart.

**(Count Three - Against All Defendants)**

31.

Plaintiffs reallege and incorporate paragraphs 1 through 6 and 19 above.

32.

On or about November 5, 2021, defendant District published an agenda for its upcoming November 9, 2021 Board regular meeting and executive session.

33.

On November 8, 2021, defendant District published its agenda for the November 9, 2021 Board's regular meeting. Included with the agenda was a packet of information that contained a "discussion/possible action" for "Item: Supplemental Attorney Services Discussion." Defendant Shannon "requested that the Board consider two possible options regarding the supplemental attorney services: one to confirm the hiring of Tyler Smith and one to cease supplemental attorney services with Tyler Smith."

34.

On November 9, 2021, defendants Shannon, Brown, Powell, and DeHart voted in favor of a Motion reaffirming the employment of attorney Tyler Smith.

35.

Defendants' conduct violated the Oregon Public Meetings Law through willfully voting to uphold the employment of attorney Tyler Smith at the November 9, 2021, Board of Director's public meeting in an attempt to "cure" the prior illegal vote in violation of ORS 192.680(3).

//



1 36.

2 Pursuant to ORS 192.680(4), defendants Shannon, Brown, Powell, and DeHart are jointly and  
3 severally liable with defendant District because each acted willfully, in that they were aware of the  
4 requirements of ORS 192.680(3) and intentionally disregarded those requirements.

5 37.

6 Plaintiffs are entitled to a declaratory judgment that:

- 7 1. defendants made the decision to vote to continue to retain Tyler Smith as  
8 supplemental legal counsel to the Board in violation of Oregon's Public Meetings  
9 Law; and,  
10 2. the Motion reaffirming the Board's prior decision to retain Tyler Smith is void  
11 because it was the result of intentional disregard of the law or willful misconduct by a  
12 quorum of the members of the Board.

13 38.

14 Plaintiffs are further entitled to an order that all fees and costs paid to Tyler Smith as a result  
15 of the aforementioned vote be repaid to the District by defendants Shannon, Brown, Powell, and  
16 DeHart.

17 **PRAYER FOR RELIEF**

18 WHEREFORE, plaintiffs pray for a judgment against defendants as follows:

- 19 1. All appropriate injunctive relief, including but not limited to:  
20 (A) a judgment declaring defendants made the decision to retain Tyler Smith as  
21 supplemental legal counsel to the Board in violation of Oregon's Public  
22 Meetings Law;  
23 (B) a judgment declaring the Motions retaining Tyler Smith and reaffirming the  
24 earlier Motion to retain Tyler Smith are void because they were the result of  
25 intentional disregard of the law or willful misconduct by a quorum of the  
26 members of the Board;

- 1 (C) an order that all fees and costs paid to Tyler Smith as a result of the  
2 aforementioned Motions be repaid to the Newberg School District 29J by  
3 defendants Brian Shannon, David Brown, Renee Powell, and Trevor DeHart;
- 4 (D) a judgment declaring defendants dismissed Superintendent Morelock and  
5 issued a 10-day notice of termination of his employment contract in violation of  
6 Oregon's Public Meetings Law;
- 7 (E) a judgement declaring the Motion to dismiss Superintendent Morelock and issue  
8 a 10-day notice of termination of his employment contract is void because it was  
9 the result of intentional disregard of the law or willful misconduct by a quorum  
10 of the members of the Board; and
- 11 (F) an order that all fees and costs paid to Superintendent Morelock as a result of  
12 the aforementioned vote be repaid to the Newberg School District 29J by  
13 defendants Brian Shannon, David Brown, Renee Powell, and Trevor DeHart;

- 14 2. An award of plaintiffs' attorney fees and costs incurred herein; and  
15 3. Any further or alternative relief in favor of plaintiffs that the court deems appropriate.

16 DATED this 1<sup>st</sup> day of December, 2021.

17  
18 LAW OFFICES OF JUDY SNYDER

19 s/ Judy Danelle Snyder  
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