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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

THIRD 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 6th Street, Newberg, Yamhill County, Oregon.

2.

At all material times, defendants Trevor DeHart, Renee Powell, Brian Shannon, and Dave Brown (referred to collectively as “individual defendants”) 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
10 residents of Yamhill County, Oregon, living within the boundaries of defendant Newberg School
11 District 29J.

12 6.

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

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

17 7.

18 Plaintiffs reallege and incorporate paragraphs 1 through 6 above.

19 8.

20 On information and belief, at some time prior to August 24, 2021, defendants Brian
21 Shannon, David Brown, Renee Powell, and Trevor DeHart, as quorum of the Board, met in private
22 for the purpose of discussing or deliberating to retain attorney Tyler Smith as supplemental legal
23 counsel to the board of directors in violation of ORS 192.630(2), as a quorum of a board may not
24 meet in private for the purpose of deciding on or deliberating toward a decision prior to a board
25 meeting.

1 9.

2 On or about August 18, 2021, defendant District published an agenda for its upcoming
3 August 24, 2021, board of directors special meeting and executive session “[t]o consult with
4 counsel concerning the legal rights and duties of a public body with regard to current litigation or
5 litigation likely to be filed.” The agenda failed to include notice that the board of directors intended
6 to vote to retain supplemental legal counsel or that board members had already consulted with
7 Tyler Smith or had discussed among themselves the hiring of Tyler Smith as supplemental legal
8 counsel prior to the August 24, 2021, meeting.

9 10.

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

15 11.

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

20 12.

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

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13.

At approximately 5:00 p.m., on August 24, 2021, during an executive session of the Newberg School District Board of Directors (“the Board”), defendants Shannon, Brown, Powell, and DeHart voted to hire Tyler Smith as supplemental legal counsel to the Board, willfully conferring unjust financial payments to Tyler Smith paid by the District. Defendant Shannon explained that he, along with defendants Brown, Powell, and DeHart, met in a quorum outside of the purview of the three other Board members and that “Dave sought out this attorney ... he probably should have notified you guys, as well, that he was looking at doing this.”

14.

A discussion regarding the above-described events of August 24, 2021, occurred during the Board’s subsequent retreat meeting. When the three other members of the Board raised concerns regarding violations of the public meetings law by the vote to retain Tyler Smith, defendant Powell refused to comment, while defendant Brown said it was a really troubling time and the Board needed protection as a result of threatened legal action against the Board. Board member Brandy Penner then asserted that all four board member defendants knew that they intended to hire Tyler Smith prior to the meeting and that it was not a publicly noticed matter – none of which denied this assertion. When Board member Rebecca Piros explained that it would be expensive to retain Tyler Smith at \$300 an hour, it was disclosed that Tyler Smith had already performed approximately seven hours of legal work at the request of the four Board member defendants. Defendant Brown asserted that it was not expensive to hire Tyler Smith, claiming there was a legal budget of approximately \$36,000.00 to pay for legal services to the Board, including Tyler Smith.

15.

On information and belief, on or about November 4, 2021, defendants DeHart and Brown held a meeting with Superintendent Morelock in which defendants DeHart and Brown told

1 Superintendent Morelock to resign his position with the District.

2 16.

3 On or about November 5, 2021, defendant District published an agenda for its November
4 9, 2021 Board regular meeting and executive session, no information was included regarding the
5 individual defendants' intent to vote to continue to employ Tyler Smith as supplemental legal
6 counsel and to dismiss Superintendent Joe Morelock and issue him a 10-day notice of termination
7 of his employment contract.

8 17.

9 On November 8, 2021, defendant District published its agenda for the November 9, 2021
10 Board's regular meeting. Included with the agenda was a packet of information that contained a
11 "discussion/possible action" for "Item: Supplemental Attorney Services Discussion." Defendant
12 Shannon "requested that the Board consider two possible options regarding the supplemental
13 attorney services: one to confirm the hiring of Tyler Smith and one to cease supplemental attorney
14 services with Tyler Smith." No information was included regarding the individual defendants'
15 intent to vote to dismiss Superintendent Morelock and issue him a 10-day notice of termination of
16 his employment contract.

17 18.

18 On November 9, 2021, defendants Shannon, Brown, Powell, and DeHart were the only
19 members of the Board who voted in favor of a Motion reaffirming the employment of attorney
20 Tyler Smith, knowing that their prior vote to retain Smith's services had been done so in violation
21 of ORS 192.630(2), intentionally disregarding of the law and willfully conferring unjust financial
22 payments to Tyler Smith paid by the District.

23 19.

24 On November 9, 2021, defendants Shannon, Brown, Powell, and DeHart were the only
25 members of the Board brought forward the Motion and who voted in favor of a Motion to dismiss

1 Superintendent Morelock and issue him a 10-day notice of termination of his employment
2 contract, knowing that their vote was done so in violation of ORS 192.630(2), intentionally
3 disregarding of the law and willfully conferring unjust financial payments to Superintendent
4 Morelock paid by the District. The information regarding Motion to dismiss Superintendent
5 Morelock and issue him a 10-day notice of termination of his employment contract was brought to
6 the attention at the time of the meeting by Tyler Smith, read from a document that had, on
7 information and belief, been provided to the individual defendants prior to the meeting.

8 20.

9 On information and belief, at some time prior to the November 9, 2021 executive session,
10 defendants Shannon, Brown, Powell, and DeHart, as the quorum of the Board, met in private for
11 the purpose of discussing or deliberating to continue to employ Tyler Smith as supplemental legal
12 counsel in violation of ORS 192.630(2), as a quorum of a board may not meet in private for the
13 purpose of deciding on or deliberating toward a decision prior to a board meeting.

14 21.

15 On information and belief, at some time prior to the November 9, 2021 executive session,
16 defendants Shannon, Brown, Powell, and DeHart, as the quorum of the Board, met in private for
17 the purpose of discussing or deliberating to dismiss Superintendent Morelock in violation of ORS
18 192.630(2), as a quorum of a board may not meet in private for the purpose of deciding on or
19 deliberating toward a decision prior to a board meeting.

20 22.

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

- 23 (A) By defendants Shannon, Brown, Powell, and DeHart, as quorum of the Board, in
24 willfully meeting in private for the purpose of discussing or deliberating to retain
25 Tyler Smith at the August 24, 2021 executive session in violation of ORS

1 so, contractually obligated the District to pay Tyler Smith's fees};
2 2. the vote and agreement to retain Tyler Smith is void because the District
3 failed to permit public access to the Board's August 24, 2021 vote to retain Tyler
4 Smith as supplemental legal counsel in violation of ORS 192.630(1);
5 3. the November 9, 2021 vote to ratify the August 24, 2021 decision to retain Tyler
6 Smith was ineffective to reinstate the earlier decision and the August 24, 2021
7 decision was the result of an intentional disregard of the law or willful misconduct
8 by the individual defendants; and,
9 4. defendants Shannon, Brown, Powell, and DeHart, as quorum of the Board, made
10 the decision to dismiss Superintendent Morelock and issue him a 10-day notice
11 of termination of his employment contract at the November 9, 2021 meeting in
12 violation of ORS 192.630(2), and in doing so, contractually obligated the
13 District to pay the remainder of Superintendent Morelock's employment
14 contract.

15 25.

16 Plaintiffs are further entitled to an order, pursuant to ORS 192.680(3)-(4), that defendants
17 Shannon, Brown, Powell, and DeHart repay all monies paid to Tyler Smith and Superintendent
18 Morelock to the District as a direct result of defendants Shannon, Brown, Powell, and DeHart
19 intentional disregard of the law and willful conferral of unjust financial enrichment to Tyler Smith
20 and Superintendent Morelock.

21 26.

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

24 //

25 //

1 **PRAYER FOR RELIEF**

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

- 3 1. All appropriate injunctive relief, including but not limited to:
- 4 (A) a judgment declaring defendants made the decision to retain Tyler Smith as
5 supplemental legal counsel to the Board at the August 24, 2021 executive
6 session in violation of ORS 192.630(2);
- 7 (B) a judgment declaring vote and subsequent agreement to continue to retain
8 Tyler Smith at the November 9, 2021 meeting is void because it was the
9 result of intentional disregard of the law and/or willful misconduct by the
10 quorum members of the Board, defendants Shannon, Brown, Powell, and
11 DeHart, pursuant to ORS 192.680(1); and,
- 12 (C) an order that, as a direct result of the intentional disregard of the law and
13 willful misconduct by the quorum of the Board in violation of 192.630(2) in
14 retaining Tyler Smith at the August 24, 2021 meeting defendants Shannon,
15 Brown, Powell, and DeHart must repay to the Newberg School District 29J
16 all monies the District paid to Tyler Smith by the Newberg School District
17 29J, pursuant to ORS 192.680(3)-(4); and,
- 18 (D) an order that, as a direct result of the intentional disregard of the law and
19 willful misconduct by the quorum of the Board in violation of 192.630(2) in
20 dismissing Superintendent Morelock and issuing him a 10-day notice of
21 termination of his employment contract at the November 9, 2021 meeting,
22 defendants Shannon, Brown, Powell, and DeHart must repay to the
23 Newberg School District 29J all monies the District paid to Superintendent
24 Morelock by the Newberg School District 29J, pursuant to ORS 192.680(3)-
25 (4).

- 1 2. An award of plaintiffs' attorney fees and costs incurred herein, pursuant to
2 ORS 192.680(3)-(4); and,
3 3. Any further or alternative relief in favor of plaintiffs that the court deems
4 appropriate.

5 DATED this 16th day of December, 2022.

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LAW OFFICES OF JUDY SNYDER

s/ Melissa Hopkins
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Of Attorneys for Plaintiffs

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I served the foregoing THIRD AMENDED COMPLAINT FOR
3 DECLARATORY AND INJUNCTIVE RELIEF FOR VIOLATION OF PUBLIC MEETING LAWS on:

4 Mr. Daniel E. Thenell
5 Thenell Law Group, P.C.
6 12909 SW 68th Pkwy, Suite 290
7 Portland, OR 97223
8 dan@thenelllawgroup.com

9 Of Attorneys for Defendants Trevor
10 Dehart, Renee Powell, Brian Shannon,
11 and Dave Brown

12 Mr. C. Robert Steringer
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14 Mr. Aaron M. Crockett
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17 Portland, OR 97204-1116
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20 aaron.crockett@harrang.com

21 Of Attorneys for Defendant Newberg
22 School District 29J

23 [] by mailing to said defendants a full and correct copy thereof, contained in a sealed
24 envelope, with postage paid, addressed to said attorney(s) as stated above and deposited in the
25 United States Post Office at Portland, Oregon on the date set forth below.

[X] by e-mailing to said attorney(s) a full and correct copy thereof, addressed to said
attorney(s) as stated above on the date set forth below.

[X] by electronically filing through the Odyssey e-file and e-serve system.

[] by hand delivering to said attorney(s) a true copy thereof on the date set forth below.

[] by faxing to said attorney (s) a true copy thereof on the date set forth below.

[] by concurrently electronically mailing this documents in Word format to each attorney's
last-known e-mail address on the date set forth below.

DATED this 16th day of December, 2022.

LAW OFFICES OF JUDY SNYDER

s/ Melissa Hopkins
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