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IN THE CIRCUIT COURT OF THE STATE OF OREGON

COUNTY OF YAMHILL

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

Case No. 21CV41198

DEFENDANTS DEHART, POWELL,
SHANNON, and BROWN's ANSWER

Plaintiffs,

vs.

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.

COMES NOW Trevor DeHart, Renee Powell, Brian Shannon, and Dave Brown
(collectively the "individual Defendants"), by and through their attorneys of record, Thenell Law
Group, P.C., and answers Plaintiffs' Third Amended Complaint as follows:

1.

Individual Defendants admit Paragraph 1.

2.

Individual Defendants admit Paragraph 2.

3.

Individual Defendants are without information or knowledge sufficient to form a belief as
to the truth of Paragraph 3 and therefore deny the same.

1 4.

2 Individual Defendants are without information or knowledge sufficient to form a belief as
3 to the truth of Paragraph 4 and therefore deny the same.

4 5.

5 Individual Defendants are without information or knowledge sufficient to form a belief as
6 to the truth of Paragraph 5 and therefore deny the same.

7 6.

8 Individual Defendants are without information or knowledge sufficient to form a belief as
9 to the truth of Paragraph 6 and therefore deny the same.

10 7.

11 No response is required to Paragraph 7, which merely restates Paragraph 1 through 6.

12 8.

13 Individual Defendants deny the allegations in paragraph 8 regarding a meeting of a quorum
14 of the Board prior to August 24, 2021. The remainder of the paragraph asserts legal conclusions
15 which do not require a response. To the extent a response is required, the individual Defendants
16 deny the allegations.

17 9.

18 Individual Defendants are without information or knowledge sufficient to form a belief as
19 to the conduct of the District alleged in Paragraph 9; however, to the extent the allegation is
20 regarding a document, such document speaks for itself. Individual Defendants deny any
21 implication the contents of the agenda were legally deficient. Individual Defendants deny the
22 remaining allegations in Paragraph 9.

23 10.

24 In response to Paragraph 10, the Defendant Shannon admits he emailed Superintendent
25 Morelock on August 24, 2021. The document speaks for itself. Defendant Shannon admits he
26 emailed Board Secretary Nelson. That document also speaks for itself.

1 11.

2 Defendants Shannon and Brown admit Superintendent Morelock responded to the email
3 referenced in Paragraph 10. The document speaks for itself.

4 12.

5 Individual Defendants admit Tyler Smith emailed Superintendent Morelock on August 24,
6 2021. The document speaks for itself.

7 13.

8 In response to Paragraph 13, Individual Defendants admit the Board voted to retain Tyler
9 Smith as supplemental legal counsel to the Board on August 24, 2021. Individual Defendants deny
10 the vote was taken during an executive session. The vote was taken during a public meeting which
11 was recorded and published on YouTube. The recording speaks for itself. Individual Defendants
12 deny they met in a quorum prior to the meeting. The remainder of the allegations state legal
13 conclusions which do not require a response. To the extent a response is required, the Individual
14 Defendants deny each allegation not specifically admitted herein.

15 14.

16 In response to Paragraph 14, to the extent the alleged discussions occurred during open
17 session, those discussions were recorded, and the recording speaks for itself. To the extent
18 Paragraph 14 alleges specific statements not recorded, the Individual Defendants are without
19 specific memory, information, or knowledge necessary to form a belief and on that basis deny any
20 such allegations. The remainder of the paragraph states legal conclusions which require no
21 response. To the extent a response is required, the Individual Defendants deny.

22 15.

23 In response to Paragraph 15, Defendants DeHart and Brown admit they met with
24 Superintendent Morelock on or about November 4, 2021, during which they asked Superintendent
25 Morelock to resign. Defendants Powell and Shannon lack information or knowledge sufficient to
26 form a belief regarding these allegations and on that basis deny.

1 16.

2 Individual Defendants are without information or knowledge sufficient to form a belief as
3 to the conduct of the District alleged in Paragraph 16; however, to the extent the allegation is
4 regarding a document, such document speaks for itself. Individual Defendants deny any
5 implication the contents of the agenda were legally deficient.

6 17.

7 Individual Defendants are without information or knowledge sufficient to form a belief as
8 to the conduct of the District alleged in Paragraph 17; however, to the extent the allegation is
9 regarding a document, such document speaks for itself. Individual Defendants deny any
10 implication the contents of the agenda were legally deficient. To the extent the allegation regarding
11 Defendant Shannon references a statement made in a document, that document speaks for itself.

12 18.

13 In response to Paragraph 18, Individual Defendants admit they voted in favor of
14 reaffirming the employment of Tyler Smith as supplemental legal counsel for the Board. Individual
15 Defendants deny any knowledge their conduct was in violation of ORS 192.630(2). The remainder
16 of the paragraph states legal conclusions which require no response. To the extent a response is
17 required, the Individual Defendants deny.

18 19.

19 In response to Paragraph 19, Individual Defendants admit they voted in favor of a motion
20 to dismiss Superintendent Morelock and issue him a 10-day notice of termination of his
21 employment contract. Individual Defendants deny any knowledge their conduct was in violation
22 of ORS 192.630(2). Individual Defendants admit Tyler Smith participated in the meeting and
23 assisted the Board as supplemental legal counsel. The public portion of the meeting was recorded
24 and published on YouTube, and the recording speaks for itself. The remainder of the paragraph
25 states legal conclusions which require no response. To the extent a response is required, the
26 Individual Defendants deny.

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20.

Individual Defendants deny the allegation in Paragraph 20 regarding a private meeting of the Board. The remainder of the paragraph states legal conclusions which require no response. To the extent a response is required, the Individual Defendants deny.

21.

Individual Defendants deny the allegation in Paragraph 21 regarding a private meeting of the Board. The remainder of the paragraph states legal conclusions which require no response. To the extent a response is required, the Individual Defendants deny.

22.

Paragraph 22 states legal conclusions which require no response. To the extent a response is required, the Individual Defendants deny.

23.

Paragraph 23 states legal conclusions which require no response. To the extent a response is required, the Individual Defendants deny.

24.

Paragraph 24 states legal conclusions which require no response. To the extent a response is required, the Individual Defendants deny.

25.

Paragraph 25 states legal conclusions which require no response. To the extent a response is required, the Individual Defendants deny.

26.

Paragraph 26 states legal conclusions which require no response. To the extent a response is required, the Individual Defendants deny.

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1 **First Affirmative Defense**

2 **(Failure to State a Claim)**

3 27.

4 Plaintiffs have failed to state a claim the August 24, 2021, or November 9, 2021, Board
5 meetings violated the Open Meeting Law. Plaintiffs have further failed to state a claim the
6 Individual Defendants engaged in intentional disregard of the law or willful misconduct. Plaintiffs
7 have further failed to state the elements required for unjust enrichment as a theory for equitable
8 relief as required by ORS 192.680(3) and by prior order of the Court.

9 **Second Affirmative Defense**

10 **(Statute of Limitations)**

11 28.

12 Plaintiffs did not commence a suit under ORS 192.680(2) as to the November 9, 2021,
13 meeting until the Third Amended Complaint was filed. The claim is time-barred by ORS
14 192.680(5), which requires “[a]ny suit brought under subsection (2) of this section be commenced
15 within 60 days following the date that the decision becomes public record.”

16 **Third Affirmative Defense**

17 **(Standing)**

18 29.

19 Plaintiffs lack standing to assert a claim for unjust enrichment on behalf of the District.

20 **Fourth Affirmative Defense**

21 **(Res Judicata)**

22 30.

23 The Third Amended Complaint realleges facts and claims already dismissed by this Court
24 in this action and are therefore barred by the doctrine of *res judicata*.

25 ///

26 ///

1 **Fifth Affirmative Defense**

2 **(Advice of Counsel)**

3 31.

4 At all times alleged in the Third Amended Complaint, the Individual Defendants acted in
5 conformity with the advice of counsel.

6 **Sixth Affirmative Defense**

7 **(Preservation of Additional Affirmative Defenses)**

8 32.

9 Individual Defendants reserve the right to add additional affirmative defenses as discovery
10 in this case progresses.

11 WHEREFORE, having fully answered Plaintiffs' amended complaint as to the Individual
12 Defendants, the Individual Defendants pray for judgment in their favor as follows:

- 13 1) On Plaintiffs' claims for relief, a judgment dismissing all of Plaintiffs' claims with
14 prejudice and awarding Defendants their costs, including attorney fees and expenses,
15 incurred herein; and granting Defendants any other relief the court deems just and equitable
16 under the circumstances;

17 DATED this 13th day of January, 2023.

18 THENELL LAW GROUP, P.C.

19
20 By: /s/ Emerson Lenon
21 Emerson Lenon, OSB 123728
22 Email: emerson@thenelllawgroup.com
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26 Telephone: (503) 372-6450
*Of Attorneys for Defendants DeHart, Powell,
Shannon, and Brown*

CERTIFICATE OF SERVICE

I hereby certify that on January 13, 2023, I served the foregoing **DEFENDANTS**

DEHART, POWELL, SHANNON, and BROWN's ANSWER on:

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School District 29J*

SENT VIA:

- U.S. Postal Service, ordinary first-class mail
- U.S. Postal Service, certified or registered mail, return receipt requested
- Hand Delivery
- Facsimile
- Electronic Service
- Email
- Other (specify) _____

THENELL LAW GROUP, P.C.

By: 
Anne M. Puppo, Legal Assistant