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Attorneys for Oregon Department of Education and Governor Kate Brown

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

PARENTS FOR PRIVACY; KRIS GOLLY
and JON GOLLY, individually [and as
guardians ad litem for A.G.]; LINDSAY
GOLLY; NICOLE LILLIE; MELISSA
GREGORY, individually and as guardian ad
litem for T.F.; and PARENTS RIGHTS IN
EDUCATION, an Oregon nonprofit
corporation,

Plaintiffs,

v.

DALLAS SCHOOL DISTRICT NO.2;
OREGON DEPARTMENT OF
EDUCATION; GOVERNOR KATE
BROWN, in her official capacity as the
Superintendent of Public Instruction; and
UNITED STATES DEPARTMENT OF
EDUCATION; BETSY DEVOS, in her
official capacity as United States Secretary of
Education as successor to JOHN B. KING,
JR.; UNITED STATES DEPARTMENT OF
JUSTICE; JEFF SESSIONS, in his official
capacity as United States Attorney General, as
successor to LORETTA F. LYNCH,

Defendants.

Case No. 3:17-cv-01813-HZ

STATE DEFENDANTS' MOTION TO
DISMISS

The Oregon Department of Education (ODE) and Oregon Governor Kate Brown (collectively “State Defendants”) move to dismiss the sole claim against them pursuant to Federal Rule of Civil Procedure 12(b)(6). As detailed in the accompanying memorandum, the only claim against State Defendants in the Complaint alleges a violation of a state law. That claim is barred by Oregon’s Sovereign Immunity, sometimes referred to as Eleventh Amendment immunity, and fails as a matter of law. Accordingly, State Defendants should be dismissed as parties at this time. Counsel for the State and counsel for plaintiffs have conferred as required by local rule 7-1, and to date, the date an appearance is due, they have been unable to finally resolve the dispute. However, the parties intend to continue their conferral, are relatively confident that a resolution will be reached, and will advise the Court as soon as practicable if and when that occurs.

This motion is supported by State Defendants’ Memorandum in Support of Motion to Dismiss, and by the Complaint and its attachments.

DATED December 13, 2017.

Respectfully submitted,

ELLEN F. ROSENBLUM
Attorney General

s/ Sarah Weston

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