

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

PEOPLE FOR THE ETHICAL
TREATMENT OF ANIMALS, INC., a non-
profit public benefit corporation,

Plaintiff,

v.

OREGON HEALTH & SCIENCE
UNIVERSITY, a public corporation,

Defendant.

Case No. 20CV15874

**ORDER GRANTING PLAINTIFF'S
MOTION FOR LEAVE TO FILE
THIRD AMENDED COMPLAINT**

This matter came before the Court on Plaintiff People for the Ethical Treatment of Animals, Inc.'s ("PETA") Motion for Leave to File Third Amended Complaint (the "Motion") filed on August 16, 2021. The Court held a hearing on October 13, 2021, at which PETA appeared through its counsel, Colin Hunter and Kristen Tranetzki of Angeli Law Group LLC and Shelby Ward of the PETA Foundation. Defendant Oregon Health & Science University ("OHSU") appeared through its counsel, C. Robert Steringer and Aaron

1 Crockett of Harrang Long Gary Rudnick P.C. Having considered the parties' briefing and
2 argument, and being fully advised, the Court finds as follows.

3 At issue in PETA's Motion is its request to file a Third Amended Complaint adding
4 a Fifth Claim for Relief seeking declaratory and injunctive relief for alleged violations of
5 ORS 181A.250. (PETA also has proposed adding a new Fourth Claim for Relief, which
6 OHSU does not oppose.) The parties agree that the standard for consideration of a motion
7 for leave to amend requires analysis of four factors: "(1) the nature of the proposed
8 amendments and their relationship to the existing pleadings; (2) the prejudice, if any, to the
9 opposing party; (3) the timing of the proposed amendments and related docketing concerns;
10 and (4) the colorable merit of the proposed amendment." *Ramsey v. Thompson*, 162 Or App
11 139, 145, 986 P 2d 54 (1999) (the "*Ramsey* factors").

12 On the first *Ramsey* factor, the Court finds that Exhibit 1 to the Declaration of Colin
13 Hunter submitted by PETA indicates that OHSU law enforcement personnel receive email
14 updates collecting information on PETA's activities from Information Network Associates
15 ("INA") and that those updates are being considered by OHSU in its response to public
16 records requests. That same exhibit indicates that the receipt of those INA emails was
17 occurring in the same timeframe as the deletion of public records alleged by PETA in its
18 existing public-records and constitutional claims. PETA's proposed Fifth Claim is therefore
19 connected with the issues and timeframe in the rest of the litigation.

20 On the second *Ramsey* factor, the Court finds that OHSU is not unfairly prejudiced
by the addition of PETA's Fifth Claim. The claim relates to OHSU's own activities, about
which OHSU already is aware. In addition, the claim does not appear to be factually

1 complex or discovery-intensive, and it presents what appear to be primarily legal questions
2 as to declaratory and injunctive relief.

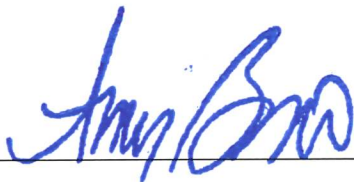
3 On the third *Ramsey* factor, the Court finds that the December trial date is fast
4 approaching, and that the ordinary 60-day pretrial deadline for filing motions for summary
5 judgment already has passed. However, the applicable rule also gives the Court discretion to
6 modify summary judgment deadlines, including the pretrial deadline as well as the deadlines
7 to respond and reply to any such motion. ORCP 47 C. The Court directs the parties to confer
8 on that issue, and will consider any request to shorten the pretrial filing deadline and/or the
9 ordinary briefing schedule for motions for summary judgment. In addition, OHSU may
10 request that the presiding judge set over the currently scheduled December trial. The fact
11 that this is a bench trial, rather than a jury trial, mitigates the timing and docketing concerns
12 relevant to the third *Ramsey* factor. Even in the event OHSU requests a setover of the
13 current trial date as a result of the addition of PETA's Fifth Claim, there are many judges
14 available to handle a rescheduled bench trial without undue delay.

15 On the fourth factor, the Court finds that PETA's Fifth Claim has colorable merit.
16 The recipients of the INA email updates noted above include OHSU law enforcement
17 officers who appear to be subject to ORS 181A.250. While the Fifth Claim does appear to
18 be relatively novel, it does not present a particularly complicated issue. The statute in
19 question states that "[n]o law enforcement agency * * * may collect or maintain information
20 about the political, religious or social views, associations or activities of any individual,
group, association, organization, corporation, business or partnership unless such
information directly relates to an investigation of criminal activities, and there are

1 reasonable grounds to suspect the subject of the information is or may be involved in
2 criminal conduct.” ORS 181A.250. PETA’s Fifth Claim may present legal issues regarding
3 the interpretation of that statutory language, and it may present fact questions as well.
4 However, on the record before the Court at this stage, PETA has alleged a colorable claim
under ORS 181A.250.

5 For the foregoing reasons, the Court GRANTS the Motion. PETA shall promptly file
6 its Third Amended Complaint.

7 IT IS SO ORDERED.

8 
9 11/04/2021

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13 Submitted by:

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17 Attorneys for Plaintiff
18
19

20 PAGE 4 – ORDER GRANTING PLAINTIFF’S MOTION FOR LEAVE TO FILE
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CERTIFICATE OF SERVICE

I hereby certify that I caused a true copy of the foregoing ORDER GRANTING PLAINTIFF'S MOTION FOR LEAVE TO FILE THIRD AMENDED COMPLAINT to be served on:

C. Robert Steringer
Harrang Long Gary Rudnick P.C.
1050 SW Sixth Avenue, Suite 1600
Portland, OR 97204-1116
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Attorneys for Defendant

_____ By hand delivery
_____ By first-class mail*
 x By email
_____ By overnight mail
_____ By facsimile transmission
_____ Fax #:
_____ Ph #:

*With first-class postage prepaid and deposited in Portland, OR.

DATED October 13, 2021.

s/Colin H. Hunter
COLIN H. HUNTER, OSB No. 131161
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Attorneys for Plaintiff

UTCR 5.100 CERTIFICATION

Pursuant to UTCR 5.100, I hereby certify that this proposed order is ready for judicial signature because:

1. ☐ Each opposing party affected by this order or judgment has stipulated to the order or judgment, as shown by each opposing party's signature on the document being submitted.

2. ☒ Each opposing party affected by this order or judgment has approved the order or judgment, as shown by signature on the document being submitted or by written confirmation of approval sent to me.

3. ☐ I have served a copy of this order or judgment on all parties entitled to service and:

a. ☐ No objection has been served on me.

b. ☐ I received objections that I could not resolve with the opposing party despite reasonable efforts to do so. I have filed a copy of the objections I received and indicated which objections remain unresolved.

c. ☐ After conferring about objections, [role and name of opposing party] agreed to independently file any remaining objection.

4. ☐ Service is not required pursuant to subsection (3) of this rule, or by statute, rule, or otherwise.

5. ☐ This is a proposed judgment that includes an award of punitive damages and notice has been served on the Director of the Crime Victims' Assistance Section as required by subsection (5) of this rule.

6. ☐ Other: _____.

DATED October 13, 2021.

s/Colin H. Hunter
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