

**Thomas F. Armosino, OSB #911954**

Email: [armosino@fdfirm.com](mailto:armosino@fdfirm.com)

**Casey S. Murdock, OSB #144914**

Email: [murdock@fdfirm.com](mailto:murdock@fdfirm.com)

FROHNMAYER, DEATHERAGE, JAMIESON,

MOORE, ARMOSINO & MCGOVERN, PC

2592 East Barnett Road

Medford, OR 97504

Phone: 541-779-2333

Fax: 541-779-6379

Of Attorneys for Defendant Harney County

UNITED STATES DISTRICT COURT

THE DISTRICT OF OREGON

PORTLAND DIVISION

D. JEANETTE FINICUM; THARA TENNEY;  
TIERRA COLLIER; ROBERT FINICUM;  
TAWNY CRANE; ARIANNA BROWN;  
BRITTNEY BECK; MITCH FINICUM;  
THOMAS KINNE; CHALLICE FINCH;  
JAMES FINICUM; DANIELLE FINICUM;  
TEAN FINICUM; and the ESTATE OF  
ROBERT LAVOY FINICUM,

Plaintiffs,

v.

UNITED STATES OF AMERICA; FBI;  
BLM; DANIEL P. LOVE; SALVATORE  
LAURO; HARRY MASON REID; GREG T.  
BRETZING; W. JOSEPH ASTARITA;  
STATE OF OREGON; OREGON STATE  
POLICE; KATHERINE BROWN;  
RONALD LEE WYDEN; HARNEY  
COUNTY; DAVID M. WARD;  
STEVEN E. GRASTY; THE CENTER  
FOR BIOLOGICAL DIVERSITY;  
and JOHN DOES 1-100,

Defendants.

Case No. 2:18-cv-00160-MO

**DEFENDANT HARNEY COUNTY'S  
LR 41-2 STATEMENT**

Pursuant to LR 41-2(a), Defendant Harney County timely provides the following party statement:

Currently pending before this Court is Defendant Harney County's Motion to Dismiss (ECF 193), filed against Plaintiffs' Third Amended Complaint (ECF 189). Plaintiffs did not file an opposition response.

Plaintiffs recently tendered a "Fourth Amended Complaint," apparently without receiving leave to do so, and subsequently filed a corrected "Motion for Leave to Amend to File a Second Amended Complaint (ECF 200). Attached to Plaintiffs' Motion for Leave to Amend is a proposed "Amended Complaint" (ECF 200-1).

Both the Third Amended Complaint and the newly proposed Amended Complaint continue to plead conclusory statements without underlying facts and are procedurally incorrect. The Amended Complaint also asserts allegations against defendants who were previously dismissed from this lawsuit, including the "Harney County Sheriff" and the "Head of Harney County." Further, plaintiffs' Ninth Cause of Action for Excessive Force against the individual defendants in their individual capacity could arguably be against the Harney County Sheriff or the Head of Harney County. These defendants were previously dismissed by Judge Sullivan and adopted for dismissal by this Court pursuant to ECF 180.

For the reasons set forth in Defendant Harney County's Motion to Dismiss (ECF 193), this defendant respectfully requests that this Court deny Plaintiffs' Motion for Leave to Amend (ECF 200) and dismiss with prejudice all remaining claims against Harney County.

DATED this 22<sup>nd</sup> day of November, 2021.

FROHNMAYER, DEATHERAGE, JAMIESON,  
MOORE, ARMOSINO & MCGOVERN, P.C.

s/ Thomas F. Armosino

Thomas F. Armosino, OSB #911954

armosino@fdfirm.com

Of Attorneys for Defendant Harney County

**CERTIFICATE OF SERVICE**

I hereby certify that I served the foregoing **DEFENDANT HARNEY COUNTY'S LR 41-2 STATEMENT** upon:

J. Morgan Philpot  
morgan@jmphilpot.com  
JM PHILPOT LAW, PLLC  
1063 East Alpine Drive  
Alpine, UT 84004  
Telephone: 801-428-2000  
Attorney for Plaintiffs

James S. Smith  
Senior Assistant Attorney General  
[James.S.Smith@doj.state.or.us](mailto:James.S.Smith@doj.state.or.us)  
Department of Justice  
100 SW Market Street  
Portland, OR 97201  
Telephone: 971-673-1880  
Fax: 971-673-5000  
Of Attorneys for Defendants State of  
Oregon; Oregon State Police; and  
Governor Kate Brown

David C. Cutler  
United States Dept. of Justice  
Trial Attorney  
Constitutional Torts Staff  
Torts Branch, Civil Division  
P.O. Box 7146  
Washington, D.C. 20044  
[David.G.Cutler@usdoj.gov](mailto:David.G.Cutler@usdoj.gov)  
Of Attorneys for United States and  
Gregory T. Bretzing

By automatic electronic transmission via the Court's Case Management/Electronic Case Files system.

DATED this 22<sup>nd</sup> day of November, 2021.

FROHNMAYER, DEATHERAGE, JAMIESON,  
MOORE, ARMOSINO & McGOVERN, P.C.

s/ Thomas F. Armosino  
Thomas F. Armosino, OSB #911954  
[armosino@fdfirm.com](mailto:armosino@fdfirm.com)  
Of Attorneys for Defendant Harney County