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

KA'ILA FARRELL-SMITH; ROWENA JACKSON; SARAH WESTOVER; and ROSEMARY FRANCIS EATHERINGTON,

Plaintiffs,

and

ROGUE CLIMATE; and 350EUG ("350 EUGENE"),

Intervenor-Plaintiffs,

v.

THE OREGON DEPARTMENT OF JUSTICE; ELLEN ROSENBLUM, in her official capacity as the Attorney General of the State of Oregon; and MICHAEL SLAUSON, in his official capacity as Chief Counsel of the Criminal Justice Division of the Oregon Department of Justice,

Defendants.

Case No. 21CV47809

Hon. Audrey J. Broyles

**ORDER ON PLAINTIFFS KA'ILA FARRELL-SMITH, ROWENA JACKSON, SARAH WESTOVER, AND ROSEMARY FRANCIS EATHERINGTON'S MOTION TO COMPEL**

On July 26, 2023, this matter came before the Court on Plaintiffs Ka'ila Farrell-Smith, Rowena Jackson, Sarah Westover, and Rosemary Francis Eatherington's Motion to Compel. Plaintiffs appeared through their attorneys Jeffrey Rosenthal, Patrick Swiber, and Tim Cunningham. Defendants appeared through their attorney George S. Pitcher. Intervenor appeared through their attorneys Marianne Dugan and Lauren Regan.

The Court being fully advised, for the reasons stated in the Court's letter ruling dated October 30, 2023, a copy of which is attached hereto, IT IS HEREBY ORDERED that Plaintiff's

1 Motion to Compel is GRANTED and Defendants must produce unredacted versions of  
2 documents produced in response to Plaintiffs' First Request for Production of Documents to  
3 Defendant The Oregon Department of Justice on or before November 21, 2023. The Court  
4 DEFERS consideration of Plaintiffs' request for attorney fees related to the Motion to Compel,  
5 and Plaintiffs may raise that request again at an appropriate later time.

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11/14/2023 10:29:19 AM

  
Circuit Court Judge Audrey J. Broyles

Presented by:

DAVIS WRIGHT TREMAINE LLP

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Attorneys for Plaintiffs



**CIRCUIT COURT OF OREGON  
THIRD JUDICIAL DISTRICT  
MARION COUNTY COURTHOUSE  
P.O. BOX 12869  
SALEM, OREGON 97309-0869**

AUDREY BROYLES  
Circuit Court Judge  
PHONE: (503) 588-5492  
FAX: (503) 373-4360

\_ Verified Correct Copy of Original 10/30/2023

October 30, 2023

**RE: *Ka'ila Farrell Smith et al v Oregon Department of Justice; 21CV47809***

Dear Counsel,

The above-entitled matter came before the court on July 26, 2023, for hearing on Plaintiff's Motion to Compel & Motion to Continue Briefing on Defendant's Motion for Summary Judgment, as well as Defendant's Motion to Stay Discovery pending outcome of its motion for Summary Judgment. Plaintiffs were represented by Mr. Rosenthal, Mr. Cunningham & Mr. Swiber. Defendant was represented by Mr. Pitcher and Intervenor was represented by Marianne Dugan and Lauren Regan. Counsel appeared in person. The court heard the arguments of counsel and took the matter under advisement.

Plaintiff seeks an order compelling Defendants to produce unredacted versions of documents produced in response to Plaintiff's First Request for Production of Documents to Defendant. Plaintiff also seeks an award of attorney fees. Defendant objects to the Motion to Compel and asks for a briefing schedule on their Motion for Summary Judgment.

The court is persuaded that Plaintiffs are entitled to unredacted copies of the discovery produced in response to the request for production. A Protective Order is in place at Defendant's request. There is already a concession that the redacted materials discovered to Plaintiffs are relevant. Selective redactions are disfavored. Accordingly, the court grants Plaintiff's Motion to Compel and orders the defendants to produce unredacted versions of the discovery to plaintiffs. Plaintiff's motion as to attorney fees will be addressed at a later date. Counsel for plaintiffs, please prepare an order consistent with my ruling.

Sincerely,

Audrey J Broyles  
Marion County Circuit Court Judge

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I served a copy of the foregoing **ORDER ON PLAINTIFFS**  
3 **KA'ILA FARRELL-SMITH, ROWENA JACKSON, SARAH WESTOVER, AND**  
4 **ROSEMARY FRANCIS EATHERINGTON'S MOTION TO COMPEL** on:

5 George S. Pitcher  
6 Dmitriy S. Golosinskiy  
7 Wilson Elser Moskowitz Edelman & Dicker  
8 LLP  
9 805 SW Broadway, Suite 2460  
10 Portland, OR 97205  
11 Telephone 971.352.3030  
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Christopher A. Perdue  
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Of Attorneys for Defendants

Of Attorneys for Defendants

11 Lauren Regan  
12 Marianne Dugan  
13 Civil Liberties Defense Center  
14 1711 Willamette St., Ste. 301 #359  
15 Eugene, OR 97401  
16 Telephone 541.687.9180  
17 Facsimile 541.804.7391  
18 Email [mdugan@cldc.org](mailto:mdugan@cldc.org); [lregan@cldc.org](mailto:lregan@cldc.org)

Of Attorneys for Intervenors

16  by causing a copy thereof to be mailed in a sealed, first-class postage prepaid  
17 envelope, addressed to said attorney's last-known address and deposited in the U.S. mail at  
18 Portland, Oregon on the date set forth below;

19  by emailing a copy thereof to said attorney at his/her last-known email address as  
20 set forth above.

21  by using electronic transmission of a notice of filing by the electronic filing  
22 system provided by the Oregon Judicial Department, Odyssey File and Serve.

23 Dated this 7th day of November, 2023.

24 DAVIS WRIGHT TREMAINE LLP

25 By: s/ Tim Cunningham  
26 Tim Cunningham, OSB #100906

Of Attorneys for Plaintiffs

1 **CERTIFICATE OF READINESS – UTCR 5.100**

2 This proposed order or judgment is ready for judicial signature because:

- 3 1.  Each opposing party affected by this order or judgment has stipulated to the order or  
4 judgment, as shown by each opposing party’s signature on the document being submitted.
- 5 2.  Each opposing party affected by this order or judgment has approved the order or  
6 judgment, as shown by signature on the document being submitted or by written  
7 confirmation of approval sent to me.
- 8 3.  I have served a copy of this order or judgment on all parties entitled to service and:  
9 a.  No objection has been served on me.  
10 b.  I received objections that I could not resolve with the opposing party despite  
11 reasonable efforts to do so. I have filed a copy of the objections I received and  
12 indicated which objections remain unresolved.  
13 c.  After conferring about objections, *[Role and Name of Opposing Party]* agreed to  
14 independently file any remaining objection.
- 15 4.  The relief sought is against an opposing party who has been found in default.
- 16 5.  An order of default is being requested with this proposed judgment.
- 17 6.  Service is not required pursuant to subsection (3) of this rule, or by statute, rule or  
18 otherwise.
- 19 7.  This is a proposed judgment that includes an award of punitive damages and notice has  
20 been served on the Director of the Crime Victims’ Assistance Section as required by  
21 subsection (4) of this rule.

22 Dated this 7th day of November, 2023.

23 DAVIS WRIGHT TREMAINE LLP

24 By: s/ Tim Cunningham  
25 Tim Cunningham, OSB #100906

26 Of Attorneys for Plaintiffs