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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

JENNIFER RAE GUNTER, an individual,
CHRISTINA LYNN MILCAREK, an
individual, and CHELSEA ANNE WEBER, an
individual,

Plaintiffs,

v.

SHEMIA FAGAN, in her individual capacity
and as Secretary of State of the State of Oregon,

Defendant.

Case No. 3:22-cv-01252-MO (Lead Case)

WASHINGTON COUNTY DEFENDANTS'
MOTION TO DISMISS

JENNIFER GUNTER, an individual, et al.,

Plaintiffs,

v.

LISA GAMBEE, in her individual capacity and
as Wasco County Clerk, et al.,

Defendants.

Case No. 3:22-cv-01675-MO (Consolidated)

JUDY ANN MORRISE, an Oregon Elector; Case No. 3:22-cv-01743-MO
and SARA MARIE GENTA, an Oregon (Consolidated)
Elector,

Plaintiffs,

v.

KATHRYN HARRINGTON, et al.,

Defendants.

LR 7-1 CERTIFICATION

Counsel for Defendants Kathryn Harrington, Nafisa Fai, Pam Treece, Roy R. Rogers, Jerry Willey and Dan Forester (the “Washington County Defendants”) have made a good faith effort to confer with the Plaintiffs through Plaintiff Sara Genta. Counsel for the Washington County Defendants spoke with Ms. Genta on December 27, 2022. Ms. Genta was unable to state a position on the motion to dismiss. Counsel sent an e-mail with copies of the Secretary of State’s Motion to Dismiss, Case No. 3:22-cv-01252 [ECF 24] and the Wasco County Defendants’ Motion to Dismiss, Case No. 3:22-cv-01252 [ECF 36]. The email requested a response from the plaintiffs. The plaintiffs have not responded as of January 4, 2023.

MOTION TO DISMISS

In accordance with Fed. R. Civ. P. 12(b)(1) and 12(b)(6), Washington County Defendants move to dismiss this case. This case is based on the same factual basis and makes the same legal claims as the lead case, *Gunter, et al. v. Fagan*, United States District Court Case No. 3:22-cv-01252-MO. Compare 3:22-cv-01252-MO, [ECF 1] with 3:22-cv-01743-MO, [ECF 2]. The only material differences are the named plaintiffs and defendants. The Secretary of State has moved to dismiss the lead case. 3:22-cv-01252-MO, [ECF 24]. For the same reasons that this Court should dismiss the case against the Secretary of State, it should also dismiss the case against the

Washington County Defendants. For the reasons set forth in the Secretary of State’s Motion to Dismiss, in which Washington County Defendants join and which is incorporated by reference, this case should be dismissed. As in the lead case, Plaintiffs here have not alleged anything other than vague generalized grievances and theoretical harm. See, Plaintiff’s State Court Complaint, attached to the Declaration of Thomas Carr as Exhibit 2 in consolidated Case No. 3:22-cv-01743 [ECF 2], Ex. 2 at pp. 4-5 ¶ 5; p. 10 ¶ 19; p. 27 ¶ 40; p. 33 ¶ 47. Plaintiffs thus have not sufficiently plead a concrete, particularized injury in fact that would give them Article III standing. Secretary of State’s Motion to Dismiss, 3:22-cv-01252-MO, [ECF 24] at 4-5 (and authorities cited therein). Similarly, as set forth in the Secretary of State’s Motion to Dismiss, Plaintiffs’ allegations in this case are insufficient to state claims under State and Federal law and the United States Constitution. *Id.* at 6-10. For these reasons, this Court should dismiss the Plaintiff’s action against the Washington County Defendants with prejudice.

DATED: January 4, 2023.

s/Thomas Carr

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CERTIFICATE OF SERVICE

I certify that on January 4, 2023 I served a true and correct copy of each of the documents listed below on the following attorneys and parties by one of the following methods as designated for each recipient of service below:

Mail First class mail plainly addressed as shown and deposited, postage fully prepaid, on January 4, 2023, with the U.S. Postal Service for delivery.

ECF Electronic filing with the Court.

Email Electronic mail pursuant to ORCP 9 G/FRCP 5(b)(E).

Persons Served:

<i>Name and Address</i>	<i>Attorney for</i>	<i>Service Method(s)</i>
Judy Ann Morrise 3665 SW 78 th Ave. Portland, OR 97225 Judy.morrise@gmail.com	Plaintiff pro se (trailing case)	U.S. Mail, Email
Sara Marie Genta 5005 SE Lincoln St. Portland, OR 97215 Sara.genta@gmail.com	Plaintiff pro se (trailing case)	U.S. Mail, Email
Jennifer Rae Gunter 1601 G St. The Dalles, OR 97058	Plaintiff pro se (lead case)	U.S. Mail, Email
Christina Lynn Milcarek 1496 Foxglove Street Woodburn, OR 97071	Plaintiff pro se (lead case)	U.S. Mail
Chelsea Anne Weber 19000 S Pear Rd. Oregon City, OR 97045	Plaintiff pro se (lead case)	U.S. Mail
Christopher G. Lundberg, Kristen Ann Campbell, Matthew E. Malmsheimer	Defendants Lisa Gambee, Kathy Schwartz, Steve Kramer,	ECF
Brian Simmonds Marshall	Defendant Shemia Fagan	ECF

Documents:

WASHINGTON COUNTY DEFENDANTS' MOTION TO DISMISS

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