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

JUSTIN ALDERMAN, an individual,)	
)	Case No. 24CV10262
Plaintiff,)	
)	
vs.)	PLAINTIFF’S MOTION FOR
)	TEMPORARY RESTRAINING ORDER
OREGON STATE FAIR COUNCIL dba)	AND ORDER TO SHOW CAUSE WHY
OREGON STATE FAIR, an Oregon Public)	PRELIMINARY INJUNCTION SHOULD
Corporation, and)	NOT ISSUE
KIM GREWE-POWELL, an individual and)	
director of the Oregon State Fair)	ORCP 79
)	
Defendant(s),)	EX PARTE
_____)	

SLR 5.061

Pursuant to SLR 5.061, Plaintiff presents this motion to the Honorable Daniel J. Wren who was assigned case on February 28th, 2024.

Motion

1.

Pursuant to ORCP 79, Plaintiff moves this Court for a Temporary Restraining Order and Order to Show Cause Why Preliminary Injunction Should Not Issue, as stated below, enjoining Defendants from

1 enforcing the OSFEC Media Policy (“Media Policy”) *See* Exhibit 1. This Motion is supported by the
2 Plaintiff’s Complaint.

3 Without this Court’s immediate intervention, the implementation and enforcement of the Media
4 Policy will infringe on well established rights protected by both the Oregon & U.S. constitutions—
5 including that it require journalists and media organizations to obtain “accreditation” from Defendants
6 with an unregulated and unchecked “speech-licensing” scheme, allow any editorial corrections
7 Defendants deem appropriate in the course of any speech in order to have access to events at the
8 Oregon State Fairgrounds, and make social media posts in accordance with the detailed guidelines
9 outlined by the Defendants, among other conditions. The latter two provisions involve matters that not
10 only attempt to suppress speech, but goes to the extent to compel certain speech in order to be granted
11 access to publicly accessible areas, or to be afforded commonplace access granted to members of the
12 media who only engage in reporting desirable to Defendants. Plaintiff continues to engage in reporting
13 related to the Defendants of significant public interest with ongoing developments. Defendants actions
14 have already and will likely continue to cause further violations of the constitutional rights of Plaintiff,
15 event lessors, and other representatives of the news media; through the enforcement of arbitrary
16 restrictions which have never been necessary in the long past history of the Oregon State Fairgrounds
17 and the many events that continued to take place year round.

18 Plaintiff requests that the Court hear oral argument on Plaintiffs’ motion and estimate oral
19 argument will require approximately 30-minutes. Official court reporting services are requested. This
20 motion is authorized under ORCP 79. Plaintiff makes this request on an emergency basis, and seeks
21 this Court’s expedited consideration of their motion.

22
23 **STATEMENT OF FACTS**

24 **2.**

25 Plaintiff incorporates by reference the allegations and pleading contained in Plaintiff’s Verified

1 Complaint, attached hereto as Exhibit 2, with particular focus related to the constitutional challenges
2 made therein to Defendants Media Policy. Of particular importance is the Plaintiff's right to engage in
3 news reporting related to the equestrian industry, including some private event lessors who would
4 welcome attendance at events frequently held at the Oregon State Fairgrounds.

5
6 **POINTS & AUTHORITIES**

7 **3.**

8 Plaintiff asserts they are entitled to a temporary restraining order and preliminary injunction in
9 this matter pursuant to ORCP 79 A(1)(a) or A(1)(b). Therefore, Plaintiff addresses each in turn.

10 **(a) PLAINTIFF IS ENTITLED TO A TEMPORARY RESTRAINING ORDER**

11 Plaintiff respectfully moves that this Court grant a temporary restraining order, restraining
12 Defendants from enforcing their Media Policy. Plaintiff files this Motion shortly after the filing of the
13 Complaint in this action. As Plaintiff has just filed this action, and the Media Policy just suddenly
14 being formally adopted, albeit under additional challenges under ORS 192, Plaintiff is unsure which
15 attorney will be representing Defendants in this action. Defendant Oregon State Fair appears to engage
16 the legal services of both private attorneys as well as deputy attorney general's with the Oregon
17 Department of Justice.

18 Plaintiff has contacted Elliot Field, an attorney whom Plaintiff has corresponded with on
19 matters primarily centered on public records requests with the Defendant Oregon State Fair which are
20 not a subject to this case. *See Declaration of Justin Alderman*. This includes a voicemail and email left
21 with Mr. Field, both of which were made on February 26th, 2024. Mr. Field did respond by email on
22 Feb 27th seeking to clarify that the intention to file this motion was related to the Media Policy. During
23 separate matters, Mr. Field has also avoided providing past confirmation when requested on if he was
24 representing Defendant Kim Grewe-Powell in her individual capacity. *See ORCP 79 B(1)*. However, as
25 will be shown throughout this motion and complaint, immediate and irreparable injury will result to

1 Plaintiff before Defendants can be heard in opposition if the temporary restraining order is not granted,
2 see ORCP 79 B(1)(a), because Plaintiff will have continued to have constitutional rights violated that
3 are afforded pursuant to Article 1, Section 8 of the Oregon Constitution; and the 1st Amendment of the
4 United States Constitution, limiting rights of free speech and free press which are a bedrock of our
5 democracy. The past actions by the Defendants to have the Oregon State Police threaten Plaintiff with
6 arrest and unlawfully exclude Plaintiff from the Oregon State Fairgrounds simply for his exercise as a
7 journalist and taking of photographs in publicly accessible areas, the general open areas outside of any
8 building of the fairgrounds, gives Plaintiff convincing belief he would be subject to further law
9 enforcement contact, detention, or arrest should he not abide by the policy or gain accreditation.
10 Defendants, as alleged in Plaintiff's complaint, even denied that Plaintiff was trespassed or threatened
11 with arrest, instead reporting Plaintiff was simply asked to leave and did so voluntarily. Further,
12 simply obtaining "accreditation" would itself constitute a violation of Plaintiff's constitutional rights
13 and subject him to affirming he would comply with the unconstitutional policy, leading to violating
14 firm beliefs in journalist ethical standards. As a member of the Society of Professional Journalists,
15 Plaintiff complies with the SPJ's Code of Ethics. *See* *Elrod v. Burns*, 427 US 347, 373 (1976) ("The
16 loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes
17 irreparable injury"); *Melendres v. Arpaio*, 695 F3d 990, 1002 (9th Cir 2012) ("It is well established that
18 the deprivation of constitutional rights 'unquestionably constitutes irreparable injury.'") ("It is always in
19 the public interest to prevent the violation of a party's constitutional rights"); see also *Elkhorn Baptist*
20 *Church v. Brown*, 366 Or 506, 546 (2020) ("The inability of plaintiffs to worship in the manner that
21 they prefer and the inability of intervenors to carry on their businesses in the manner that is usual (or at
22 all) is irreparable harm for these purposes, even if temporary.) (Garrett, 1., concurring).

23 If Plaintiff is not granted the temporary restraining order, Plaintiff will suffer the irreparable
24 deprivation of their Constitutional rights pursuant to Or. Const. Art. 1, Sec. 8' while Plaintiff awaits a
25 hearing on the preliminary injunction. This deprivation of rights, even for a day, is irreparable and

1 cannot be tolerated in a free society, especially in light of the patently unconstitutional nature of the
2 Defendants Media Policy.

3
4 **(b) PLAINTIFF IS ENTITLED TO A PRELIMINARY INJUNCTION; ORCP 79 A(1)(a).**

5 Pursuant to ORCP A(1)(a), a temporary restraining order or preliminary injunction may be
6 obtained when:

7 **A(1)(a)** When it appears that a party is entitled to relief demanded in a pleading, and such relief, or
8 any part thereof, consists of restraining the commission or continuance of some act, the commission or
9 continuance of which during the litigation would produce injury to the party seeking relief[.]

10 ORCP 79 A(1)(a). Plaintiff is likely to succeed on the merits and have requested a permanent
11 injunction enjoining Defendants from enforcing its Media Policy. Whether or not the Media Policy is
12 actively enforced, Plaintiff and numerous other Oregonians who work as representatives of news
13 media, including staff and freelance journalists, will be irreparably injured during the pendency of this
14 case, as this would prevent Plaintiff and other representatives of the news media from engaging in one
15 of the most essential rights that has long been embedded and protected in American and Oregon
16 society, without otherwise compromising journalist ethics and signaling agreement with the Media
17 Policy as a condition for access or simply reporting on events taking place at the Oregon State
18 Fairgrounds.

19 No doubt, Defendants may argue that the State will suffer irreparable injury if this brand new
20 Media Policy is enjoined. Though it should absolutely be asked which predominates, the State's liberty
21 or the people's? The Oregon Constitution, like the U.S. Constitution, is intended to *restrain* the State
22 and to recognize and protect the rights of Oregonians. Our constitutional form of government thus
23 heavily weighs in the favor of granting this motion, especially considering its impact on the vital role
24 that a free press plays in our democracy. As such, this Court should grant Plaintiff's motion and
25 immediately enjoin enforcement of the Media Policy. The State may also argue that these policies are
only intended to apply to private events, but as Plaintiff has highlighted in the complaint and this

1 motion, the policy is clearly intended to be used to stifle free press outside of such events, and the very
2 move to adopt this policy was so admitted during the Defendant's October 26th, 2023, public meeting
3 by the Director of the Oregon State Fair, stating it was in response to the September 9th, 2023, incident
4 resulting in an act to trespass Plaintiff while engaged professionally in a constitutional right and typical
5 investigative news gathering.

6 Plaintiff has also sought the appropriate relief pursuant to ORCP 79. In addition to the
7 obligation to demonstrate the apparent entitlement to the relief requested, ORCP 79 also requires
8 Plaintiff to show that the relief demanded in the pleading consists or partially consists of restraining the
9 commission or continuance of some act. Here, Plaintiff has asked for declaratory judgment and
10 injunctive relief which may be afforded under 208 USC 2201 and ORS 28.020 declaring the
11 Defendants Media Policy unconstitutional and unenforceable and permanently enjoining Defendants
12 from enforcing it. *See* Complaint 23:10 - 23:20

13 **(c) PLAINTIFF IS ENTITLED TO A PRELIMINARY INJUNCTION; ORCP 79 A(1)(b).**

14 Pursuant to ORCP A(1)(b), a temporary restraining order or preliminary injunction may be
15 obtained when:

16 **A(1)(b)** When it appears that the party against whom a judgment is sought is doing or threatens, or is
17 about to do, or is procuring or suffering to be done, some act in violation of the rights of a party
18 seeking judgment concerning the subject matter of the action, and tending to render the judgment
ineffectual.

19 ORCP 79 (A)(1)(b). While there remains argument related to actual and attempted
20 implementation of the Media Policy as far back as October 26th, 2023, both by staff and then
21 questionable actions that are separately challenged pursuant to ORS Chapter 192 by the board of the
22 Oregon State Fair Council, it is beyond clear the policy was adopted on February 23rd, 2024. However,
23 challenges still remain under ORS Ch 192 as to the holding of the February 23rd meeting in Plaintiff's
24 complaint. As of now, any enforcement that Defendants or its staff may take would be a violation of the
25 rights of the Plaintiff and innumerable other journalists or citizens they deem subject to the Media

1 Policy. This would prevent the exercise of a constitutional right afforded to all citizens, and would
2 further engage to compel speech and waiver of rights afforded under the Oregon and U.S. constitutions.
3 The rights of the Plaintiff and all Oregonians are the subject matter of this action. Once these rights are
4 infringed, Plaintiff and all other Oregonians, no later Judgment can restore the right that was deprived
5 to them, or compensate for the deprivation. *See* Elrod, 427 at 373; *Melendres*, 695 F3d at 1002;
6 *Elkhorn Baptist Church*, 366 Or at 546 (Garrett, J., concurring).

7
8 **BOND REQUIREMENT**

9 **7.**

10 No bond is required pursuant to ORS 28.020. Further, the court is required to dispense with
11 any bond requirement in this instance pursuant to ORS 82 A(1)(b)(ii) as no security bond can be
12 required where “[a] restraining order or preliminary injunction is sought to prevent unlawful conduct
13 when the effect of the injunction is to restrict the enjoined party to available judicial remedies.” *Id.* . In
14 this case, a Preliminary Injunction will only require Defendants to adhere to the status quo which has
15 existed through the long history of the operation of the Oregon State Fairgrounds. Any position by the
16 Defendants that the enforcement of the Media Policy somehow constitutes an emergency is
17 unsupportable.

18 Alternatively, should the Court find a bond is necessary to issue the restraining order or
19 preliminary injunction, Plaintiff contents that this bond should be for a nominal amount because of the
20 purpose of the bond under ORCP 82 is “for the payment of such costs, damages, and attorney fees as
21 may be incurred or suffered” by Defendants if they are found to have been “wrongfully enjoined or
22 restraining.” Here, the Oregon State Fair Council can defer paying filing fees as it is a public
23 corporation, not a private entity. *See* ORS 20.140. Further, Defendants are not entitled to attorney fees
24 in this action and will not incur damages as a result of being enjoined until the legality of the Media
25 Policy is determined.

1 CONCLUSION

2 7.

3 In light of the foregoing, and pursuant to ORCP 79, Plaintiff respectfully moves that this
4 Court enter a Temporary Restraining Order & Order to Show Cause why Preliminary Injunction Shall
5 Not Issue, enjoining Defendants from enforcing their unconstitutional and oppressive news Media
6 Policy until a determination on the merits can be reached. Plaintiff further moves this Court to issue a
7 Preliminary Injunction for the same. Absent this Court's intervention, Plaintiff and other
8 representatives of the news media will be deprived of Constitutional rights to engage in freedom of
9 speech, and of the press, pursuant to Article 1, Section 8, of the Oregon Constitution; and the 1st
10 Amendment of the United States Constitution. This deprivation of rights, even if only during the
11 pendency of this case, cannot be afforded in a free society in which a free press is necessary to ensure
12 accountability and transparency of the people's government.

13
14 RESPECTFULLY SUBMITTED this 1st Day of March, 2024.

15
16 /s/ Justin Alderman

17 _____
18 Justin Alderman, Plaintiff, Pro Se
19 jalderman@equestrianmedia.group
20 4742 Liberty Rd S, Ste 361
21 Salem, OR 97302
22 (302) 265-4130
23
24
25



Updated December 4, 2023

The Oregon State Fair and Exposition Center (OSFEC) recognizes the importance of media coverage in promoting our events, non OSFEC produced events and activities. This media policy is established to ensure fair and equitable access for all media representatives while maintaining the safety and integrity of our events and facilities.

Media Representative Definition: Individuals or organizations engaged in the dissemination of news and information, including but not limited to journalists, reporters, photographers, videographers, and bloggers.

Licensee Events:

OSFEC often leases their facilities for non OSFEC produced events. The Event Lessor have their own policies and procedures separate from OSFEC that must be followed. Media representatives should contact the event producer prior to covering a public event to learn their media protocol. This information can be found at oregonstateexpo.org.

Media Access:

- Reporters and media personnel must request accreditation from the OSFEC media relations department or Event Lessor in advance of the event.
- Accreditation will be granted at the discretion of the OSFEC staff or Event Lessor.
- These credentials must be prominently displayed at all times while on the fairgrounds.

Conduct and Professionalism: Media representatives are expected to conduct themselves professionally at all times. This includes respecting fairgoers, exhibitors, staff, event attendees and fellow media representatives. Any disruptive or unethical behavior may result in the revocation of media credentials.

- Strive for accuracy and fairness in their reporting. OSFEC reserves the right to correct any inaccuracies reported about our events or facilities.
- Respect the privacy and rights of event attendees, participants, and staff.
- Do not disrupt event activities and follow instructions from staff and security personnel.

Video and Photography: Photography and video are allowed within designated areas unless otherwise specified or directed by Event Lessor.

- Special access may be required for specific areas or sessions; obtain necessary permissions in advance.
- Respect copyright and intellectual property rights of others.
- Commercial photography, videography, or filming is prohibited without prior written consent from OSFEC or Event Lessor.



Interviews:

- Prior to conducting interviews, reporters should seek permission from individuals or organizations they wish to interview.
- Ensure that interviews do not impede the flow of event activities.

Safety and Security:

- Media representatives must adhere to OSFEC's or Event Lessor's security protocols. Follow the instructions of security personnel and cooperate during security checks.
- Do not obstruct emergency exits, fire lanes, or restricted areas.

Equipment and Gear:

- Reporters are responsible for their own equipment and gear.
- Ensure that equipment does not pose a safety hazard or disrupt event activities.

Social Media and Online Content:

- When posting content related to the event on social media, use official event tags @OregonStateFair and hashtags #OregonStateFair and #OregonStateExpo, and mention the Oregon State Fair and Exposition Center where appropriate.
- Do not share sensitive or confidential information without authorization.

Non-Compliance:

- Violations of this media policy may result in the revocation of accreditation and removal from the events.
- Legal action may be taken if applicable laws are violated.

Media Relations Contacts:

For media inquiries and accreditation requests, please contact:

- Exposition Center Events: Danette Ficken - dficken@oregonstatefair.org
- Oregon State Fair: Kimberly Jacobsen - media@oregonstatefair.org

The Oregon State Fair and Exposition Center reserves the right to amend this media policy as needed. Reporters will be informed of any changes in advance.

By participating in our events, reporters and media personnel agree to abide by this media policy.

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

JUSTIN ALDERMAN, an individual,

Plaintiff,

vs.

OREGON STATE FAIR COUNCIL dba
OREGON STATE FAIR, an Oregon Public
Corporation, and
KIM GREWE-POWELL, the Oregon State Fair
Director, in her official capacity

Defendant(s),

)
) Case No. 24CV10262
)
)

) **COMPLAINT - VIOLATIONS OF ORS**
) **CHAPTER 192 & 565; ART. 1, SEC. 8, OR**
) **CONST.; and AMEND 1 & 14., U.S. CONST.**

) **DECLARATORY & INJUNCTIVE RELIEF**

) **(NOT SUBJECT TO MANDATORY**
) **ARBITRATION)**
)
)

Plaintiff alleges the following:

Summary

In early October of 2023, the Oregon State Fair disclosed a “Media Policy” (Exhibit A) as part of an agenda packet for the Oregon State Fair Council (“OSFC”) Oct. 26th, 2023, meeting for adoption, but the policy was not properly voted on despite a motion and deliberations in order to gather further public information and professional input. The Media Policy raised issues surrounding its constitutionality and assault on freedom of speech and the press, going so far as requiring that journalists permit the government and/or other private parties the right to make any corrections to news reporting they might demand. The October meeting minutes of the OSFC were then approved in

1 December, but the minutes made no mention of the motion on the Media Policy and deliberations and
2 direction to the council’s director. Due to the significant omissions, plaintiff filed a grievance directly
3 with the OSFC pursuant to new standards under Oregon House Bill 2805 which expanded authority by
4 the Oregon Government Ethics Commission (“OGEC”) and created a new requirement before a
5 complaint may be filed with the OGEC on any alleged violations of Oregon Public Meetings Law
6 (“OPML”). Counsel for OSFC later responded and denied the allegations, but stated the OSFC would
7 correct its minutes which required a vote at its next meeting which was set for January 2024. Instead of
8 a motion and vote to amend the October 26th, 2023, minutes to reflect what actually happened, the
9 council voted to falsely amend that the Media Policy had been voted on and adopted during its October
10 26th, 2023 meeting. The OSFC council then held a special meeting with notice provided only 5 hours
11 prior to the media which constitutes an “emergency” meeting under the OPML.

12
13 The Director also implemented the media and records policy in the interim and prior to the
14 initial consideration by the council in violation of ORS 565.470(3). In at least the recent intervening
15 months, the Director has also engaged in repeated violations of ORS 565.539(4) concerning financial
16 reporting to the council, including failing to produce statements from a bank. The Director also
17 improperly delegated the task of the financial report starting in November to another member of staff in
18 violation of ORS 565.480(4).

19
20 **Venue Facts & Parties**

21 **1.**

22 Defendant Kim Grewe-Powell (“Director”) is believed to be a resident of Marion County and
23 works as the State Fair Director (a position also referred to as CEO) of the OSF and sits on the OSFC
24 as a non-voting director and advisor.

25 //

2.

1
2 Defendant Oregon State Fair Council dba Oregon State Fair (“OSF”) is an Oregon public
3 corporation established pursuant to ORS 565.456 and which is a “public body” as defined in ORS
4 192.610(4). Its principal place of business is located at 2330 17th St NE, Salem, OR 97301,

3.

5
6 The Oregon State Fair Council Board (“OSFC”) ordinarily meets in Marion County at the OSF’s
7 principal place of business and is the main “governing body” of the OSF. While OSFC could be
8 interpreted to mean the public body as well as its main governing body, the use of “OSF” is used
9 herein to distinguish the public body, while “OSFC” shall be used to reference the governing body (aka
10 council/board).

4.

11
12 At all relevant times, at least a quorum of the OSFC knew of the legal requirements imposed
13 by ORS 192.610 to 192.690.

5.

14
15 At all relevant times, at least a quorum of the OSFC and Director knew of the legal
16 requirements imposed by ORS 565.470, ORS 565.539, and ORS 565.480, statutes disseminated in full
17 on the council’s own website and internal documents.

6.

18
19 Compliance with these transparency laws was a topic of meetings as well as mention in
20 public testimony, communications, and likely legal consultation as recently as October of 2023 through
21 January of 2024.

7.

22
23 On January 25th, 2024, the OSFC, through a vote that passed to amend its October 26th,
24 2023 meeting minutes, stated falsely that the OSFC did in fact vote on a motion and successfully
25 adopted the “Media Policy” and “Public Records Policy”.

1 **8.**

2 This vote was made despite the OSFC having decided in October that it would seek further
3 public information and input prior to the adoption of the policy after receiving public testimony,
4 including by the plaintiff, raising concerns regarding the constitutionality of many provisions of the
5 policy. This included instruction to the Director to seek further information from professional news
6 media organizations for the council members.

7 **9.**

8 The Director of the OSF implemented the Media Policy prior to the October 26th meeting,
9 including sending it to its entire exhibitor list even hours before the OSFC was to deliberate on the
10 policy, and during a December 4th update to the policy; exceeding authority in establishing public
11 policy clearly required to be approved by the OSFC under ORS 565.470(4).

12 **10.**

13 The Director of the OSF continues– and the OSFC continues to permit– delegation of the task
14 of giving a financial report to the OSFC in clear violation of ORS 565.539(4) and 565.480(4).

15 **11.**

16 The Director of the OSF continues– and the OSFC continues to permit– in failing to provide
17 accounting records that are from a bank, and not just its own accounting records, in violation of ORS
18 565.539(4).

19 **12.**

20 As detailed below, the Defendants violated ORS 192.610 to 192.690, ORS 565.470, ORS
21 565.539, and ORS 565.480.

22 **13.**

23 As detailed below, the OSFC’s Media Policy violates Article 1, Section 8 & 20, of the Oregon
24 Constitution; as well as the 1st & 14th Amendments, of the United States Constitution.

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14.

At all material times mentioned herein, Justin Alderman (“Alderman”) was a resident of the State of Oregon and typically attends the Oregon State Fair each year. He also regularly conducts work as a journalist, including but not limited to, in his capacity as a managing editor and investigative reporter with Equestrian Media Group, a news publication company which includes the online publication NW Horse Report, a publication which has recently been reporting on public scrutiny involving the Oregon State Fair and conduct by its public officials, as well as efforts to generally cover equestrian type events which take place at the OSF. Venue is also proper according to ORS 192.680(2) for matters of the OPML.

15.

Among other relief, Plaintiff seeks to (a) void the OSFC’s adoption of the Media Policy and Public Records Policy due to the false amendment of the meeting record/minutes, followed by the failure to comply with notice requirements for special meetings (b) void and deem unenforceable the Media Policy, (c) resolve that the Oregon State Fair Director and staff cannot implement matters of public policy without the approval of the OSFC, (d) compel the Defendants to comply with financial reporting requirements to the OSFC by not permitting the OSF Director to delegate the task, (e) resolve that the OSF Director must also produce statements from a bank and not just internal accounting documents in reports to the OSFC, (f) compel the OSFC and Director to promptly seek training on Oregon Public Meetings Law from the OGEC, for themselves and other executive or administrative staff of the OSF, and (g) compel Defendants to comply with the law in the future.

Factual Background

16.

On October 26th, 2023, the OSFC held a public meeting at 1:30pm. An agenda, and packet of materials for reference by the council members, was provided days prior to the public on the body’s

1 website at “<https://oregonstatefaircouncil.org/meetings-1>”. The agenda included an action item for the
2 “State Fair Council” that was titled “Review and approval of Media Policy and Public Record
3 Procedure”. The packet included the “Media Policy” and “Public Records Procedure”.

4 **17.**

5 On the day of the October OSFC meeting, Plaintiff and his cameraman, Zack Calvo, arrived
6 shortly before the start of the public “meeting” as defined by ORS 192.610(5). Upon arrival with
7 camera equipment, OSF staff members instructed Plaintiff and Calvo to sign-in and that they needed to
8 comply with the “Media Policy”. The Media Policy was presented on the table in a manner that
9 indicated it was in fact being enforced.

10 **18.**

11 Plaintiff then asked for clarification to members of the Staff if the Media Policy was current,
12 due to confusion as this the OSFC meeting agenda stated the policy was merely under consideration for
13 adoption.

14 **19.**

15 An unknown OSF staff member confirmed the policy is current, and Director Grewe-Powell
16 herself stated on camera immediately after that the policy “doesn’t have to be adopted”.

17 **20.**

18 Despite not being “accredited” media as outlined in the policy, Plaintiff and Calvo ignored the
19 policy and ultimately recorded the contents of the public meeting pursuant to rights afforded under
20 ORS 192.630.

21 **21.**

22 After partial deliberations by the OSFC regarding both the Media Policy and a separate public
23 records policy, a council member motioned to accept both policies. Despite the OSFC Chair, former
24 State Rep. Vicki Berger, asking for a second to the motion, further deliberations started after another
25 member of the OSFC raised concerns, brought up during public testimony, which included Plaintiff’s.

1 The concerns also included the potential of litigation due to the questions of the constitutionality of
2 such a policy. No second to the motion was ever given by another OSFC voting member. The OSFC
3 Chair then stated she believed the Director could implement the policy without the boards approval.
4 The OSFC ultimately decided without a vote to table until further deliberation and information
5 gathering. The OSFC Chair stated that the policy was to be listed as “draft” but could remain on the
6 OSF’s websites. The Director stated that this would happen.

7 **22.**

8 Approximately a week following the October 26th meeting, the policies on at least one of the
9 sites was updated to include a single line indicating it was “DRAFT”, but the size of the text was
10 similar to the rest of the wording in the document.

11 **23.**

12 Despite the next OSFC meeting being scheduled for December 14th, 2023, within days of
13 December 4th the Media Policy was again updated to remove any mention of it being drafted and
14 instead had a label saying “Updated December 4th, 2023”.

15 **24.**

16 No notices of any public meetings of the OSFC or any of its subcommittees, including
17 Executive Council, appear to have taken place for any other meetings between the generally scheduled
18 meetings on October 26th, and December 14th, at least publicly, and no records of any meeting or
19 notice of an executive session only were made as required under ORS 192.630. The only notice
20 provided was for the scheduled December 14th, 2023, meeting just under a week before the meeting.

21 **25.**

22 During the December 14th, 2023, OSFC meeting, the meeting minutes of the October 26th,
23 2023, meeting were adopted by the council unanimously. The meeting minutes, included in the
24 information packet provided to the OSFC, included no mention of any motions or deliberations by the
25 OSFC ever taking place during the previous October 26th, 2023, meeting. The minutes only included a

1 statement that the Director informed the OSFC that the Media Policy was not available on their three
2 websites and that it had been sent out to all of the exposition clients of the OSF.

3 **26.**

4 Plaintiff appeared and gave public testimony sharing further concerns regarding both the
5 Media Policy and the handling of the OSFC financial reporting not being made by the Director during
6 the same meeting after the adoption of the meeting minutes, specifically providing citation to the OSFC
7 and the Director of ORS' 565.539 and 565.480. At the conclusion of Plaintiff's testimony, having
8 anticipated the OSFC may indeed adopted the meeting minutes as drafted in the packet released days
9 earlier, he submitted a formal grievance pursuant to Oregon House Bill 2805 for alleged violations of
10 the Oregon Public Meetings Law, ORS 192.610 to 192.690, providing enough copies to the OSFC
11 Chair to provide all members of the council as well as the Director.

12 **27.**

13 On January 3rd, 2024, the attorney for the OSF/OSFC, Elliot Field with Garrett Hemann
14 Robertson P.C., responded to Plaintiff's grievance and provided a copy to the Oregon Government
15 Ethics Commission pursuant to the 21 day timeline required of HB 2805. The OSFC denied
16 committing any violation of the Oregon Public Meetings Law at its October 26th, 2023 meeting,
17 although the actual violation allegedly occurred on December 14th, 2023 upon the approval of the
18 meeting minutes drafted by the OSF staff.

19 **28.**

20 The OSFC argued that since the meeting minutes were also required and claimed they are
21 publicly available, but only upon a specific request, they complained with ORS 192.650(1)(b). At all
22 material times, only the written minute meetings appeared on the OSFC's website on the meetings
23 page, and there is no statement or mention that separate audio recordings are available. Mr. Field stated
24 in the January 3rd grievance response that the OSFC recognized "the value of transparency in the
25 records it creates" and intended to bring forth an action item to correct the minutes:

1 “While the OSFC denies committing any violation of Oregon public meeting law at its October 26,
2 2023 meeting, it recognizes the value of transparency in the records it creates. For this reason, at the
3 next OSFC meeting, Council leadership will bring forth an action item to amend the October 26, 2023
4 meeting minutes to reflect that a motion was made to accept the media and public records policies and
5 procedures, but that ultimately no vote or council action was taken.”

6 **29.**

7 During a January 25th, 2024, meeting of the OSFC, the council adopted a resolution to amend
8 the October 26th meeting minutes to read that the OSFC had passed a motion to accept the media and
9 public records policy. Plaintiff was provided an opportunity to provide public testimony by phone when
10 offered prior to the amending of the minutes. Plaintiff outlined that the proposed action to state that the
11 OSFC accepted the minutes during its October 26th, 2023, meeting would not only be false and
12 inaccurate, but conflicted with the response by the OSFC’s own attorney earlier that month.

13 **30.**

14 Following the meeting on January 25th, 2024, Plaintiff further communicated the concerns of
15 the conflicting issue to a council member and its attorney, later including at least the majority of the
16 council members on the communication after receiving a contact list of council members from a public
17 records request.

18 **31.**

19 On February 23rd, the attorney for Defendant OSF provided notice at approximately 8:52 am
20 of a special meeting of the OSFC scheduled for 2 pm the same day. The meeting notice clearly gave
21 repeated indication it was being held both in-person and via Zoom. However, a news cameraman and
22 colleague of Plaintiff was unable to gain access to the building where such meetings are held in-person.

23 **32.**

24 During the meeting, the OSFC again adopted an amendment to its October 26th meeting
25 minutes to reflect a motion and deliberations had taken place, but no vote was made. The motion did
not include any draft document of the proposed language and did not include any substance of such
discussion. *See* ORS 192.650(1)(d).

1 added)

2 **37.**

3 It appears beyond clear that Defendant OSF's reliance on the "or" statement is questionable
4 on its face considering its decision to provide and have both written minutes and an audio recording,
5 but it is completely disingenuous to the clear legislative intent, especially when Defendant OSF only
6 publicly provides a copy of its meeting minutes and not even making a public notice that the audio can
7 be requested, albeit through a public records request which only further diverges from the intent of
8 ORS 192.650. No draft document for the voted on amendment to the October 26th meeting minutes
9 was provided in the packet that is allegedly provided to members of the council for the January 25th,
10 2024 meeting for consideration.

11 **38.**

12 While Defendant OSF's attorney stated on January 3rd in response to a former grievance that
13 the OSFC would correct the written "meeting minutes to reflect that a motion was made to accept the
14 media and public records policies and procedures, but that ultimately no vote or council action
15 was taken," the response made no mention that the OSFC would also include action items to fully
16 amend the minutes to also include "the substance of any discussion on any matter;" *Id.* at (1)(d).

17 **39.**

18 The actual action taken to amend the Oct 26th, 2023 minutes, that the media and public
19 records policies were adopted was not a "true reflection" of what actually took place, further violating
20 ORS 192.650, and also failing to provide any details as to the substance of discussions. The action also
21 never resulted in the required production of meeting minutes, left alone a "draft" that is required to be
22 provided for future approval.

23 **40.**

24 The actions of the OSFC on February 23rd did not constitute an emergency special meeting
25 requiring less than 24 hours notice. Even a special meeting with at least 24 hours of notice is

1 questionable when the OSFC has not provided “actual notice” to clearly interested parties, which in
2 this case would be media organizations that are known to the OSFC to cover events at the OSF
3 property.

4 **41.**

5 The multiple actions to correct the record of the October 26th meeting minutes also ultimately
6 failed to publicly provide within a reasonable time, the actual amendment meeting minutes to date,
7 including any drafts, in violation of 192.650. To date, the vote taken on January 25th, 2024, to amend
8 the October meeting minute, still ultimately failed to include the substance of the discussions, and no
9 minutes for the January 25th meeting have yet to be made available even in draft form, despite the
10 council typically having those draft minutes available within days following the meeting.

11 **42.**

12 The second vote, taken on February 23rd, 2024, during the OSFC’s special meeting, where the
13 passed resolution to amend the October 26th, 2023, meeting minutes also ultimately failed to included
14 the substance of deliberations as required pursuant to ORS 192.650(1)(e), leading to a continued
15 failure, despite also receiving Plaintiff’s grievances and other multiple communications pointing to the
16 issue in the intervening time.

17 **43.**

18 While records do not appear to be provided publicly for any minutes related to the OSFC’s
19 subcommittees, and no records of public notices made, Plaintiff relies on records of the OSFC’s past
20 meeting minutes as prima facie evidence of a violation by Defendant OSF’s OSFC of the Oregon
21 Public Meetings Law. Of particular note is the January 12th, 2023 meeting which makes only a simple
22 mention of a report of an “Executive session action” by the Executive Committee. The minutes for that
23 meeting which were included in the packet for the March, 2023, meeting of the OSFC went on to state
24 that, “Chair berger stated that the Executive Committee will be meeting before the next council
25 meeting to discuss Kim’s salary.”, constituting a violation of the OPML. *See* ORS 192.660(7) *Id.* (8)

1 47.

2 Pursuant to ORS 192.680, asks this court for a judgment declaring the following:

3 (A) The OSFC’s adoption of the original meeting minutes on December 14th, 2023 for the October
4 26th meeting violated the law.

5 (B) The OSFC’s adoption of a resolution on January 25th, 2024, to amend the October 26th
6 meeting minutes, stating falsely that the media and public records policy was adopted, violated
7 the law.

8 (C) The OSFC’s adoption of a resolution on February 23rd, 2024, failed to remedy violations of
9 ORS 192.650 by failing to include the substance of discussions that took place and how
10 originally voted on those matters. *Id.* (1) (c) and (d)

11 (D) The OSFC’s actions on February 23rd, 2024, failed to comply with providing notice
12 “reasonably calculated to give “actual notice” to interested persons under ORS 192.640 and did
13 not constitute a reasonable “emergency”. *Id.* (3)

14 (E) The OSFC’s subcommittees, to include its executive committee, have for any such period of
15 this time the court holds authority to rule on, violated ORS 192.640 and 192.660 by failing to
16 provide any public notices or recording of minutes, and are governing bodies pursuant to the
17 Oregon Public Meetings Law.

18 (F) The Defendants attempted or actual enforcement of the Media Policy is a violation of the
19 OPML under ORS 192.630.

20
21 Plaintiff asks the court to:

22 (A) Pursuant to ORS 192.680, void the OSFC’s amendments of the October 26th, 2023 meeting
23 minutes related to both the Media Policy and public records policy, effectively rescinding any
24 actual or implied implementation at that time.

25 (B) Pursuant to ORS 192.680, void the OSFC’s adoption of the Media and public records policy

1 made on February 23rd, 2024, pursuant to ORS 192.680(1).

2 (C) Compel the OSFC, in regards to its media and public records policy, to resume public
3 deliberations, information gathering, and public input in accordance with its decision made on
4 October 26th, 2023, and to do so during public meetings providing for proper and “actual
5 notice” under ORS 192.640, should it continue to pursue such policy.

6 (D) Compel Defendant OSF, its OSFC, executive & administrative staff, and its Director, to seek
7 training from the Oregon Government Ethics Commission on the Oregon Public Meetings Law
8 without unreasonable delay, followed by a consultation with the OGEC to review its practices
9 6 months following the completion of such training.

10 (E) Enjoin the Defendants from any attempted or actual enforcement of the Media Policy at public
11 meetings.

12 (F) Enjoin the Defendants from future violations of ORS 192.610 through ORS 192.690.

13 **48.**

14 To whatever extent Plaintiff is represented by counsel, seeks an award of attorney fees
15 pursuant to ORS 192.680(3) and as equitable remedy.

16 **49.**

17 If the court finds any violation of law is the result of willful misconduct by any voting
18 member(s) of the OSFC, not to include advisory members, then Plaintiff asks the court to make them
19 liable to Defendant OSF to reimburse it for attorney fees paid to Plaintiff pursuant to ORS 192.680(4).

20 **Constitutional Violations - Media Policy**

21 **50.**

22 Plaintiff incorporates paragraphs 1-41 as if fully set forth herein.

23 **51.**

24 On its face, the Defendants Media Policy is a blatant assault on well-established protections
25

1 of freedom of speech and freedom of the press guaranteed by both the U.S. Constitution's 1st
2 Amendment; Article 1, Section 8, of the Oregon Constitution; as well as supporting legal precedents at
3 numerous levels of our State and federal judiciary, including the U.S. and Oregon Supreme Courts.

4 **52.**

5 While many public bodies in Oregon may have some sort of "Media Policy", typically such
6 policies are internal in nature and intended to provide guidance to that public body's officials when
7 working with members of the news media. Instead, Defendant's Media Policy is the creation of
8 additional requirements that only apply to members of the news media and is intended, as will be
9 clearly outlined below, to limit free speech and press activities.

10 **53.**

11 The Media Policy also attempts to blur the lines between access to publicly accessible areas
12 within what is well established as at least a limited public forum on what is clearly public property, if
13 not a traditional public forum at other times, controlled by a public corporation. In Oregon, a public
14 corporation "is a governmental entity performing governmental functions and exercising governmental
15 powers.." See ORS 565.456. Plaintiff makes no argument that private event lessors of a specific
16 portion of the grounds at the OSF enjoy the rights to generally control access and conduct within that
17 area. Many areas of the OSF property, when it is not conducting its annual state fair, have always and
18 historically been open to the public and thus publicly accessible and available to Oregonians.

19 **54.**

20 As it is already clear that private event lessors already have the right to control access to
21 facilities they would lease, the Defendants Media Policy and dissemination thereof, seeks to further
22 restrict free press activities by members of the media requiring event lessors to comply with and
23 implement their own policies along the Media Policy's framework. That framework further restricts the
24 access to members of the media and applies its own unconstitutional requirements on the private event
25 lessors. Such action is clearly an act of viewpoint discrimination through violations under all of the

1 four cited State & U.S constitutional provisions and the policy seeks to use such provisions as a guise
2 to enable the ability to employ arbitrary restrictions on specific viewpoints and representatives of the
3 news media using private third-parties.

4 **55.**

5 The Media Policy first attempts to create a process of “accreditation”, also known as
6 speech-licensing, despite the fact that there appears to be no procedures, explanations, or further
7 definitions that outline this process and what those requirements actually are, except that it’s at the
8 discretion of Defendants. The policy states:

9 “Reporters and media personnel must request accreditation from the OSFEC media relations
10 department or Event Lessor in advance of the event,” and “Accreditation will be **granted at the**
discretion of the OSFEC staff or event Lessor”. *See Exhibit A*

11
12 This would ostensibly permit government officials to engage in viewpoint discrimination without any
13 accountability, giving clear doubt as to the true intentions of the Defendants, especially since the policy
14 fails to detain what actual additional privileges are granted to representatives of the news media as
15 Defendants have defined.

16 **56.**

17 The OSFC Director, Defendant Kim Grewe-Powell, also publicly acknowledged during the
18 October 26th, 2023 meeting that the effort to quickly implement the Media Policy was the result of an
19 incident on September 9th, 2023 at the Oregon State Fairgrounds. This incident led to reporting by
20 Plaintiff that led to increased media and public scrutiny on alleged conduct of the Director. That
21 included another incident with Defendant Grewe-Powell’s threats to have Plaintiff, and his cameraman
22 Mr. Calvo, arrested by the Oregon State Police on or about September 23rd, claiming, albeit
23 inaccurately, that it was illegal to film and record her without permission. Defendant Grewe-Powell
24 also made recorded statements denying she was a public official or that Defendant OSF was a public
25 body.

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57.

In 1995, the Supreme Court declared; “When the government targets not the subject matter but particular views taken by speakers on a subject, the violation of the First Amendment is all the more blatant. Viewpoint discrimination is thus an egregious form of content discrimination. The government must abstain from regulating speech when the specific motivating ideology or the opinion or perspective of the speaker is the rationale for the restriction.” *See Rosenberger v. Rectors and Visitors of the University of Virginia*, 515 U.S. 819 (1995)

58.

First & Fourteenth Amendment precedents undoubtedly prevent the exercise of viewpoint discrimination under the guise of permit schemes that give unchecked discretionary power to “speech-licensing” officials. *See Schneider v. State*, 308 U.S. 147 (1939). In *Schneider*, the Court struck down ordinances that banned leafleting without a license, but gave the licensing official unlimited discretion when granting or denying an application. Giving such power without any transparency and articulated government interest, allows Defendants to engage in what ostensibly would be content-based speech regulation that violates the First Amendment’s Free Speech Clause. In *Schneider*, the Court declared: “[W]e hold a municipality cannot... require all who wish to disseminate ideas to present them first to police authorities for their consideration and approval, with a discretion in the policy to say that some ideas may, while others may not, be carried to the homes of citizens.” The Court's main concern was that speech-licensing officials would be free to engage in viewpoint discrimination if limits were not imposed on such regulatory discretion. That concern has been borne out by the many successful challenges in the wake of the Court's ruling in *Schneider*. The practice of news gathering and practice of freedom of press is clearly less of a potential issue requiring government intervention compared to acts of leafleting and advocacy when considering time, place, and manner restrictions.

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59.

The Defendants existing Oregon State Fair Rules and Policies document also raises concerns in this area by requiring non-media individuals or organizations wishing to engage in free speech demonstrations to provide an application detailing their content or ideas, not just the manner of any proposed demonstrations. Doing so, despite the claim that the Defendants “will not discriminate on the basis of content of ideas or beliefs,” raises serious questions as to the Defendants intent and unchecked exercise of constitutional restrictions. The same policy also appears to apply its policies to areas outside of its grounds/gates that would be public sidewalks which are undoubtedly traditional public forums and which our Courts have repeatedly found provide the greatest free speech and press protections.

60.

In what is the most egregious aspect of the Defendants “Media Policy”, which attempts to compel and/or censor speech through a provision which states: “**OSFEC reserves the right to correct any inaccuracies reported about our events or facilities.**” (emphasis added) *See Exhibit A* (OSFC Media Policy - Updated December 4th, 2024). The policy later states, “Violations of this Media Policy may result in the revocation of accreditation and removal from the events. Legal action may be taken if applicable laws are violated.”

61.

The Media Policy further goes on to also create a requirement that news publications made online need include linked references to Defendants social media accounts:

“When posting content related to the event on social media, use official event tags @OregonStateFair and hashtags #OregonStateFair and #OregonStateExpo, and mention the Oregon State Fair and Exposition Center where appropriate.”

62.

The Media Policy outlines an unclear and also unconstitutional requirement by stating, “Do not share sensitive or confidential information without authorization,” but fails to articulate what

1 content would be considered “sensitive or confidential”. Even so, anyone, especially a journalist, is free
 2 to print such information collected in a public sphere, especially if the alleged sensitive or confidential
 3 information pertained to the conduct of government officials engaged in their official duties. While this
 4 was most recently supported by the opinion of the U.S. Court of Appeals for the Fourth Circuit in the
 5 case of *Sharpe v. Winterville Police Department* last year, it joins a clear existing consensus from the
 6 First, Third, Fifth, Seventh, Ninth, Tenth, and Eleventh Circuits that has already been endorsed. Other
 7 information that could potentially be obtained from non-government actors would also not enjoy any
 8 expectation of privacy when in public, another well established fundamental legal concept which
 9 creates doubt as to this policy's attempt to stifle free speech and press rights under such a vague claim
 10 of protecting a non-right and allowing the Defendants to further stifle or restrict access by their defined
 11 media representatives.

12 **63.**

13 It is well established that the government cannot force an individual or group to support
 14 certain expressions. Thus, both the State and U.S. constitutions not only limit the government from
 15 punishing a party for their speech, it also prevents the government from punishing a party for refusing
 16 to articulate, advocate, or adhere to the government’s approval of their message.

17 **64.**

18 On the federal level, the framers designed the Free Speech Clause of the First Amendment to
 19 protect the “freedom to think as you will and to speak as you think.” *Boy Scouts of America v. Dale*,
 20 530 U.S. 640, 660–661 (2000) (internal quotation marks omitted). They did so because they saw the
 21 freedom of speech “both as an end and as a means.” *Whitney v. California*, 274 U.S. 357, 375 (1927)
 22 (Brandeis, J., concurring); see also 12 *The Papers of James Madison* 193–194 (C. Hobson & R.
 23 Rutland eds. 1979). An end because the freedom to think and speak is among our inalienable human
 24 rights. See, e.g., 4 *Annals of Cong.* 934 (1794) (Rep. Madison). A means because the freedom of
 25 thought and speech is “indispensable to the discovery and spread of political truth.” *Whitney*, 274 U. S.,

1 at 375 (Brandeis, J., concurring). By allowing all views to flourish, the framers understood, we may
2 test and improve our own thinking both as individuals and as a Nation. For all these reasons, “[i]f there
3 is any fixed star in our constitutional constellation,” *West Virginia Bd. of Ed. v. Barnette*, 319 U.S. 624,
4 642 (1943), it is the principle that the government may not interfere with “an uninhibited marketplace
5 of ideas,” *McCullen v. Coakley*, 573 U.S. 464, 476 (2014) (internal quotation marks omitted).

6 **65.**

7 In the freedom of press context, the U.S. Supreme Court struck down compelled speech
8 requirements imposed on newspapers, while also seemingly suggesting that there is no need to evaluate
9 the government’s interest or its means. *See Miami Herald Pub. Co. v. Tornillo*, 418 U.S. 241, 257
10 (1974). In holding for the newspaper, the Court strongly rejected the idea that the government could
11 compel the news media to print certain pieces, so much so that there was no evaluation of the
12 government’s interests or its tailoring. *See Id.* at 258 (“It has yet to be demonstrated how governmental
13 regulation of this crucial process can be exercised consistent with First Amendment guarantees of a
14 free press as they have evolved to this time.”).

15 **66.**

16 While such a requirement under the Media Policy undoubtedly violates well established
17 precedent on the federal level, Oregon courts examine state constitutional issues before addressing the
18 federal one. *See State v. Kennedy*, 295 Or. 260, 262 (1983). The Oregon constitutional analysis starts
19 with the case of *State v. Robertson*, 293 Or. 402 (1982), in which the Oregon Supreme Court
20 established a framework for assessing whether a law violates Article 1, Section 8, of the Oregon
21 Constitution. *See also State v. Plowman*, 314 Or. 157 (1992). The framework goes to place laws that
22 affect speech into one of three categories: 1) laws that are directed at limiting certain identified speech
23 regardless of the medium of communication or the effects the speech produces; 2) laws that are
24 directed at the pursuit or accomplishment of a harmful result; and 3) laws that, without mentioning
25 speech, might be applied so as to affect it. The Court in the *Robertson* case established that laws within

1 the first category must fail when challenged under Article 1, Section 8, unless “the scope of the
2 restraint is wholly confined within some historical exception that was well established when the first
3 American guarantees of freedom of expression were adopted.” *Robertson*, 293 Or. at 412.

4 “No law shall be passed restraining the free expression of opinion, or restricting the right to speak,
5 write, or print freely on any subject whatever; but every person shall be responsible for the abuse of
6 this right.” *Art. 1, Sec. 8, Or. Const.*

6 **67.**

7 Freedom of speech and of the press are fundamental rights which are safeguarded by the due
8 process clause of the Fourteenth Amendment of the Federal Constitution. *Gitlow v. New York*, *supra*, p.
9 268 U.S. 666; *Stromberg v. California*, *supra*, p. 283 U.S. 368; *Near v. Minnesota*, 283 U.S. 697, 283
10 U.S. 707; *Grosjean v. American Press Co.*, 297 U.S. 233, 297 U.S. 243, 297 U.S. 244. The right of
11 peaceable assembly is a right cognate to those of free speech and free press, and is equally
12 fundamental. The First Amendment of the Federal Constitution expressly guarantees that right against
13 abridgment by Congress. But explicit mention there does not argue exclusion elsewhere. For the right
14 is one that cannot be denied without violating those fundamental principles of liberty and justice which
15 lie at the base of all civil and political institutions -- principles which the Fourteenth Amendment
16 embodies in the general terms of its due process clause. *Hebert v. Louisiana*, 272 U. S. 312, 272 U.S.
17 316; *Powell v. Alabama*, 287 U.S. 45, 287 U.S. 67; *Grosjean v. American Press Co.*, *supra*.

18 **68.**

19 The Defendants Media Policy also states in bolded text :

20 “The Oregon State Fair and Exposition Center reserves the right to amend this media policy as needed.
21 Reporters will be informed of any changes in advance. By participating in our events, reporters and
22 media personnel agree to abide by this media policy.” (emphasis added).

23 This goes to the extent of ostensibly applying this policy to even non-”accredited” media
24 representatives, and would, in addition to the acceptance of other unconstitutional provisions of the
25 policy, require Plaintiff and others to imply their agreement with such a policy or find themselves
subjected to abridging actions by the State, as was the case for the Plaintiff when he was trespassed

1 from a publicly accessible area of the Oregon State Fairgrounds on September 9th, 2023, simply for
2 having been filming only in publicly accessible areas, an act which resulted in false and inflammatory
3 claims by a private event lessor and officials with the Oregon State Fair. Plaintiff is not seeking in this
4 venue relief under 42 USC § 1983, but makes point to this matter as an example of an already
5 demonstrated action taken by Defendants.

6 **68.**

7 As is, the Defendant's Media Policy violates the Plaintiff's constitutional rights protected
8 under Article 1, Section 8, of the Oregon Constitution as well as the 1st and 14th Amendments of the
9 Oregon Constitution, as well as that of countless other Oregonian's and news media representatives.

10 **69.**

11 Plaintiff asks this court for a judgment declaring the following:

- 12 (A) The Defendants' Media Policy is a violation of Article 1, Section 8, of the Oregon
13 Constitution.
14 (B) The Defendants' Media Policy violates the 1st Amendment of the United States Constitution.

15
16 Plaintiff asks the court to:

- 17 (A) Enjoin the Defendants from any enforcement of the "Media Policy".
18 (B) Enjoin the Defendants from suggesting or requiring enforcement of its "Media Policy" or
19 requiring event lessors to provide procedures or engage in enforcement on behalf of the
20 Defendants.

21
22 **Fairs & Exhibits Laws Violations**

23 **70.**

24 Plaintiff incorporates paragraphs 1-69 as if fully set forth herein.

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71.

While the Defendants and the OSFC were aware of the requirements under ORS 565.390, Defendant Grewe-Powell delegated the task of providing a financial report to the OSFC to OSF staff member and subordinate Jean Wheat-Palm during the OSFC meeting on December 14th, 2023.

“Except as provided in this subsection, the state fair director shall provide to each meeting of the council a financial report that includes, but need not be limited to, a summary of account and investment activity, **and copies of any account or investment statements received from a bank,** investment firm or other source since the previous report was provided. The council may waive the financial report requirement if the council is meeting less than 30 days after a meeting to which the state fair director provided a financial report.” (Emphasis added) *See ORS 565.539(4)*

72.

After the financial report was given during the December 14th, 2023 meeting by Ms. Wheat-Palm, Plaintiff used a small part of his public comment period to bring further awareness to the OSFC and Director that such delegation was not in compliance with ORS 565.539(4) and 565.480(4).

73.

Despite the notice provided to the OSFC and the Director by Plaintiff, at the next public meeting of the OSFC held on January 25th, 2024, the Director again delegated to Ms. Wheat-Palm who provided the financial report to the OSFC. Plaintiff again pointed out the violation to the Defendants. Plaintiff later sent a subsequent email the same day raising the issue of the ongoing violation to the council’s new vice-chair and attorney, but to date has received no response or acknowledgement. That notice was later sent to a larger segment of the OSFC board members.

74.

Despite the delegation, Director Grewe-Powell was present at the meetings of the OSFC in December of 2023 and January 2024.

1 the clear language of the statute indicates “shall” be determined and approved by the council.

2 **“The Council shall determine and approve policies and procedures”** to further the mission and
3 purposes of the council and shall provide oversight and guidance to the state fair director and
4 employees of the council.” (emphasis added) *See ORS 565.470(3)*

5 **80.**

6 While there is little doubt the Director would have the authority to implement policy related to
7 employment and matters of an internal nature, if ORS 565.470(3) was not intended to also include
8 matters of clear public policy, then what policy matters would it actually intend to cover? It would be
9 hard to believe the legislature intended to essentially provide that the appointed council would
10 effectively be able to delegate all matters of public policy to an unelected person, especially when the
11 council for the OSF, a public corporation, is itself appointed by the Oregon Governor and who are not
12 elected by Oregonians in a manner typically seen by most elected governing bodies. Clear precedent
13 from the OSFC’s past meetings history shows that the OSFC has also been the body to approve the
14 single core document that covered matters of public policy, the “Oregon State Fair Rules and Policies”,
15 which was also last revised June of 2016 by the OSFC and last uploaded to the website
16 “<https://oregonstatefair.org>” in February of 2021.

17 **81.**

18 The Director authorized the dissemination of the Media Policy to their entire list of exhibition
19 clients in a manner that clearly indicated its effect even immediately prior to the October 26th, 2023,
20 OSFC meeting which was the first time the policy was to be brought forward to the public or even the
21 council's attention for deliberation and intended acceptance.

22 **82.**

23 The Director’s actions, and the inaction by the OSFC, violates ORS 565.470 which is clearly
24 intended to ensure public transparency and accountability.

25 //

1 **83.**

2 Plaintiff asks this court for a judgment declaring the following:

3 (A) Defendant OSF violated ORS 565.390(4) and 565.480(4) by permitting the Director to
4 delegate the task of providing the financial report to the OSFC during the December 14th,
5 2023, and January 25th, 2024 OSFC meetings.

6 (B) Defendant Kim Grewe-Powell, violated ORS 565.390(4) and 565.480(4) in delegating her duty
7 to provide the OSFC a financial report during the December 14th, 2023, and January 25th,
8 2024 OSFC meetings.

9
10 Plaintiff asks the court to:

11 (A) Enjoin the Defendants from permitting the OSF Director to implement any matters of public
12 policy, except that which has been properly deliberated in the course of public meetings and
13 adopted by resolution of the OSFC, pursuant to ORS 565.470(3), and in accordance with
14 Oregon Public Meetings Law.

15 (B) Enjoin the defendants from the delegation of financial reporting to the OSFC by the OSF
16 Director to members of staff or others in violation of ORS 565.390(4).

17 (C) Compel the Defendants and the OSFC to conduct a full review and reading of ORS Chapter
18 565 during the course of public meetings; allowing for any comments by appointed members
19 of the OSFC after the reading of each section, and to facilitate any consultation at the request
20 of any member of the OSFC with OSF's legal counsel or the Oregon Attorney General.

21 **84.**

22 WHEREFORE, Plaintiff seeks the findings and relief requested above plus costs and disbursements
23 pursuant to ORS 28.100 and the ORCPs, attorney fees to the extent Plaintiff is represented by or
24 supported by counsel and other relief or remedies the court deems just.

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RESPECTFULLY SUBMITTED this ____ day of February, 2023.

/s/ Justin Alderman

Justin Alderman, Plaintiff, Pro Se
jalderman@equestrianmedia.group
(302) 265-4130