



CAMERON F. WOGAN  
Circuit Judge

**Circuit Court of the State of Oregon**

for KLAMATH COUNTY  
316 Main Street  
KLAMATH FALLS, OREGON 97601  
(541) 883-5624, ext. 244  
Fax: (541) 882-6109

Beth Dunaway  
Judicial Assistant

Cecilia Britton  
Court Clerk

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Trial Division, Dept. of Justice  
Salem, Oregon

Mike Spencer  
Attorney at Law  
409 Pine Street  
Klamath Falls, Oregon 97601

Dan Bunch  
Klamath County Counsel  
305 Main Street  
Klamath Falls, Oregon 97601

Erika Hadlock  
Senior Assistant Attorney General  
Department of Justice  
1162 Court Street NE  
Salem, Oregon 97301

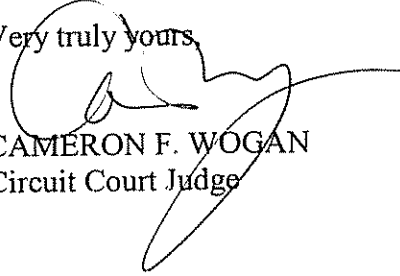
Re: Grieb v. Klamath County, et al.  
Case No. 0604555CV

Dear Counsel:

The state moves to dismiss the plaintiff's complaint and asserts that the court lacks subject matter jurisdiction (ORCP 21A(1)) and that the complaint fails to state a claim (ORCP 21A(8)). The court has subject matter jurisdiction because it is granted on the face of the statute. ORS 197.352(6).

The state makes a number of factual assertions in support of its motion to dismiss for failure to state a claim. However, a motion to dismiss under ORCP 21A(8) is decided based upon the face of the pleadings. On their face, the first and third claims for relief set forth causes of action against the state. Mr. Spencer should submit an order denying the state's motion.

Very truly yours,

  
CAMERON F. WOGAN  
Circuit Court Judge

CFW/bad