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FOR MULTNOMAH COUNTY, OREGON  
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*Of Attorneys for Defendants*

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

Portland Division

CYRUS ANDREW SULLIVAN,

Plaintiff,

v.

MULTNOMAH COUNTY, et al,

Defendants.

No. 3:19-cv-00995-JGZ

DEFENDANTS' ANSWER AND  
AFFIRMATIVE DEFENSES TO  
COMPLAINT

For their Answer to Plaintiff's Complaint (Docket No. 2), Defendants answer, deny and  
allege as follows:

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1.

Defendants deny every allegation in the Complaint except as expressly admitted in this Answer. Because the Complaint is fifty-two (52) pages of unnumbered paragraphs, Defendants will admit specific facts identified by page number under the PACER system.

2.

Defendants admit the district of Oregon is the proper venue for this federal litigation, admit that this court has jurisdiction over the federal claims and supplemental jurisdiction over the state claims (Pages 2, 3 and 4).

3.

Defendants admit that Plaintiff Cyrus Sullivan has been an inmate at the Multnomah County Detention Center in the past. Defendants admit that Plaintiff was an inmate held on a United States Marshal's hold in 2017. Admit that Plaintiff was an inmate at the Multnomah County Detention Center on June 28, 2017. (Page 9).

4.

Defendants admit that, on June 28, 2017, Plaintiff used profanity towards deputies on multiple occasions and admit that Plaintiff refused to comply with Multnomah County Deputies' requests to put on handcuffs for transport through the facility (Pages 9 and 10). Defendants admit that, when deputies entered Plaintiff's cell to handcuff him as Plaintiff requested, Plaintiff threw a handful of red powder made from crushed spicy chips into the face of one of the deputies. (Pages 10 and 11). Defendants admit deputies grabbed and handcuffed Plaintiff after he threw this red powder into the face of a deputy. Defendants admit Plaintiff was resistive and went dead weight during attempts to transport him. (Pages 10 and 11). Admit Plaintiff sustained injuries, deny that the County or any defendant used force in violation of state or federal law at

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any time, deny any of Plaintiff's claimed injuries were the result of excessive force under state or federal law. Admit Plaintiff was convicted in this court of one count of assaulting a federal officer contrary to 18 U.S.C. §111(a)(1) based on his actions as described above and in the Complaint.

5.

Defendants admit that Multnomah County provided Plaintiff health care during his time in County custody. Deny that any care was below the applicable standards of care, deny that anyone associated with the County was deliberately indifferent to any serious medical needs.

6.

Defendants deny all remaining allegations.

7.

Defendants deny every allegation in Plaintiff's Complaint except as expressly admitted.

BY WAY OF FURTHER ANSWER AND AFFIRMATIVE DEFENSES TO PLAINTIFF'S COMPLAINT, DEFENDANTS ALLEGE AS FOLLOWS:

8.

**FIRST AFFIRMATIVE DEFENSE  
(Improper Defendant)**

The Multnomah County Sheriff's Office is a department through which Multnomah County administers its law enforcement and corrections functions, not a separate entity subject to suit under federal or state law.

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9.

**SECOND AFFIRMATIVE DEFENSE  
(Failure to State a Claim on Which Relief Can Be Granted)**

Plaintiff has failed to state a claim upon which relief can be granted.

10.

**THIRD AFFIRMATIVE DEFENSE  
(No Punitive Damages)**

Plaintiff may not recover punitive damages against a public body under state or federal law.

11.

**FOURTH AFFIRMATIVE DEFENSE  
(Statute of Limitations - Defamation)**

Plaintiff failed to bring his defamation claim within the time permitted by statute. ORS 12.120, ORS 30.275(9).

12.

**FIFTH AFFIRMATIVE DEFENSE  
(Truth - Defamation)**

The alleged defamatory statements by Defendants are true.

13.

**SIXTH AFFIRMATIVE DEFENSE  
(Privilege – Defamation)**

All allegedly defamatory statements are privileged under Oregon law, and Defendants are immune from suit.

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14.

**SEVENTH AFFIRMATIVE DEFENSE  
(Justification – State Assault/Battery Claims)**

The physical force used by Defendant(s) is justified as force reasonably believed necessary to maintain order and discipline at the facility and authorized by law for peace officers, as well as the defense of self and others.

15.

**EIGHTH AFFIRMATIVE DEFENSE  
(Oregon Tort Claims Act – State Claims)**

Plaintiff's state law claims are subject to the privileges, immunities, and limitations of the Oregon Tort Claims Act, ORS 30.260 *et seq.*

16.

**NINTH AFFIRMATIVE DEFENSE  
(Qualified Immunity – Federal Claims)**

Plaintiff's federal claims against individually named Multnomah County employees/agents are barred by the doctrine of qualified immunity.

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WHEREFORE, Defendants pray as follows:

1. That Plaintiff's Complaint be dismissed with prejudice in its entirety;
2. That Defendants recover their reasonable costs, disbursements and attorney fees incurred herein; and
3. That Defendants be granted such other and further relief as may be just and equitable.

Dated this 13th day of September, 2019.

Respectfully submitted,

JENNY M. MADKOUR, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

**/s/ B. Andrew Jones**

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B. Andrew Jones, OSB No. 091786  
Senior Assistant County Attorney  
*Of Attorneys for Defendants*

**CERTIFICATE OF SERVICE**

I hereby certify that on September 13, 2019, I arranged for service of the foregoing  
**DEFENDANTS' ANSWER AND AFFIRMATIVE DEFENSES TO COMPLAINT** on:

Cyrus Andrew Sullivan  
PO Box 86653  
Portland, OR 97286

by the following method or methods as indicated:

- ( **X** ) by **mailing** to said person(s) a true copy thereof, said copy placed in a sealed envelope, postage prepaid and addressed to said person(s) at the last known address for said person(s) as shown above, and deposited in the post office at Portland, Oregon, on the date set forth above.
- ( ) by **e-mailing** to said person(s) a true copy thereof in Word format, at the email address as shown above, pursuant to L.R. 5.2(b).
- ( ) by **facsimile** to said person(s) a true copy thereof at the facsimile number shown above, which is the last known facsimile number for said person(s) on the date set forth above. A copy of the confirmation report is attached hereto.
- ( ) by **email** to said person(s) at their last known email address(es).

/s/ **Ona Davis**

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Ona Davis  
Paralegal for B. Andrew Jones