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Attorney for Defendants Confederated Tribes of Warm Springs,
the Tribal Police Department, and Carmen Smith

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

Owen James Wallulatum,

Case No. 08-747-AA

Plaintiff,

v.

FRCP 12 (b) Motion to Dismiss

by Defendants Confederated Tribes of
Warm Springs, the Tribal Police
Department, and Carmen Smith

**The Confederated Tribes of the
Warm Springs Reservation
of Oregon**

Public Safety Branch, Tribal Police Department

Chief of Police, Carmen Smith

Tribal Police Officer(s); Matt Sherwood

Tribal Police Officer; Travis Patterson

Jefferson County Deputy Jason Patterson

Defendants.

CERTIFICATE OF COMPLIANCE

PURSUANT TO LOCAL RULE 7.1(C), the undersigned hereby certifies that the
opposing party is a prisoner not represented by counsel.

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the Tribal Police Department, and Carmen Smith

COME NOW Defendants Confederated Tribes of Warm Springs, the Tribal Police Department, and Carmen Smith by and through their attorneys, the Law Office of Robert E. Franz Jr., and pursuant to FRCP 12(b) hereby move the Court for an order dismissing Plaintiff's Complaint because this Court lacks jurisdiction over the moving defendants for actions arising on Warm Springs tribal land, and that each defendant is entitled to immunity in this matter. *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 58, 98 S. Ct. 1670, 56 L.Ed.2d 106 (1978).

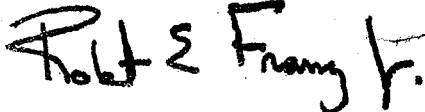
Furthermore, there are no allegations in the Plaintiff's Complaint that would indicate that Carmen Smith did anything improper in this matter; therefore, because the complaint fails to state any facts sufficient to constitute a claim against Carmen Smith, he is entitled to be dismissed on this ground alone.

THIS MOTION is made in good faith, not for the purpose of delay, and in the opinion of counsel is well founded in law.

DATED: Friday, November 14, 2008.

Respectfully submitted,

By:



LAW OFFICE OF ROBERT E. FRANZ, JR.

Robert E. Franz, Jr.

OSB #73091

(541) 741-8220

Attorney for Defendants

Confederated Tribes of Warm Springs;

The Tribal Police Department,

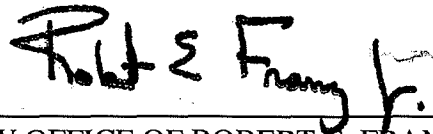
and Carmen Smith

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing FRCP 12(b) MOTION TO DISMISS BY DEFENDANTS CONFEDERATED TRIBES OF WARM SPRINGS, THE TRIBAL POLICE DEPARTMENT, AND CARMEN SMITH on Plaintiff by depositing a certified true copy thereof in the United States mail in Springfield, Oregon, on Friday, November 14, 2008, enclosed in a sealed envelope, with postage paid and addressed to:

Mr. Owen James Wallulatum
P.O. Box 1528
Warm Springs, OR 97761
Plaintiff Pro Se

Dated: Friday, November 14, 2008.



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Attorney and Spokesperson for Defendants
Confederated Tribes of Warm Springs,
The Tribal Police Department,
and Carmen Smith

I hereby certify that this document is a true and correct copy of the original.

Robert E. Franz, Jr.