

RECEIVED

JAN 18 2007

IN THE COURT OF APPEALS OF THE STATE OF OREGON DONNELL & CLARK LLP

STATE ex rel SUSAN DEWBERRY, CAROLE HOLCOMBE, SUZANNE DANIELSON,  
and ARNOLD BUCHMAN,  
Relators-Appellants,

v.

THE HONORABLE THEODORE R. KULONGOSKI, Governor of the State of Oregon;  
and other EXECUTIVE OFFICERS in the State of Oregon,  
Defendants-Respondents.

Lane County Circuit Court  
160323044

A124001

**ORDER DENYING MOTION TO DISMISS**

Defendants moved to dismiss this appeal, relying on "ORS 43.130(2) and common law principles of claim and issue preclusion." Relators oppose the motion.

This is an appeal from a judgment dismissing relators' petition for alternative writ of mandamus. This case was held in abeyance and then reactivated. Relators filed their opening brief in June 2006 and defendants responded by filing their motion to dismiss.

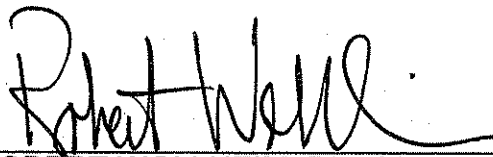
Neither ORS 43.130 nor common law principles of claim and issue preclusion authorize this court to dismiss this appeal at this stage. Defendants also argue that relators lack standing. Relators timely appealed from an adverse general judgment. This court has jurisdiction.

The motion to dismiss is denied.

Respondents' brief is due 28 days from the date of this order.

JAN 17 2007

DATE



ROBERT WOLLHEIM, PRESIDING JUDGE

c: Kaye E. McDonald  
Kelly Clark

REPLIES SHOULD BE DIRECTED TO THE STATE COURT ADMINISTRATOR, RECORDS  
SECTION, SUPREME COURT BUILDING, 1163 STATE STREET, SALEM, OR 97301-2563