

**IN THE DISTRICT COURT IN AND FOR TULSA COUNTY
STATE OF OKLAHOMA**

- 1. LESSIE BENNINGFIELD RANDLE,)
Tulsa Race Massacre Survivor,)
- 2. VIOLA FLETCHER,)
Tulsa Race Massacre Survivor,)
- 3. HUGHES VAN ELLISS, SR.)
Tulsa Race Massacre Survivor,)
- 4. HISTORIC VERNON A.M.E. CHURCH, INC.,)
a domestic not-for-profit corporation,)
- 5. LAUREL STRADFORD,)
great-granddaughter of J.B. Stradford,)
- 6. ELLOUISE COCHRANE-PRICE,)
daughter of Clarence Rowland and)
cousin of Dick Rowland,)
- 7. TEDRA WILLIAMS,)
granddaughter of Wess Young,)
- 8. DON M. ADAMS,)
nephew and next friend of Dr. A.C. Jackson,)
- 9. DON W. ADAMS,)
great-grandson of Attorney H.A. Guess,)
- 10. STEPHEN WILLIAMS,)
grandson of A.J. Smitherman,)
- 11. THE TULSA AFRICAN)
ANCESTRAL SOCIETY,)
an unincorporated association,)
- Plaintiffs,)
- v.)
- 1. CITY OF TULSA,)
a municipal corporation,)

**DISTRICT COURT
FILED**

JUL 22 2021

DON NEWBERRY, Court Clerk
STATE OF OKLA. TULSA COUNTY

Case No. CV-2020-1179
Division G
The Honorable Caroline Wall

- 2. TULSA REGIONAL CHAMBER,)
a domestic not-for-profit corporation,)
- 3. TULSA DEVELOPMENT AUTHORITY,)
- 4. TULSA METROPOLITAN AREA PLANNING)
COMMISSION,)
- 5. BOARD OF COUNTY COMMISSIONERS)
FOR TULSA COUNTY, OKLAHOMA,)
- 6. VIC REGALADO, IN HIS OFFICIAL)
CAPACITY AS SHERIFF OF TULSA)
COUNTY,)
- 7. OKLAHOMA MILITARY DEPARTMENT,)
- Defendants.)

**PLAINTIFFS’ MOTION TO VACATE THE COURT’S JULY 16, 2021 ORDER OR,
IN THE ALTERNATIVE, MODIFY THE COURT’S JULY 16, 2021 ORDER**

COME NOW the Plaintiffs request that the Court vacate the July 16, 2021 Order (the “Order”) granting Defendants’ purported Joint Unopposed Motion for Leave to File Replies in Support of their Motions to Dismiss (the “Joint Motion”) for the reason that the Order was obtained by Defendants through “fraud, practiced by the successful party, in obtaining a judgment or order” under 12 O.S. § 1031(4) or at the very least an “irregularity in obtaining a judgment or order” under 12 O.S. § 1031(3). In the alternative, Plaintiffs request that the Order be modified to deny Defendants’ requested page enlargement and to allow discovery to proceed while the motions to dismiss are pending.

I. INTRODUCTION

Defendants submitted the Joint Motion to the Court on Friday, July 16, 2021 representing to the Court that it was “unopposed.” The Joint Motion sought leave to file seven reply briefs in further support of Defendants’ seven pending motions to dismiss the

Amended Petition (the “Motions to Dismiss”), leave to file any such reply briefs within 30 days, and a page length extension from 5 pages to 20 pages for each reply brief. The total sum of the requested relief is an additional 140 pages of briefing that Defendants will have 75 days from the date the Motions to Dismiss were fully submitted to submit to the Court.

Plaintiffs did not consent to any of this relief and it was a fraud on this Court for Defendants to characterize the Joint Motion as “Unopposed.” In particular, Defendants never even discussed the requested page enlargement with Plaintiffs.

Understandably, the Court, having been told by counsel for Defendants that the Joint Motion was unopposed, granted the Joint Motion. But what the Defendants told the Court was not true and thus presents a textbook example of “fraud, practiced by the successful party, in obtaining a judgment or order” under 12 O.S. § 1031(4), which is an enumerated basis for vacating the Order. At the very least, Defendants' conduct constitutes an “irregularity in obtaining a judgment or order” under 12 O.S. § 1031(3).

For the reasons set forth below, Plaintiffs request that the Court vacate the Order in its entirety and deny the requested relief, or, in the alternative, modify the Order so that Defendants have no more than five pages per reply brief and to allow discovery to proceed while the motions to dismiss are pending.

II. STATEMENT OF FACTS

Between March 12, 2021 and March 15, 2021 Defendants filed the seven Motions to Dismiss. On June 1, 2021, Plaintiffs timely filed their opposition briefs (the “Opposition Briefs”).

The rules of this Court do not permit a movant to file a reply brief as a matter of right. Instead, a movant may only file reply briefs with leave of the Court. Specifically, Rule CV 18 of the RULES OF THE FOURTEENTH JUDICIAL DISTRICT provides:

Reply briefs are permitted only by leave of Court by applications stating the reason for filing a reply brief. Reply briefs should not be attached to the application but should be filed separately within five days after permission is granted. No reply brief may exceed five (5) pages in length. No further briefs shall be filed without prior permission of the Court.

Accordingly, upon the filing of the Opposition Briefs on June 1, the Motions to Dismiss were fully submitted to the Court.

One month later, on June 30, 2021, John Tucker, Esq., who represents Defendant Tulsa Regional Chamber, wrote to counsel for Plaintiffs stating “On behalf of defendants, I request an additional 30 days to reply to your response. Thank you.” *See* Ex. A.¹ That was the entirety of Mr. Tucker’s request. Mr. Tucker’s request suggested that Defendants in this matter believed they had an automatic right to file a reply brief and merely sought an extension of time to file it. No mention was made of page length.

On July 9, 2021, counsel for Plaintiffs responded to Mr. Tucker stating “Regarding your request, it is my understanding that Tulsa County local rules requires that you request leave of court to file a reply.” *See* Exhibit B. This response merely corrected Mr. Tucker’s apparent misunderstanding that his client had a right to file a reply brief; it did not constitute “consent” to anything.

¹ Defendant Tulsa Regional Chamber is the party that submitted the Joint Motion and the defendant who communicated with counsel for Plaintiffs. For the Chamber to be the driving force seeking reply briefs is especially conspicuous given that the Chamber filed *two separate motions to dismiss* which it used as a purported basis to file two full length briefs, thus giving itself over 40 pages of briefing, without the consent of Plaintiffs or the Court.

One week later, on July 16, 2019, Defendants filed the Joint Motion, seeking leave to file a brief, an enlargement of the time to file the brief, and an enlargement of the page length of the reply brief, representing that the requested relief was unopposed. That representation was untrue.

Plaintiffs were served with the Joint Motion via e-mail at 3:55 P.M. on Friday, July 16, 2021. *See* Exhibit B. Plaintiffs therein acted with all deliberate speed to address the misrepresentation. Thirty-six minutes later, at 4:31 P.M., counsel for Plaintiffs e-mailed counsel for Defendants objecting to the characterization of the Joint Motion as unopposed and requesting that it be withdrawn. *See* Exhibit B. Counsel for Defendants advised at 4:35 P.M. that they would file a “supplemental notice.” *See* Exhibit B. Unbeknownst to the parties at the time, the Court granted the Joint Motion that day, based on Defendants’ misrepresentation that it was unopposed.

Plaintiffs do not know exactly when on Friday the Joint Motion was filed with the Court or exactly when on Friday the Order was signed, but Plaintiffs were not made aware of the Joint Motion until 3:55 P.M., making it possible that the Order was signed before Plaintiffs were even aware of the Joint Motion.

Concerned that the Court may act quickly on the Joint Motion because it had been characterized as unopposed (but unaware that it already had been granted), Plaintiffs drafted their Opposition to Defendants’ Motion for Leave to File Replies in Support of Their Motions to Dismiss (“Opposition to the Joint Motion”) over the weekend and filed it at 9:30 A.M. on Monday, July 19, 2021, hoping that the Court would be able to review it before acting on the Joint Motion.

Later on Monday after the Joint Motion had already been granted and after the Opposition to the Joint Motion had already been filed, Defendants filed their Joint Motion for Leave to File Replies in Support of their Motions to Dismiss to Note Objection (the “Corrected Joint Motion”), Defendants stated that they had “filed their joint motion in the belief that Plaintiffs’ counsel had consented to the filing. Plaintiffs’ counsel **now** advises that he does object to Defendants’ request.” Corrected Joint Motion at 1 (emphasis added).

The Corrected Joint Motion gave the false appearance that Plaintiffs had modified their position. Plaintiffs did no such thing.

III. ARGUMENT

I. **The Court has “Almost Unlimited” Discretion to Vacate or Modify Its Orders for “Fraud, Practiced by the Successful Party” or “Irregularity in Obtaining a Judgment or Order”**

The Oklahoma Rules of Civil Procedure provide that “[t]he district court shall have power to vacate or modify its own judgments or orders” 12 O.S. § 1031 for certain enumerated bases. Those bases include “[f]or fraud, practiced by the successful party, in obtaining a judgment or order” under 12 O.S. § 1031(4) and “[f]or mistake, neglect, or omission of the clerk or irregularity in obtaining a judgment or order” under 12 O.S. § 1031(3). *See also O’Darling v. O’Darling*, 2008 OK 71, ¶ 7, 188 P.3d 137, 139 (Under 12 O.S. § 1031 “[t]he court has power to vacate when the successful party acted improperly to obtain the decree or if there was irregularity in obtaining the decree.”)

“Under § 1031 trial judges enjoy a very wide and extended discretion that has been described as almost unlimited.” *Id.* (internal citations and quotations omitted).

The Court should exercise this “very wide” discretion here, vacate the Order and deny Defendants’ their requested relief. The Joint Motion was characterized as “Unopposed”

when it was not and Plaintiffs are now prejudiced by the fact that Defendants may submit reply briefs which are *longer* than the Opposition Briefs submitted on June 1.

II. The Order Was Obtained by Fraud by the Defendants

The Joint Motion is styled as an “Unopposed” motion and states that “Counsel for Defendants have contacted counsel for Plaintiffs prior to the filing of this motion, and Plaintiffs have no objection to leave being granted for Defendants to file their replies. Defendants state the following in support.” Joint Motion at 1.

Those statements are false. As a cursory examination of Exhibit A shows, the only request that Defendants made to Plaintiff’s counsel was a 30 day extension of the time to file reply briefs, a request which implied that Defendants believed they had an existing right to file a reply brief when in fact movants are required under Rule CV 18 to seek leave from the Court to file a reply brief. Counsel for the Plaintiffs responded by merely correcting a misapprehension and stating that Defendants were required to seek leave from the Court to file reply briefs.

While Plaintiffs’ counsel did state that leave of the Court was required to file a reply brief, he never expressed consent to the filing of reply briefs, and intended to oppose the Joint Motion whenever Defendants filed it. Moreover, even assuming that Mr. Tucker in good faith understood Plaintiffs counsel’s comment to constitute consent, it was incumbent upon him to confirm any such consent before representing to the that the requested relief was unopposed.

Even more outrageous is the representation that Plaintiffs consented to a page length extension. Defendants never even mentioned a request for more pages in the dialogue with

Plaintiffs' counsel. Given that, Defendants have no good faith basis for representing to the Court that Plaintiffs had consented to that relief.

There is no question that Defendants' statements to the Court were material. As counsel for Defendants is surely aware, the difference between an unopposed motion and an opposed motion is significant. Unopposed motions are far more likely to be granted than opposed motions, particularly when it comes to matters such as scheduling and page lengths for briefs.

In fact, this distinction already has been observed in this case. For the Opposition Briefs, Plaintiffs requested Defendants' consent to an extension of their time to file the Opposition Briefs and to the Opposition Briefs being submitted as a single omnibus brief rather than separate oppositions. Defendants consented to the time extension but did not consent to the request to file an omnibus brief. Plaintiffs then made a dual motion to the Court, correctly representing that the time extension was unopposed but the request to file an omnibus brief was opposed. The Court granted the unopposed relief for a time extension, but denied the opposed request to file the omnibus brief.

It should go without saying that a party may not represent that a motion is unopposed if it is not. Doing so should have consequences. For example, in comparable case in the United States Court of Appeals for the Fifth Circuit, *In re Grodner*, 587 F. App'x 166 (5th Cir. 2014), a defense attorney sent proposed subpoenas for the court's approval, representing that the subpoenas were "unopposed" by the government. However, the defense attorney had never even conferred with the government on whether it objected to the subpoenas. Upon learning this, the court told the lawyer "You essentially lied to me," sanctioned the attorney, and warned that if the attorney ever did it again she would be permanently barred from

practicing in the Middle District of Louisiana. *Id.* at 167-68. The Fifth Circuit later affirmed the attorney's sixty-day suspension from practicing before the Middle District of Louisiana. *Id.* at 170.

III. Plaintiffs Are Prejudiced by the Defendants Actions

There is no question that Plaintiffs have been prejudiced by the misrepresentation. Defendants have been granted leave to file seven 20-page reply briefs, totaling 140 pages. If defendants use all of their allotted pages, the reply briefs will be longer than both the Motions to Dismiss and the Opposition Briefs. On top of that, the Defendants will have had a total of 75 days to prepare these briefs.

Reply briefs are meant to be succinct final responses to issues already briefed. If the Court permits another 140 pages of briefing for reply briefs, it is a near certainty that Defendants will raise new issues that Plaintiffs did not have a full and fair opportunity to address in their Opposition Briefs. If Plaintiffs are then not afforded an opportunity to file a sur-reply to respond to those new issues, that could constitute a basis for reversal of any dismissal. *Ford v. Tulsa Pub. Sch.*, 2017 OK CIV APP 55, ¶ 21, 405 P.3d 142, 149 (reversing trial court's granting of a motion to dismiss because among other reasons defendant raised new issues in reply brief that Plaintiff had no opportunity to respond to).

Finally, Plaintiffs are prejudiced by further delay in the proceedings. The Plaintiffs in this matter include the last three living survivors of the Tulsa Race Massacre of 1921, all of whom are over one hundred years old. Those individuals are living history and they are eager for their day in Court to offer their live testimony in a trial while they are healthy enough to do so. Adding in another phase to the calendar will only further delay the trial date.

As the Court is aware, motions to dismiss are disfavored and Defendants have acknowledged in the Joint Motion that the issues are “complex.” If they are complex enough to require so much more briefing, they are too complex to be resolved on a motion to dismiss. The Court does not need an extraordinary round of additional briefing on a disfavored motion.

IV. At Very Least, an “Irregularity” Took Place in Connection with the Granting of the Joint Motion

Even if the Court is not inclined to find that Defendants obtained the Order through “fraud,” the Court should still conclude that an “irregularity in obtaining a judgment or order” under 12 O.S. § 1031(3) and vacate the order on that basis.

As the Court of Civil Appeals recently, noted, “irregularity” in this context has no fixed legal meaning and can be applied by the Court to serve the interests of justice.

The term “irregularity in obtaining a judgment” has no fixed legal meaning. In every instance the question is one of fact, dependent upon the circumstances of each case. It logically follows that the application of this provision of the statute is addressed to the sound legal discretion of the court, to be exercised in furtherance of justice, on the particular facts of the case.

Charles Sanders Homes, Inc. v. Cook & Assocs. Eng'g, Inc., 2020 OK CIV APP 14, ¶ 14, 465 P.3d 1278, 1282 (quoting *Nation v. Savely*, 1927 OK 350, ¶ 9, 127 Okla. 117, 260 P. 32).

Plaintiffs simply never consented to 140 pages of additional briefing and, because of the timing of when the Joint Motion was served on Plaintiffs at 3:55 P.M. on a Friday, Plaintiffs had no opportunity to advise the Court of its opposition before the Joint Motion was granted. Even if somehow this was all a miscommunication with unlucky timing for Plaintiffs, the Order should still be vacated as a result of this “irregularity” which the Court is permitted to do under 12 O.S. § 1031(3) in the furtherance of justice.

V. In the Alternative, the Court Should Modify the Order to Deny the Requested Page Enlargement and Allow Discovery to Proceed While the Motions to Dismiss are Pending

Under 12 O.S. § 1031, the Court may “modify” any of its orders or judgments for the same reasons it may vacate any of its orders or judgments. If the Court is not inclined to vacate the Order in its entirety, Plaintiffs request, in the alternative, that the Court modify the Order to deny the requested page enlargement by Defendants and allow discovery to proceed while the Motions to Dismiss are pending for the reasons set forth below.

First, as noted above, the requested page enlargement was never even discussed or referenced in the parties' correspondence in Exhibit A. Accordingly, there is no possible basis for Defendants to believe Plaintiffs had consented to it.

Second, of the three categories of relief requested in the Joint Motion, the page enlargement is the most substantial departure from what is provided in Rule CV 18 and is most prejudicial to Plaintiffs. Rule CV 18 provides that reply briefs, if permitted may only be 5 pages. Defendants seek a four-fold increase because the issues are “complex.”

Third, as a matter of fairness, although time extensions previously have been granted in this case, page enlargements have not been. Defendants opposed and the Court denied Plaintiffs' request to file a single omnibus opposition brief to the Motions to Dismiss. It is inequitable that extra-long briefing should be introduced for the first time for reply briefs, particularly when reply briefs are not even allowed for under Rule CV 18 without the Court's consent.

Finally, if the Court is not inclined to vacate the award in its entirety, the modification should also permit discovery to proceed in the action while the Motions to Dismiss are pending. The Opposition Briefs were filed on June 1, 2021. At that time, the

Motions to Dismiss were fully submitted under the rules of the Court. Defendants filed their Joint Motion to file reply briefs on July 16, 2021, a full 45 days *after* the Motions to Dismiss were fully submitted, and obtained an additional 30 days to file reply briefs if the leave requested is granted purporting that Plaintiffs had consented to this. Thus, Defendants will have 75 days to file their reply briefs from the filing of the Opposition Briefs.

It is reasonable to expect that Defendants and their counsel would promptly review the Opposition Briefs and promptly conclude whether or not they wished to seek leave to file reply briefs. To wait 45 days to even ask for permission to file extra briefs is undue delay. In modifying the Order, the Court should allow discovery to proceed while the Motions to Dismiss are pending so that this case may proceed toward trial. Defendants should not be rewarded for their machinations by putting discovery off further.

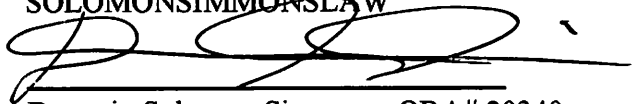
IV. CONCLUSION

For the foregoing reasons, the Plaintiffs request that the Order be vacated, or, in the alternative, modified to deny Defendants' requested page enlargement and allow discovery to proceed while the pending Motions to Dismiss are pending.

Dated: July 22, 2021

Respectfully submitted,

SOLOMONSIMMONSLAW



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ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of July 2021, I served the foregoing by email and U.S. Mail to the following:

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Damario Solomon-Simmons

EXHIBIT A

From: Damario SolomonSimmons
To: John Tucker
Cc: "Gray, Kristina"; "kwilkes@hallestill.com"; "kevin.mcclure@oag.ok.gov"; "Bender, Gerald"; "jot@hartevlawfirm.com"; Mary Jo Hales; Colin H. Tucker; Austin Jackson; "Jot Hartley"; Mavnard M. Henry, Sr., Esq.; Spencer Bryan; Steven Terrill; Cordal Cephas; Lashandra Peoples-Johnson; Kym Heckenkemper; Solfanelli, Sara; Haynes, McKenzie; Swartz, Michael; Adams, Randall
Subject: Re: Randle v. COT, et al.
Date: Friday, July 9, 2021 4:22:54 PM

**-CAUTION: EXTERNAL EMAIL from dss@solomonsimmons.com
Do not click any links or open any attachments unless you are expecting the email and know the content is safe.**

Good afternoon John,

First, I apologize for the delayed response. I inadvertently overlooked your email below until a few days ago. In the future if there is a long delay from me please feel free to contact me on my cell phone at 918-810-7253.

Regarding your request, it is my understanding that Tulsa County local rules requires that you request leave of court to file a reply.

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From: John Tucker <jhtucker@rhodesokla.com>
Sent: Wednesday, June 30, 2021 5:18 PM

To: Damario SolomonSimmons
Cc: 'Gray, Kristina'; 'kwilkes@hallestill.com'; 'kevin.mcclure@oag.ok.gov'; 'Bender, Gerald'; 'jot@hartleylawfirm.com'; Mary Jo. Hales; Colin H. Tucker; Austin Jackson; 'Jot Hartley'
Subject: RE: Randle v. COT, et al.

Damario: On behalf of defendants, I request an additional 30 days to reply to your response. Thank you.

**RHODES
HIERONYMUS**
– Est. 1931 –

John H. Tucker
Rhodes, Hieronymus, Jones, Tucker & Gable, PLLC
Mailing: P.O. Box 21100, Tulsa, OK 74121-1100
Physical address: 2 W. 2nd St., #1000, Tulsa, OK 74103
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jtucker@rhodesokla.com

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From: John Tucker
Sent: Wednesday, June 30, 2021 4:47 PM
To: 'Jot Hartley' <jothartley@gmail.com>
Cc: Gray, Kristina <kgray@cityoftulsa.org>; kwilkes@hallestill.com; kevin.mcclure@oag.ok.gov; Bender, Gerald <GBENDER@cityoftulsa.org>; jot@hartleylawfirm.com; Mary Jo. Hales <mhales@rhodesokla.com>; Colin H. Tucker <CHTucker@rhodesokla.com>; Austin Jackson <AJackson@rhodesokla.com>
Subject: RE: Randle v. COT, et al.

Based on a lack of responses to my suggestion, it appears that only the Chamber and TDA will request a 30 day extension. Is that correct?

**RHODES
HIERONYMUS**
– Est. 1931 –

John H. Tucker
Rhodes, Hieronymus, Jones, Tucker & Gable, PLLC
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From: Jot Hartley <jothartley@gmail.com>
Sent: Tuesday, June 15, 2021 8:16 PM
To: John Tucker <jhtucker@rhodesokla.com>

Cc: Gray, Kristina <kgray@cityoftulsa.org>; kwilkes@hallestill.com; kevin.mcclure@oag.ok.gov; Bender, Gerald <GBENDER@cityoftulsa.org>; jot@hartleylawfirm.com; Mary Jo. Hales <mhales@rhodesokla.com>; Colin H. Tucker <CHTucker@rhodesokla.com>; Austin Jackson <AJackson@rhodesokla.com>

Subject: Re: Randle v. COT, et al.

Yes please on behalf of TDA.

Sent from my iPhone

On Jun 15, 2021, at 2:46 PM, John Tucker <jhtucker@rhodesokla.com> wrote:

Re requesting leave for reply brief: We would like to include a request for 30 days to file a reply. Would you like a joint request? .

**RHODES
HIERONYMUS**
– Est. 1931 –

John H. Tucker
Rhodes, Hieronymus, Jones, Tucker & Gable, PLLC
Mailing: P.O. Box 21100, Tulsa, OK 74121-1100
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EXHIBIT B

From: Damario SolomonSimmons
To: John Tucker; Mary Jo. Hales; "Jot Hartley"; "Bender, Gerald"; "kevin.mcclure@oag.ok.gov"; "kwilkes@hallestill.com"
Cc: Swartz, Michael; Haynes, McKenzie; Solfanelli, Sara; Spencer Bryan; Steven Terrill; Maynard M. Henry, Sr. Esq.; Cordal Cephas; Lashandra Peoples-Johnson; Mary Jo. Hales
Subject: Re: Randle, et al. v. City of Tulsa, et al. [1386-00186]
Date: Friday, July 16, 2021 5:36:33 PM

**-CAUTION: EXTERNAL EMAIL from dss@solomonsimmons.com
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Thanks John,

Have a great weekend!

Damario Solomon-Simmons, Esq., M.Ed.

Managing Partner

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From: John Tucker <jhtucker@rhodesokla.com>

Sent: Friday, July 16, 2021 4:34 PM

To: Damario SolomonSimmons; Mary Jo. Hales; 'Jot Hartley'; 'Bender, Gerald'; 'kevin.mcclure@oag.ok.gov'; 'kwilkes@hallestill.com'

Cc: Swartz, Michael; Haynes, McKenzie; Solfanelli, Sara; Spencer Bryan; Steven Terrill; Maynard M. Henry, Sr. Esq.; Cordal Cephas; Lashandra Peoples-Johnson; Mary Jo. Hales

Subject: RE: Randle, et al. v. City of Tulsa, et al. [1386-00186]

Well, Damario, I guess I misunderstood. I thought you were reciprocating our consent to your time

request. I will file a supplemental notice that indeed you do object

RHODES
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– Est. 1931 –

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From: Damario SolomonSimmons <dss@solomonsimmons.com>

Sent: Friday, July 16, 2021 4:31 PM

To: Mary Jo. Hales <mhales@rhodesokla.com>; John Tucker <jhtucker@rhodesokla.com>; 'Jot Hartley' <jothartley@gmail.com>; 'Bender, Gerald' <GBENDER@cityoftulsa.org>; 'kevin.mcclure@oag.ok.gov' <kevin.mcclure@oag.ok.gov>; 'kwilkes@hallestill.com' <kwilkes@hallestill.com>

Cc: John Tucker <jhtucker@rhodesokla.com>; Swartz, Michael <Michael.Swartz@srz.com>; Haynes, McKenzie <McKenzie.Haynes@srz.com>; Solfanelli, Sara <Sara.Solfanelli@srz.com>; Spencer Bryan <jsbryan@bryanterrill.com>; Steven Terrill <sjterrill@bryanterrill.com>; Maynard M. Henry, Sr. Esq. <mhenryesquire@cox.net>; Cordal Cephas <cordal@johnsoncephaslaw.com>; Lashandra Peoples-Johnson <lashandra@johnsoncephaslaw.com>

Subject: RE: Randle, et al. v. City of Tulsa, et al. [1386-00186]

Importance: High

Thanks Mary Jo,

John, I object to the filing stating that Defendants Motion is unopposed by Plaintiffs.

If you recall your email inquired whether we opposed Defendants having an additional 30 days to file a reply. My response to you was that the "local rules required you seek leave of court." You responded "Thanks Damario." Accordingly I do not believe our original email exchange gave us notice or an opportunity to visit with our clients to inquire if they objected to your plan to actually file for leave of court. We certainly were not given an opportunity to state whether our clients objected to you seeking an additional 30 days from today (45 days after our response brief was filed) and a 15 -page limit extension if said leave was granted.

Frankly, representing to the court that your motion is unopposed is a misrepresentation. I request that that Defendants immediately withdraw your motion. Please let me know by the end of business today if Defendants agree to my request.

Thank you.

Damario Solomon-Simmons, Esq., M.Ed.

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From: Mary Jo. Hales <mhales@rhodesokla.com>

Sent: Friday, July 16, 2021 3:55 PM

To: Damario SolomonSimmons <dss@solomonsimmons.com>

Cc: John Tucker <jhtucker@rhodesokla.com>; Mary Jo. Hales <mhales@rhodesokla.com>

Subject: Randle, et al. v. City of Tulsa, et al. [1386-00186]

Attached is a pdf of Defendants' Joint Unopposed Motion for Leave to File Replies in Support of their Motions to Dismiss which was filed in the above-referenced matter.

Please let me know if you have any difficulty opening the attachment.

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