

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

DISTRICT COURT
FILED

AUG - 3 2021

DON NEWBERRY, Court Clerk
STATE OF OKLA. TULSA COUNTY

LESSIE BENNINGFIELD RANDLE; VIOLA)
FLETCHER; HUGHES VAN ELLISS, SR.; HISTORIC)
VERNON A.M.E. CHURCH, INC.; LAUREL)
STRADFORD; ELLOISE COCHRANE-PRICE;)
TEDRA WILLIAMS; DON M. ADAMS; DON W.)
ADAMS; STEPHEN WILLIAMS; AND THE)
TULSA AFRICAN ANCESTRAL SOCIETY,)

Plaintiffs,)

vs.)

CITY OF TULSA; TULSA REGIONAL CHAMBER;)
TULSA DEVELOPMENT AUTHORITY; TULSA)
METROPOLITAN AREA PLANNING COMMIS-)
SION; BOARD OF COUNTY COMMISSIONERS)
FOR TULSA COUNTY, OKLAHOMA; VIC)
REGALADO, IN HIS OFFICIAL CAPACITY AS)
SHERIFF OF TULSA COUNTY; and OKLAHOMA)
MILITARY DEPARTMENT,)

Defendants.)

Case No.: CV-2020-01179

Judge Caroline Wall

**COMBINED JOINT RESPONSE OF DEFENDANTS TO THE FILINGS BY PLAINTIFFS:
PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTION FOR LEAVE TO FILE
REPLIES IN SUPPORT OF THEIR MOTIONS TO DISMISS; AND PLAINTIFFS'
MOTION TO VACATE THE COURT'S JULY 16, 2021 ORDER OR, IN THE
ALTERNATIVE, MODIFY THE COURT'S JULY 16, 2021 ORDER**

To facilitate fewer pleadings and in an effort to simplify what is before the Court, Defendants submit a Combined Response to both Plaintiffs' Opposition to Defendants' Motion for Leave to File Replies in Support of their Motions to Dismiss, and Plaintiffs' Motion to Vacate the Court's July 16, 2021 Order or, in the Alternative, Modify the Court's July 16, 2021 Order currently pending before the Court.

The issue before the Court is Defendants' request for leave to file a reply brief and for additional pages when doing so. Plaintiffs accuse Defendants of fraud on the Court - a weighty

and concerning allegation. The supposed "fraud," i.e., 'intentional deception to gain advantage," was Defendants' error in misinterpreting Plaintiffs' counsel's email in answer to Defendants' request to Plaintiff for consent to file a reply.

The lawyering of this case has been notable for the civility and considerations extended among counsel. Requests for extensions and page limit enlargements have been freely granted without condition by all counsel. For example, Plaintiffs requested three extensions to respond to Defendants' Motions to Dismiss the original Petition totaling 68 days. Rather than file responses on the 69th day, Plaintiffs instead filed an Amended Petition. Similarly, Plaintiffs have consented to Defendants' requests for extensions to various items. No request by any counsel for a consideration was rejected until Plaintiffs' ambiguous response of July 9, 2021, courteously reminding Defendants' counsel that local rules require reply briefs be filed only upon motion and permission from the Court. Nowhere in their one-sentence response email did Plaintiffs' counsel indicate any objection to the filing of Defendants' reply briefs.

A filing based on those facts is hardly a fraud on the Court and Oklahoma counsel knows better.

At 4:30 pm on Friday, July 16, 2021, Plaintiffs' counsel sent an email to Defendants plainly stating Plaintiff had not agreed to Defendants' request. Accordingly, on Monday, July 19, 2021 – the next day that the Court was open, Defendants filed a Corrected Motion advising the Court of their inadvertent error and making clear Plaintiffs' Opposition to Defendants' Motion. It would have been impossible to file a correction any sooner.

We note that Plaintiffs filed a Motion on July 22 to vacate the Order granting the original Motion of Defendants for leave to file replies. Plaintiffs' Motion to Vacate does not state whether Defendants object or do not object to the relief sought. Had Plaintiffs' counsel asked,

they would have been told that Defendants have no objection. The Court's Order of July 16, 2021, should be vacated, and the Court should rule only on the Corrected Motion of Defendants that sets out Plaintiffs' objection to reply briefs and page extension. Consideration of the Corrected Motion should be on its merits, and not clouded with Plaintiffs' new-found anti-civility rhetoric.

Defendants require opportunities to reply because Plaintiffs' Responses to Defendants' Motions to Dismiss contain new matters regarding most of the causes of action, variously as to different Defendants. Defendants should be entitled to respond to these new allegations and arguments. Plaintiffs' Response briefs – including other of Plaintiffs' briefs incorporated by reference – were extensive, totaling 164 pages. A five page restriction for a reply would preclude substantive rebuttal of the new material in Plaintiffs' Response Briefs. Thus, Defendants request 20 pages for their replies.

Defendants recognize that Plaintiffs' legal team stretches literally from coast to coast, and that what is lawyerly courtesy in one part of the country is seen as lawyerly feebleness in another. It is Defendants' hope that, Plaintiffs' zeal notwithstanding, the future handling of this matter will return to the standard of professionalism and civility which the parties have followed prior to this issue and which the Oklahoma Bench and Bar so passionately promote.

Respectfully submitted,

By



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CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of August, 2021, true and correct copies of the above and foregoing were sent to the following via U.S. Mail, with correct postage fully prepaid thereon:

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