

IN THE DISTRICT COURT OF TULSA COUNTY
STATE OF OKLAHOMA

DISTRICT COURT
FILED

SEP 19 2022

DON NEWBERRY, Court Clerk
STATE OF OKLA. TULSA COUNTY

LESSIE BENNINGFIELD RANDLE <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	Case No.CV-2020-01179
)	Division G
CITY OF TULSA <i>et al.</i>)	The Honorable Caroline Wall
)	
Defendants.)	

**DEFENDANTS' OPPOSED MOTION
FOR EXTENSION OF TIME**

COMES NOW Defendants, with their Opposed Motion for Extension of Time ("Opposed Motion"), and move the Court to enter an Order extending the consolidated deadline for all Defendants to answer or otherwise plead to Plaintiffs' Second Amended Petition, to on or before October 6, 2022, while preserving all available defenses. In support of their Opposed Motion, the Defendants state as follows:

1. Pursuant to Rule CV 14(5) of the RULES OF THE FOURTEENTH JUDICIAL DISTRICT, counsel for the Plaintiffs have been contacted regarding the extension and has indicated they object to the present motion.
2. On August 3, 2022, this Court entered an Order on Defendants' Motions To Dismiss dismissing certain parties and limiting the claims to be presented by the remaining Plaintiffs. The Court provided that the Plaintiffs were granted leave to file a second amended petition no later than September 2, 2022.
3. The Plaintiffs were allowed, and used, an entire month to prepare the Second Amended Petition. The Second Amended Petition is fifty-three pages long with an additional forty-seven pages of exhibits.

4. The Second Amended Petition was filed on Friday September 2, 2022, which was the Friday before the Labor Day holiday so the Defendants who did receive service of the Second Amended Petition did not receive it until Tuesday, September 6, 2022. Other Defendants never received service at all of the Second Amended Petition and instead, found it by chance while checking OSCN on September 6, 2022¹.

5. The Defendants are now going through the tedious task of reviewing the extensive Second Amended Petition while giving consideration to the Court's Order and preparing responsive pleadings.

6. After the Defendants' filed the last round of Motions To Dismiss the previous versions of the Petition, the Defendants agreed to at least four extensions of time to allow the Plaintiffs to respond to the Defendants' motions. The Defendant's filed their first Motions To Dismiss November 9, 2020. The Plaintiffs sought ninety days' worth of extensions and then, rather than respond to the motions, Plaintiffs filed the First Amended Petition on February 2, 2021. Defendants then filed their second round of Motions To Dismiss on March 12, 2021, and again the Plaintiffs needed approximately two and half months of extensions and did not respond to the motions until June 1, 2021.

7. While Plaintiffs' counsel did not provide any reason for their objection, to the extent the Plaintiffs claim the Defendants' request for extension of time is for purposes of delay, such claim is unsubstantiated. The Defendants should not be required to respond to the complicated Second Amended Petition that took the Plaintiffs' almost a month to draft after the date of the Court's Order within the twenty days required under 12 O.S. § 2015. The Plaintiffs have not made efforts to move this case forward by still not having taken the

¹ The City of Tulsa received a copy of the Second Amended Petition that was not file-stamped by mail on September 6, 2022. The State of Oklahoma also received a mailed copy on September 6, 2022. The remaining Defendants did not receive service at all of the Second Amended Petition.

deposition of Van Ellis, Sr. to which the Defendants have agreed. On June 22, 2022, the Plaintiffs moved for leave to depose Mr. Ellis, one of the Massacre survivors. In the Defendants' response of July 1, 2022, the Defendants agreed to the deposition and expressed their consent that taking a deposition now is a good idea. More than ten weeks have now passed with no attempt by the Plaintiffs to schedule the deposition requested.

8. Defendants' requested two week extension to have time to parse through this extensive Second Amended Petition and properly respond, is not for the purpose of delay and is a reasonable request in light of the delay in serving the Defendants, and the length and complexity of the Second Amended Petition.

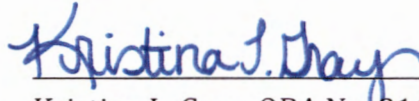
9. The Defendants jointly seek an extension of their respective deadlines to a consolidated deadline of October 6, 2022, while expressly preserving all defenses, to include but not limited to all defenses identified in OKLA. STAT. tit. 12 § 2012(B).

10. The undersigned counsel has permission from counsel for the other Defendants to execute and file this Opposed Motion on behalf of all Defendants.

WHEREFORE, the Defendants request the Court to enter an Order granting their Motion, thereby extending the deadline for Defendants to answer or otherwise plead to Plaintiffs' Second Amended Petition, to on or before October 6, 2022, while expressly preserving all defenses, to include but not limited to all defenses identified in OKLA. STAT. tit. 12 § 2012(B).

Dated: September 19, 2022

Respectfully submitted,



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CERTIFICATE OF SERVICE

I, Kristina L. Gray, hereby certify that on the 19th day of September 2022, I mailed a true and correct copy of the above and foregoing document with proper postage thereon applied, to the following and send a copy via electronic mail:

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