

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 and)
)
 DR. RACHEL TUDOR,)
)
 Plaintiff/Intervenor,)
)
 v.)
)
 SOUTHEASTERN OKLAHOMA)
 STATE UNIVERSITY,)
)
 and)
)
 THE REGIONAL UNIVERSITY)
 SYSTEM OF OKLAHOMA,)
)
)
 Defendants.)

CASE NO. 5:15-CV-00324-C

**MOTION AND OPENING BRIEF OF PLAINTIFF/INTERVENOR
DR. RACHEL TUDOR TO EXPEDITE HER MOTION FOR A
PROTECTIVE ORDER, AND TO STAY DEPOSITION, AND TO ALLOW
EXPEDITED BRIEFING SCHEDULE AND DECISION**

SUMMARY OF ARGUMENT

Pursuant to Fed. R. Civ. P. 6(c), Plaintiff/Intervenor Dr. Rachel Tudor is moving for expedited status on her motion for a Protective Order and Stay, filed with this Court today, and all parties have agreed to an expedited briefing schedule.

ARGUMENT

Pursuant to Fed. R. Civ. P. 6(c), a party may apply, *ex parte* when there is good cause, for a court order that sets different timing for motion practice:

(c) Motions, Notices of Hearing, and Affidavits.

(1) *In General.* A written motion and notice of the hearing must be served at least 14 days before the time specified for the hearing, with the following exceptions:

- (A) when the motion may be heard *ex parte*;
- (B) when these rules set a different time; or
- (C) when a court order—which a party may, for good cause, apply for *ex parte*—sets a different time.

Pursuant thereto, Plaintiff/Intervenor Dr. Rachel Tudor respectfully requests that this Court set an expedited briefing schedule and decision for her motion, filed today with this Court, for a Protective Order and to stay her deposition, currently noticed for February 17, 2016.

Dr. Tudor's deposition was noticed by plaintiff on Wednesday, February 3, 2016, two days ago, for Wednesday, February 17, 2016. This motion could not have been filed earlier because, during the past two days, counsel for Plaintiff/Intervenor Dr. Tudor and counsel for Defendants have been engaged in good faith conferral in an attempt to settle this matter without court intervention. Because the event in question is scheduled to take place on February 17, 2016, before the usual briefing schedule ends, and because the deposition will impose an

undue burden and oppression on Dr. Tudor, she respectfully requests an expedited briefing schedule and decision from the Court. Defendants' counsel has agreed to an expedited briefing schedule, under which, if it is acceptable to the Court, they will file their opposition to the Plaintiff/Intervenor's motion for a Protective Order and Stay of Deposition by Wednesday, February 10, 2016. If new matter is raised, requiring a reply, Plaintiff/Intervenor Dr. Tudor will file that reply, if necessary, by Thursday, February 11, 2016. Plaintiff United States is also in agreement with this scheduling.

Briefly, as is explained in more detailed in the main motion, Plaintiff/Intervenor Dr. Tudor will experience undue burden and hardship if she is required to be deposed on "February 17th & February 18th, 2016, and each day thereafter as necessary." *See* Tudor Deposition Notice, Exhibit A. As set forth in her Declaration (filed herewith as Exhibit B), Dr. Tudor is currently employed as a full-time professor with a one-year contract at Collin College, at the College's campus located in Plano, Texas. Dr. Tudor is scheduled to teach three classes on each of February 17, February 18, and February 19, 2016. She will need to obtain special permission from her employer *and* it will be her obligation then to make arrangements to have other professors at her current College to teach her classes. As this is an imposition for other professors with equally heavy teaching loads, Dr. Tudor will likely have to make arrangements with two or three other professors for each day of class. The College, like most colleges and universities, does not have substitute professors readily available, and professors who will be absent must

make their own arrangements. Dr. Tudor may or may not be able to accomplish this within the time required. If she is required to attend without having been able to make these arrangements, her employer will not release her, and she will imperil her continued employment. Further, requesting such time off from her current employer at all, for a lawsuit against her former employer, may cause her continued employment prospects to be diminished. Her contract is coming up for renewal this month, and if she is seen to have abandoned her duties, this may endanger her contract renewal. Dr. Tudor has provided a series of alternative dates, i.e. any time during the week of March 7–11, during which school Spring Break vacation occurs, which would not require her to make the burdensome arrangements for other professors to take her classes.

RELIEF REQUESTED

For the foregoing reasons, Plaintiff/Intervenor Dr. Tudor respectfully requests that the briefing schedule of Plaintiff/Intervenor be expedited as follows: Response of Defendants is due by Wednesday, February 10, 2016, and the Reply, if any, of Plaintiff/Intervenor Dr. Rachel Tudor is due by Thursday, February 11, 2016.

Respectfully submitted,

Dated: February 5, 2016

/s/ Jillian T. Weiss
Jillian T. Weiss (NY Bar No. 2125011)
Admitted *Pro Hac Vice*

Law Office of Jillian T. Weiss, P.C.
P.O. Box 642
Tuxedo Park, NY 10987
845-709-3237
Fax: 845-915-3283
jtweiss@jtweisslaw.com

/s/ Brittany M. Novotny
Brittany M. Novotny (Okla. Bar No. 20796)
National Litigation Law Group, PLLC
42 Shepherd Center
2401 NW 23rd St.
Oklahoma City, OK 73107
405-429-7626
Fax: 405-421-9164
bnovotny@nationlit.com

/s/ Ezra Young
Ezra Young (NY Bar No. 5283114)
Admitted *Pro Hac Vice*
Law Office of Jillian T. Weiss, P.C.
P.O. Box 642
Tuxedo Park, NY 10987
949-291-3185
Fax: 917-398-1849
eyoung@jtweisslaw.com

ATTORNEYS FOR PLAINTIFF/INTERVENOR

CERTIFICATE OF SERVICE

I hereby certify that on February 5, 2016, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system, which will automatically serve all counsel of record.

/s/ Jillian T. Weiss

Jillian T. Weiss (NY Bar No. 2125011)

Admitted *Pro Hac Vice*

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FOR THE WESTERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,)	
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RACHEL TUDOR,)	
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Plaintiff-Intervenor,)	
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v.)	CASE NO. CIV-15-324-C
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SOUTHEASTERN OKLAHOMA)	
STATE UNIVERSITY, and)	
)	
THE REGIONAL UNIVERSITY)	
SYSTEM OF OKLAHOMA,)	
)	
Defendants.)	

DEFENDANTS' NOTICE TO TAKE DEPOSITION

TO: Allan Townsend
Delora Kennebrew
Meredith Burrell
US Dept of Justice Civil Rights Division-DC
950 Pennsylvania Avenue NW Rm 49258 PHB
Washington, DC 20530
Email: allan.townsend@usdoj.gov
delora.kennebrew@usdoj.gov
meredith.burrell@usdoj.gov
Attorneys for United States of America

Brittany Novotny -and-
401 N. Hudson Ave
Oklahoma City, OK 73102
Email: brittany.novotny@gmail.com
Attorney for Intervenor Plaintiff

Jillian Weiss
Ezra Young
Law Office of Jillian T. Weiss, P.C.
P.O. Box 642
Tuxedo Park, NY 10987
Email: jtweiss@jtweisslaw.com
eyoung@jtweisslaw.com
Attorney for Intervenor Plaintiff

NOTICE IS HEREBY GIVEN pursuant to Rule 30(b)(1) of the Federal Rules of Civil Procedure, that Defendants Southeastern Oklahoma State University and The Regional University System of Oklahoma will take the deposition of the following individual at the following dates, times and location listed below:

NAME	DATE	TIME	LOCATION
Dr. Rachel Tudor	February 17 th & February 18 th , 2016, and each day thereafter as necessary.	9:00 a.m.	D&R Reporting 400 N. Walker Suite 160 Oklahoma City, OK 73102 Telephone: (800) 771-1500 (405) 235-4106 Email: depo@drreporting.com

Respectfully submitted,

/s/ Dixie L. Coffey
 DIXIE L. COFFEY, OBA #11876
 JEB E. JOSEPH, OBA #19137
 KINDANNE JONES, OBA ##11374
 Assistant Attorneys General Oklahoma
 Attorney General's Office
 Litigation Division
 313 NE 21st Street
 Oklahoma City, OK 73105
 Telephone: 405.521.3921
 Facsimile: 405.521.4518

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**DECLARATION OF DR. RACHEL TUDOR IN SUPPORT OF
 MOTION FOR A PROTECTIVE ORDER, AND TO STAY DEPOSITION**

I, Dr. Rachel Tudor, declare as follows:

1. I am currently employed as a full-time professor with a one-year contract at Collin College (“the College”), at the College’s campus located in Plano, Texas.
2. I am scheduled to teach three classes each on February 17 and 18 2016.

3. In order for me to attend a deposition on those dates, I will need to obtain permission from my employer. Granting of leave is not automatic. They may decide that pursuing a lawsuit against a former employer is not a legitimate reason to grant leave.

4. It is also my obligation to make arrangements to have other professors from the College to teach my classes.

5. This is an imposition for other professors with equally heavy teaching loads, and I will likely have to make arrangements with two or three other professors for each day of class missed.

6. The College, like most colleges and universities, does not have substitute professors readily available, and professors who will be absent must make their own arrangements.

7. I may or may not be able to accomplish obtaining substitute coverage for my classes within the time required. Many of the faculty are teaching "overloads" --like me-- and it will be almost impossible to find faculty available to cover all of my classes. Approximately 150 students will be detrimentally impacted. A substitute will not be able to provide the continuity of learning or answer questions about ongoing assignments.

8. If I am required to attend the deposition without having been able to make these arrangements, my employer will not release me, and I may imperil my continued employment.

9. I am also concerned that requesting such time off from my current

employer, for a lawsuit against my former employer, may cause my continued employment prospects to be diminished. My contract is up for renewal and the decision will be made during February so this is a critical time to attend to my duties.

10. While I recall my attorneys mentioning that my deposition might be in late February, possibly even the 17th or 18th, I did not remember any specific dates as firm. I sent them my teaching schedule and I specifically included the date for the college's Spring Break as a week when it would be best for me to provide a deposition. I was not sufficiently clear regarding the importance of scheduling the deposition during Spring Break.

11. It is my hope that the Court will understand and take into account the importance of retaining this job is for both my financial and emotional health, and will grant this short delay.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: February 4, 2016

A handwritten signature in cursive script that reads "Rachel Tudor". The signature is written in black ink and is positioned above a horizontal line.

Rachel Tudor