

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

UNITED STATES OF AMERICA,)

Plaintiff)

RACHEL TUDOR,)

Plaintiff-Intervenor)

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

SOUTHEASTERN OKLAHOMA)

STATE UNIVERSITY, and)

THE REGIONAL UNIVERSITY)

SYSTEM OF OKLAHOMA,)

Defendants.)

**PLAINTIFF UNITED STATES' ADDENDUM TO ITS OPENING MOTION AND
INCORPORATED BRIEF TO QUASH OR, IN THE ALTERNATIVE, FOR A
PROTECTIVE ORDER REGARDING DEFENDANTS'
NOTICE OF DEPOSITION UNDER FED. R. CIV. P. 30(b)(6)**

I. Background

During the morning of August 10, 2016, Plaintiff United States moved, pursuant to FRCP 26(c), to quash or for a protective order regarding Defendants' Notice of 30(b)(6) Deposition, served July 28, 2016 ("Original Notice," ECF No. 78).¹ ECF No. 89. The evening of August 10, 2016, Defendants filed an Amended FRCP 30(b)(6) Notice. ECF No. 94 ("Amended Notice"). The Amended Notice was identical to the Original, except that the matters were numbered to correspond to the numbers in the United States' Motion (ECF No. 89) and a Matter 21 was added.²

In addition to the relief requested in its Motion as to Matters 1-20, Plaintiff also respectfully requests that the Court quash the notice with respect to Matter 21 and stay the deposition pending the resolution of this Motion.

II. The Additional Matter Does Not Meet the Requirements of FRCP 26 or 30.

Matter 21: All insurance policy provisions regarding transgender services provided to USA employees from 2006 to present.

Initially, Matter 21 is vague, but Defendants have agreed to clarify the matter in writing. Defendants have also clarified that they are interested in exclusions associated with gender transitions. But the matter still seeks irrelevant information: the Federal Government's employee health coverage has no tendency to prove or disprove any of the

¹ Pursuant to Local Rule 37.1, Plaintiff and Defendants held a conference in person on August 11, 2016, to discuss the Plaintiff's objections to Matter 21 but were unable to resolve the dispute. Plaintiff remains open to further discussions aimed at narrowing or resolving this dispute, but in light of the expedited briefing schedule (ECF No. 95), Plaintiff is filing this Addendum now.

² The date for which the deposition was noticed was also changed but Defendants' counsel has indicated that was in error.

claims or defenses in this case. The United States has not asserted any claims about Dr. Tudor's health insurance, and the requested information simply has no bearing on Intervenor's claims about Defendants' coverage. It is also unduly burdensome in that a different agency, the U.S. Office of Personnel Management, administers health insurance, not DOJ, and DOJ should not be obligated to testify about information held by a separate federal agency. *See* Pl.'s Br., ECF No. 89 at 17-18. In addition, there are multiple health insurance plans available and plan availability depends on geographic location, among other things. That said, the underlying factual information sought appears to be available publicly and online equally accessible to Defendants, and therefore not the proper subject of a 30(b)(6) deposition.³ *See* Mem. Op. dated Aug. 10, 2016 at 5 (public information was not appropriate discovery) (internal citation omitted).

III. Conclusion

For the reasons described above, the United States respectfully requests that the Court quash Defendants' Rule 30(b)(6) Notice to the United States (ECF No. 94) with respect to Matter 21, and incorporates its previous briefing on the Original Notice.

³ Health & Insurance – Plan Information, <https://www.opm.gov/healthcare-insurance/healthcare/plan-information/plans/> (last visited Aug. 11, 2016); Insurance Programs, <https://archive.opm.gov/insure/health/archive/index.asp> (last visited Aug. 11, 2016) and Previous Years, <https://www.opm.gov/healthcare-insurance/healthcare/plan-information/previous-years/>, (last visited Aug. 11, 2016).

Respectfully submitted,

Date: August 11, 2016

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CERTIFICATE OF SERVICE

I certify that I served this document on all counsel of record through the Court's electronic filing system on the date below.

Date: August 11, 2016

/s/ Shayna Bloom