

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

UNITED STATES OF AMERICA, and	)	
	)	
DR. RACHEL TUDOR	)	CASE NO. 5:15-CV-00324-C
	)	
Plaintiffs,	)	
	)	
v.	)	
	)	
SOUTHEASTERN OKLAHOMA	)	
STATE UNIVERSITY, and	)	
	)	
THE REGIONAL UNIVERSITY	)	
SYSTEM OF OKLAHOMA,	)	
	)	
Defendants.	)	

**DR. RACHEL TUDOR’S  
MOTION TO EXTEND DEADLINE  
TO FILE A MOTION TO COMPEL  
REDEPOSITION OF JUDGE RICHARD OGDEN AND  
FOR SANCTIONS**

In the event that the Court denies the United States’ motion (ECF Doc. 117), Dr. Tudor requests the following relief: Pursuant to Local Rule 7.1(h), Plaintiff/Intervenor Dr. Tudor respectfully requests relief from the Discovery Deadline to permit out of time filing of a motion to compel the redeposition of Judge Richard Ogden. Under the current scheduling order in effect (ECF Doc. 57), all discovery must be completed by September 1, 2016.

The deposition of Judge Ogden occurred on Friday August 26, 2016. Dr. Tudor seeks to file a motion to compel to redress several issues that arose during the Ogden deposition including but not limited to: Defendants' objections based on privilege and work product, employment records and discipline privacy objections, Defendants' counsel's withdrawal of a marked exhibit over the objection of Dr. Tudor's counsel, and Defendants' counsel's refusal to allow Dr. Tudor's counsel to enter additional exhibits. In good faith, Dr. Tudor believes that a motion to compel redeposition and for sanctions is warranted.

Dr. Tudor requests this extension because, at the time of this filing, the court reporter has not yet provided Dr. Tudor's counsel with a copy of the transcript of the deposition. The Ogden deposition transcript is needed in order for Tudor's counsel to meaningfully brief the Court on this issue. Relatedly, it is Dr. Tudor's understanding that Defendants desire to seek a protective order from this Court regarding the Ogden deposition. (Dr. Tudor and Defendants' counsel called Chambers during the Ogden deposition on August 26, 2016 but were unable to receive a ruling from the Court on the issues at the time.)

This is the first time that Dr. Tudor has requested relief from the Discovery Deadline in the current scheduling order in relation to motions pertaining to the deposition of Judge Ogden. Dr. Tudor does not believe that the extension sought, if granted, would unduly affect other deadlines in this case.

Dr. Tudor specifically requests that the Court grant Dr. Tudor an extension of 7 calendar days from the date she receives a copy of the Ogden deposition transcript (tentatively scheduled as September 2, 2016) to file her motion to compel.

In the event that the Court grants the United States' motion (ECF No. 117), Dr. Tudor will withdraw this Motion as moot. Dr. Tudor believes in good faith that timely withdrawal of this Motion under such circumstances will preserve judicial and party resources.

The United States does not oppose this Motion. Defendants' counsel indicated opposition to an initial draft of this motion during conferral via email. *See Exhibit A* (correspondence between counsel).

For the foregoing reasons, Dr. Tudor respectfully requests that the Court enter the order filed with this Motion.

Dated: August 31, 2016

/s/ Ezra Young  
Ezra Young (NY Bar No. 5283114)  
Admitted *Pro Hac Vice*  
Transgender Legal Defense and Education  
Fund, Inc.  
20 West 20<sup>th</sup> Street, Suite 705  
New York, NY 10011  
949-291-3185  
Fax: 646-930-5654  
[eyoung@transgenderlegal.org](mailto:eyoung@transgenderlegal.org)

**ATTORNEY FOR PLAINTIFF/INTERVENOR**

**CERTIFICATE OF SERVICE**

I hereby certify that on August 31, 2016, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system.

/s/ Ezra Young \_\_\_\_\_  
Ezra Young

**From:** Ezra Young eyoung@transgenderlegal.org

**Subject:** Re: Tudor Motion for Extension for Extension of Time to File Motion to Compel Ogden Redeposition

**Date:** August 31, 2016 at 6:28 PM

**To:** Jeb Joseph jeb.joseph@oag.ok.gov

**Cc:** Townsend, Allan (CRT) Allan.Townsend@usdoj.gov, Dixie Coffey dixie.coffey@oag.ok.gov, Kindanne Jones kindanne.jones@oag.ok.gov, Bloom, Shayna (CRT) Shayna.Bloom@usdoj.gov, Meyer, Valerie (CRT) Valerie.Meyer@usdoj.gov, Burrell, Meredith (CRT) Meredith.Burrell@usdoj.gov, Lori Cornell lori.cornell@oag.ok.gov, Jillian Weiss jweiss@transgenderlegal.org

EY

Jeb,

Thanks for your quick reply, it's very much appreciated.

**1. Dr. Tudor does not oppose the US's motion for stay.** As I noted in the text of the draft motion (shared with all counsel) we are seeking this relief in an abundance of caution just in case the Court does not grant the US's motion. Our concern here is that the more limited relief Dr. Tudor seeks will not be available if Judge Cauthron denies the US's motion on or after Sept 1 since our motion to compel would be out of time.

**2. I do not believe that the motion is premature.** I realize no party has the transcript yet. However, Dr. Tudor's counsel and Defendants' counsel did attend the Ogden deposition are aware of the disputes that occurred during that deposition. As I noted in the motion, we need the transcript to meaningfully brief this, but we do not need the transcript to know that a motion to compel is necessary.

**3. Protective order motions by OAG.** I believe you are correct that OAG would need to seek protective relief from the Court here. However, my understanding of the sequencing is that you would counter-file in response to Tudor's motion (when that is filed). I cannot rennotice Judge Ogden's deposition (because of the FRCP) without first seeking leave of the Court for permission, which is, in effect, what the yet to be filed motion to compel seeks.

**4. Rule 1 concern.** I believe that the Court will comprehend that if the US's motion is granted, that Tudor's motion for extension is essentially mooted, which would (seemingly) obviate your concern about judicial resources.

To address all of your concerns, I am suggesting the following motion which I believe clarifies the very limited relief sought here and preserves judicial resources and party resources:

-

In the event that the Court denies the United States' motion (ECF Doc. 117), Dr. Tudor requests the following relief: Pursuant to Local Rule 7.1(h), Plaintiff/Intervenor Dr. Tudor respectfully requests relief from the Discovery Deadline to permit out of time filing of a motion to compel the redeposition of Judge Richard Ogden. Under the current scheduling order in effect (ECF Doc. 57), all discovery must be completed by September 1, 2016.

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and Defendants' counsel's refusal to allow Dr. Tudor's counsel to enter additional exhibits. In good faith, Dr. Tudor believes that a motion to compel redeposition and for sanctions is warranted.

Dr. Tudor requests this extension because, at the time of this filing, the court reporter has not yet provided Dr. Tudor's counsel with a copy of the transcript of the deposition. The Ogden deposition transcript is needed in order for Tudor's counsel to meaningfully brief the Court on this issue. Relatedly, it is Dr. Tudor's understanding that Defendants desire to seek a protective order from this Court regarding the Ogden deposition. (Dr. Tudor and Defendants' counsel called Chambers during the Ogden deposition on August 26, 2016 but were unable to receive a ruling from the Court on the issues at the time.)

This is the first time that Dr. Tudor has requested relief from the Discovery Deadline in the current scheduling order in relation to motions pertaining to the deposition of Judge Ogden. Dr. Tudor does not believe that the extension sought, if granted, would unduly affect other deadlines in this case.

Dr. Tudor specifically requests that the Court grant Dr. Tudor an extension of 7 calendar days from the date she receives a copy of the Ogden deposition transcript (tentatively scheduled as September 2, 2016) to file her motion to compel.

In the event that the Court grants the United States' motion (ECF No. 117), Dr. Tudor will withdraw this Motion as moot. Dr. Tudor believes in good faith that timely withdrawal of this Motion under such circumstances will preserve judicial and party resources.

The United States does not oppose this Motion. **Defendants' counsel \_\_\_\_\_.**

For the foregoing reasons, Dr. Tudor respectfully requests that the Court enter the order filed with this Motion.

Dated: August 31, 2016

Please advise.

Best,

Ezra Young  
Staff Attorney



Transgender Legal Defense & Education Fund, Inc.  
20 West 20th Street, Suite 705  
New York, New York 10011

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On Aug 31, 2016, at 6:04 PM, Jeb Joseph <[jeb.joseph@oag.ok.gov](mailto:jeb.joseph@oag.ok.gov)> wrote:

Ezra,

In light of the United States' motion to stay everything that was filed today, this seems unnecessary at this time. When Allan asked you and everyone else if anyone had any objection to a stay, (which included Discovery), you affirmatively said that you did not object. Further, nobody even has the transcript of Judge Ogden's testimony, so a motion like you are contemplating seems again, premature. If you are representing to the everyone here that you actually intend to pursue re-deposing His Honor, then we will have to seek a protective order, and that will yet again occupy judicial resources, all of which seems unnecessary and premature during the pendency of a stay. Pursuing more motion practice on this at this time seems to be in conflict with Rule 1 regarding the expectation for an "inexpensive determination of every action and proceeding."

In light of these items, please advise as to what your position is on the best use of judicial (and party) resources, at least during the pendency of the anticipated stay.

resources, at least during the pendency of the anticipated stay.

Thank you,  
Jeb

Jeb E. Joseph  
Assistant Attorney General  
Litigation Division  
Office of the Attorney General  
313 N.E. 21st Street  
Oklahoma City, OK 73105  
(405) 522-8940 - Office  
(405) 521-4518 - Fax

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**P** Help conserve trees and space. Don't print this e-mail unless it's really necessary.

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**From:** Ezra Young [<mailto:eyoung@jtweisslaw.com>]  
**Sent:** Wednesday, August 31, 2016 3:33 PM  
**To:** Townsend, Allan (CRT)  
**Cc:** Jeb Joseph; Dixie Coffey; Kindanne Jones; Jillian T. Weiss;; Bloom, Shayna (CRT); Meyer, Valerie (CRT); Burrell, Meredith (CRT)  
**Subject:** Re: Tudor Motion for Extension for Extension of Time to File Motion to Compel Ogden Redeposition

Thank you, Allan.

Dixie, Kindy, or Jeb—have you had the opportunity to review? We'd much appreciate the ability to file this as unopposed.

Best,

Ezra Young, Esq.  
Law Office of Jillian T. Weiss, P.C.  
P.O. Box 642  
Tuxedo Park, NY 10987  
Tel: (949) 291-3185  
Fax: (917) 398-1849  
Email: [eyoung@jtweisslaw.com](mailto:eyoung@jtweisslaw.com)  
Web: [jtweisslaw.com](http://jtweisslaw.com)

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On Aug 31, 2016, at 4:31 PM, Townsend, Allan (CRT)  
<[Allan.Townsend@usdoj.gov](mailto:Allan.Townsend@usdoj.gov)> wrote:

You have the United States' permission to tell the Court that it will not oppose this motion.

Allan K. Townsend  
Senior Trial Attorney  
U.S. Department of Justice  
Civil Rights Division  
Employment Litigation Section--PHB  
601 D Street, NW  
Washington, DC 20579  
(202) 305-3302

*If you are not the intended recipient of this message,  
please notify the sender immediately by e-mail or telephone  
and delete the original message.*

<image001.jpg>

Twitter: @CivilRightsAAG | @CivilRights

---

**From:** Ezra Young [<mailto:eyoung@jtweisslaw.com>]

**Sent:** Wednesday, August 31, 2016 4:05 PM

**To:** Townsend, Allan (CRT); Bloom, Shayna (CRT); Meyer, Valerie (CRT); Jeb Joseph; Dixie Coffey; Kindanne Jones

**Cc:** Jillian T. Weiss,

**Subject:** Tudor Motion for Extension for Extension of Time to File Motion to Compel Ogden Redeposition

**Importance:** High

Counsel:

I am requesting Defendants' and the United States' permission to file the following request as an unopposed motion with the WD Okla. Please advise.

**UNOPPOSED MOTION TO EXTEND DEADLINE FOR  
DR. RACHEL  
TO FILE A MOTION TO COMPEL  
REDEPOSITION OF JUDGE RICHARD OGDEN AND**

FOR SANCTIONS

Pursuant to Local Rule 7.1(h), Plaintiff/Intervenor Dr. Tudor respectfully requests relief from the Discovery Deadline to permit out of time filing of a Motion to Compel the Re-deposition of Judge Richard Ogden. Under the current scheduling order in effect (ECF Doc. 57), all discovery must be completed by September 1, 2016.

The deposition of Judge Ogden occurred on Friday August 26, 2016. Dr. Tudor seeks to file a motion to compel to redress several issues that arose during the Ogden deposition including but not limited to: Defendants' objections based on privilege and work product, employment records and discipline privacy objections, Defendants' counsel's withdrawal of a marked exhibit over the objection of Dr. Tudor's counsel, and Defendants' counsel's refusal to allow Dr. Tudor's counsel to enter additional exhibits. In good faith, Dr. Tudor believes that a motion to compel re-deposition and for sanctions is warranted.

Dr. Tudor requests this extension because, at the time of this filing, the court reporter has not yet provided Dr. Tudor's counsel with a copy of the transcript of the deposition. The Ogden deposition transcript is needed in order for Tudor's counsel to meaningfully brief the Court on this issue. Relatedly, it is Dr. Tudor's understanding that Defendants desire to seek a protective order from this Court regarding the Ogden deposition. (Dr. Tudor and Defendants' counsel called Chambers during the Ogden deposition on August 26, 2016 but were unable to receive a ruling from the Court on the issues at the time.)

(Dr. Tudor is aware that the United States has moved this Court for relief for all parties from the Discovery Deadline because of continued uncertainty surrounding the United States' ability to participate in these proceedings given the injunction issued by the Northern District of Texas in *Texas et al. v. United States et al.*, No. 7:16-cv-00045 (N.D.Tex.). See ECF Doc. 117 (filed Aug. 31, 2016). In the event that this Court does not grant the United States' motion, and in an abundance of caution, Dr. Tudor requests scheduling relief narrowly for her motion to compel related to the Ogden deposition.)

This is the first time that Dr. Tudor has requested relief from the Discovery Deadline in the current scheduling order in relation to motions filed pertaining to the deposition of Judge Ogden. Dr. Tudor does not believe that the extension sought, if granted, would unduly affect other deadlines in this case.

REASONS IN THIS CASE.

Dr. Tudor specifically requests that the Court grant Dr. Tudor an extension of 7 calendar days from the date she receives a copy of the Ogden deposition transcript (tentatively scheduled as September 2, 2016) to to file her motion to compel.

For the foregoing reasons, Dr. Tudor respectfully requests that the Court enter the order filed with this Motion.

Ezra Young, Esq.  
Law Office of Jillian T. Weiss, P.C.  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA

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DR. RACHEL TUDOR	)	CASE NO. 5:15-CV-00324-C
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Plaintiffs,	)	
	)	
v.	)	
	)	
SOUTHEASTERN OKLAHOMA	)	
STATE UNIVERSITY, and	)	
	)	
THE REGIONAL UNIVERSITY	)	
SYSTEM OF OKLAHOMA,	)	
	)	
	)	
Defendants.	)	

**[Proposed] Order**

Dr. Rachel Tudor's Motion to Extend Deadline to File a Motion to Compel Deposition of Judge Richard Ogden and for Sanctions (ECF Doc. 120) is GRANTED. Dr. Tudor may file her motion to compel within 7 days of the date on which she receives a copy of the transcript of Judge Ogden's August 26, 2016 deposition.

Dated this \_\_\_ day of September, 2016.

\_\_\_\_\_  
ROBIN J. CAUTHRON  
United States District Judge