

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

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
and)	
)	
DR. 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/INTERVENOR DR. RACHEL TUDOR'S
PROPOSED VOIR DIRE**

Dr. Rachel Tudor respectfully submits the following Proposed *Voir Dire* in accordance with the Court's Order (ECF No. 142).

Knowledge of the Case

1. Have you ever heard of this lawsuit before today?
2. If so, when did you first hear of this lawsuit?
3. If so, how did you become aware of this lawsuit?

4. If so, as a result of your prior knowledge of this lawsuit, have you formed any opinions about who should win or lose?

5. If so, would either party have to present any evidence before you would change the present opinions that you have about this case?

6. If so, despite your past knowledge of this lawsuit, can you set aside what you have heard before today and try this case solely upon the believable and credible evidence introduced during the trial and the applicable law as I instruct you?

7. Have you ever heard about the federal government's position on whether transgender workers are protected by employment discrimination laws?

8. If so, despite your past knowledge of the federal government's position on whether transgender workers are protected by employment discrimination laws, can you set aside what you have heard before today and try this case solely upon the believable and credible evidence introduced during the trial and the applicable law as I instruct you?

Lawyers

9. Do you know any of the lawyers involved in this case?

10. If so, what is your relationship with the lawyer that you know?

11. If so, would you be inclined to favor or disfavor the client of the lawyer that you know?

12. If so, would your knowledge of the lawyer in any way affect your ability to be a fair and impartial juror?

Witnesses

13. Some of the following witnesses may be called to testify at trial:

- a. Dr. Rachel Tudor
- b. Judge Richard Ogden
- c. Dr. George R. Brown
- d. Dr. Robert Dale Parker
- e. Ms. Melinda “Mindy” House
- f. Dr. Paula Smith Allen
- g. Dr. Daniel Althoff
- h. Mr. Charles Babb
- i. Dr. Janet Barker
- j. Dr. Bryon Clark
- k. Dr. Lisa Coleman
- l. Ms. Cathy Conway
- m. Dr. Margaret Cotter-Lynch
- n. Dr. William Fridley
- o. Dr. Charla Hall
- p. Dr. James Knapp
- q. Ms. Jana Legako
- r. Dr. Lawrence “Larry” Minks
- s. Dr. Lucretia Scoufos
- t. Dr. Douglas McMillan
- u. Dr. John Mischo
- v. Dr. Virginia Parrish
- w. Dr. Randy Prus
- x. Dr. Sharon Robinson
- y. Dr. Lucretia Scoufos
- z. Dr. Jesse Snowden
- aa. Dr. Mark Spencer
- bb. Dr. Claire Stubblefield
- cc. Mr. Ross Walkup
- dd. Dr. Charles Weiner
- ee. Ms. Whitney Popchoke
- ff. Mr. Mike Davis
- gg. Ms. Sheridan McCaffree

- hh. Ms. Jane McMillan
- ii. Ms. Kathy Nusz
- jj. Dr. Don Weasenforth
- kk. Ms. Holly Newell

14. Do you know or think you know any of these witnesses?

15. If so, what is your relationship with the witness(es) that you know?

16. If so, would you be inclined to give greater or lesser weight to testimony of a witness that you know?

17. If so, would your knowledge of a witness in any way affect your ability to be a fair and impartial juror?

Parties

18. Do you know Dr. Rachel Tudor?

19. If so, how did you become acquainted with her?

20. If so, when did you first have knowledge of her?

21. If so, is there anything about your knowledge of Dr. Rachel Tudor that would cause you to be biased either for or against her?

22. Have you or has anyone in your immediate family or a close personal friend ever been employed by the State of Oklahoma or in higher education at a public university in Oklahoma?

23. If so, in what capacity were you or that person employed?

24. If so, is there anything about your or that person's employment with the State of Oklahoma or with Defendants that would cause you to be biased either for or against Dr. Rachel Tudor?

Damages

25. Could you return a verdict against Defendants (State of Oklahoma ex rel.) and in favor of Dr. Rachel Tudor if the evidence and the applicable law supported a verdict in favor of Tudor?

26. Would you have any hesitancy to award a money verdict against Defendants (State of Oklahoma ex rel.) and in favor of Tudor if the evidence and the applicable law supported a verdict in favor of Tudor?

27. Would you have any reluctance to award a money verdict in an amount that will adequately compensate Tudor for damages if the evidence and the applicable law support a verdict in favor of Tudor?

28. Would you have any reluctance to award a money verdict in an amount that will adequately compensate Tudor for lost income, loss of fringe benefits, humiliation, loss of enjoyment of life, and damage to her professional reputation?

29. Would you have any reluctance to award Tudor reinstatement in the position of Associate Professor with tenure at Southeastern Oklahoma State University?

Burden of Proof

30. Do you understand that this is a civil case and that the burden of proof required to prove the case is different than in a criminal case?

31. In a civil case such as this case, the party with the burden of proof must prove her claims only by a preponderance of the evidence, or evidence that is more probably true than not true. In a criminal case, the burden of proof is beyond a reasonable doubt. Is anyone troubled by the fact that a civil case requires a lesser burden of proof than a criminal case does?

Prior Jury Service

32. Have you ever served on a jury before?

33. If so, was it a civil or a criminal case?

34. If it was a civil case, what was the nature of it?

35. If so, were you able to reach a verdict in each case in which you served as a juror?

36. If so, have you every been selected as the foreperson of a jury?

37. Is there anything about your prior jury service that would cause you to be biased for or against the parties to this lawsuit?

38. Is selected as a juror in this case, will you set aside the facts and applicable law that pertained to the other cases on which you served as a

juror and try this case solely on the believable and credible evidence and the applicable law as I instruct you?

Other Lawsuits

39. Have you or has anyone in your immediate family ever been sued in a civil action other than for divorce?

40. If so, what kind of a lawsuit was it?

41. If so, was there anything about what happened in your lawsuit / your immediate family member's lawsuit that would affect your ability to be fair in this case?

42. Do you believe that a person should be allowed to file a lawsuit and have a jury of her peers sit in judgment as the triers of fact?

Discrimination

43. Has anyone filed a charge of employment discrimination against you, a company that you or any of your close family members own, or against any of your employers?

44. If so, what was the alleged basis of the employment discrimination?

45. If so, is there anything about what happened regarding the charge of employment discrimination that would affect your ability to be a fair juror in this lawsuit?

46. Have you ever owned a business or an interest in a business that held itself out to be an equal opportunity employer?

47. If so, what was the nature of your business?

48. Do you personally know anyone who has filed a charge of employment discrimination with any state or federal agency?

49. If so, what was the alleged basis of employment discrimination?

50. If so, is there anything about what happened regarding that case that would affect your ability to be fair in this lawsuit?

51. Do you agree or disagree with federal and state laws that prohibit discrimination in employment based upon a person's sex?

52. What is the nature of your opinion?

53. If so, would you be able to set aside your own personal beliefs about laws that prohibit discrimination in employment upon a person's sex and decide this case solely upon the law as I instruct you and upon believable and credible evidence?

54. What does workplace discrimination on the basis of sex look like? What evidence would you look for to make a determination that sex discrimination occurred?

Retaliation

55. Has anyone filed a charge of employment retaliation against you, a company that you or any of your close family members own, or against any of your employers?

56. If so, what was the alleged basis of the employment retaliation?

57. If so, is there anything about what happened regarding the charge of employment retaliation that would affect your ability to be a fair juror in this lawsuit?

58. Do you personally know anyone who has filed a charge of employment retaliation with any state or federal agency?

59. If so, what was the alleged basis of employment retaliation?

60. If so, is there anything about what happened regarding that case that would affect your ability to be fair in this lawsuit?

61. Do you agree or disagree with federal and state laws that prohibit retaliation in employment against an employee who complains about discrimination or harassment at work?

62. What is the nature of your opinion?

63. If so, would you be able to set aside your own personal beliefs about laws that prohibit retaliation in employment and decide this case solely upon the law as I instruct you and upon believable and credible evidence?

64. What does workplace retaliation look like? What evidence would you look for to make a determination that workplace retaliation occurred?

Hostile Work Environment

65. Has anyone filed a hostile work environment charge against you, a company that you or any of your close family members own, or against any of your employers?

66. If so, what was the alleged basis of the hostile work environment?

67. If so, is there anything about what happened regarding the hostile work environment charge that would affect your ability to be a fair juror in this lawsuit?

68. Do you personally know anyone who has filed a hostile work environment charge with any state or federal agency?

69. If so, what was the alleged basis of the hostile work environment?

70. If so, is there anything about what happened regarding that case that would affect your ability to be fair in this lawsuit?

71. Do you agree or disagree with federal and state laws that prohibit hostile work environments?

72. What is the nature of your opinion?

73. If so, would you be able to set aside your own personal beliefs about laws that prohibit hostile work environments and decide this case

solely on the law as I instruct you and upon believable and credible evidence?

74. Do you believe that an employee must be physically or sexually assaulted in order for a work environment to be a hostile one?

75. Do you think it is possible for a tense or uncomfortable environment perpetrated because of someone's sex to be a hostile work environment?

76. Do you think it is possible for an employer's policies or practices to be such that, if they impact someone because of their sex, that these policies or practices could give rise to a hostile work environment?

Policies and Procedures

77. Have you ever worked for an employer that provided an employee handbook or procedures manual with rules prohibiting discrimination in the workplace?

78. Have you ever worked for an employer that provided an employee handbook or procedures manual with rules prohibiting retaliation in the workplace?

79. Have you ever worked for an employer that provided an employee handbook or procedures manual with rules prohibiting harassment in the workplace?

80. Do you believe that just because an employer has a policy prohibiting discrimination in the workplace that the employer always follows that policy and there is never any discrimination?

81. Do you believe that just because an employer has a policy prohibiting retaliation in the workplace that the employer always follows that policy and there is never any retaliation?

82. Do you believe that just because an employer has a policy prohibiting harassment in the workplace that the employer always follows that policy and there is never any harassment?

Right to Sue Employer

83. Do you believe in a person's right to file suit against an employer?

84. Do you believe a person should never sue an employer?

85. Do you believe that an employer's managers should not have to obey laws prohibiting retaliation?

86. Do you believe that management should be able to make decisions without regard to laws prohibiting retaliation?

87. Do you believe that a person should not be allowed to sue their employer because, even if she has a valid claim, a lawsuit might harm the employer's reputation?

88. Do you believe that people should not be able to testify against their current employers, even if the lawsuit involves a valid claim, because such testimony might cause needless harm to the employer's reputation?

89. Do you understand that if you return a verdict in favor of Dr. Tudor, that the Defendants—which are sub-divisions of the State of Oklahoma—might need to use Oklahoma tax dollars to pay Tudor damages?

90. If so, do you have any apprehension about returning a verdict in favor of Dr. Tudor because such a verdict might result in Oklahoma tax dollars being used to pay Tudor damages?

Employment and Personal History

91. Are you employed?

92. Who is your employer?

93. What type of work do you perform?

94. If you are married, is your spouse employed?

95. If so, by whom?

96. What type of work does your spouse perform?

97. Do you believe that all people should be treated equally in the workplace without regard to sex?

98. If not, what is the basis of your belief in that regard?

99. Do you feel that all people should be treated equally in the workplace without regard to sex?

100. If not, what is the basis of your belief in that regard?

101. Are you presently in a supervisory position with your employer?

102. If so, how long have you been a supervisor?

103. Have you had any training, experience, or education related to equal employment opportunities?

104. If so, what is the nature of your training, experience, or education?

105. Do you have any preconceived feelings or beliefs about women who claim to have been harassed in the workplace because of their sex?

106. If so, what are your feelings or beliefs about that subject?

107. Do you have any preconceived feelings or beliefs about women who claim to have been harassed in the workplace because of their sex?

108. If so, what are your feelings or beliefs about that subject?

Gender Non-Conformity and Transgender People

109. Do you know what it means for a person to be “transgender”?

110. If so, how would you define what makes someone transgender?

111. Have you ever known a person whose gender presentation does not conform to your idea of how a man or woman should look or sound?

112. Have you ever met a person who you did not think presented themselves in a way that a man or woman should present their gender (e.g., how they style their hair, the clothes they wear, the presence/absence of facial hair and/or makeup, the pitch of their voice, their mannerisms, their personality etc.)?

113. If so, would you be able to set aside your own personal beliefs about how a man or woman should present their gender and decide this case solely upon the law as I instruct you and upon believable and credible evidence?

114. Do you personally know any transgender people?

115. Do you agree or disagree with federal laws that prohibit sex discrimination against transgender people?

116. What is the nature of your opinion?

117. If so, would you be able to set aside your own personal beliefs about federal laws that prohibit sex discrimination against transgender persons and decide this case solely upon the law as I instruct you and upon believable and credible evidence?

118. Do you believe that all people should be treated equally in the workplace without regard to whether they are transgender?

119. If not, what is the basis of your belief in that regard?

120. Do you have any preconceived feelings or beliefs about transgender persons who claim to have been discriminated against/ harassed/ subjected to a hostile work environment in the workplace because of their sex?

121. If so, what are your feelings or beliefs about that subject?

Evidence

122. What kind of evidence do you think is necessary for an employee to show discrimination occurred?

123. What kind of evidence would you need to be convinced that workplace sex discrimination occurred?

124. If two witnesses in this trial disagree about what happened, how would you figure out which witness is telling the truth?

Miscellaneous Questions

125. Would you desire for a juror with your present frame of mind to serve as a juror if you were a party to this lawsuit?

126. Is there anything about the nature of this lawsuit that causes you to believe that you could not be fair and impartial to both parties?

127. Would you follow and apply the law as you are instructed even if you personally disagree with the law?

128. Do you know of any reason why you could not be a fair and impartial juror to both sides in this case?

129. How many of you think the jury system is a good way to resolve disputes?

130. Without telling me your specific thoughts or opinion, do any of you have strong feelings against lawsuits in general?

131. How long have you held this opinion or belief?

132. Do you think that you can put this belief or opinion aside, be fair and impartial to the parties, and follow and apply the law as I instruct you?

133. Without telling me your specific thoughts or opinion, do any of you have strong feelings against large jury awards?

134. How long have you held this opinion or belief?

135. Do you think that you can put this belief or opinion aside, be fair and impartial to the parties, and follow and apply the law as I instruct you?

Dated: October 10, 2017

/s/ Ezra Young
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CERTIFICATE OF SERVICE

I hereby certify that on October 10, 2017, I electronically filed a copy of the foregoing with the Clerk of Court by using the CM/ECF system, which will automatically serve all counsel of record.

/s/ Ezra Young
Ezra Young (NY Bar No. 5283114)