

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

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

**PLAINTIFF DR. RACHEL TUDOR’S REPLY TO  
DEFENDANTS’ EXPEDITED RESPONSE TO PLAINTIFF’S OPPOSED  
MOTION FOR EXTENSION OF TIME TO RESPOND TO DEFENDANTS’  
MOTION FOR JUDGMENT AS A MATTER OF LAW,  
OR IN THE ALTERNATIVE, NEW TRIAL**

Tudor proffers this Reply<sup>1</sup> to directly rebut the points raised in Defendants’ Expedited Response (ECF No. 325) to Tudor’s Opposed Motion for Extension of Time (ECF No. 322) (“Extension Motion”) to Defendants’ Motion for Judgment as a Matter of Law, Or In the Alternative, New Trial (ECF No. 318) (“Defendants’ Motion”).

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<sup>1</sup> Tudor files this Reply so as to ensure that all is before the Court as it considers the Extension Motion. The undersigned apologizes to the extent this Reply offends judicial economy insofar as it addresses the well-settled concept of what constitutes a motion being moot.

## BACKGROUND

On July 25, 2018, once this Court ordered Defendants to file their Expedited Response by August 1, 2018 (ECF No. 323), Tudor's counsel realized that Tudor's Extension Motion could not be granted prior to the deadline for her response to Defendants' Motion, which under the Local Rules fell on July 26, 2018. As a result, Tudor was forced to file *something* by July 26, 2018 lest Defendants' Motion be deemed unopposed and confessed. *See* ECF No. 324 at 1 n.1 (explaining the same). Thus, Tudor's counsel quickly drafted the Preliminary Response within the 24-hour period *after* the Court's July 25 order issued, resulting in a timely but nonetheless hastily rushed filing.<sup>2</sup> Moreover, a not insignificant amount of space therein was devoted to addressing arguments that are irrelevant if Tudor's Motion to Strike (ECF No. 318) is partially granted or totally denied, a core reason for the relief requested in the Extension Motion.

## ARGUMENT

*Extension Motion not moot.* Defendants speciously argue that since Tudor filed the Preliminary Response, Tudor's Extension Motion is moot. Not so. The relief Tudor seeks from this Court can still be granted—a decision

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<sup>2</sup> Defendants' oblique attack on the undersigned's credibility is uncalled for. As attested to in the Preliminary Response, the undersigned drafted it in the 24-hours after the Court issued its July 25, 2018 Order. *See* Preliminary Response, ECF No. 324 at 1 n.1 (“[T]he undersigned quickly drafted this Response in the 24-hours following the issuance of the Court’s July 25 Order.”). The fact that the Preliminary Response included a number of citations—as is typical in any legal filing—does not take away from the fact that the Response was a rush draft intended to hold the place of a proper filing to be filed at a later time if the Motion for Extension is granted.

entered first on her Motion to Strike, and if that is not granted then 14-days of additional time to formulate a response to Defendants' Motion which is (a) not hurriedly drafted and (b) which only addresses arguments necessary in light of the Court's disposition of the Motion to Strike. Because the relief Tudor seeks can still be granted, the Extension Motion is not moot. *Cf. Rezaq v. Nalley*, 677 F.3d 1001, 1008 (10th Cir. 2012) ("The crux of mootness inquiry in an action for prospective relief is whether the court can afford meaningful relief that will have some effect in the real world.").

*No legitimate grounds for opposition.* The only arguments that Defendants raise in opposition to the Extension Motion are that, if granted (a) scheduling would be affected and (b) they dislike Tudor's Motion to Strike and otherwise believe Tudor's rushed Preliminary Response should stand as filed. Neither ground is a legitimate reason to deny the Extension Motion.

As to the scheduling issue, Defendants' argument strains credulity. The essence of a motion for extension is that, if granted, scheduling will shift. Tellingly, Defendants cannot point to a single legitimate reason as to why they opposed the extension in the first instance. Clearly, there is none. Moreover, Defendants' gamesmanship is made plain in their Response. Therein they reveal that they opposed Tudor's legitimate request for extension so as to force a rushed response, and now ask the Court to deny the extension and lock in the rushed response that their opposition forced. Denial

of the Extension Motion is not warranted simply because Defendants' desire a tactical advantage.

As to Defendants' disdain for Tudor's Motion to Strike and desire that Tudor's Preliminary Response stand as is—those rationales also fall short of the mark. Defendants must respond to Tudor's Motion to Strike on the merits. Opposing an interrelated extension motion out of spite is improper. Requests for extension should be agreed to by counsel out of courtesy. *See* Okla. Standards of Professionalism § 3.4(c) (“We will agree as a matter of courtesy to first requests for reasonable extensions of time unless time is of the essence.”).

### CONCLUSION

Defendants' Response reveals they opposed Tudor's Extension Motion simply as a means to secure tactical advantage and out of spite. Such opposition is wholly inappropriate. For all of the foregoing reasons, Tudor's Opposed Motion for Extension (ECF No. 322) is neither moot nor legitimately opposed by Defendants. Tudor respectfully requests that the Court grant the Extension Motion, rule on Tudor's Motion to Strike (ECF No. 322), and if the Motion to Strike is denied, grant Tudor 14-days thereafter to amend her Preliminary Response (ECF No. 324) to Defendants' Motion for Judgment as a Matter of Law, Or In the Alternative, New Trial (ECF No. 318).

Dated: August 1, 2018

/s/ Ezra Young  
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**CERTIFICATE OF SERVICE**

I hereby certify that on August 1, 2018, 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)