



## BACKGROUND

Yesterday, the undersigned moved to intervene and join claims against Dr. Tudor and Southeastern and RUSO in this case so as to preserve our attorneys' liens and otherwise secure our interests in fees and costs owed (ECF No. 414). This drastic step was undertaken only after Dr. Tudor, Southeastern, and RUSO stonewalled and otherwise refused good faith efforts to settle our bills despite being repeatedly noticed and reminded of our interests in this case. To refresh, our proposed complaint in intervention proceeds on three theories (ECF No. 414-1) this very Court highlighted in its December 28, 2021 Order which unequivocally warned Dr. Tudor and her present counsel that neither federal nor Oklahoma courts will countenance her skipping out on legal bills she racked up (ECF No. 391 at 4–5) over the better part of seven years which this docket reflects are in the seven figures.

Despite our intervention motion still pending on this docket, earlier today, Dr. Tudor, by and through one attorney she is currently suing (Weiss)<sup>1</sup> and another representing her in that suit (Colclazier) moved to dismiss this case with prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii) “without fees and costs” (ECF No. 415).

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<sup>1</sup> That case is captioned as captioned as: *Rachel Tudor v. Marie Galindo, Brittany Stewart, Jillian Weiss, Ezra Young, and Transgender Legal Defense and Education Fund*, 5:22-cv-00480-C (W.D. Okla. filed June 13, 2022) [hereinafter Interpleader Case].

## ARGUMENT

### I. THE COURT MAY EXERCISE ITS INHERENT POWERS TO REJECT DR. TUDOR'S RULE 41 DISMISSAL

We humbly ask that this Court exercise its inherent authority to reject Dr. Tudor's Rule 41 stipulation of dismissal even if it otherwise meets the requirements of Rule 41 (but see *infra* Part II).

This Court has the inherent power to look behind procedural machinations to preserve the integrity of these proceedings. It is fundamental that federal courts have inherent power to “prevent abuse, oppression, and injustice . . . as extensive and efficient as may be required by the necessity of their exercise and [it] may be invoked by strangers to the litigation” or sua sponte. *Gumble v. Pitkin*, 124 U.S. 131, 146 (1888).

Dr. Tudor's Rule 41 stipulation—which claims to automatically dismiss this case waiving any entitlement to attorneys' fees and costs—is a brazen effort to use this proceeding to evade seven figure attorneys' bills that she has repeatedly signaled on this docket that she has no intent to pay. This is made all the more clear given the timing—she filed the stipulation within hours of her former counsel who performed the lion's share of the work on this case at all levels, moving to intervene to join claims against her and Defendants seeking to preserve former counsel's attorneys' liens and other interests in satisfying our fees and costs which were previously docketed in this matter.

The important interests undergirding Rule 41 dismissals will be turned upside down if Dr. Tudor's stipulation is given effect. Rule 41 dismissals are supposed to mark the end of a litigation. Dr. Tudor has no such intention, as evidenced by her still yet to be perfected suit against her present and former counsel in her Interpleader Case filed and assigned to this same U.S. District Judge a mere month ago.<sup>2</sup> These kinds of tactics are particularly egregious given the considerable resources Dr. Tudor has consumed in efforts to evade her legal bills despite settlement judges and this Court repeatedly pointing out that her bills will ultimately have to be settled.

Dr. Tudor is simultaneously suing her counsel Ms. Weiss—who signed and filed the stipulation notice on Dr. Tudor's behalf today—despite the fact that Dr. Tudor has been supposedly adverse to Ms. Weiss for more than a month in the Interpleader Case. The particulars of the undersigned's proposed complaint in intervention also draw attention to other unseemly tactics Dr. Tudor's new counsel have employed to evade a fair resolution of the considerable legal bills Dr. Tudor incurred prior to their representation. In this seven-year litigation all of the merits briefing in every one of the several courts this case and its ancillaries traveled through, was performed by prior counsel.

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<sup>2</sup> That case is captioned as captioned as: *Rachel Tudor v. Marie Galindo, Brittany Stewart, Jillian Weiss, Ezra Young, and Transgender Legal Defense and Education Fund*, 5:22-cv-00480-C (W.D. Okla. filed June 13, 2022) [hereinafter Interpleader Case].

II. GIVING EFFECT TO THE STIPULATION OF DISMISSAL IS IMPROPER BECAUSE IT RUNS AFOUL OF RULE 41's REQUIREMENTS

Dr. Tudor's stipulation of dismissal fails for at least two reasons.

First, Dr. Tudor lacks the capacity to dismiss this case with prejudice under Rule 41(a) because the undersigned docketed a motion for intervention and putative complaint raising judiciable issues prior to her filing her Rule 41 stipulation. Under binding 10th Circuit precedent, once there is a "plea of intervention [tendering] judiciable issues for determination," the "plaintiff [is] not vested with the absolute right of dismissal . . . [s]he could dismiss only upon order of the court, and upon such terms and conditions as the court deemed proper." *Butler v. Denton*, 150 F.2d 687, 690 (10th Cir. 1945).

Second, Dr. Tudor, Southeastern, and RUSO are otherwise without the power to dismiss this case with "prejudice and without fees and costs" because Young and Stewarts' attorneys' liens and other equitable interests attached to the case prior to docketing of the stipulation. As we elevated just yesterday in our motion to intervene and proposed complaint in intervention, our interests in having our legal bills paid in full cannot be extinguished by a settlement brokered around former counsel and without our consent (ECF No. 414 at 8–9).

## CONCLUSION

We respectfully ask that this Court take all necessary steps to help the parties reach a resolution in this case that actually brings about finality and frees the Western District's docket of all remaining disputes once and for all. We remain open and willing to engage in settlement efforts in and outside of Court to bring about a resolution. Given the last nine months of evasion by the original parties of our legitimate and still unpaid legal bills, it is abundantly apparent that a strong directive from this Court is necessary to help bring this dispute to a fair and equitable end.

Dated: July 14, 2022

Respectfully Submitted,

/s/ Ezra Young

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**CERTIFICATE OF SERVICE**

I hereby certify that on July 14, 2022, 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)