

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

TABATHA BARNES, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	
)	Case No. CIV-16-184-HE
)	
CITY OF OKLAHOMA CITY,)	
a municipal corporation, <i>et al.</i> ,)	
)	
Defendants.)	

**PLAINTIFFS’ MOTION TO COMPEL RULE 30(b)(6) DEPOSITION
OF DEFENDANT CITY OF OKLAHOMA CITY & BRIEF IN SUPPORT**

Plaintiffs Shardayreon Hill, Carla Johnson, Jannie Ligons, Kala Lyles, and Terri Morris (collectively “Plaintiffs”) hereby submit this Motion to Compel Rule 30(b)(6) Deposition of Defendant City of Oklahoma City (“Motion”). In support of their Motion, Plaintiffs submit as follows:

1. These Plaintiffs, five survivors of sexual assault perpetrated by Daniel Holtzclaw, filed this action to seek redress from Defendants Daniel Holtzclaw, the City of Oklahoma City, and other officers of the Oklahoma City Police Department, for the wrongs committed against them by Defendant Holtzclaw.

2. Around the same time, three other actions were filed by more of Defendant Holtzclaw’s victims, namely: *Sherri Ellis, et al. v. Daniel Holtzclaw, et al.*, No. CIV-16-19-HE (W.D. Okla.); *Adaira Gardner v. Daniel Holtzclaw, et al.*, No. CIV-16-349-HE (W.D. Okla.); and *Rosetta Grate v. City of Oklahoma City, et al.*, No. CIV-16-412-HE (W.D. Okla.).

3. On July 6, 2016, the Court entered a Scheduling Order [Doc. 38 in CIV-16-184-HE] in which it consolidated for purposes of discovery each of the four cases arising out of allegations of sexual assault against Defendant Holtzclaw. There are fifteen (15) parties total among the four consolidated cases.

4. Since then, all ten (10) plaintiffs in the four above-referenced actions, combined, have taken depositions of eleven (11) witnesses, one of which was compelled by the Court [*see* Doc. 217 in CIV-16-184-HE]:

- a. Lieutenant Brian Bennett;
- b. Defendant Detective-Sergeant Rocky Gregory;
- c. Lieutenant Timothy Muzny;
- d. Captain Ron Bacy;
- e. Major Denise Wenzel;
- f. Deputy Chief Johnny Kuhlman;
- g. Chief Bill Citty;
- h. Captain Arthur Gregory;
- i. Major Mike Hoskins;
- j. Major Brian Jennings; and
- k. Defendant Daniel Holtzclaw.

5. All five (5) defendants in the above-referenced actions, combined, have taken depositions of sixteen (16) witnesses:

- a. Campbell Ruddock;
- b. Elaine Taylor;

- c. Inspector-Sergeant Kim Davis;
- d. Detective-Sergeant Valari Homan;
- e. Demetria Campbell;
- f. Plaintiff Tabatha Barnes in CIV-16-184-HE
- g. Plaintiff Shardayreon Hill in CIV-16-184-HE;
- h. Plaintiff Carla Johnson in CIV-16-184-HE;
- i. Plaintiff Jannie Ligons in CIV-16-184-HE;
- j. Plaintiff Kala Lyles in CIV-16-184-HE;
- k. Plaintiff Terri Morris in CIV-16-184-HE;
- l. Plaintiff Sherry Ellis in CIV-16-19-HE;
- m. Plaintiff Regina Copeland in CIV-16-19-HE;
- n. Plaintiff Adaira Gardner in CIV-16-349-HE;
- o. Plaintiff Rosetta Grate in CIV-16-412-HE; and
- p. Syrita Bowen.

6. In the time since the latest deposition taken by the plaintiffs—the deposition of Chief Bill Citty, held on February 19, 2020, these Plaintiffs have on multiple occasions filed a notice to take the deposition of Defendant City of Oklahoma City pursuant to Federal Rule of Civil Procedure 30(b)(6).

7. The first 30(b)(6) notice Plaintiffs filed [Doc. 267 in CIV-16-184-HE] contained thirty-two (32) topics to be covered at the deposition.

8. Counsel for the City objected to the number of topics listed in the notice as well as the scope of some of the listed topics, arguing that to produce witnesses to cover all the listed topics would be unduly burdensome for the City.

9. Counsel for the Plaintiffs and counsel for the City conferred on multiple occasions regarding the parties' positions on the appropriate scope of a 30(b)(6) deposition, and following those discussions, Plaintiffs filed their most recent 30(b)(6) notice [Doc. 326 in CIV-16-184-HE], which effectively cut in half the number of topics listed in the initially filed notice, and contained some topics that Plaintiffs had made an effort to narrow in scope since such topics had appeared in the initially filed notice.

10. Subsequently, counsel for the City advised Plaintiffs' counsel that they would refuse to produce any witnesses for a 30(b)(6) deposition without an order from the Court, arguing that to conduct a deposition under Rule 30(b)(6) at this juncture would place an undue burden on the City, that Plaintiffs' counsel has had ample opportunity to obtain the information they seek to cover in a 30(b)(6) deposition in prior depositions, and that Plaintiffs have indeed already covered some of the topics listed in the notice in depositions of prior witnesses.

11. It is true that many of the topics Plaintiffs seek to cover in a 30(b)(6) deposition have been raised and discussed in prior depositions. However, the deponents in prior depositions, all current or former employees of the Oklahoma City Police Department, have given inconsistent or incomplete testimony regarding material aspects of Plaintiffs' claims, such that Plaintiffs have been unable to definitively ascertain City's position on the issues as an entity. Plus, no witness in this case has been designated by the

City to testify about any specific matters, nor has any witness been under an obligation to “testify about information known or reasonably available to the [City as an] organization.”

Fed. R. Civ. P. 30(b)(6).

12. City’s arguments “overlook[] the basic purpose of a 30(b)(6) deposition[:]

Rule 30(b)(6) allows an organization to designate an individual to ‘testify on its behalf.’ The testimony provided by a corporate representative at a 30(b)(6) deposition binds the corporation. This is quite unlike a deposition of an employee of that corporation, which is little more than that individual’s view of the case and is not binding on the corporation. Even if the substance of the information ultimately provided mirrors that of the testimony given by [the organization]’s former directors and employees, plaintiff still is entitled to tie down the definitive positions of [the City] itself, rather than that of the individuals who work for [the City].”

Funk v. Pinnacle Health Facilities XXII, LP, No. 17-1099-JTM-KGG at 12 (D. Kan. Jan. 22, 2019) (quoting *New Jersey v. Sprint Corp.*, No. 03-2017-JWL, 2010 WL 610671 at *2 (D. Kan. Feb. 19, 2010)). See also *Kretek v. Bd. of Cty. Comm’rs of Luna Cty.*, No. CIV-11-676-RB/GBW (D.N.M. Oct. 19, 2012) (“[E]ven if some of the topics have been addressed in interrogatories and document disclosure, a Rule 30(b)(6) deposition is designed to put the organization’s position on the record, give reasons for that position, and stand subject to cross-examination. Other forms of discovery do not necessarily accomplish all these goals.”).

13. In order to prove the claims that are governed by the *Monell* standard, is imperative that Plaintiffs “tie down” the City’s position on the topics listed in the latest 30(b)(6) notice [Doc. 326 in CIV-16-184-HE]. See *Funk, supra*.

WHEREFORE, premises considered, Plaintiffs respectfully ask this Court to enter an order commanding the City to produce witnesses for a Rule 30(b)(6) deposition at a

mutually agreeable time and date, and to grant such other and further relief the Court may deem just and equitable under the circumstances.

Respectfully submitted,

SOLOMON SIMMONS LAW, P.L.L.C

/s/KyMBERLI J. M. Heckenkemper

KYMBERLI J. M. HECKENKEMPER, OBA # 33524
DAMARIO SOLOMON-SIMMONS, OBA # 20340
601 South Boulder Avenue, Suite 600
Tulsa, OK 74119
(918) 551-8999—Office | (918) 582-6106—Fax
dss@solomonsimmons.com
kheckenkemper@solomonsimmons.com

**RIGGS, ABNEY, NEAL, TURPEN,
ORBISON & LEWIS, P.C.**

MELVIN C. HALL, OBA # 3728
528 NW 12th Street
Oklahoma City, OK 73103
(405) 843-9909—Office | (405) 842-2913—Fax
mhall@riggsabney.com

PARKS & CRUMP, P.L.L.C.

BENJAMIN L. CRUMP, FL Bar # 72583
122 South Calhoun Street
Tallahassee, FL 32301
bcrump@parkscrump.com

*Attorneys for Plaintiffs Hill, Johnson,
Ligons, Lyles & Morris*