

**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.)	

SHERRY ELLIS, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	Case No. CIV-16-0019-HE
)	
DANIEL HOLTZCLAW, <i>et al.</i> ,)	
)	
Defendants.)	

ADAIRA GARDNER, individually,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-16-349-HE
)	
DANIEL HOLTZCLAW, et al.)	
)	
Defendants.)	

ROSETTA GRATE,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-16-412-HE
)	
DANIEL HOLTZCLAW, <i>et al.</i> ,)	
)	
Defendants.)	

**DEFENDANTS' OBJECTION TO
PLAINTIFFS' MOTION FOR JUDICIAL SETTLEMENT CONFERENCE**

Comes now the City of Oklahoma City, William Citty, and Rocky Gregory and object to the Plaintiffs' Motion for Judicial Settlement Conference [Doc. #216 in Case No. CIV-16-0019-HE and Doc.#338 in Case No. CIV-16-0184-HE]. In support hereof the Defendants respectfully show as follows:

1. The court should not commit judicial time and resources to an exercise in futility, which is the probable result of a judicial settlement conference in this case at this time. The Defendants do not agree with Plaintiffs' motion that now is the "optimal time" for a settlement conference;

2. The Defendants will be filing motions for summary judgment in all Plaintiffs' cases in this regard and reasonably believe that they will be successful on all claims by all Plaintiffs;

3. The undersigned was previously lead counsel on behalf of individual State officer defendants as well as a State of Oklahoma agency in a case of a similar nature where summary judgment was granted on all of those plaintiffs' claims including constitutional claims. (See: *Koch, et al., v. Juber, et al.*, CIV-13-750-HE), (Doc. # 229, granting summary judgment and Doc.# 248, where costs were taxed *against* Plaintiffs in the amount of \$14,466.20).

4. As stated in paragraph # 4 of the Plaintiffs' motion, the undersigned acknowledges that an offer was made in 2019 in the Sherry Ellis case, CIV-16-19-HE, by Plaintiffs' counsel, Mark Hammons, and those offers were presented to the City Council

of Oklahoma City in executive session pursuant to the Open Meetings Act of the State of Oklahoma, (25 OS §§301 et. seq.). Those offers were rejected.

5. However, as Plaintiffs also state in paragraph #4 of the Plaintiffs' motion, there may have been preliminary discussions but the undersigned could not get Plaintiffs' counsel to express any starting figure offer from *any* Plaintiff to frame the parties' perspective for settlement potential. Accordingly, there is no way for the undersigned to evaluate the potential for settlement of these cases without starting offers from *all* the Plaintiffs and is left to assume that any figure will be astronomically high, while the undersigned evaluates the settlement value as extremely low or at a nuisance value at this time.

6. Without any realistic and reasonable starting offers from all the Plaintiffs the City declines to agree to participate in a federal magistrate directed settlement conference and be forced to explain why the City's evaluation is so low when the Plaintiffs' starting point is arguably going to be in the stratosphere where it shouldn't have been in the first place.

7. The magistrates take their settlement role very seriously, as they should, and it is not tenable for the City to be left to agree blindly as to how the Plaintiffs evaluate their cases from a damages perspective.

8. Also, as pointed out above, it is a state law requirement that reasonable settlement offers in pending lawsuits be presented to City Council in executive session which have been properly scheduled pursuant to Oklahoma's Open Meetings Act to determine a response, if any, and to select individual(s) with necessary settlement authority

to attend. Given that there is still a Covid-19 pandemic and City Council is meeting only every two weeks, the Court should require every Plaintiff to present settlement offers in writing so the undersigned can present them to City council and pursue some effort at settlement without first using the Court's resources or scheduling a settlement conference.

9. Although this case has been pending since 2016, there have been no other settlement offers from any Plaintiff beyond those referenced from Mr. Hammons above.

Respectfully Submitted,

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MUNICIPAL COUNSELOR

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CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of August 2021, I electronically transmitted the above document to the Clerk of the Court using ECF filing system. Based on the records currently on file in this case, the Clerk of the Court will transmit Notice of Electronic filing to those registered participants of the Electronic Case Filing System.

/s/ Richard N. Mann
Assistant Municipal Counselor