

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

TABATHA BARNES, *et al.*,)

Plaintiffs,)

v.)

Case No. CIV-16-184-HE

CITY OF OKLAHOMA CITY,)

A municipal corporation, *et al.*,)

Defendants.)

SHERRY ELLIS, *et al.*,)

Plaintiffs,)

v.)

Case No. CIV-16-0019-HE

DANIEL HOLTZCLAW, *et al.*,)

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, *et al.*,)

Defendants.)

**MOTION FOR EXTENSION OF
DISPOSITIVE MOTIONS DEADLINE**

Pursuant to Rule 7.2 of the Local Rules for the Western District of Oklahoma, Defendants City of Oklahoma City, Bill City and Rocky Gregory request an extension of the dispositive motion deadline until after a ruling is made on Defendant Holtzclaw's Motion to Extend the Discovery Deadline. In support of this application, counsel for Defendants City, City and Gregory state:

1. Dispositive motions are currently due by September 15, 2021. With a discovery extension, dispositive motions should be due after the new discovery deadline. If the Court denies the Motion, the dispositive motions should be due five (5) days thereafter.
2. The discovery deadline expired on September 1, 2021.
3. Defendant Holtzclaw's counsel, James Hankins, filed a Motion to Extend the Discovery Deadline by thirty (30) days on August 31, 2021 [Doc. 348].
4. It is necessary for discovery to be completed before City, City and Gregory file their Motions for Summary Judgment.
5. Although no extensions have been requested for this specific purpose, the following extensions have been requested in the above-styled and referenced case.
 - a. On April 24, 2018, the Court entered an order [Doc. 107 (CIV-16-0184-HE)] granting Defendant Holtzclaw's unopposed motion to extend the deadlines in the case by 180 days. [Doc. 104 (CIV-16-0184-HE)].j

- b. On October 4, 2018, Plaintiffs Hill, Johnson, Ligons, Lyles, and Morris filed an unopposed motion to extend all deadlines by 90 days [Doc. 125 (CIV-16-0184-HE)]. The Court granted the motion on October 9, 2018. [Doc. 127 (CIV-16-0184-HE)].
- c. On February 1, 2019, the Plaintiffs, in a motion joined by all Defendants but Bennett, who objected, moved for a 90-day extension, [Doc. 170 (CIV-16-0184-HE)], which the Court granted on February 8, 2019. [Doc. 173 (CIV-16-0184-HE)].
- d. On April 19, 2019, the Plaintiffs in CIV-16-0184-HE moved to extend the deadlines, and it was opposed only by Defendant Bennett. [Doc. 186 (CIV-16-0184-HE)]. The Court granted the motion on May 7, 2019. [Doc. 192 (CIV-16-0184-HE)].
- e. On August 1, 2019, Plaintiffs Hill, Johnson, Ligons, Lyles Morris, and Gardner moved to extend the deadlines by 90 days. [Doc. 203 (CIV-16-0184-HE)]. The motion, unopposed, was granted August 5, 2019. [Doc. 204 (CIV-16-0184-HE)].
- f. On November 12, 2019, Plaintiffs Hill, Johnson, Ligons, Lyles, Morris, and Copeland moved for a one-month extension. [Docs. 231, (CIV-16-0184-HE); 118 (CIV- 16-0019-HE)]. The motion, unopposed, was granted on December 5, 2019. [Docs. 102 (CIV-16-0019-HE); 241 (CIV-16-0184-HE)].

- g. On February 21, 2020, Plaintiffs Hill, Johnson, Ligons, Lyles, Morris, and Copeland moved to extend the deadlines by one month. [Docs. 252 (CIV-16-0184-HE); 108 (CIV-16-0019-HE)]. Defendants did not object to the requested extension, provided that any extension be applied in all four cases: CIV-16-0184-HE, CIV-16-0019, CIV-16-0349-HE, and CIV-16-0349-HE. Mr. Mark Hammons, counsel for Plaintiffs Ellis and Raines, objected. [See Doc. 112 (CIV-16-0019-HE)]. The Court granted the Motion on February 24, 2020. [Docs. 114 (CIV-16-0019-HE); 255 (CIV-16-0184-HE)].
- h. On March 18, 2020, Plaintiffs Hill, Johnson, Ligons, Lyles, Morris, and Copeland moved to extend the deadlines by one month. [Docs. 258 (CIV-16-0184-HE); 118 (CIV-16-0019-HE)]. The motion, which was unopposed, provided that any extension be applied in all four cases, was granted on March 24, 2020, [see Docs. 119-20 (CIV-16-0019-HE); 259-60 (CIV-16-00184-HE)] extending the deadlines by sixty (60) days.
- i. On May 14, 2020, Plaintiffs Hill, Johnson, Ligons, Lyles, Morris, Copeland, and Gardner moved, without objection, to extend the deadlines by another thirty (30) days. [See Doc. 261 (CIV-16-0184-HE)]. The motion was granted and the Court entered revised scheduling orders on May 18, 2020. [See Doc. 263 (CIV-16-0184-HE)].
- j. On July 22, 2020, Plaintiffs Hill, Johnson, Ligons, Lyles, Morris (CIV-16-0184-HE), Copeland (CIV-16-0019-HE), Gardner (CIV-16-0349-HE), and

Rosetta Grate (CIV-16-0412-HE), and the City Defendants, jointly moved, without objection, for an order amending the revised scheduling orders entered May 18, 2020. [See Docs. 277 (CIV- 0184-HE), 144 (CIV-16-0019-HE)]. The motion was granted and the Court entered revised scheduling orders on July 23, 2020. [See Docs 278-79 (CIV-16-0184-HE)].

- k. On or before September 15, 2020, Plaintiff Gardner (CIV-16-0349-HE) moved, without objection, to extend the deadlines by thirty (30) days. The Court granted the motion and entered revised scheduling orders on September 24, 2020.
- l. On October 14, 2020, Plaintiffs Hill, Johnson, Ligons, Lyles, and Morris in *Barnes v. City of Oklahoma City*, et al., No. CIV-16-0184-HE (W.D. Okla.), Plaintiff Copeland in *Ellis v. Holtzclaw*, et al., No. CIV-16-0019-HE (W.D. Okla.), Plaintiff Adaira Gardner in *Gardner v. Holtzclaw*, et al., No. CIV-16-0349-HE (W.D. Okla.) jointly moved, without objection, to extend the deadlines by thirty (30) days. [See Docs. 297 (CIV-16- 0184-HE) and 175 (CIV-16-0019-HE)]. The Court granted the motion on October 15, 2020. [See Docs. 298 (CIV-16-0184-HE) and 176 (CIV-16-019-HE)].
- m. On November 25, 2020, Defendant Holtzclaw moved, without objection, to extend the deadlines by sixty (60) days. [See Docs. 308 (CIV-16-0184-HE) and 184 (CIV-16-0019-HE)]. The Court granted the motion in an order

entered December 1, 2020. [See Docs. 309 (CIV-16-0184-HE) and 185 (CIV-16-0019-HE)].

- n. On January 15, 2021, Defendant Holtzclaw moved, without objection, for another sixty (60) day extension of the deadlines. [See Docs. 312 (CIV-16-0184-HE) and 188 (CIV-16-0019-HE)]. The Court granted the motion on January 28, 2021. [See Docs. 314 (CIV-16-0184-HE) and 190 (CIV-16-0019-HE)].
- o. On March 31, 2021, these Plaintiffs moved for another sixty (60) day extension of the deadlines. [See Docs. 318 (CIV-16-0184-HE) and 201 (CIV-16-0019- HE)]. Mr. Mark Hammons, attorney for Plaintiffs Carla Raines and Sherri Ellis in *Ellis v. Holtzclaw, et al.*, No. 5:16-cv-0019-HE (W.D. Okla.) objected to the motion via email to Plaintiff's counsel, but he did not file an objection in response to the Court's order requiring any party with an objection to the motion to file a response by April 5, 2021. [See Doc. 322]. There were no other objections. The Court granted the Plaintiffs' motion on April 12, 2021. [Docs. 323, 324 (CIV-16-0184-HE) and 204, 205 (CIV-16-0019-HE)].
- p. On May 28, 2021, a Joint Motion to Amend Scheduling Order to Extend Deadlines by Ninety (90) Days was filed, which was granted on June 14, 2021 [Doc. 330 in *Barnes v Holtzclaw et al.*].

6. Defendants City, Citty and Gregory have contacted Plaintiffs' counsel and Defendant Holtzclaw's counsel by email and have not heard back from them at the time of this filing except Plaintiffs' counsel, Kymberli Heckenkemper, responded:

We would object to an extension if Holtzclaw's motion is denied before the MSJ deadline. If the motion is granted before the deadline, we would not object to a limited extension. Additionally, if the court waits until after the MSJs are filed to grant Holtzclaw's motion, we would not object to the City Defendants' withdrawing the MSJs and requesting leave to amend them based on new discovery if it is warranted.

7. Granting the requested extension will not require the extension of the December trial date or any other trial deadlines.

For the above stated reasons, Defendants City, Citty and Gregory request that the dispositive motion deadline be extended until after the new discovery deadline, if the extension is granted, or five (5) days after an Order is entered denying Holtzclaw's Motion for Extension.

Respectfully Submitted,

Kenneth Jordan
MUNICIPAL COUNSELOR

/s/ Richard N.Mann
Sherri R. Katz, OBA # 14551
Richard N. Mann, OBA # 11040
Thomas Lee Tucker, OBA # 20874
Assistant Municipal Counselors
200 N. Walker, 4th Floor
Oklahoma City, OK 73102
(405) 297-2451
sherri.katz@okc.gov
Richard.mann@okc.gov
thomasltucker@okc.gov

Attorneys for Defendants City, Citty and
Gregory

CERTIFICATE OF SERVICE

I hereby certify that on the 10th day of September, 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